

Queensland



**SUPERANNUATION
LEGISLATION AMENDMENT
ACT 2002**

Act No. 57 of 2002



SUPERANNUATION LEGISLATION AMENDMENT ACT 2002

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**MINOR AMENDMENTS OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1970**

Queensland



Superannuation Legislation Amendment Act 2002

Act No. 57 of 2002

An Act to amend the *Governors' Pensions Act 1977, Judges (Pensions and Long Leave) Act 1957, Parliamentary Contributory Superannuation Act 1970 and Public Officers Superannuation Benefits Recovery Act 1988*

[Assented to 1 November 2002]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Superannuation Legislation Amendment Act 2002*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF GOVERNORS' PENSIONS ACT 1977

3 Act amended in pt 2

This part amends the *Governors' Pensions Act 1977*.

4 Insertion of new s 7

After section 6—

insert—

'7 Minister is manager for Commonwealth Act

'(1) This section applies for the definition "trustee" in section 38 of the Commonwealth Act in relation to the scheme as a constitutionally protected superannuation fund under the Commonwealth Act.

'(2) The Minister is taken to manage the scheme.

'(3) In this section—

“**Commonwealth Act**” means the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* (Cwlth).

“**scheme**” means the scheme established by this Act for providing pensions to Governors of the State and to their spouses.’.

PART 3—AMENDMENT OF JUDGES (PENSIONS AND LONG LEAVE) ACT 1957

5 Act amended in pt 3

This part amends the *Judges (Pensions and Long Leave) Act 1957*.

6 Amendment of s 7 (Pension of spouse on death of judge)

Section 7, ‘until remarriage’—

omit, insert—

‘during the spouse’s lifetime’.

7 Amendment of s 8 (Pension of spouse on death of retired judge)

Section 8(2)—

omit.

8 Insertion of new s 18A

After section 18—

insert—

‘18A Minister is manager for Commonwealth Act

‘(1) This section applies for the definition “trustee” in section 38 of the Commonwealth Act in relation to the scheme as a constitutionally protected superannuation fund under the Commonwealth Act.

‘(2) The Minister is taken to manage the scheme.

‘(3) In this section—

“Commonwealth Act” means the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* (Cwlth).

“scheme” means—

- (a) the scheme established by this Act for providing pensions to judges and to their spouses and children; or
- (b) the scheme established by this Act as it applies for providing pensions to members under the *Industrial Relations Act 1999* and to their spouses and children because of schedule 2, section 2 of that Act; or
- (c) the scheme established by this Act as it applies for providing pensions to members of the Land Court because of the *Land Court Act 2000*, section 40.’.

PART 4—AMENDMENT OF PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1970

9 Act amended in pt 4 and schedule

This part and the schedule amend the *Parliamentary Contributory Superannuation Act 1970*.

10 Insertion of new s 25AA

After section 25—

insert—

‘25AA Competing claims for widow’s entitlement

‘(1) This section applies to an entitlement that is payable under this Act to a widow of a member or former member.

‘(2) If, apart from this subsection, the entitlement would be payable to more than 1 widow (because a deceased member or deceased former member has left more than 1 widow)—

- (a) the entitlement is payable as decided by the trustees; and

- (b) the total amount of entitlement payable to the widows at any time must be equal to the amount of a single entitlement.

‘(3) For subsection (2)(a), the trustees may decide—

- (a) that the entitlement is not payable to 1 or some, but not all, of the widows; or
- (b) subject to subsection (2)(b), how the amount of the entitlement is to, or, if necessary for subsection (6), would, if the same type of entitlement was payable to all the widows, be apportioned between the widows.

‘(4) For subsection (3), the trustees must have regard to the needs of each of the widows and the other matters the trustees reasonably consider relevant.

‘(5) Subsection (6) applies if—

- (a) a deceased member has left more than 1 widow and a widow makes an election under section 20AA(7) or 20A(1) (the **“electing widow”**); or
- (b) a deceased former member has left more than 1 widow and a widow makes an election under section 20A(1) (also the **“electing widow”**).

‘(6) Despite section 20AA(8) or 20A(2) the lump sum or pension payable to the electing widow is that decided by the trustees having regard to the apportionment for the electing widow.

‘(7) In this section—

“entitlement” means a pension or other amount.

“single entitlement” means the entitlement that would have been payable if the deceased member or deceased former member left only 1 widow.’.

11 Insertion of new s 25D

Part 3, after section 25C—

insert—

‘25D Election to take part of pension as a lump sum to meet surcharge liability

‘(1) This section applies if—

- (a) a benefit is being paid in the form of a pension to a former member or to someone else who has derived an entitlement to the benefit through the former member; and
- (b) the former member or other person is liable to pay a superannuation contributions surcharge under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (Cwlth), section 10, relating to the benefit.

‘(2) The former member or other person may elect to be paid a lump sum instead of a part of the pension.

‘(3) The maximum amount that may be paid as a lump sum under the election is the amount of the liability mentioned in subsection (1)(b).

‘(4) The election must be—

- (a) made in writing to the trustees; and
- (b) accompanied by a copy of the assessment stating the amount of the liability mentioned in subsection (1)(b).

‘(5) The trustees must act on the election by reducing the pension by the amount of the lump sum.

‘(6) The reduction must happen in the way decided by the Minister on the advice of an actuary.

‘(7) This section does not apply to a benefit payable under section 21.¹

‘(8) In this section—

“**assessment**” means an assessment of superannuation contributions surcharge made by the commissioner of taxation under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (Cwlth), section 15.’.

¹ Section 21 (Payments to children)

**PART 5—AMENDMENT OF PUBLIC OFFICERS
SUPERANNUATION BENEFITS RECOVERY ACT 1988**

12 Act amended in pt 5

This part amends the *Public Officers Superannuation Benefits Recovery Act 1988*.

13 Amendment of s 9 (Liability is a judgment debt)

Section 9(4), '*Common Law Practice Act 1867*, sections 72 and 73'—
omit, insert—

'Supreme Court Act 1995, sections 47 and 48'.

SCHEDULE**MINOR AMENDMENTS OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1970**

section 7

- 1 Section 17(3A)(e), ‘section 20(c)’—**
omit, insert—
‘section 20(1)(c)’.

- 2 Section 18(2)(a), at the end—**
insert—
‘or’.

- 3 Section 18(12)(b)(i), at the end—**
insert—
‘and’.

- 4 Section 20(1)(a), definition “B”, paragraphs (a) and (b), at the end—**
insert—
‘or’.

- 5 Section 20A(3)(a) and (b), at the end—**
insert—
‘and’.

SCHEDULE (continued)

6 Section 21(2)(a), (b)(ii) and (c)(i) and (ii)(A), at the end—*insert—*

‘or’.

7 Section 33A(2)(a), at the end—*insert—*

‘and’.