Parliamentary Contributory Superannuation Act 1948

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About this compilation

This compilation

This is a compilation of the *Parliamentary Contributory Superannuation Act 1948* that shows the text of the law as amended and in force on 1 July 2026 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to make Provision for Contributory Superannuation for Persons who have served as Members of the Parliament

Part I—Preliminary

1 Short title

This Act may be cited as the *Parliamentary Contributory Superannuation Act 1948*.

2 Commencement

This Act shall be deemed to have come into operation on 1 December 1948.

4 Interpretation

(1) In this Act, unless the contrary intention appears:

allowance by way of salary means office holder's salary (within the meaning of the *Parliamentary Business Resources Act 2017*), excluding any portion determined under paragraph 45(3)(b) of that Act as not being allowance by way of salary for the purposes of this Act.

annuity means annuity under this Act, including an associate annuity under section 22CD or 22CE.

assessment has the same meaning as in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

class 1 invalid means a person who is classified by the Trust as a class 1 invalid under Part V.

class 2 invalid means a person who is classified by the Trust as a class 2 invalid under Part V.

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class 3 invalid means a person who is classified by the Trust as a class 3 invalid under Part V.

Commonwealth supplement means the amount of the Commonwealth supplement ascertained in accordance with section 16.

contributions means contributions under Part IV.

CSC (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

Finance Department means the Department administered by the Finance Minister.

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

former spouse, in relation to another person, means a person who previously had had a marital or couple relationship with that other person.

House means a House of the Parliament.

life policy has the same meaning as in the *Life Insurance Act 1995*.

marital or couple relationship has the meaning given by section 4B.

medical practitioner means a person registered as a medical practitioner under a law of a State or Territory.

member means a member of either House.

Minister of State means a Minister of State who is entitled to a parliamentary allowance.

non-parliamentary employment means any employment, profession or paid occupation, other than as a member.

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office, in relation to a Minister of State, includes the following offices, namely:

(a) Prime Minister;
(b) Deputy Prime Minister;
(c) Leader of the Government in the Senate;
(d) Deputy Leader of the Government in the Senate;
(e) Leader of the House;
(f) Vice-President of the Executive Council;
(g) Minister of State Assisting another Minister of State;
(h) an office, or an office included in a class of offices, prescribed for the purposes of this paragraph.

office holder means an office holder (within the meaning of the *Parliamentary Business Resources Act 2017*) to whom a parliamentary allowance is payable.

owner of a life policy has the same meaning as in the *Life Insurance Act 1995*.

parliamentary allowance means:

(a) an allowance under:
  (i) section 3 of the *Parliamentary Allowances Act 1920*; or
  (ii) subsection 4(1) or 5(1) of the *Parliamentary Allowances Act 1952*, as in force at any time before the commencement of sections 169 and 170 of the *Statute Law (Miscellaneous Amendments) Act (No. 1) 1982*; or
(b) an allowance by way of salary under section 4 of the *Parliamentary Allowances Act 1952*, as in force at any time before the commencement of the *Parliamentary Business Resources Act 2017* (other than an allowance by way of salary payable by reason of the holding of a particular office, or the performing of particular functions in, or in relation to, the Parliament or either House); or
(c) an allowance by way of salary under clause 1 of Schedule 3 to the *Remuneration and Allowances Act 1990*:

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(i) as in force before the commencement of Schedule 2 (the ***amending Schedule***) to the *Remuneration and Other Legislation Amendment Act 2011*; or

(ii) as continued in force by item 21 of the amending Schedule; or

(d) parliamentary base salary (within the meaning of the *Remuneration Tribunal Act 1973*, as in force at any time before the commencement of the *Parliamentary Business Resources Act 2017*), excluding any portion determined in a determination that is in force under subsection 7(1A) of the *Remuneration Tribunal Act 1973* at any time before that commencement; or

(e) base salary (within the meaning of the *Parliamentary Business Resources Act 2017*), excluding any portion determined under paragraph 45(3)(a) of that Act as not being parliamentary allowance for the purposes of this Act.

participant, in relation to a superannuation scheme applying in relation to any employment, means any person employed in that employment in respect of whom benefits are applicable under the scheme by reason of his or her being so employed, whether or not he or she has made contributions under the scheme.

partner: a person is the ***partner*** of another person if the two persons have a relationship as a couple (whether the persons are the same sex or different sexes).

period of service, in relation to a person, means (subject to section 20) the period, or the sum of the periods (whether continuous or not), whether before or after the commencement of this Act, during which the person was entitled to parliamentary allowance, and includes any period by which the period of service of the person is deemed to be increased by virtue of subsection 22Q(4).

retiring allowance, in relation to a person, means the retiring allowance payable to the person under this Act and, in the case of a person who ceased or ceases to be a member after 30 June 1980,

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includes additional retiring allowance (if any) payable to the person under subsection 18(9).

salary, in relation to a Minister of State, means Ministerial salary (within the meaning of the *Parliamentary Business Resources Act 2017*), excluding any portion determined under subsection 45(5) of that Act as not being salary for the purposes of this Act.

spouse has a meaning affected by section 4C.

superannuation guarantee safety-net amount has the meaning given by section 16A.

surcharge has the same meaning as in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

surchargeable contributions means surchargeable contributions (within the meaning of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*) that are attributable to the operation of this Act.

surcharge debt account, in relation to a person who has held office as a member, means the surcharge debt account that was kept for the person (while he or she held that office) under section 16 of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* and that related to the person's surchargeable contributions.

surcharge deduction amount, in relation to a person:

(a) who has held office as a member; and

(b) to or in respect of whom benefits become payable under this Act;

means the surcharge deduction amount that is specified in the determination made by the Trust, under section 4E, in relation to the person.

Trust means the Parliamentary Retiring Allowances Trust established under this Act.

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trustee means one of the trustees who constitute the Trust, and includes a Minister performing the powers and functions of the Finance Minister as a trustee.

(2) A reference in this Act to the contributions of a person does not include a reference to any contributions that have been refunded to him or her and have not been repaid by him or her.

(3) A reference in this Act to a superannuation scheme shall be read as a reference to a superannuation or retirement scheme, however established, other than the retirement scheme constituted by the provisions of this Act.

(4) For the purposes of this Act, a benefit payable to or in respect of a member under a superannuation scheme shall not be taken to have been based partly on contributions under the scheme by the employer by reason only that the benefit included interest upon contributions made under the scheme by the member.

(4A) For the purposes of this Act:

(aa) a member is taken to be employed by the Commonwealth; and

(a) a member of the Parliament of a State is taken to be employed by the State; and

(b) a member of the Legislative Assembly for the Australian Capital Territory is taken to be employed by the Australian Capital Territory; and

(c) a member of the Legislative Assembly of the Northern Territory of Australia is taken to be employed by the Northern Territory of Australia.

(5) A person shall, for the purposes of this Act, be taken to be, or to have been, entitled to parliamentary allowance during any period in respect of which the person is or was, as the case may be, entitled to be paid parliamentary allowance by virtue of:

(a) section 4 or 5 of the *Parliamentary Allowances Act 1920*;

(b) subsection 4(3) or (4) or 5(4) or (5) of the *Parliamentary Allowances Act 1952*, as in force at any time before the

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commencement of sections 169 and 170 of the *Statute Law (Miscellaneous Amendments) Act (No. 1) 1982*; or

(c) section 5 or 5A of the *Parliamentary Allowances Act 1952*, as in force at any time before the commencement of the *Parliamentary Business Resources Act 2017*; or

(d) section 49 of the *Parliamentary Business Resources Act 2017*.

(6) For the purposes of this Act, if a person ceases to be entitled to a parliamentary allowance, the cessation is taken to be an invalidity retirement if, and only if, the Trust makes a determination under section 15A in relation to that cessation.

4A Transfer value payable in respect of previous employment

(1) In this Act:

(a) a reference, in relation to a member, to a transfer value payable to or in respect of the member under a superannuation scheme applicable in relation to any employment in which he or she was employed at any time before the date on which he or she became a member is a reference to a benefit by way of a lump sum payable to or in respect of the member under that scheme upon the termination of the employment otherwise than on the ground of invalidity or of physical or mental incapacity to perform the duties of the employment, being a benefit that was based wholly upon contributions under the scheme by the employer or was based partly upon such contributions and partly upon contributions under the scheme by the member; and

(b) a reference to the amount of a transfer value:

(i) if the transfer value was based in part upon an amount or amounts paid to or in respect of the member under this Act—is a reference to so much only of the lump sum constituting the transfer value as exceeded that amount or the total of those amounts; and

(ii) does not include a reference to any part of the lump sum constituting the transfer value that was based upon

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contributions by the member that were, or were of a similar nature to, contributions under the *Superannuation Act 1922* for reserve units of pension or contributions under section 48 of the *Superannuation Act 1976*; and

(iii) does not include a reference to any part of the lump sum constituting the transfer value that was based upon any excess contribution multiple within the meaning of the *Superannuation Act 1990* of the member.

(2) If, after a transfer value became payable to or in respect of a person under a superannuation scheme, the whole or any part of that transfer value was paid to a person administering another superannuation scheme:

(a) where the whole of the transfer value was so paid—that transfer value shall be disregarded for the purposes of this Act; or

(b) where part of the transfer value was so paid—the amount of that transfer value shall be deemed, for the purposes of this Act, to be reduced by the amount so paid.

(3) Subject to subsection (4), a transfer value shall be deemed for the purposes of this Act to have become payable in respect of a person under a superannuation scheme upon the termination of any employment if, upon the termination of that employment, the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, being a policy the premiums for which were, while the person was employed in that employment, paid in whole or in part by the person's employer, and, in that case, the surrender value of the policy as at the date of the termination of the employment shall be taken to be the amount of the transfer value.

(4) Where a transfer value is, by virtue of subsection (3), deemed for the purposes of this Act to have become payable in respect of a person upon the termination of any employment by reason that, upon the termination of that employment, the person was the owner of a life policy, or was entitled to have the rights of the

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owner of a life policy assigned to him or her, a transfer value shall not be deemed, for those purposes, to have become payable in respect of the person upon the termination of any previous employment by reason that, upon the termination of that previous employment, the person was the owner of that policy, or was entitled to have the rights of the owner of that policy assigned to him or her.

4B Marital or couple relationship

(1) For the purposes of this Act, a person had a ***marital or couple relationship*** with another person at a particular time if the person ordinarily lived with that other person as that other person's husband, wife, spouse or partner on a permanent and bona fide domestic basis at that time.

(2) For the purpose of subsection (1), a person is to be regarded as ordinarily living with another person as that other person's husband, wife, spouse or partner on a permanent and bona fide domestic basis at a particular time only if:

(a) the person had been living with that other person as that other person's husband, wife, spouse or partner for a continuous period of at least 3 years up to that time; or

(b) the person had been living with that other person as that other person's husband, wife, spouse or partner for a continuous period of less than 3 years up to that time and the Trust, having regard to any relevant evidence, is of the opinion that the person ordinarily lived with that other person as that other person's husband, wife, spouse or partner on a permanent and bona fide domestic basis at that time;

whether or not the person was legally married to that other person.

(3) For the purposes of this Act, a marital or couple relationship is taken to have begun at the beginning of the continuous period mentioned in paragraph (2)(a) or (b).

(4) For the purpose of subsection (2), relevant evidence includes, but is not limited to, evidence establishing any of the following:

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(a) the person was wholly or substantially dependent on that other person at the time;
(b) the persons were legally married to each other at the time;
(ba) the persons' relationship was registered under a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901*, as a kind of relationship prescribed for the purposes of that section;
(c) the persons had a child who was:
(i) born of the relationship between the persons; or
(ii) adopted by the persons during the period of the relationship; or
(iii) a child of both of the persons within the meaning of the *Family Law Act 1975*;
(d) the persons jointly owned a home which was their usual residence.

(5) For the purposes of this section, a person is taken to be living with another person if the Trust is satisfied that the person would have been living with that other person except for a period of:
(a) temporary absence; or
(b) absence because of the person's illness or infirmity.

4C Spouse who survives a deceased person

(1) In this section:

deceased person means a person who was, at the time of his or her death:
(a) a person who was entitled to a parliamentary allowance; or
(b) a person who was entitled to a retiring allowance, whether or not the retiring allowance was immediately payable.

retired member means a person who was entitled to a retiring allowance, whether or not the retiring allowance was immediately payable.

(2) For the purposes of this Act, a person is a spouse who survives a deceased person if:

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(a) the person had a marital or couple relationship with the deceased person at the time of the death of the deceased person (***the death***); and

(b) in the case of a deceased person who was a retired member at the time of the death:

(i) the marital or couple relationship began before the retired member became a retired member; or

(ii) the marital or couple relationship began after the retired member became a retired member but before the retired member reached 60; or

(iii) in the case of neither subparagraph (i) nor (ii) applying—the marital or couple relationship had continued for a period of at least 5 years up to the time of the death.

(3) In spite of subsection (2), a person is taken to be a spouse who survives a deceased person if:

(a) the person had previously had a marital or couple relationship with the deceased person; and

(b) the person did not, at the time of the death, have a marital or couple relationship with the deceased person but was legally married to the deceased person; and

(c) in the case of a marital or couple relationship that began after the deceased person became a retired member and reached 60—the relationship began at least 5 years before the deceased person's death; and

(d) in the Trust's opinion, the person was wholly or substantially dependent upon the deceased person at the time of the death.

4D Incapacity

In determining the percentage of a person's incapacity in relation to non-parliamentary employment, the Trust or a medical practitioner, as the case may be, must have regard to all relevant matters, including, but not limited to, the following:

(a) the vocational, trade and professional skills, qualifications and experience of the person;

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(b) the kinds of non-parliamentary employment which a person with the skills, qualifications and experience referred to in paragraph (a) might reasonably undertake;

(c) the degree to which any physical or mental impairment of the person has diminished his or her capacity to undertake the kinds of non-parliamentary employment referred to in paragraph (b);

(d) the income (if any) derived by the person from personal exertion.

4E Surcharge deduction amount

(1) If:

(a) benefits under this Act become payable to or in respect of a person who has held office as a member; and

(b) the person's surcharge debt account is in debit when those benefits become so payable;

the Trust must determine in writing the surcharge deduction amount that, in its opinion, it would be fair and reasonable to take into account in working out the amount of those benefits.

(2) In making the determination, the Trust must have regard to the following:

(a) the amount by which the person's surcharge debt account is in debit when those benefits become payable;

(b) the value of the employer-financed component of those benefits;

(c) the value of the benefits that, for the purpose of working out (under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*) the notional surchargeable contributions factors applicable to the person, were assumed to be likely to be payable to the person under this Act on his or her ceasing to hold office as a member;

(d) whether the person has or had qualified for his or her maximum benefit entitlement under this Act;

(e) any other matter that the Trust considers relevant.

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(3) The amount determined by the Trust may not be more than the total of the following amounts:

(a) 15% of the employer-financed component of any part of the benefits payable to the person that accrued between 20 August 1996 and 1 July 2003;

(b) 14.5% of the employer-financed component of any part of the benefits payable to the person that accrued in the 2003-2004 financial year;

(c) 12.5% of the employer-financed component of any part of the benefits payable to the person that accrued in the 2004-2005 financial year.

(4) Reductions under Division 3 of Part VAA are to be disregarded in applying subsection (3).

4F Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Part II—The Parliamentary Retiring Allowances Trust

5 The Parliamentary Retiring Allowances Trust

(1) There shall be a body to be called the Parliamentary Retiring Allowances Trust.

(2) The Trust shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding and disposing of property and of suing and being sued in its corporate name.

(3) The Trust shall be constituted by 5 trustees, namely:
  (a) the Finance Minister;
  (b) 2 senators; and
  (c) 2 members of the House of Representatives.

(4) The powers and functions of the Finance Minister as a trustee may be exercised by any Minister thereunto authorized in writing by the Finance Minister, but no such authorization shall prevent the exercise of those powers and functions by the Finance Minister himself or herself.

(5) A vacancy in the office of a trustee shall not invalidate the proceedings of the trustees.

(6) The seal of the Trust shall not be attached to any document except in accordance with a resolution of the trustees, and shall be authenticated by the signatures of 2 trustees.

6 Appointment of certain trustees

(1) The trustees specified in paragraphs 5(3)(b) and (c) shall be appointed, and may be removed, by the House of which they are members.

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(2) A trustee appointed under subsection (1) who has ceased to be a senator or a member of the House of Representatives (as the case may be), by reason of the dissolution or expiration of the House of which he or she was a member, shall not thereby cease to be a trustee until he or she ceases to be entitled to parliamentary allowance.

7 Temporary trustees

(1) If a vacancy occurs in the office of a trustee, the Governor-General may appoint a trustee to hold office until the vacancy is otherwise filled.

8 Meetings of the trustees

(1) The affairs of the Trust shall be conducted at meetings of the trustees.

(2) At all meetings of the trustees, 3 trustees shall form a quorum.

(3) The Finance Minister (or a Minister exercising the powers and functions of the Finance Minister as a trustee) shall preside at any meeting of the trustees at which he or she is present and, if neither the Finance Minister nor such a Minister is present at a meeting, the trustees present shall elect one of their number to preside at that meeting.

(4) A majority of the trustees present at a meeting shall have power to bind the Trust and to pass resolutions of the trustees, and, if the number of trustees present is 4, the trustee presiding and one other trustee shall also have power to bind the Trust and to pass such resolutions.

(5) The Secretary of the Finance Department, or an officer of the Finance Department appointed by him or her for the purpose, shall attend meetings of the trustees and give such advice and assistance as the trustees require.

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8A Resolutions without meetings

(1) The trustees are taken to have passed a resolution at a meeting and may bind the Trust if:

(a) without meeting, a majority of the trustees indicate agreement with the resolution; and

(b) that agreement is indicated in accordance with the method determined by the trustees under subsection (2); and

(c) all the trustees were informed of the proposed resolution, or reasonable efforts were made to inform all the trustees of the proposed resolution.

(2) Subsection (1) applies only if the trustees:

(a) have determined that they may pass resolutions of that kind without meeting; and

(b) have determined the method by which trustees are to indicate agreement with proposed resolutions.

9 Delegation

(1) The Trust may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate to a trustee any of its powers or functions under this Act, other than this power of delegation.

(2) A power or function so delegated, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed, as the case may be, by the Trust.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Trust.

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Part IV—Contributions

13 Contributions

(1) A person who is entitled to a parliamentary allowance shall, during his or her period of service, pay contributions to the Commonwealth:

(a) in the case of a person whose period of service is less than 18 years—at the rate per fortnight of 11.5% of the fortnightly amount of the parliamentary allowance payable to the person; or

(b) in the case of a person whose period of service is not less than 18 years—at the rate per fortnight of 5.75% of the fortnightly amount of the parliamentary allowance payable to the person.

(1A) For the purposes of paragraph (1)(a) or (b), the fortnightly amount of the parliamentary allowance payable to the person is to be worked out in accordance with regulations made for the purposes of this subsection.

(2) Subject to subsection (4), a Minister of State shall, in addition to the contributions payable by him or her under subsection (1), pay contributions to the Commonwealth, during the period during which he or she serves as a Minister of State, at the rate per fortnight of 11.5% of the fortnightly amount of the salary to which he or she is entitled as Minister of State.

(3) Subject to subsection (4), an office holder shall, in addition to the contributions payable by him or her under subsection (1), pay contributions to the Commonwealth, during the period during which he or she serves as, and in respect of each office by virtue of which he or she is, an office holder, at the rate per fortnight of 11.5% of the fortnightly amount of the allowance by way of salary payable to the person because the person holds that office.

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(3A) For the purposes of subsection (3), the fortnightly amount of the allowance by way of salary payable to the person because the person holds that office is to be worked out in accordance with regulations made for the purposes of this subsection.

(4) If, at any time, a Minister of State or an office holder would, if he or she ceased to be entitled to parliamentary allowance at that time, be entitled to additional retiring allowance under subsection 18(9) at a rate which is:

(a) in a case where he or she would be entitled to additional retiring allowance in respect of one office only—75% of the rate, at that time, at which salary or allowance by way of salary, as the case may be, is payable in respect of that office; or

(b) in a case where he or she would be entitled to additional retiring allowance in respect of 2 or more offices—75% of the rate that is the highest rate, at that time, at which salary or allowance by way of salary, as the case may be, is payable in respect of either or any of those offices;

then, so long as he or she continues to be a Minister of State who, or an office holder who, would, if he or she ceased to be entitled to parliamentary allowance, be entitled to additional retiring allowance under that subsection at that rate, subsection (2) or (3), as the case may be, applies to him or her as if the reference to 11.5% in whichever of those subsections is applicable were a reference to 5.75%.

(6) The contributions payable by a person under this section shall be deducted:

(a) in the case of contributions under subsection (1)—from payments of parliamentary allowance made to the person;

(b) in the case of contributions under subsection (2)—from payments of parliamentary allowance made to the person or of salary made to the person as Minister of State; and

(c) in the case of contributions under subsection (3)—from payments of parliamentary allowance made to the person or of allowance by way of salary made to the person as office holder.

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(7) Each deduction under subsection (6) shall, as far as practicable, be made in respect of the same period as that in respect of the payment from which it is deducted is made.

(8) Amounts deducted under subsection (6) shall be paid to the Commonwealth.

(9) The regulations may make modifications of this Act that are required as a result of the amendments of the *Parliamentary Business Resources Act 2017* made by Schedule 4 to the *Parliamentary Business Resources Legislation Amendment (Review Implementation and Other Measures) Act 2024*.

14 Additional contributions by Ministers of State and office holders in respect of service before 12 June 1978

(1) A reference in this section to a period during which a person served as a Minister of State or an office holder does not include a reference to any period that does not also form part of the period of service of the person for the purposes of this Act.

(2) Where a person who is a member on 12 June 1978 served as a Minister of State or an office holder during any period or periods, or as a Minister of State and an office holder during different periods, before that date, he or she may, within 3 months after that date, by notice in writing signed by the person and delivered personally or sent by post to the Secretary of the Finance Department, elect to have the whole of that period or of those periods taken into account for the purposes of subsection 18(9).

(3) Where a person, not being a person who is a member on 12 June 1978, becomes a member after that date and that person served as a Minister of State or an office holder during any period or periods, or as a Minister of State and an office holder during different periods, before that date, he or she may, within 3 months after the date on which he or she so becomes a member, by notice in writing signed by the person and delivered personally or sent by post to the Secretary of the Finance Department, elect to have the whole of

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that period or of those periods taken into account for the purposes of subsection 18(9).

(4) A person who makes an election in accordance with subsection (2) or (3) shall:

(a) if he or she received any refund of contributions under Part VA of the *Parliamentary Retiring Allowances Act 1948-1964*, or of that Act as amended, not being a refund that was subsequently repaid by him or her under section 22M of that Act, or of that Act as amended, or received any refund of contributions under subsection 22(12) or (13) of the *Parliamentary and Judicial Retiring Allowances Act 1973*—pay to the Commonwealth an amount equal to that refund (excluding any part of that refund that comprises contributions made in respect of a period to which subsection 19A(7) applies); and

(b) if, during the period that commenced on 8 June 1973 and ended on 11 June 1978, he or she served as a Minister of State or an office holder during any period or periods, or as a Minister of State and an office holder during different periods—pay to the Commonwealth an amount equal to $11^1/_2$% of the sum of:

(i) the total of the amounts of salary to which he or she was entitled as Minister of State in respect of the period or periods (if any) during which he or she so served as a Minister of State; and

(ii) the total of the amounts of allowance by way of salary to which he or she was entitled as office holder in respect of the period or periods (if any) during which he or she so served as an office holder.

(5) If, but for this subsection, subsection 22(2) of the *Parliamentary and Judicial Retiring Allowances Act 1973* would apply to and in respect of a person who makes an election under this section, that subsection ceases to apply to and in respect of him or her when the election is made.

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(6) Any amounts payable to the Commonwealth by a person under this section shall be paid at such times and in such amounts as are agreed upon between the person and the Finance Minister or, in the absence of agreement, at such times and in such amounts as the Finance Minister determines, but so that the total of the amounts is paid to the Commonwealth within 3 years after the date on which the person made the relevant election under this section.

(7) If a person who has made an election under this section becomes entitled to a retiring allowance and, after becoming so entitled, elects under subsection 18B(3) to convert a percentage of that retiring allowance into a lump sum payment, there shall be deducted from the amount of that lump sum payment the amount (if any) by which the total of the amounts that the person is liable to pay to the Commonwealth under subsection (4) of this section exceeds the total of any of those amounts that the person has paid in accordance with subsection (6) of this section and, upon the deduction being made, the person is, to the extent of the amount deducted, discharged from further liability to make payments under this section.

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Part V—Benefits

14A Benefits to be paid by Commonwealth

Payments in respect of benefits (including refunds of contributions) provided for by this Act shall be made by the Commonwealth.

15 Benefits applicable only to present and future members

Subject to section 19A, retiring allowances, annuities and other benefits under this Act shall be payable only to or in relation to persons who are members at the commencement of this Act or become members thereafter.

15A Invalidity retirement

When section applies

(1) This section applies to a person who:

(a) ceases to be a member because of his or her having resigned his or her place before the expiration of his or her term of office; or

(b) ceases to be a senator upon the expiration of the term of office of a class of senators or the dissolution of the Senate and is not, at the time of an election to fill places in the Senate that became vacant when his or her place becomes vacant:

(i) a candidate for election as a senator; or

(ii) if elections of members of the House of Representatives are held, or an election of a member of the House of Representatives is held, at the same time as such a Senate election—a candidate for election either as a senator or as a member of the House of Representatives; or

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(c) ceases to be a member of the House of Representatives upon the dissolution or expiration of that House and is not, at the time of the next ensuing elections for the House of Representatives:

(i) a candidate for election to that House; or

(ii) if elections of senators are held, or an election of a senator is held, at the same time as those elections for that House—a candidate for election either as a senator or as a member of the House of Representatives; or

(d) ceases to be a senator because of the election of a successor under section 15 of the Constitution and is not, at the time of the election at which his or her successor is elected:

(i) a candidate for election as a senator; or

(ii) if his or her successor is elected at a general election of members of the House of Representatives—a candidate for election either as a senator or as a member of the House of Representatives.

Invalidity retirement

(2) The Trust may determine that the person's resignation or failure to be such a candidate is to be treated as an invalidity retirement if:

(a) a written application is made by or on behalf of the person for such a determination; and

(b) the Trust is satisfied that the person is unlikely, because of physical or mental impairment, ever to be able to perform the duties of a member again.

The determination must specify the physical or mental impairment or impairments concerned.

Application to be accompanied by medical certificates

(3) The application must be accompanied by:

(a) such additional information (if any) as the Trust requires; and

(b) a certificate given by a medical practitioner nominated by the Trust; and

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(c) a certificate given by a medical practitioner nominated by or on behalf of the person; and

(d) such additional documents (if any) as the Trust requires.

Medical certificates—contents

(4) Each certificate must include:

(a) a statement to the effect that, in the opinion of the medical practitioner concerned, the person is unlikely, because of physical or mental impairment, ever to be able to perform the duties of a member again; and

(b) a statement setting out the medical practitioner's opinion about the percentage of the person's incapacity in relation to non-parliamentary employment.

Consultation about nominated medical practitioner

(5) The Trust must consult a Senior Commonwealth Medical Officer about the identity of a medical practitioner nominated under paragraph (3)(b).

Trust to notify applicant of decision

(6) If the Trust makes a decision refusing an application under subsection (2), the Trust must give the applicant a written notice of the refusal.

15B Invalidity classification

When section applies

(1) This section applies if the Trust determines under subsection 15A(2) that a person's resignation or failure to be a candidate, as the case may be, is to be treated as an invalidity retirement.

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Trust to determine percentage of incapacity

(2) The Trust must determine the percentage of the person's incapacity in relation to non-parliamentary employment.

Trust to classify person

(3) The Trust must also classify the person in accordance with the following table:

Table

% of incapacity	Classification
60% or more	Class 1 invalid
30% or more but less than 60%	Class 2 invalid
Less than 30%	Class 3 invalid

Trust to notify person of classification

(4) If the Trust makes a decision under this section, it must give the person a written notice setting out the decision.

15C Review of invalidity classification

Persons to whom section applies

(1) This section applies to a person if the person is entitled to a retiring allowance under paragraph 18(2AA)(c) or (d).

Review of invalidity classification

(2) The Trust may, from time to time, review the person's current classification as a class 1 invalid or a class 2 invalid, as the case may be.

How review is initiated

(3) The Trust may review the person's classification:
(a) on its own initiative; or

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(b) if it is requested to do so by or on behalf of the person.

Request for review

(4) A request under paragraph (3)(b) must:
  (a) be in writing; and
  (b) be accompanied by:
    (i) a written submission in support of the request; and
    (ii) a certificate given by a medical practitioner nominated by or on behalf of the person.

Medical certificate in support of request for review

(5) The certificate mentioned in subsection (4) must set out the medical practitioner's opinion about the percentage of the person's incapacity in relation to non-parliamentary employment.

Notification of refusal of request for review

(6) If the Trust makes a decision refusing a request under paragraph (3)(b), the Trust must give the person a written notice of the refusal.

Trust may request attendance at a medical examination

(7) For the purposes of the review, the Trust may, by written notice given to the person, request the person:
  (a) to submit himself or herself for medical examination by a specified medical practitioner at a time and place specified in the notice; or
  (b) to give to the Trust, within the period specified in the notice, specified information that is relevant to the review; or
  (c) to produce to the Trust, within the period specified in the notice, specified documents that are relevant to the review.

Multiple notices

(8) The Trust may give 2 or more notices under subsection (7) in relation to the review.

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Senior Commonwealth Medical Officer to be consulted about medical practitioners

(9) The Trust must consult a Senior Commonwealth Medical Officer about the identity of a medical practitioner specified in a notice under subsection (7).

Consequences of failure to attend medical examination, to give information or to produce documents

(10) If the person fails to comply with a notice under subsection (7), the Trust may, by written notice given to the person, suspend the person's retiring allowance with effect from a specified date. The date must not be earlier than the day on which the notice was given.

Reimbursement of reasonable expenses incurred in attending medical examination

(11) If:

(a) the person submits himself or herself for medical examination in accordance with a notice under subsection (7); and

(b) the person incurs, in respect of attendance at that examination, expenses in respect of:

(i) transport; or

(ii) accommodation; or

(iii) the purchase of food or drink; or

(iv) incidental matters;

the Trust may determine that the person is entitled to be paid by the Commonwealth an amount equal to so much of those expenses as the Trust considers reasonable. The Consolidated Revenue Fund is appropriated for the purposes of this subsection.

Decision on review

(12) For the purposes of the review, the Trust must make a decision:

(a) confirming the person's classification; or

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(b) if the person is a class 1 invalid—re-classifying the person as a class 2 invalid or as a class 3 invalid; or

(c) if the person is a class 2 invalid—re-classifying the person as a class 1 invalid or as a class 3 invalid.

The re-classification must be in accordance with the classification table set out in section 15B according to the percentage of the person's incapacity in relation to non-parliamentary employment.

Decision on review to be made on the basis of the original physical or mental impairment

(13) In determining, for the purposes of this section, the percentage of the person's incapacity in relation to non-parliamentary employment, the Trust or a medical practitioner, as the case may be, is to ignore any physical or mental impairment of the person unless the impairment is of a kind that:

(a) was specified in the determination made under section 15A in relation to the person; or

(b) is related to an impairment of a kind that was specified in that determination.

When re-classification takes effect

(14) If the Trust decides to re-classify the person, the Trust must specify a date as the date on which the re-classification takes effect. The date must not be earlier than the date on which the decision was made.

Re-classification to be treated as a classification

(15) If the Trust decides to re-classify the person, the Trust is taken to have classified the person accordingly on the day on which the re-classification takes effect.

Notification of decision on review

(16) If the Trust makes a decision under subsection (12), the Trust must give the person a written notice setting out the decision.

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Re-classification as a class 3 invalid—reduction of benefit

(17) If the Trust decides to re-classify the person as a class 3 invalid, the benefit payable to the person under paragraph 18(2AA)(e) is to be reduced (but not below 0) by the total of the payments of retiring allowance paid to the person under paragraph 18(2AA)(c) or (d) before the re-classification took effect.

16 Commonwealth supplement

(1) For the purposes of this Act, the amount of the Commonwealth supplement, in relation to a member or former member, shall, subject to this section, be $2^{1}/_{3}$ times the contributions paid by him or her during his or her period of service or, if that period exceeds 8 years, during the last 8 years thereof.

(1A) Any amounts paid by a person to the Commonwealth under section 14 shall be deemed to be contributions paid by him or her during his or her period of service, or during the last 8 years of his or her period of service, to the extent that those amounts relate to:

(a) in the case of amounts paid in pursuance of paragraph 14(4)(a)—contributions (other than a repayment of a refund) made during his or her period of service, or during those last 8 years of his or her period of service, as the case may be, under Part VA of the *Parliamentary Retiring Allowances Act 1948-1964* or of that Act as amended; and

(b) in the case of amounts paid in pursuance of paragraph 14(4)(b)—any period occurring during his or her period of service, or during those last 8 years of his or her period of service, as the case may be.

(2) For the purpose of ascertaining the Commonwealth supplement in relation to a person who was a member at the date of commencement of the *Parliamentary Retiring Allowances Act 1948*, he or she shall be deemed to have paid (in addition to the contributions which he or she has paid) the contributions which would have been payable by him or her before the date of commencement of that Act if that Act had commenced at the beginning of his or her period of service.

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(3) For the purpose of ascertaining the Commonwealth supplement in relation to a person who paid contributions in accordance with paragraph 13(1)(b), he or she shall be deemed to have paid (in addition to the contributions that he or she has paid under that paragraph and any other contributions that he or she has paid) further contributions equal to the contributions that he or she paid under that paragraph.

(4) For the purpose of ascertaining the Commonwealth supplement in relation to a person who paid contributions in accordance with subsection 13(2) as that subsection has effect by virtue of subsection 13(4), subsection 13(3) as that subsection has effect by virtue of subsection 13(4) or both those subsections as they so have effect, he or she shall be deemed to have paid, in addition to the contributions that he or she so paid (in this subsection referred to as the ***relevant contributions***) and any other contributions that he or she paid, further contributions equal to the relevant contributions.

16A Superannuation guarantee safety-net amount

Superannuation guarantee safety-net amount

(1A) The ***superannuation guarantee safety-net amount***, in relation to a person, is the greater of:

(a) the amount worked out under subsection (1); and

(b) the amount worked out under subsection (1AA).

(1) For the purposes of paragraph (1A)(a), the amount is the sum of the following amounts:

(a) the contributions made by the person during so much of the person's period of service as occurred after 30 June 1992;

(b) the interest that would have accrued on the contributions covered by paragraph (a) if it were assumed that:

(i) the contributions had been member contributions made under the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(ii) interest on those contributions had accrued in accordance with determinations by CSC under that

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scheme as to rates of interest and the method of allocating interest; and

(iii) no interest on those contributions had accrued during any period when the person was not entitled to a parliamentary allowance;

(c) the total of the minimum amounts that the Commonwealth would have had to contribute to a complying superannuation fund or scheme for the benefit of the person in order to avoid having any individual base superannuation guarantee shortfalls for the person that are greater than nil if it were assumed that:

(i) the only capacity in which the person was, or had ever been, an employee of the Commonwealth (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) were the person's capacity as a member (see subsection 12(4) of that Act); and

(ii) the scheme constituted by the provisions of this Act did not exist; and

(iv) those contributions were made on a fortnightly basis;

(d) the interest that would have accrued on the contributions covered by paragraph (c) if it were assumed that:

(i) the contributions had been member contributions made under the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(ii) interest on those contributions had accrued in accordance with determinations by CSC under that scheme as to rates of interest and the method of allocating interest; and

(iii) no interest on those contributions had accrued during any period when the person was not entitled to a parliamentary allowance;

(e) if:

(i) the person was entitled to a parliamentary allowance at all times since the end of 30 June 1992; and

(ii) an amount (the ***lump sum amount***) would have been payable to the person under subsection 18(4) if it were

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assumed that the person had retired voluntarily at the end of 30 June 1992;

the sum of the following amounts:

(iii) the lump sum amount;

(iv) the interest that would have accrued on the lump sum amount if it were assumed that:

(A) the lump sum amount had been a member contribution made on 1 July 1992 under the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(B) interest on the contribution had accrued in accordance with determinations by CSC under that scheme as to rates of interest and the method of allocating interest.

(1AA) For the purposes of paragraph (1A)(b), the amount is the sum of:

(a) the person's minimum requisite benefit; and

(b) an amount, determined in writing by the Secretary of the Finance Department in relation to the person in accordance with advice received from an actuary, representing interest on the person's minimum requisite benefit.

(1AB) In determining an amount for the purposes of paragraph (1AA)(b), the Secretary must have regard to the following:

(a) the timing and amounts of the benefits paid to or in respect of the person under this Act;

(b) determinations by CSC under the superannuation scheme established by deed under the *Superannuation Act 1990* as to rates of interest and the method of allocating interest;

(c) any other matter that the Secretary considers relevant.

(1AC) In working out the superannuation guarantee safety-net amount for the purposes of paragraph 19AB(1C)(b), increase the amount worked out under subsection (1AA) of this section by the person's surcharge deduction amount.

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Refund of contributions

(2) For the purposes of this Act, if a superannuation guarantee safety-net amount is paid to a person, so much of that amount as is attributable to the person's contributions is taken to be a refund of the contributions.

Definitions—superannuation guarantee charge

(3) In this section:

benefit certificate means the benefit certificate (within the meaning of section 10 of the *Superannuation Guarantee (Administration) Act 1992*) that was in effect on the last day the person was entitled to a parliamentary allowance.

complying superannuation fund or scheme has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

individual base superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

minimum requisite benefit means the benefit certified by an actuary in the benefit certificate as the minimum requisite benefit for the person, as a member of the scheme constituted by the provisions of this Act, calculated at the last day the person was entitled to a parliamentary allowance.

17 Meaning of voluntary retirement

(1) For the purposes of this Part, the cases in which a member shall be deemed to have retired voluntarily shall be the cases specified in this section.

(2) Notwithstanding anything contained in this section, a member shall not be deemed to have retired voluntarily if he or she has attained the age of 60 years at the time when he or she ceases to be entitled to a parliamentary allowance.

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(3) A member who resigns his or her place before the end of his or her term of office is taken to have retired voluntarily if:

(a) the Trust does not determine under section 15A that the resignation is to be treated as an invalidity retirement; and

(b) he or she fails to satisfy the Trust that his or her resignation was made bona fide:

(i) for the purpose of securing election for another electorate or for another State; or

(ii) for the purpose of submitting himself or herself for re-election by the electors of his or her former electorate; or

(iii) for the purpose of securing election as a member of the House of which he or she was not a member.

(4) A person who has ceased to be a senator upon the expiration of the term of office of a class of senators or the dissolution of the Senate, or has ceased to be a member of the House of Representatives upon the dissolution or expiration of that House, shall be deemed to have retired voluntarily:

(a) if:

(i) in the case of a person who was a senator—he or she was not, at the time of an election to fill places in the Senate that became vacant at the time when his or her place became vacant, a candidate for election to the Senate or, if elections of members of the House of Representatives were held, or an election of a member of the House of Representatives was held, at the same time as such a Senate election, a candidate either for election as a senator or as a member of the House of Representatives; or

(ii) in the case of a person who was a member of the House of Representatives—he or she was not, at the time of the next ensuing elections for that House, a candidate for election to that House or, if elections of senators were held, or an election of a senator was held, at the same time as those elections for that House, a candidate either

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for election as a senator or as a member of the House of Representatives;

and both:

(iii) the Trust does not determine under section 15A that his or her failure to be such a candidate is to be treated as an invalidity retirement; and

(iv) he or she does not satisfy the Trust that his or her failure to be such a candidate was due to:

(A) his or her failure to secure the support of a political party from which he or she reasonably sought support; or

(B) his or her expulsion from a political party; or

(b) if he or she was such a candidate but did not, in the opinion of the Trust, genuinely desire to be elected.

(5) A member shall be deemed to have retired voluntarily if his or her place becomes vacant:

(a) under section 20 or 38 of the Constitution; or

(b) by reason of his or her becoming subject to any of the disabilities mentioned in paragraphs 44(iv) and (v) of the Constitution, or because he or she has directly or indirectly taken or agreed to take any fee or honorarium for services rendered to the Commonwealth, within the meaning of paragraph 45(iii) of the Constitution.

(6) Notwithstanding anything contained in this section (except subsection (2)), a member shall be deemed to have retired voluntarily if he or she ceases to be a member in circumstances which, in the opinion of the Trust, should justly be treated as constituting a voluntary retirement for the purposes of this Part.

18 Benefits to members

(1) Subject to this Act, a member who ceases to be entitled to a parliamentary allowance shall be entitled to benefits in accordance with this section.

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Note: A benefit to which a person is entitled in accordance with this section may be reduced under Part VC (which deals with the Division 293 and 296 tax laws).

(1AA) For the purposes of this section, the ***most recent benefit start-up time*** is the time when a benefit becomes payable to the person (ignoring any application of subsection (8A) or (8AC)).

(1A) Where the period of service of a member is not less than 12 years, then, subject to subsections (8A) and (8AC), the benefit shall be a retiring allowance during his or her life-time at the rate applicable in accordance with the scale set out in subsection (6).

(1B) Where the period of service of a member is less than 12 years but he or she has, on each of at least 4 occasions (including occasions before the commencement of this subsection), ceased to be a member upon the dissolution or expiration of the House of which he or she was then a member or upon the expiration of his or her term of office, then, subject to subsections (8A) and (8AC), the benefit shall be:

(a) if his or her period of service is less than 8 years—a retiring allowance during his or her life-time at the rate applicable in accordance with the scale set out in subsection (6) in the case of a member whose period of service is 8 years; or

(b) in any other case—a retiring allowance during his or her life-time at the rate applicable in accordance with the scale set out in subsection (6).

(2) In the case of a member (other than a member to whom subsection (1A) or (1B) applies) who does not retire voluntarily and whose retirement is not an invalidity retirement, the benefit (subject to subsections (8A), (8AC) and (8B)) is:

(a) where his or her period of service is not less than 8 years—a retiring allowance during his or her life-time at the rate applicable in accordance with the scale set out in subsection (6);

(aa) where his or her period of service is less than 8 years but he or she has, on each of at least 3 occasions (including occasions before the commencement of this paragraph),

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ceased to be a member upon the dissolution or expiration of the House of which he or she was then a member or upon the expiration of his or her term of office—a retiring allowance during his or her life-time at the rate applicable in accordance with the scale set out in subsection (6) in the case of a member whose period of service is 8 years; or

(b) in any other case—the greater of the following:

(i) a refund of his or her contributions together with a payment of the Commonwealth supplement;

(ii) the superannuation guarantee safety-net amount.

(2AAA) If the amount referred to in subparagraph (2)(b)(i) is equal to the amount referred to in subparagraph (2)(b)(ii), paragraph (2)(b) has effect as if the amount referred to in subparagraph (2)(b)(i) were greater than the amount referred to in subparagraph (2)(b)(ii).

(2AA) In the case of a member (other than a member to whom subsection (1A) or (1B) applies) whose retirement is an invalidity retirement, the benefit (subject to subsections (8A), (8AC) and (8B)) is:

(a) if the member's period of service is not less than 8 years—a retiring allowance during his or her life-time at the rate applicable in accordance with the scale set out in subsection (6); or

(b) if the member's period of service is less than 8 years but he or she has, on each of at least 3 occasions (including occasions before the commencement of this subsection), ceased to be a member upon:

(i) the dissolution or expiration of the House of which he or she was then a member; or

(ii) the expiration of his or her term of office;

a retiring allowance during his or her life-time at the rate of 50% of parliamentary allowance for the time being payable to a member; or

(c) if:

(i) neither of the preceding paragraphs applies; and

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(ii) he or she is a class 1 invalid;

a retiring allowance during his or her life-time at the rate of 50% of parliamentary allowance for the time being payable to a member; or

(d) if:

(i) none of the preceding paragraphs applies; and

(ii) he or she is a class 2 invalid;

a retiring allowance during his or her life-time at the rate of 30% of parliamentary allowance for the time being payable to a member; or

(e) if:

(i) none of the preceding paragraphs applies; and

(ii) he or she is a class 3 invalid;

the greater of the following:

(iii) a refund of his or her contributions together with a payment of the Commonwealth supplement;

(iv) the superannuation guarantee safety-net amount.

Note: The references in this subsection to the rate of parliamentary allowance for the time being payable are affected by section 22T.

(2AB) If the amount referred to in subparagraph (2AA)(e)(iii) is equal to the amount referred to in subparagraph (2AA)(e)(iv), paragraph (2AA)(e) has effect as if the amount referred to in subparagraph (2AA)(e)(iii) were greater than the amount referred to in subparagraph (2AA)(e)(iv).

(2AC) If:

(a) a person is entitled to a retiring allowance under paragraph (2AA)(c) or (d); and

(b) under section 15C, the Trust reviews the person's current classification as a class 1 invalid or a class 2 invalid, as the case may be; and

(c) the Trust decides to re-classify the person under section 15C;

the following provisions have effect from the date on which the re-classification takes effect:

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(d) the person ceases to be entitled to a retiring allowance under whichever of paragraph (2AA)(c) or (d) was applicable;

(e) the person becomes entitled to a retiring allowance or benefit under whichever of paragraph (2AA)(c), (d) or (e) is applicable to the person as a result of the re-classification.

(2A) For the purposes of subsection (1B) and paragraphs (2)(aa) and (2AA)(b), every senator whose term of office was 6 years shall, if at the expiration of 3 years after the commencement of that term of office that term of office had not expired, be deemed (in addition to his or her having ceased to be a senator at the actual expiration of that term of office if he or she continued in office for the whole of that term) to have at the expiration of that period of 3 years ceased to be a senator by reason of the expiration of that term of office.

(3) Where a person has been appointed to hold the office of a senator by the Governor of a State under section 15 of the Constitution, his or her ceasing to be a member upon the expiration of 14 days after the beginning of the next session of the Parliament of the State, or upon the election of a successor, as the case may be, shall not be taken into account for the purposes of subsection (1B) or paragraphs (2)(aa) and (2AA)(b).

(4) In the case of a member (other than a member to whom subsection (1A) or (1B) applies) who retires voluntarily, the benefit (subject to subsections (8B)) is the greater of the following:

(a) a refund of his or her contributions together with a payment of 50% of the Commonwealth supplement;

(b) the superannuation guarantee safety-net amount.

(5) If the amount referred to in paragraph (4)(a) is equal to the amount referred to in paragraph (4)(b), subsection (4) has effect as if the amount referred to in paragraph (4)(a) were greater than the amount referred to in paragraph (4)(b).

(6) The rate of retiring allowance payable to a person under this section is such percentage of the rate of parliamentary allowance for the time being payable to a member as is applicable in accordance with the following scale:

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Number of complete years in period of service of person	Percentage of parliamentary allowance to be paid as retiring allowance
8	50.00
9	52.50
10	55.00
11	57.50
12	60.00
13	62.50
14	65.00
15	67.50
16	70.00
17	72.50
18 or more	75.00

Note: The reference in this subsection to the rate of parliamentary allowance for the time being payable is affected by section 22T.

(7) Where:

(a) the number of complete years in the period of service of a person is not less than 8 but less than 18; and

(b) that period of service includes, apart from those complete years, a number of complete days;

the percentage of the rate of parliamentary allowance applicable in relation to the person in accordance with the scale set out in subsection (6) shall be increased by an additional percentage (calculated to 3 decimal places) of that rate ascertained by multiplying the number of those complete days or 364, whichever is the less, by .00685.

(8) Where the additional percentage ascertained in accordance with subsection (7) in relation to a person would, if it were calculated to 4 decimal places, end with a number greater than 4, that additional percentage shall be taken to be the percentage calculated to 3

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decimal places in accordance with that subsection and increased by 0.001.

(8A) If:

(a) a person's surcharge debt account is in debit at the most recent benefit start-up time; and

(b) apart from this subsection, the person would be entitled to a retiring allowance under subsection (1A) or (1B) or paragraph (2)(a) or (aa) or (2AA)(a), (b), (c) or (d);

then, instead of the retiring allowance referred to in paragraph (b), and for so long as the person does not make an election under subsection 18A(1) after the most recent benefit start-up time, the person is entitled to a retiring allowance during his or her life-time at a rate equal to such percentage of the rate of parliamentary allowance for the time being payable to a member as is worked out by using the formula:

$$\text{Percentage} \times \frac{\text{Basic rate} - \text{Surcharge adjustment}}{\text{Basic rate}}$$

where:

basic rate means the rate at which, at the most recent benefit start-up time, the retiring allowance referred to in paragraph (b) would have been payable to the person if this subsection did not apply to the person.

percentage means:

(a) if, apart from this subsection, the person would have been, at the most recent benefit start-up time, entitled to a retiring allowance under subsection (1A) or (1B) or paragraph (2)(a) or (aa) or (2AA)(a)—the percentage of the rate of parliamentary allowance by reference to which the rate of that retiring allowance would have been, at the most recent benefit start-up time, ascertained (see subsection (6) and, if applicable, subsections (7) and (8)); or

(b) if, apart from this subsection, the person would have been, at the most recent benefit start-up time, entitled to a retiring

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allowance under paragraph (2AA)(b), (c) or (d)—the percentage of the rate of parliamentary allowance specified in that paragraph.

surcharge adjustment means the total of the person's notional adjustment debits arising under any or all of the following provisions at or before the most recent benefit start-up time:

(a) subsection (8AA);

(b) subsection (8AB);

(c) subsection 18A(6).

(8AAA) Any reduction under section 22CH is to be disregarded in applying the definition of ***basic rate*** in subsection (8A) of this section.

(8AA) If:

(a) a person's surcharge debt account is in debit at the most recent benefit start-up time; and

(b) apart from subsection (8A), the person would be entitled to a retiring allowance under subsection (1A) or (1B) or paragraph (2)(a) or (aa) or (2AA)(a), (b), (c) or (d);

there is taken to have arisen at the most recent benefit start-up time a notional adjustment debit of the person equal to the amount worked out using the following formula:

$$\frac{\text{Surcharge deduction amount}}{\text{Conversion factor}}$$

where:

conversion factor means the factor applicable to the person under the determination made by the Trust under section 22A.

surcharge deduction amount means the person's surcharge deduction amount.

(8AB) If:

(a) at the time this subsection commences (the ***commencement time***), a person is entitled to a retiring allowance under subsection (8A); and

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(b) that retiring allowance was calculated by reference to a particular surcharge adjustment within the meaning of that subsection as in force before the commencement time;

there is taken to have arisen at the commencement time a notional adjustment debit of the person equal to that surcharge adjustment.

(8AC) If:

(a) a person makes an election under subsection 18A(1) on a particular day (the ***election day***) after the most recent benefit start-up time; and

(b) if the election had not been made, the person would have been entitled on the election day to a retiring allowance under subsection (1A), (1B) or (8A) or this subsection or paragraph (2)(a) or (aa) or (2AA)(a), (b), (c) or (d);

then, on and after the election day, instead of the retiring allowance referred to in paragraph (b), the person is entitled to a retiring allowance during his or her lifetime at a rate equal to such percentage of the rate of parliamentary allowance for the time being payable to a member as is worked out using the formula:

$$\text{Percentage} \times \frac{\text{Basic rate} - \text{Surcharge adjustment}}{\text{Basic rate}}$$

where:

basic rate means the rate at which, at the most recent benefit start-up time, a retiring allowance under subsection (1A) or (1B) or paragraph (2)(a) or (aa) or (2AA)(a), (b), (c) or (d) would have become payable to the person if this subsection and subsection (8A) did not apply to the person.

percentage means:

(a) if, apart from this subsection and subsection (8A), the person would have been entitled at the most recent benefit start-up time to a retiring allowance under subsection (1A) or (1B) or paragraph (2)(a) or (aa) or (2AA)(a)—the percentage of the rate of parliamentary allowance by reference to which the

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rate of that retiring allowance would be ascertained (see subsection (6) and, if applicable, subsections (7) and (8)); or

(b) if, apart from this subsection and subsection (8A), the person would have been entitled at the most recent benefit start-up time to a retiring allowance under paragraph (2AA)(b), (c) or (d)—the percentage of the rate of parliamentary allowance specified in that paragraph.

surcharge adjustment means the total of:

(a) the person's notional adjustment debits arising under any or all of the following provisions before the end of the election day:

(i) subsection 18A(6);

(ii) subsection (8AA);

(iii) subsection (8AB); and

(b) the person's notional adjustment debits arising under subsection 18B(15) after the most recent benefit start-up time and before the end of the election day.

(8ACA) Any reduction under section 22CH is to be disregarded in applying the definition of ***basic rate*** in subsection (8AC) of this section.

(8B) If:

(a) a person's surcharge debt account is in debit when a benefit becomes payable to the person; and

(b) apart from this subsection, the person would be entitled to a benefit under paragraph (2)(b) or (2AA)(e) or subsection (4);

then, instead of the benefit referred to in paragraph (b), the amount of the benefit to which the person is entitled is an amount equal to the difference between:

(c) the amount that would be payable to the person under this section if this subsection did not apply to the person; and

(d) the person's surcharge deduction amount.

(9) Where the period of service of a person who became entitled to a retiring allowance after 30 June 1980 includes a period or periods

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during which the person served as a Minister of State or as an office holder, the person is entitled, in respect of:

(a) his or her service in each office that he or she held as a Minister of State (other than his or her service in an office, during a period that he or she held more than one office as a Minister of State, that did not affect the salary to which he or she was entitled as Minister of State during that period); or

(b) his or her service in each office by virtue of which he or she was an office holder;

as the case may be, to additional retiring allowance in respect of his or her service in that office at a rate equal to such percentage of the rate, for the time being, at which salary is payable to a Minister of State or allowance by way of salary is payable to an office holder, as the case may be, in respect of that office as is determined in accordance with subsection (10) to be the relevant percentage in respect of his or her service in that office.

Note: The reference in this subsection to the rate of salary, or allowance by way of salary, for the time being payable in respect of an office is affected by sections 22T and 23.

(10) For the purposes of subsection (9), the relevant percentage in respect of the service of a person in a particular office is:

(a) if the period of service of the person in that office is less than a complete year—the percentage, calculated to 3 decimal places, that is obtained by multiplying 6.25% by the number of days in that period of service and dividing the product by 365;

(b) if the period of service of the person in that office is a complete year—6.25%;

(c) if the period of service of the person in that office is a number of complete years—the percentage obtained by multiplying 6.25% by the number of complete years in that period of service; or

(d) if the period of service of the person in that office is a complete year or a number of complete years and also, apart from that complete year or those complete years, a number of days—the percentage obtained by adding together:

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(i) the percentage ascertained in accordance with paragraph (b) or (c) in respect of the complete year or the complete years, as the case requires; and

(ii) the percentage, calculated to three decimal places, that is obtained by multiplying 6.25% by the number of the days and dividing the product by 365.

(10A) Where the relevant percentage ascertained in accordance with subsection (10) in relation to the service of a person in a particular office would, if it were calculated to 4 decimal places, end with a number greater than 4, that percentage shall be taken to be the percentage calculated to 3 decimal places in accordance with that subsection and increased by 0.001.

(10B) Nothing in subsection (9) shall be taken to entitle a person to additional retiring allowance at a rate that exceeds:

(a) in a case where the person is entitled to additional retiring allowance in respect of one office only—75% of the rate, for the time being, at which salary or allowance by way of salary, as the case may be, is payable in respect of that office; or

(b) in a case where the person is entitled to additional retiring allowance in respect of 2 or more offices—75% of the rate that is the highest rate, for the time being, at which salary or allowance by way of salary, as the case may be, is payable in respect of either or any of those offices.

Note: The reference in this subsection to the rate of salary, or allowance by way of salary, for the time being payable in respect of an office is affected by sections 22T and 23.

(11) A reference in this section to a member includes a reference to any person who is entitled to parliamentary allowance.

(12) For the purpose of references in this section to the rate of parliamentary allowance for the time being payable to a member, any reductions under Division 3 of Part 2 of the *Parliamentary Business Resources Act 2017* (about salary sacrifice) of a particular member's entitlement to parliamentary allowance are to be disregarded.

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18A Commutation of retiring allowance—payment of surcharge liability

Election

(1) If:

(a) a person is entitled to a retiring allowance under subsection 18(1A), (1B), (8A) or (8AC) or paragraph 18(2)(a) or (aa) or 18(2AA)(a), (b), (c) or (d); and

(b) an assessment is made of the surcharge on the person's surchargeable contributions for a financial year; and

(c) the person becomes liable to pay the surcharge under the assessment in accordance with paragraph 10(4)(c) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*;

the person may, within:

(d) 3 months after the assessment was made; or

(e) such longer period as the Trust allows;

give the Secretary of the Finance Department a written notice electing to commute the whole or a part of the person's retiring allowance to a lump sum benefit equal to the amount specified in the election.

(1A) However, a person may not make an election under subsection (1) if the person has given the Secretary of the Finance Department a written notice under paragraph 22SC(2)(c).

(2) The election must be accompanied by:

(a) a written notice requesting that the amount of the lump sum benefit be:

(i) paid to the Commissioner of Taxation; and

(ii) wholly applied in payment of surcharge under the assessment; and

(b) a copy of the notice of assessment.

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Surcharge commutation amount

(3) The amount specified in the election:

(a) must be equal to or less than the amount of surcharge under the assessment; and

(b) must not have the effect of reducing the person's retiring allowance below zero; and

(c) is to be known as the ***surcharge commutation amount*** for the purposes of this section.

Entitlement to lump sum benefit

(4) If a person makes an election under subsection (1), the person is entitled to a lump sum benefit equal to the surcharge commutation amount.

Note: The person's retiring allowance will be reduced under subsection 18(8AC).

(5) If a person is entitled to a lump sum benefit under subsection (4), the liability to pay that benefit must be discharged by:

(a) paying the amount of that benefit to the Commissioner of Taxation in accordance with the person's request; and

(b) informing the Commissioner of Taxation of the person's request that the amount be wholly applied in payment of surcharge under the assessment concerned.

Notional adjustment debit

(6) If a person makes an election under subsection (1) on a particular day, there is taken to have arisen at the start of that day a notional adjustment debit of the person equal to the amount worked out using the following formula:

$$\frac{\text{Surcharge commutation amount}}{\text{Conversion factor}}$$

where:

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conversion factor means the factor applicable to the person under the determination made by the Trust under section 22B.

One election per assessment

(7) A person is not entitled to make more than one election under subsection (1) in relation to a particular assessment.

18B Commutation of retiring allowance—general

(1) This section applies to a person who becomes entitled to a retiring allowance on or after 12 June 1978 other than a person who:

(a) becomes entitled to that allowance in pursuance of paragraph 18(2)(a) or (aa); and

(b) becomes entitled to that allowance under paragraph 18(2AA)(a), (b), (c) or (d).

Note: For the purposes of this section, a person who is a deferring member for the purposes of Part VA is treated as not becoming entitled to a retiring allowance before the person attains the age of 55 years. See section 22DC.

(3) Notwithstanding anything in this Act, a person may, not earlier than 3 months before, and not later than 3 months after, becoming a person to whom this section applies, by notice in writing signed by the person and delivered personally or sent by post to the Secretary of the Finance Department, elect to convert such percentage (not exceeding 50%) of his or her retiring allowance as is specified in the notice (in this section referred to as the ***specified percentage***) to a lump sum payment determined in accordance with this section.

(3A) A person who has made an election under subsection (3) to convert a percentage of his or her retiring allowance to a lump sum payment may, not later than 3 months after, but not earlier than 3 months before, becoming a person to whom this section applies, by notice in writing given to the Secretary of the Finance Department, elect that the person's surcharge deduction amount be deducted from the lump sum payment

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(4) If the person has not made an election under subsection (3A), the amount of the lump sum payment is:

(a) in any of the cases mentioned in subsection (5)—the specified percentage of the annual amount of the retiring allowance payable to him or her multiplied by 10; or

(b) in any other case—the specified percentage of the annual amount of the retiring allowance payable to him or her multiplied by the number ascertained in accordance with the formula $10 - \frac{x}{24}$,

where ***x*** is the number of whole months in the period that commenced on the day on which he or she attained the age of 65 years and ended on the day immediately before he or she became entitled to the retiring allowance.

(4A) If the person has made an election under subsection (3A), the amount of the lump sum payment is the difference between:

(a) the amount of the lump sum payment that would have been payable to the person under subsection (4) if he or she had not made the election; and

(b) the person's surcharge deduction amount.

(5) The cases referred to in paragraph (4)(a) are:

(a) the case where the person had not attained the age of 66 years at the time when he or she became entitled to the retiring allowance;

(b) the case where the person attained the age of 66 years after the dissolution or expiration of the House of which he or she was last a member, or after the expiration of his or her last term of office as a member, and before he or she became entitled to the retiring allowance; and

(c) the case where:

(i) the person attained the age of 66 years at a time when he or she was a member;

(ii) the person ceased to be a member upon the dissolution or expiration of the House of which he or she was a member at the time when he or she attained that age or

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upon the expiration of the term of office during which he or she attained that age; and

(iii) the person did not, after so ceasing to be a member, again become a member before he or she became entitled to the retiring allowance.

(6) Where a person elects to convert a percentage of his or her retiring allowance to a lump sum payment in accordance with subsection (3):

(a) the percentage of the rate of parliamentary allowance applicable in relation to him or her under section 18 for the purpose of calculating the rate of retiring allowance payable to him or her under that section (other than any additional retiring allowance payable under subsection (9) of that section) shall, in lieu of the percentage (in this paragraph referred to as the ***previous percentage***) that would, but for this paragraph, be applicable in relation to him or her under that section, be ascertained in accordance with the formula

$$\frac{p\,(100\ -\ s)}{100},$$

where:

p is the previous percentage; and

s is the specified percentage;

(b) if the person is entitled to additional retiring allowance under subsection 18(9), the percentage that is, under that subsection, the relevant percentage for the purpose of ascertaining the additional retiring allowance payable to him or her under that subsection in respect of his or her service in an office shall, in lieu of the percentage (in this paragraph referred to as the ***previous percentage***) that would, but for this paragraph, be the relevant percentage, under that subsection, in respect of his or her service in that office, be ascertained in accordance with the formula

$$\frac{p\,(100\ -\ s)}{100},$$

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where:

p is the previous percentage; and

s is the specified percentage; and

(c) if a payment or payments of retiring allowance has or have already been made to him or her since he or she became entitled to the retiring allowance, the amount of the lump sum payment referred to in subsection (4) shall be reduced by so much of the amount of the payment, or of the sum of the amounts of the payments, already made as relates or relate to the specified percentage of the retiring allowance.

(7) A reference in this section to the annual amount of the retiring allowance payable to a person shall be construed as a reference to the annual amount of the retiring allowance that was payable to the person at the time when he or she became entitled to that allowance.

(9) Notwithstanding anything contained in this section, where the Trust is of the opinion that a person who:

(a) has become entitled to a retiring allowance; and

(b) has made an election under subsection (3) to convert a percentage of his or her retiring allowance to a lump sum payment in accordance with that subsection;

would, within 12 months after having become entitled to that retiring allowance, be likely to become a member again, the Trust shall direct that the operation of the election be deferred for such period, not exceeding 12 months, as the Trust determines.

(10) The Trust may at any time during the period of deferment of the operation of an election made under subsection (3) reduce the period of deferment.

(11) During the period of deferment of the operation of an election made under subsection (3) by a person, retiring allowance shall, subject to subsection 20(3), be paid to the person as if the election had not been made.

(12) Where, during the period of deferment of the operation of an election made under subsection (3) by a person, the person

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becomes a member again, the election shall, for the purposes of this Act, be deemed never to have been made.

(13) Where, during the period of deferment of the operation of an election made under subsection (3) by a person, the person does not become a member again, the lump sum payment that would have been payable to him or her in accordance with subsection (3) but for the deferment shall be paid to him or her, but, in determining the amount by which the amount of the lump sum payment referred to in subsection (4) is to be reduced in accordance with paragraph (6)(c), payments of retiring allowance made to him or her after the election was made shall be treated as having been made to him or her before the election was made.

(14) Where, during the period of deferment of the operation of an election made under subsection (3) by a person, the person dies, the lump sum payment that would have been payable to him or her in accordance with subsection (3) but for the deferment shall be paid to his or her personal representative, but, in determining the amount by which the amount of the lump sum payment referred to in subsection (4) is to be reduced in accordance with paragraph (6)(c), payments of retiring allowance made to the person after the election was made shall be treated as having been made to him or her before the election was made.

(15) If:

(a) a person makes an election under subsection 18A(1) on a particular day (the ***election day***) in relation to his or her retiring allowance; and

(b) the person has already made an election under subsection (3) of this section in relation to the retiring allowance; and

(c) the person has not made an earlier election under subsection 18A(1) in relation to his or her retiring allowance;

there is taken to have arisen at the start of the election day a notional adjustment debit of the person equal to the amount worked out using the following formula:

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$$\frac{\text{Specified percentage} \times \left(\text{Basic rate} - \text{Earlier notional adjustment debits}\right)}{100}$$

where:

basic rate has the same meaning as in subsection 18(8AC).

earlier notional adjustment debits means the total of the person's notional adjustment debits arising under any or all of the following provisions before the start of the election day:

(a) subsection 18(8AA);

(b) subsection 18(8AB);

(c) subsection 18A(6).

(15A) Any reduction under section 22CH is to be disregarded in applying the definition of ***basic rate*** in subsection (15) of this section.

(16) If:

(a) a person makes an election under subsection 18A(1) on a particular day (the ***election day***) in relation to his or her retiring allowance; and

(b) the person has already made an election under subsection (3) of this section in relation to the retiring allowance;

paragraph (6)(a) ceases to apply to the retiring allowance on the election day.

(17) If:

(a) a person makes an election under subsection 18A(1) in relation to his or her retiring allowance; or

(b) the amount of the person's retiring allowance is reduced in accordance with section 22SE to reflect a release authority lump sum (within the meaning of Part VC);

the person is not entitled to make a subsequent election under subsection (3) of this section in relation to the retiring allowance.

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19 Benefits to spouse

(1) Where:

(a) a person who is entitled to a parliamentary allowance dies; or

(b) a person who is entitled to a retiring allowance (whether or not the retiring allowance is immediately payable) dies;

benefits are payable in accordance with this section.

(2) Subject to sections 19AAA and 21AA, if the deceased person is survived by a spouse, there is payable to the spouse an annuity, during his or her life-time, at a rate ascertained in accordance with subsection (3).

(3) The rate of the annuity referred to in subsection (2) is five-sixths of the rate of the retiring allowance that would have been applicable to the deceased person if he or she had not died and:

(aa) where he or she died while entitled to a retiring allowance the rate of which was, at the time of his or her death, reduced under section 21B—the rate of retiring allowance to which he or she was entitled was not so reduced;

(a) where he or she died while entitled to a parliamentary allowance—he or she had ceased to be entitled to that allowance on the date of his or her death; and

(b) where his or her period of service was less than 8 years—his or her period of service had been 8 years.

19AAA Commutation of spouse's annuity—payment of surcharge liability

Election

(1) If:

(a) a person (the ***deceased person***) dies and:

(i) the deceased person was entitled to a parliamentary allowance; or

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(ii) the deceased person was entitled to a retiring allowance, whether or not the retiring allowance was immediately payable; and

(b) the deceased person is survived by a spouse; and

(c) the spouse is entitled to an annuity; and

(d) an assessment is made of the surcharge on the deceased person's surchargeable contributions for a financial year; and

(e) the spouse becomes liable to pay the surcharge under the assessment in accordance with paragraph 10(4)(ca) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*;

the spouse may, within:

(f) 3 months after the assessment was made; or

(g) such longer period as the Trust allows;

give the Secretary of the Finance Department a written notice electing to commute the whole or a part of the annuity to a lump sum benefit equal to the amount specified in the election.

(2) The election must be accompanied by:

(a) a written notice requesting that the amount of the lump sum benefit be:

(i) paid to the Commissioner of Taxation; and

(ii) wholly applied in payment of surcharge under the assessment; and

(b) a copy of the notice of assessment.

Surcharge commutation amount

(3) The amount specified in the election:

(a) must be equal to or less than the amount of surcharge under the assessment; and

(b) must not have the effect of reducing the annuity below zero; and

(c) is to be known as the ***surcharge commutation amount*** for the purposes of this section.

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Entitlement to lump sum benefit

(4) If a spouse makes an election under subsection (1), the spouse is entitled to a lump sum benefit equal to the surcharge commutation amount.

(5) If a spouse is entitled to a lump sum benefit under subsection (4), the liability to pay that benefit must be discharged by:

(a) paying the amount of that benefit to the Commissioner of Taxation in accordance with the spouse's request; and

(b) informing the Commissioner of Taxation of the spouse's request that the amount be wholly applied in payment of surcharge under the assessment concerned.

Reduction of annuity

(6) If a spouse makes an election under subsection (1) in relation to an annuity, the rate of the annuity is to be reduced in accordance with the method determined in writing by the Trust in relation to the spouse following consultation with an actuary. The reduction takes effect from the beginning of the day of the election.

(7) A method determined by the Trust under subsection (6) is to be a method that, having regard to:

(a) the age of the spouse when the election is made under subsection (1); and

(b) other relevant factors (if any);

is applicable for the purpose of working out, in relation to the spouse, the rate by which the annuity would have to be reduced to discharge a liability equal to the surcharge commutation amount.

One election per assessment

(8) A spouse is not entitled to make more than one election under subsection (1) in relation to a particular assessment.

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19AA Benefits in respect of orphaned children

(1) In the cases specified in this section, benefits for the care and maintenance of eligible children are payable in such manner and subject to such conditions as the Trust determines.

(2) Subject to subsections (2A) and (2B), where:

(a) a person has died or dies while entitled to a parliamentary allowance; or

(b) a person has died or dies while entitled to a retiring allowance (whether or not the retiring allowance was or is, as the case may be, immediately payable);

and the deceased person:

(c) was or is survived by a child of the deceased person or of a former spouse of the deceased person, being a child who:

(i) was dependent on the deceased person; and

(ii) is an eligible child; and

(d) was not or is not survived by a person with whom the deceased person had had a marital or couple relationship and who is:

(i) the natural or adoptive parent of that child; or

(ii) the parent of that child because the child is a child of the person within the meaning of the *Family Law Act 1975*;

then, subject to sections 19ABA and 21AA, benefit in accordance with this section is payable in respect of the child.

(2A) Subject to subsection (2B), if the deceased person died while entitled to a retiring allowance (whether or not the retiring allowance was immediately payable), subsection (2) does not apply in relation to a child who was born, or was adopted by the deceased person, either alone or together with another person, after the date on which the deceased person became entitled to the retiring allowance and after the date on which the deceased person attained the age of 60 years.

(2B) Subsection (2A) does not exclude a child from benefit where:

(a) the child:

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(i) was born while the deceased person was having a marital or couple relationship with another person; or

(ii) was adopted by the deceased person or the deceased person with that other person during the duration of that relationship; or

(iii) was a child of the deceased person, and that other person, within the meaning of the *Family Law Act 1975*; and

(b) if that other person had survived the deceased person, that other person would have been entitled to an annuity under section 19.

(3) Subject to subsection (3A), where a spouse entitled to an annuity under section 19 (whether or not the annuity is immediately payable) dies and is survived by a child who is a dependent child of the spouse or of the deceased person and is an eligible child, benefit in accordance with this section is payable in respect of the child.

(3A) Subsection (3) does not apply to a child who:

(a) was born after the date of the death of the deceased person; or

(b) was adopted by the spouse after that date (whether alone or together with another person);

unless the child would, in the Trust's opinion, have been a dependant of the deceased person if the deceased person had not died.

(4) The benefit in respect of an eligible child is an annuity at the rate of the amount per annum ascertained by dividing by 4 (or, if the number of eligible children of the deceased person in respect of whom benefit is payable under this section is greater than 4, by the number of those children):

(a) where the benefit became payable on the death of a person referred to in paragraph (2)(a) or (b)—the amount of the annual rate of annuity that would have been payable to the spouse of that person if that person had died leaving a spouse entitled to an annuity under this Act; or

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(c) where the benefit became payable on the death of a spouse referred to in subsection (3)—the amount of the annual rate of annuity that would have been payable to the spouse if she or he had not died and, if the rate of the annuity was, at the time of his or her death, reduced under section 21B, the annuity was not so reduced.

(5) In this section:

child, in relation to a person, means a child of the person, including:

(a) an adopted child or an ex-nuptial child of the person; and

(b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

deceased person means a deceased person mentioned in paragraph (2)(a) or (b).

eligible child means:

(a) a child who has not attained the age of 18 years; or

(b) a child who:

(i) has attained the age of 18 years but has not attained the age of 25 years; and

(ii) is receiving full-time education at a school, college or university.

19ABA Commutation of orphaned child's annuity—payment of surcharge liability

Election

(1) If:

(a) a person (the ***deceased person***) dies and:

(i) the deceased person was entitled to a parliamentary allowance; or

(ii) the deceased person was entitled to a retiring allowance, whether or not the retiring allowance was immediately payable; and

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(b) either:

(i) the deceased person is survived by a child of the deceased person or of a former spouse of the deceased person; or

(ii) the deceased person is survived by a spouse, the spouse dies, and the spouse is survived by a child of the spouse or of the deceased person; and

(c) an annuity is payable in respect of the child; and

(d) an assessment is made of the surcharge on the deceased person's surchargeable contributions for a financial year; and

(e) the person to whom the annuity is payable (the ***eligible person***) (who may be the child) becomes liable to pay the surcharge under the assessment in accordance with paragraph 10(4)(ca) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*;

the eligible person may, within:

(f) 3 months after the assessment was made; or

(g) such longer period as the Trust allows;

give the Secretary of the Finance Department a written notice electing to commute the whole or a part of the annuity to a lump sum benefit equal to the amount specified in the election.

(2) The election must be accompanied by:

(a) a written notice requesting that the amount of the lump sum benefit be:

(i) paid to the Commissioner of Taxation; and

(ii) wholly applied in payment of surcharge under the assessment; and

(b) a copy of the notice of assessment.

Surcharge commutation amount

(3) The amount specified in the election:

(a) must be equal to or less than the amount of surcharge under the assessment; and

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(b) must not have the effect of reducing the annuity below zero; and

(c) is to be known as the ***surcharge commutation amount*** for the purposes of this section.

Entitlement to lump sum benefit

(4) If an eligible person makes an election under subsection (1), the eligible person is entitled to a lump sum benefit equal to the surcharge commutation amount.

(5) If an eligible person is entitled to a lump sum benefit under subsection (4), the liability to pay that benefit must be discharged by:

(a) paying the amount of that benefit to the Commissioner of Taxation in accordance with the eligible person's request; and

(b) informing the Commissioner of Taxation of the eligible person's request that the amount be wholly applied in payment of surcharge under the assessment concerned.

Reduction of annuity

(6) If an eligible person makes an election under subsection (1) in relation to an annuity, the rate of the annuity is to be reduced in accordance with the method determined in writing by the Trust in relation to the child following consultation with an actuary. The reduction takes effect from the beginning of the day of the election.

(7) A method determined by the Trust under subsection (6) is to be a method that, having regard to:

(a) the age of the child when the election is made under subsection (1); and

(b) other relevant factors (if any);

is applicable for the purpose of working out, in relation to the child, the rate by which the annuity would have to be reduced to discharge a liability equal to the surcharge commutation amount.

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One election per assessment

(8) An eligible person is not entitled to make more than one election under subsection (1) in relation to a particular assessment.

Definition

(9) In this section:

child has the same meaning as in section 19AA.

19AB Benefits payable to personal representative

(1) Where:

(a) a person dies on or after 12 June 1978 while entitled to a retiring allowance (whether or not the retiring allowance is immediately payable); and

(b) the deceased person is not survived by a spouse to whom an annuity is payable under section 19 and no benefits are payable in respect of a child or children of the deceased person or of a former spouse of the deceased person;

there is payable to the personal representative of the deceased person the amount (if any) by which the greater of the following:

(c) the sum of:

(i) the contributions paid by the deceased person; and

(ii) the Commonwealth supplement in relation to the deceased person;

(d) the superannuation guarantee safety-net amount in relation to the deceased person;

exceeds the sum of any benefits under this Act paid to, or accrued due to, the deceased person before the death of that person.

(1A) If the amount referred to in paragraph (1)(c) is equal to the amount referred to in paragraph (1)(d), subsection (1) has effect as if the amount referred to in paragraph (1)(c) were greater than the amount referred to in paragraph (1)(d).

(1B) If:

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(a) on or after the commencement of this subsection, a person dies while entitled to a parliamentary allowance; and

(b) the deceased person is not survived by a spouse to whom an annuity is payable under section 19; and

(c) no benefits are payable in respect of a child or children of the deceased person or of a former spouse of the deceased person;

an amount of benefit worked out under subsection (1C) is payable to the personal representative of the deceased person.

(1C) The amount of the benefit referred to in subsection (1B) is:

(a) if paragraph (b) does not apply—the amount by which the greater of the following:

(i) the sum of the contributions paid by the deceased person and the Commonwealth supplement in relation to him or her;

(ii) the superannuation guarantee safety-net amount in relation to the person;

exceeds the sum of any benefits under this Act paid to, or accrued due to, the person before his or her death; or

(b) if the deceased person's surcharge debt account is in debit when a benefit under this section becomes payable in respect of the person—an amount equal to the difference between:

(i) the amount referred to in (a); and

(ii) the person's surcharge deduction amount.

(1D) If the amount referred to in subparagraph (1C)(a)(i) (***first amount***) is equal to the amount referred to in subparagraph (1C)(a)(ii), subsection (1C) has effect as if the first amount were the greater of those 2 amounts.

(2) Where:

(a) a person dies on or after 12 June 1978 while entitled to a parliamentary allowance or while entitled to a retiring allowance (whether or not the retiring allowance is immediately payable); and

(b) the greater of the following:

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(i) the sum of:

(A) the contributions paid by the deceased person; and

(B) the Commonwealth supplement in relation to the deceased person;

(ii) the superannuation guarantee safety-net amount in relation to the deceased person;

exceeds the sum of any benefits under this Act:

(iii) paid to, or accrued due to, the deceased person before the death of that person; or

(iv) paid or payable to:

(A) a spouse of the deceased person; or

(B) a child or children of the deceased person or of a spouse, or former spouse, of the deceased person;

an amount equal to the excess is payable to the personal representative of the deceased person.

(2A) If the amount referred to in subparagraph (2)(b)(i) is equal to the amount referred to in subparagraph (2)(b)(ii), paragraph (2)(b) has effect as if the amount referred to in subparagraph (2)(b)(i) were greater than the amount referred to in subparagraph (2)(b)(ii).

(3) In this section, ***child*** has the same meaning as in section 19AA.

19A Additional benefit to Prime Minister

(1) Subject to this Act, a person who:

(a) has, whether before or after the commencement of this section, held the office of Prime Minister for a continuous period of not less than 2 years or for periods amounting in the aggregate to not less than 2 years;

(b) has, whether before or after the commencement of this section, ceased to be entitled to a parliamentary allowance; and

(c) has, whether before or after the commencement of this section, attained the age of 45 years;

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shall be paid a retiring allowance at the rate ascertained in accordance with the scale set out in subsection (2A) during his or her life-time.

(2) Where a person who has held office as specified in paragraph (1)(a) has died or dies (either while holding office as Prime Minister or after ceasing so to hold office), and that person is survived by a spouse, the spouse shall be paid an annuity, during her or his life-time, at a rate equal to one-half of the rate of the retiring allowance calculated, in relation to the service of the former Prime Minister, in accordance with the scale set out in subsection (2A).

(2A) The rate of a retiring allowance under subsection (1) shall be ascertained in accordance with the following scale:

Period, or aggregate of periods, of service as Prime Minister	**Annual amounts of retiring allowance** **$**
Not less than 2 years but less than 3 years	4,000
Not less than 3 years but less than 4 years	4,500
Not less than 4 years but less than 5 years	5,000
Not less than 5 years but less than 6 years	5,500
Not less than 6 years	6,000

(3) A retiring allowance or annuity under this section is payable notwithstanding that the person to whom the retiring allowance or annuity is payable is entitled to some other benefit under this Act.

(4) This section does not apply to or in respect of any person who, not having held the office of Prime Minister before 12 June 1978, commences to hold that office on or after that date.

(5) Any period in which a person holds the office of Prime Minister on or after 12 June 1978 shall not be taken into account for the purposes of the application of this section to or in respect of him or her.

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(6) A person who:

(a) held the office of Prime Minister on 12 June 1978; or

(b) ceased to hold the office of Prime Minister before 12 June 1978 after having held that office for a continuous period of not less than 2 years or for periods amounting in the aggregate to not less than 2 years and was entitled to a parliamentary allowance on that date;

may, within 3 months after 12 June 1978, by notice in writing signed by the person and delivered personally or sent by post to the Secretary of the Finance Department, elect that this section shall not apply to and in respect of him or her and, where such an election is made, a retiring allowance is not payable under this section to the person and an annuity is not payable under this section to a spouse of the person.

(7) Any period in which a person has held the office of Prime Minister and which is taken into account for the purposes of the application of this section to or in respect of the person shall be deemed for the purposes of this Act not to be a period in which the person served as a Minister of State.

20 Re-election to the Parliament

(1A) In this section:

cut off date for a person means:

(a) the date that is 12 months after the person again becomes a member; or

(b) the date immediately before any day on which the person ceases to be a member upon the dissolution or expiration of the House of which he or she was then a member or upon the expiration of his or her term of office.

eligible lump sum amount means:

(a) a refund of contributions or a payment of the whole or a part of the Commonwealth supplement, or both; or

(b) the superannuation guarantee safety-net amount.

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(1AA) If a person who has received an eligible lump sum amount under this Act again becomes a member, the person may enter into a contract with the Trust, in the manner required by the Trust, to repay the amount specified in subsection (1AD) to the Commonwealth within 3 years of the person again becoming a member.

(1AB) The contract must be made in the period of 3 months after the person again becomes a member.

(1AC) If there has not been a cut off date for the person in the 3 month period, the trust may extend the period until the first cut off date for the person after the person again becomes a member.

(1AD) The amount referred to in subsection (1AA) is calculated as follows:

(a) if paragraph (b) does not apply to the person—the amount is worked out by using the formula:

$$\text{Eligible lump sum amount} \times \frac{\text{Parliamentary allowance at contract date}}{\text{Parliamentary allowance at retirement date}}$$

(b) if the person's surcharge debt account was in debit when the eligible lump sum amount became payable to the person—the amount is worked out by using the formula:

$$\left(\text{Eligible lump sum amount} + \text{Surcharge deduction amount}\right) \times \frac{\text{Parliamentary allowance at contract date}}{\text{Parliamentary allowance at retirement date}}$$

where:

parliamentary allowance at contract date means the annual amount of parliamentary allowance payable to a member at the date on which the person enters into the contract.

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parliamentary allowance at retirement date means the annual amount of parliamentary allowance payable to a member at the date on which the person most recently retired from the Parliament.

surcharge deduction amount means the person's surcharge deduction amount when the eligible lump sum amount became payable to the person.

(1AE) If a person does not enter into a contract under subsection (1AA), the Trust must not, for the purposes of determining the person's rights to further benefits under this Act, take into account:

(a) any part of the member's period of service; or

(b) any occasion when he or she ceased to be a member;

before the person became entitled to the eligible lump sum amount.

(2) Where an amount referred to in subsection (1) was accepted in lieu of a retiring allowance, the amount which would otherwise be the subject of a contract of repayment under that subsection shall be reduced by the amount of retiring allowance to which the member would have been entitled, up to the time when he or she again became a member, if he or she had not elected to accept a payment in lieu of retiring allowance.

(2A) Where a person who is entitled to a parliamentary allowance on 12 June 1978 has, at any time before that date, received an amount referred to in subsection (1) that he or she did not contract, or was not entitled to contract, with the Trust to repay to the Commonwealth as provided by that subsection, the person may, within 3 months after that date, by notice in writing signed by the person and delivered personally or sent by post to the Secretary of the Finance Department, elect to repay that amount to the Commonwealth.

(2B) Where a person who becomes entitled to a parliamentary allowance on or after 12 June 1978 has, at any time before that date, received an amount referred to in subsection (1) that he or she is not entitled to contract with the Trust to repay to the Commonwealth as provided by that subsection, the person may,

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within 3 months after the date on which he or she so becomes entitled to a parliamentary allowance, by notice in writing signed by the person and delivered personally or sent by post to the Secretary of the Finance Department, elect to repay that amount to the Commonwealth.

(2C) Where an election is made under subsection (2A) or (2B) to repay an amount to the Commonwealth:

(a) the amount shall be repaid at such times and in such amounts as are agreed upon between the person and the Finance Minister or, in the absence of agreement, at such times and in such amounts as the Finance Minister determines, but so that the total of the amounts is repaid to the Commonwealth within 3 years after the date on which the person made the election; and

(b) subsection (1) does not prevent any part of the period of service of the person, and any occasion on which he or she ceased to be a member, before he or she became entitled to that amount from being taken into account for the purposes of determining his or her rights in respect of any further benefit under this Act.

(2D) Where a person who has contracted with the Trust under subsection (1), or has made an election under subsection (2A) or (2B), to repay an amount to the Commonwealth elects under subsection 18B(3) to convert a percentage of the retiring allowance to which he or she is entitled into a lump sum payment, there shall be deducted from that lump sum payment so much (if any) of the amount as remains to be paid under the contract or in pursuance of the election and, upon the deduction being made, the person is, to the extent of the amount deducted, discharged from further liability to make repayments under the contract or in pursuance of the election.

(3) Where a person who is entitled to a retiring allowance in respect of his or her service as a member (whether or not the retiring allowance is immediately payable) again becomes a member, the retiring allowance shall be cancelled, and, subject to subsections (3A) and (3D), thereafter his or her rights and

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liabilities under this Act shall be the same as if he or she had never been entitled to a retiring allowance.

(3A) Where:

(a) a person who has elected (including a person who has elected on more than one occasion) to convert into a lump sum payment a percentage of a retiring allowance to which he or she was entitled again becomes a member; and

(b) the person subsequently becomes entitled to a retiring allowance;

the annual amount of the last-mentioned retiring allowance shall be reduced by:

(c) if the person previously elected on more than one occasion to convert into a lump sum payment a percentage of the retiring allowance to which he or she was entitled—an amount equal to the total of the annual amounts by which the respective retiring allowances to which he or she was previously entitled were reduced by reason of the elections; or

(d) if the person previously elected on only one occasion to convert into a lump sum payment a percentage of the retiring allowance to which he or she was entitled—the annual amount by which that retiring allowance was reduced by reason of the election.

(3B) Subsection (3A) does not apply to an election under subsection 18A(1).

(3C) A reference in subsection (3A) to a retiring allowance to which a person was entitled shall be construed as a reference to the retiring allowance to which he or she was entitled at the time when he or she became entitled to that retiring allowance.

(3D) The rule in subsection (3) does not apply in working out a person's notional adjustment debits that have arisen under any of the following provisions:

(a) subsection 18(8AA);

(b) subsection 18(8AB);

(c) subsection 18A(6).

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(5) This section does not apply in relation to a retiring allowance or annuity under section 19A.

20A Members who were in the Parliament on 1 July 1994—recognition of prior service in a State or Territory Parliament

(1AA) For the purposes of this section, a person is an ***eligible member*** if:

(a) he or she was a member as at the commencement of this subsection; and

(b) at any time before that commencement, the person was a member of:

(i) the Parliament of a State; or

(ii) the Legislative Assembly for the Australian Capital Territory; or

(iii) the Legislative Assembly of the Northern Territory of Australia.

(1AB) Subject to subsection (1AC), this section does not apply in relation to a member unless the member is an eligible member.

(1AC) An eligible member may elect, in writing, that this section does not apply in relation to him or her. The election has effect accordingly.

(1AD) An election under subsection (1AC) must be given to the Trust before whichever is the earlier of the following times:

(a) the end of the period of 12 months after the commencement of this subsection;

(b) immediately before the day on which a general election is first held after the commencement of this subsection.

(1) Subject to subsection (1B), the period of service of a member shall be deemed to include any period, whether before or after the commencement of this section, that ended before the day on which he or she became a member (or, if he or she has become a member on more than one occasion, the day on which he or she last became a member) and during which he or she was a member of the Parliament of a State if:

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(a) he or she is entitled to a pension (including a pension that is not immediately payable) arising out of his or her former membership of that Parliament; or

(b) he or she received a payment by way of a lump sum by reason of the cessation of his or her membership of that Parliament upon the expiration of that period and, within 3 months, or, if the Trust so allowed, 6 months, after the day on which he or she became a member (or, if he or she has become a member on more than one occasion, the day on which he or she last became a member) or 8 June 1973, whichever was the later, he or she contracted with the Trust, in the manner required by the Trust, to pay that lump sum to the Commonwealth within 3 years.

(1A) References in subsection (1) to the Parliament of a State shall be construed as including references to the Legislative Assembly for the Australian Capital Territory and the Legislative Assembly of the Northern Territory.

(1B) The period of service of a member shall not be deemed to include any period after 19 October 1974 and before 23 September 1979 during which the member was a member of the Legislative Assembly of the Northern Territory unless the member elected under section 26 of the *Legislative Assembly Members' Superannuation Act 1979* of the Northern Territory to have his or her period of service as a member of that Legislative Assembly during that period treated as membership for the purposes of that Act.

(2) Any amounts paid by a person to the Commonwealth under paragraph (1)(b) shall be deemed, for the purposes of this Act other than section 16, to be contributions made by the person.

(3) Where a person who has contracted with the Trust under subsection (1) of this section to pay an amount to the Commonwealth elects under subsection 18B(3) to convert a percentage of the retiring allowance to which he or she is entitled into a lump sum payment, there shall be deducted from that lump sum payment so much of the amount as remains to be paid under

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the contract and, upon the deduction being made, the person is, to the extent of the amount deducted, discharged from further liability to make payments under the contract.

(4) If an eligible member makes an election under subsection (1AC) of this section:

(a) paragraph 22Q(1)(b) has effect, in relation to the eligible member, as if the reference in that paragraph to 3 months after the date on which he or she became a member were a reference to the earlier of the times referred to in subsection (1AD) of this section; and

(b) paragraph 22Q(1)(c) has effect, in relation to the eligible member, as if the reference in that paragraph to the expiration of that period of 3 months were a reference to the earlier of the times referred to in subsection (1AD) of this section.

(5) If an eligible member does not make an election under subsection (1AC) of this section, section 22Q has effect, in relation to the eligible member, as if subsection 4(4A) had not been enacted.

(6) In this section:

general election means a general election of the members of the House of Representatives.

21 Reduction of benefits as a result of membership of a State Parliament, the Northern Territory Legislative Assembly or the A.C.T. Legislative Assembly

(1) Subject to this section, if:

(a) a person is entitled to a retiring allowance or annuity; and

(b) the person is or becomes a person in receipt of a salary, or an allowance in the nature of a salary, as:

(i) a member of the Parliament of a State (whether by virtue of holding some special position in that Parliament or not); or

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(ii) a Minister of State of a State;

the rate of retiring allowance or annuity otherwise payable to the person is to be reduced by the rate of the salary or allowance, as the case requires.

(1AA) Subject to this section, if:

(a) a person is entitled to a retiring allowance or annuity; and

(b) the person is or becomes a person in receipt of a pension arising out of:

(i) former membership of the Parliament of a State (whether by virtue of holding some special position in that Parliament or not); or

(ii) having been a Minister of State of a State; and

(c) either:

(i) the person is in receipt of the pension immediately before the commencement of this subsection; or

(ii) the person is an eligible member (within the meaning of section 20A) who has not made an election under subsection 20A(1AC);

the rate of retiring allowance or annuity otherwise payable to the person is to be reduced by the rate of the pension.

(1A) References in subsection (1) or (1AA) to the Parliament of a State and to a Minister of State of a State shall be construed as including references to the Legislative Assembly for the Australian Capital Territory, the Legislative Assembly of the Northern Territory and to a Minister of the Australian Capital Territory or of the Northern Territory, respectively.

(2) Where the salary, allowance or pension by reference to which a reduction is to be made under subsection (1) or (1AA) is payable otherwise than at a periodical rate, the reduction of the retiring allowance or annuity under this Act shall be made to such extent and in such manner as the Trust determines.

21AA Rate of benefits if there is more than one spouse

(1) If a person (***deceased person***) who was:

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(a) entitled to a parliamentary allowance; or

(b) entitled to a retiring allowance, whether or not the retiring allowance was immediately payable;

dies leaving more than one spouse, the Trust must allocate any annuities or benefits payable to a spouse or any eligible children in respect of the deceased person under this Act among them.

(2) The Trust must have regard to:

(a) the respective needs of the spouses; and

(b) if there are any eligible children of the deceased person who are entitled to benefits under section 19AA—the respective needs of the children;

when making the allocation.

(2A) For the purposes of paragraph (2)(a), in determining the needs of a particular spouse, disregard any need that results from an election made by the spouse under section 19AAA.

(2B) For the purposes of paragraph (2)(b), in determining the needs of a child who is entitled to a benefit under section 19AA, disregard any need that results from an election made in relation to the child under section 19ABA.

(2C) The Trust must ensure that so much of an annuity as is commuted under section 19AAA or 19ABA is not allocated under this section.

(3) Subject to subsections (4) and (5), annuities or benefits are only payable to each spouse and eligible child (if any) in accordance with the allocation.

(4) The aggregate of the rates of the annuities and benefits payable under an allocation must not exceed five-sixths of the rate of the retiring allowances applicable to the deceased person.

(5) In subsection (4), the rate of the retiring allowance applicable to the deceased person means the rate of the retiring allowance that would have been applicable to the deceased person if he or she had not died and:

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(a) if the deceased person died while entitled to a retiring allowance the rate of which was, at the time of the death, reduced under section 21 or 21B—the rate of retiring allowance to which the deceased person was entitled was not so reduced; and

(b) if the deceased person died while entitled to a parliamentary allowance—the deceased person ceased to be entitled to that allowance at the time of the death; and

(c) if the period of service of the deceased person was less than 8 years—the period of service of the deceased person was 8 years.

(6) This section has effect subject to sections 19AAA and 19ABA.

21B Effect of the holding of offices of profit—reduction of certain retiring allowances and annuities

(1) In this section, unless the contrary intention appears:

annual after-tax income, in relation to a hypothetical taxpayer and in relation to a year of income, means the hypothetical taxpayer's taxable income for the year of income, reduced by the income tax and the medicare levy imposed on that taxable income.

assessable income has the same meaning as in the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*, as appropriate.

authorized officer means an officer of the Department who is appointed by the Secretary to be an authorized officer for the purposes of this section.

fortnightly grossed-up amount, in relation to particular remuneration, means the amount of assessable income that a hypothetical taxpayer would have to derive during each fortnight in the year of income concerned in order that the hypothetical taxpayer's annual after-tax income for the year of income would equal the annual rate of the remuneration.

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Governor means:

(a) in relation to a State—the Governor of the State; and

(b) in relation to a Territory—the Administrator of the Territory.

holder of an office of profit under a State means:

(a) the Governor of the State;

(b) a Justice or Judge of a court of the State;

(c) a magistrate; or

(d) the holder of:

(i) an office established for a public purpose by or under a law of the State, being an office appointments to which are or may be made by:

(A) the Governor of the State; or

(B) a Minister of the State; or

(ii) any other appointment made for a public purpose by:

(A) the Governor of the State; or

(B) a Minister of the State; or

(iii) an office of Head of Administration or Associate Head of Administration under section 49 of the *Australian Capital Territory (Self-Government) Act 1988*;

but does not include a member of the Parliament of the State.

holder of an office of profit under the Commonwealth means:

(a) the Governor-General;

(b) a Justice or Judge of a federal court;

(c) a person who, by virtue of an Act, has the same status as a Justice or Judge of a federal court or of the Supreme Court of a Territory;

(d) the holder of an office of Secretary within the meaning of the *Public Service Act 1999*; or

(e) a head of mission within the meaning of the Vienna Convention on Diplomatic Relations, a copy of the English text of which is set out in the Schedule to the *Diplomatic Privileges and Immunities Act 1967*, or a head of consular post within the meaning of the Vienna Convention on Consular Relations, a copy of the English text of which is set

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out in the Schedule to the *Consular Privileges and Immunities Act 1972*, being a mission sent, or consular post established, by Australia; or

(f) the holder of a public office within the meaning of Part II of the *Remuneration Tribunal Act 1973*.

hypothetical taxpayer means a hypothetical taxpayer where the following assumptions are made:

(a) that the taxpayer is an individual;

(b) that the taxpayer is not a trustee;

(c) that the taxpayer is a resident for the purposes of the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*, as appropriate;

(d) that the taxpayer has no entitlement to a rebate or credit under either of those Acts;

(e) that no deductions are allowable to the taxpayer under either of those Acts.

income tax has the same meaning as in the *Income Tax Assessment Act 1936*.

medicare levy has the same meaning as in Part VIIB of the *Income Tax Assessment Act 1936*.

Minister means:

(a) in relation to a State—a Minister of the Crown for the State; and

(b) in relation to a Territory—a person holding, in relation to the Territory, an office corresponding to the office of Minister of the Crown for a State.

Parliament, in relation to the Australian Capital Territory means the Legislative Assembly for the Australian Capital Territory, and in relation to the Northern Territory, means the Legislative Assembly of the Northern Territory.

relevant benefit means:

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(a) a retiring allowance under section 18, and includes additional retiring allowance under subsection 18(9); or

(b) an annuity under section 19.

remuneration includes any annual allowance, but does not include:

(a) any amount paid for the reimbursement of expenses reasonably incurred; or

(b) any remuneration payable under section 14 of the *Parliamentary Business Resources Act 2017*.

Secretary means the Secretary of the Department.

State includes Territory.

taxable income has the same meaning as in the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*, as appropriate.

year of income means:

(a) a year of income (within the meaning of the *Income Tax Assessment Act 1936*); or

(b) an income year (within the meaning of the *Income Tax Assessment Act 1997*);

as appropriate.

(2) Subject to subsection (4), if the following conditions are satisfied in relation to a person who is entitled to a relevant benefit:

(a) the person is:

(i) the holder of an office of profit under the Commonwealth; or

(ii) the holder of an office of profit under a State;

(b) the person receives remuneration in respect of the office;

(c) the fortnightly rate of the remuneration exceeds 20% of the fortnightly rate of parliamentary allowance for the time being payable to a member;

the fortnightly rate at which the relevant benefit would otherwise be payable to the person is to be reduced by 50 cents for each $1 of the excess.

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Note: See subsection (3A) for the calculation of the fortnightly rate of parliamentary allowance payable to a member.

(2A) For the purposes of working out the reduction of a relevant benefit under subsection (2), if the remuneration referred to in that subsection is exempt from income tax, the fortnightly rate of the remuneration is taken to be the fortnightly grossed-up amount of the remuneration.

(3) If the remuneration by reference to which the relevant benefit is to be reduced under subsection (2) is payable otherwise than on a fortnightly basis, the fortnightly rate of the remuneration is taken to be the rate that the Trust determines in writing is the equivalent of a fortnightly rate.

(3A) For the purposes of working out the reduction of a relevant benefit under subsection (2), the fortnightly rate of parliamentary allowance payable to a member is the amount worked out using the formula:

$$\frac{\text{Annual rate of parliamentary allowance}}{365} \times 14$$

(3B) For the purpose of the reference in the formula in subsection (3A) to the annual rate of parliamentary allowance, any reductions under Division 3 of Part 2 of the *Parliamentary Business Resources Act 2017* (about salary sacrifice) of a particular member's entitlement to parliamentary allowance are to be disregarded.

(4) Notwithstanding anything contained in subsection (2), the rate of a relevant benefit to which a person is entitled shall not be reduced, or continue to be reduced, under that subsection by a rate that is more than one-half of the rate at which the relevant benefit would have been payable to the person but for that subsection and:

(aa) if subsection 18A(6) applies, whether directly or indirectly, in relation to the relevant benefit—that subsection; and

(a) if subsection 18B(6) applies, whether directly or indirectly, in relation to the relevant benefit—that subsection; and

(b) if subsection 20(3A) applies, whether directly or indirectly, in relation to the relevant benefit—that subsection.

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(5) In the event of a person who is entitled to a relevant benefit becoming:

(a) the holder of an office of profit under the Commonwealth; or

(b) the holder of an office of profit under a State;

the person shall, within 14 days after the occurrence of the event, notify the Secretary, in writing, accordingly.

Penalty for contravention of subsection: 15 penalty units.

Note: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

(6) The Secretary or an authorized officer may, by notice in writing served, personally or by post, on a person who is entitled to a relevant benefit (whether or not the relevant benefit is immediately payable), require the person to furnish to the Secretary, within such reasonable time as is specified in the notice, such information as is specified in the notice, being information that, in the opinion of the Secretary or the authorized officer, as the case may be, is or may be relevant to the application of this section to the person.

(7) A person shall not refuse or fail duly to furnish information that he or she is required to furnish by virtue of a notice under subsection (6).

Penalty for contravention of subsection: Imprisonment for 6 months, or 30 penalty units, or both.

Note: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

(8) Subsection (7) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (8) (see subsection 13.3(3) of the *Criminal Code*).

22 Certain disqualifications

A member whose place becomes vacant by reason of his or her becoming subject to any of the disabilities specified in paragraphs 44(i) and (ii) of the Constitution, or by reason of his or her having

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directly or indirectly taken or agreed to take any fee or honorarium for services rendered in the Parliament to any person or State within the meaning of paragraph 45(iii) of the Constitution, shall be entitled to a refund of his or her contributions, but to no other benefit under this Act.

22A Determination with respect to surcharge deduction amount

(1) The Trust must, in accordance with advice received from an actuary, determine in writing the conversion factor that, having regard to:

(a) the age of a member when a benefit under section 18 becomes payable to him or her; and

(b) other relevant factors (if any);

is applicable for the purpose of working out, in relation to the member, the yearly amount that would have to be paid to discharge a liability equal to the member's surcharge deduction amount.

(2) A determination under subsection (1) must be published in the *Gazette*.

22B Determination with respect to surcharge commutation amount

(1) The Trust must, in accordance with advice received from an actuary, determine in writing the conversion factor that, having regard to:

(a) the age of a person when he or she makes an election under subsection 18A(1); and

(b) other relevant factors (if any);

is applicable for the purpose of working out, in relation to the person, the yearly amount that would have to be paid to discharge a liability equal to the person's surcharge commutation amount (within the meaning of section 18A).

(2) A determination under subsection (1) must be published in the *Gazette*.

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Part VAA—Family law superannuation splitting

Division 1—Preliminary

22CA Definitions

In this Part, unless the contrary intention appears:

additional service factor at the operative time has the meaning given by section 22CC.

additional service factor at the payment time has the meaning given by section 22CC.

affected benefit means the affected benefit referred to in section 22CH.

applicable additional percentage means the percentage that is applied to the rate of salary, or allowance by way of salary, payable in respect of an office in order to calculate:

(a) the annual rate of an additional retiring allowance; or

(b) the annual rate of an annuity.

applicable basic percentage means the percentage that is applied to the rate of parliamentary allowance in order to calculate:

(a) the annual rate of a retiring allowance (other than additional retiring allowance); or

(b) the annual rate of an annuity.

associate annuity means an annuity under section 22CD or 22CE.

associate deferred annuity means an associate deferred annuity under section 22CE.

associate immediate annuity means an associate immediate annuity under section 22CD.

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base amount means:

(a) for a splitting agreement—the base amount specified in, or calculated under, the agreement; or

(b) for a splitting order—the amount allocated under subsection 90XT(4) or 90YY(5) (as the case may be) of the *Family Law Act 1975*.

basic service factor at the operative time has the meaning given by section 22CB.

basic service factor at the payment time has the meaning given by section 22CB.

family law value means:

(a) in relation to a superannuation interest within the meaning of Part VIIIB of the *Family Law Act 1975*—the amount determined in accordance with regulations under that Act that apply for the purposes of paragraph 90XT(2)(a) of that Act; or

(b) in relation to a superannuation interest within the meaning of Part VIIIC of the *Family Law Act 1975*—the amount determined in accordance with regulations under that Act that apply for the purposes of paragraph 90YY(2)(a) of that Act.

In applying regulations referred to in paragraph (a) or (b), the relevant date is taken to be the date on which the operative time occurs.

Note: This amount is determined by applying those regulations, whether or not an order has been made under subsection 90XT(1) or 90YY(1) (as the case may be) of the *Family Law Act 1975*.

member spouse means a member spouse within the meaning of Part VIIIB or VIIIC of the *Family Law Act 1975*.

non-member spouse means a non-member spouse within the meaning of Part VIIIB or VIIIC of the *Family Law Act 1975*.

non-standard annuity means an annuity other than a standard allowance or annuity.

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operative time means:

(a) for a splitting agreement that is a superannuation agreement or a flag lifting agreement within the meaning of Part VIIIB of the *Family Law Act 1975* or for a splitting order within the meaning of that Part—the time that is the operative time for the purposes of that Part in relation to a payment split under the agreement or order; or

(b) for a splitting agreement that is a superannuation agreement or a flag lifting agreement within the meaning of Part VIIIC of the *Family Law Act 1975* or for a splitting order within the meaning of that Part—the time that is the operative time for the purposes of that Part in relation to a payment split under the agreement or order.

Orders means Orders under section 22CK.

original interest means a superannuation interest to which section 22CD applies.

payment split means a payment split within the meaning of Part VIIIB or VIIIC of the *Family Law Act 1975*.

payment time, in relation to the affected benefit, means the time when the benefit becomes payable.

scheme value means the amount determined under the Orders.

Secretary means the Secretary of the Department.

section 16A amount means the total referred to in paragraph 16A(1)(c).

section 22Q amount means the employer component, or the sum of the employer components, referred to in paragraph 22Q(5)(c).

splitting agreement means:

(a) a superannuation agreement (within the meaning of Part VIIIB or VIIIC of the *Family Law Act 1975*); or

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(b) a flag lifting agreement (within the meaning of Part VIIIB or VIIIC of the *Family Law Act 1975*) that provides for a payment split.

splitting order means a splitting order within the meaning of Part VIIIB or VIIIC of the *Family Law Act 1975*.

splitting percentage means:

(a) for a splitting agreement—the percentage specified in the agreement under subparagraph 90XJ(1)(c)(iii) or 90YN(1)(c)(iii) (as the case may be) of the *Family Law Act 1975*; or

(b) for a splitting order—the percentage specified in the order under subparagraph 90XT(1)(b)(i) or 90YY(1)(b)(i) (as the case may be) of the *Family Law Act 1975*.

standard allowance or annuity means:

(a) a retiring allowance; or

(b) an annuity, other than an annuity under section 19AA.

superannuation interest means a superannuation interest within the meaning of Part VIIIB or VIIIC of the *Family Law Act 1975*.

transfer amount means:

(a) if a splitting percentage applies—the amount calculated by multiplying the splitting percentage by the greater of:

(i) the family law value; and

(ii) the scheme value; or

(b) if a base amount applies and the scheme value is not more than the family law value—the base amount; or

(c) if a base amount applies and the scheme value is more than the family law value—the amount calculated using the formula:

$$\text{Scheme value} \times \frac{\text{Whole dollars in base amount}}{\text{Whole dollars in family law value}}$$

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transfer factor means the number calculated by dividing the number of whole dollars in the transfer amount by the number of whole dollars in the scheme value.

22CB Basic service factor

(1) In calculating the annual rate of the affected benefit in accordance with section 22CH, the ***basic service factor at the payment time*** and the ***basic service factor at the operative time*** are worked out under this section.

Period of service at least 8 years

(2) If the period of service is at least 8 years, then:

(a) the ***basic service factor at the payment time*** is the number calculated, by reference to the member spouse's period of service before the payment time, by adding:

(i) for service that occurred within the first 8 years—0.0625 for each full year; and

(ii) for service that occurred within the next 10 years:

(A) 0.025 for each full year; and

(B) 0.025/365 for each left-over day; and

(b) the ***basic service factor at the operative time*** is the number calculated, by reference to the member spouse's period of service before the operative time, by adding:

(i) for service that occurred within the first 8 years:

(A) 0.0625 for each full year; and

(B) 0.0625/365 for each left-over day; and

(ii) for service that occurred within the next 10 years:

(A) 0.025 for each full year; and

(B) 0.025/365 for each left-over day.

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Period of service less than 8 years—retiring allowance (not under subsection 18(2AA))

(3) If the period of service is less than 8 years and the affected benefit is a retiring allowance (other than an allowance under subsection 18(2AA)), then:

(a) the ***basic service factor at the payment time*** is 0.5; and

(b) the ***basic service factor at the operative time*** is the number calculated using the formula:

$$0.5 \times \frac{\text{Days in period of service before operative time}}{\text{Days in period of service}}$$

Period of service less than 8 years—retiring allowance under paragraph 18(2AA)(b) or (c) or annuity under paragraph 19(1)(a)

(4) If the period of service is less than 8 years and the affected benefit is a retiring allowance under paragraph 18(2AA)(b) or (c) or an annuity under paragraph 19(1)(a), then:

(a) the ***basic service factor at the payment time*** is 0.5; and

(b) the ***basic service factor at the operative time*** is the number calculated, by reference to the member spouse's period of service before the operative time, by adding:

(i) 0.0625 for each full year; and

(ii) 0.0625/365 for each left-over day.

Period of service less than 8 years—retiring allowance under paragraph 18(2AA)(d)

(5) If the period of service is less than 8 years and the affected benefit is a retiring allowance under paragraph 18(2AA)(d), then:

(a) the ***basic service factor at the payment time*** is 0.3; and

(b) the ***basic service factor at the operative time*** is the number calculated, by reference to the member spouse's period of service before the operative time, by adding:

(i) 0.0375 for each full year; and

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(ii) 0.0375/365 for each left-over day.

22CC Additional service factor

(1) In calculating the annual rate of the affected benefit in accordance with section 22CH, the ***additional service factor at the payment time*** and the ***additional service factor at the operative time*** are worked out under this section.

Where subsection 18(10B) does not apply

(2) If subsection 18(10B) does not apply, then:

(a) for each office, the ***additional service factor at the payment time*** is the number calculated, by reference to the member spouse's period of service in the office before the payment time, by adding:

(i) 0.0625 for each full year; and

(ii) 0.0625/365 for each left-over day; and

(b) for each office, the ***additional service factor at the operative time*** is the number calculated, by reference to the member spouse's period of service in the office before the operative time, by adding:

(i) 0.0625 for each full year; and

(ii) 0.0625/365 for each left-over day.

Where paragraph 18(10B)(a) applies (one office)

(3) If paragraph 18(10B)(a) applies, then:

(a) the ***additional service factor at the payment time*** is 0.75; and

(b) the ***additional service factor at the operative time*** is:

(i) if the period of service in the office is at least 12 years—0.75; or

(ii) otherwise—the number calculated, by reference to the member spouse's period of service in the office before the operative time, by adding:

(A) 0.0625 for each full year; and

(B) 0.0625/365 for each left-over day.

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Where paragraph 18(10B)(b) applies (highest-paid office)

(4) If paragraph 18(10B)(b) applies, then:

(a) the ***additional service factor at the payment time*** is 0.75; and

(b) if, at the operative time, the member spouse is not entitled to parliamentary allowance, then the ***additional service factor at the operative time*** for the highest-paid office to which paragraph 18(10B)(b) applies is 0.75; and

(c) if, at the operative time, the member spouse is entitled to parliamentary allowance, then the ***additional service factor at the operative time*** for the highest-paid office to which paragraph 18(10B)(b) applies is worked out as follows:

(i) calculate a factor under paragraph (2)(b) of this section for each office referred to in paragraph 18(10B)(b), other than an office for which the period of service began after the operative time;

(ii) for each such factor, calculate a weighted factor under subsection (6) of this section;

(iii) add together the weighted factors calculated under subparagraph (ii) of this paragraph.

(5) If the additional service factor at the operative time, worked out under paragraph (4)(c), would be more than 0.75, then it is taken to be 0.75.

(6) The weighted factor is calculated using the formula:

$$\text{Factor} \times \frac{\text{Salary for the office}}{\text{Salary for highest office}}$$

where:

salary for highest office means the number of whole dollars in the salary applicable at the payment time to the office referred to in paragraph 18(10B)(b) that had the highest rate of salary, or allowance by way of salary, at the payment time.

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salary for the office means the number of whole dollars in the salary, or allowance by way of salary, applicable to the office at the payment time.

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Division 2—Benefits for non-member spouse

22CD Associate annuity for non-member spouse

(1) This section applies to a superannuation interest under this Act (the ***original interest***) if:

(a) the Secretary receives a splitting agreement or splitting order in respect of the original interest; and

(b) the original interest is not an entitlement to an annuity under section 19AA; and

(c) the member spouse and the non-member spouse are both alive at the operative time; and

(d) if a base amount applies—the base amount at the operative time is not more than the family law value or the scheme value.

Immediate annuity if operative time in payment phase

(2) If, at the operative time, standard allowance or annuity is payable in respect of the original interest, then the non-member spouse is entitled to an associate immediate annuity from the operative time, at the rate calculated under the Orders by reference to the transfer amount.

Deferred annuity if operative time in growth phase

(3) If, at the operative time, standard allowance or annuity is not payable in respect of the original interest, then the non-member spouse is entitled to an associate deferred annuity in accordance with section 22CE.

22CE Associate deferred annuity

(1) The associate deferred annuity is payable at an annual rate calculated under the Orders by reference to the transfer amount.

(2) The annuity is payable from the later of:

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(a) the operative time; and
(b) the earliest of the following dates:
(i) if the Trust is satisfied that the non-member spouse has become permanently incapacitated—the date that the Trust considers to have been the date on which the person became permanently incapacitated;
(ii) a date notified to the Secretary under subsection (3);
(iii) the 65th anniversary of the non-member spouse's birth.

(3) The non-member spouse may give a written notice to the Secretary specifying a date that is not earlier than the 55th anniversary of the non-member spouse's birth. However, the notice has no effect if section 26B would prevent the annuity being paid to the non-member spouse from the specified date.

Note: Section 26B applies the preservation requirements of the Superannuation Industry (Supervision) Regulations.

(4) The annuity is not payable unless:
(a) a written application has been made requesting payment of the benefit; and
(b) the applicant has provided any information that is necessary to determine whether the benefit is payable.

(5) An application for payment on the ground of incapacity must be accompanied by the following:
(a) a certificate given by a medical practitioner nominated by the Trust;
(b) a certificate given by a medical practitioner nominated by, or on behalf of, the non-member spouse;
(c) such additional information or documents as the Trust requires.

(6) The certificates mentioned in paragraphs (5)(a) and (b) must include a statement to the effect that, in the opinion of the medical practitioner concerned, the non-member spouse is permanently incapacitated, as defined in this section.

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(7) If the non-member spouse dies before the annuity becomes payable, an amount calculated under the Orders must be paid to the legal personal representative or, if no legal personal representative can be found, to any individual or individuals that the Trust determines.

(8) For the purposes of this section, a person is ***permanently incapacitated*** if, and only if, the person suffers from ***permanent incapacity*** within the meaning of the *Superannuation Industry (Supervision) Regulations 1994*.

22CF Commutation of small associate annuity

(1) If:

(a) the annual rate of associate immediate annuity that becomes payable to the non-member spouse is less than the amount determined under the Orders; or

(b) the annual rate of associate deferred annuity that becomes payable to the non-member spouse is less than the amount determined under the Orders;

then the non-member spouse may elect to commute the annuity.

(2) The election must be made in writing to the Secretary not later than 3 months after the annuity becomes payable.

(3) If the non-member spouse makes the election, then the non-member spouse is entitled instead to:

(a) if paragraph (1)(a) applies—a lump sum equal to the transfer amount; or

(b) if paragraph (1)(b) applies—a lump sum calculated under the Orders.

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Division 3—Reduction of benefits for member spouse

22CG Operative time during growth phase—reduction of lump sum

(1) This section applies if:

(a) at the operative time, standard allowance or annuity is not payable in respect of the original interest; and

(b) the original interest is not an entitlement to an associate annuity.

(2) The contributions in respect of the original interest are reduced, with effect from the operative time, by the amount calculated using the formula:

Contributions at OT × Transfer factor

where:

contributions at OT means the amount of the contributions, ascertained at the operative time.

Note: Under subsections 20A(2) and 22Q(3), certain amounts are deemed to be contributions (in addition to contributions under Part IV).

(3) Any section 16A amount in respect of the original interest is reduced, with effect from the operative time, by the amount calculated using the formula:

Section 16A amount at OT × Transfer factor

where:

section 16A amount at OT means the section 16A amount, ascertained at the operative time.

(4) Any section 22Q amount in respect of the original interest is reduced, with effect from the operative time, by the amount calculated using the formula:

Section 22Q amount at OT × Transfer factor

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where:

section 22Q amount at OT means the section 22Q amount, ascertained at the operative time.

22CH Operative time during growth phase—reduction of retiring allowance

(1) This section applies if:

(a) at the operative time, standard allowance or annuity is not payable in respect of the original interest; and

(b) after the operative time, a retiring allowance (the ***affected benefit***) becomes payable to the member spouse in respect of the original interest.

Note: If the member spouse dies before becoming entitled to a retiring allowance, then subsection (1) will nevertheless result in an indirect reduction of any annuity under paragraph 19(1)(a) to a surviving spouse. This happens because the amount of that annuity is based on the amount of retiring allowance that would have become payable to the member spouse if he or she had not died.

Reduction of basic percentage

(2) In calculating the annual rate of the affected benefit, the applicable basic percentage is replaced by the percentage calculated using the formula:

$$\left(\text{BSF at PT} - \left(\text{BSF at OT} \times \text{Transfer factor} \right) \right) \times 100$$

where:

BSF at OT means the basic service factor at the operative time.

BSF at PT means the basic service factor at the payment time.

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Reduction of additional percentage

(3) In calculating the annual rate of the affected benefit, each applicable additional percentage is replaced by the percentage calculated using the formula:

$$\left(\text{ASF at PT} - \left(\text{ASF at OT} \times \text{Transfer factor} \right) \right) \times 100$$

where:

ASF at OT means the additional service factor at the operative time for the office concerned.

ASF at PT means the additional service factor at the payment time for the office concerned.

(4) Subsection (3) does not apply to an applicable additional percentage for an office if:

(a) the period of service in the office began after the operative time; and

(b) paragraph 18(10B)(b) does not apply.

Multiple interest splits for same original interest

(5) If, before the affected benefit becomes payable, the original interest has been split more than once (that is to say, section 22CD has applied more than once), then the calculations under subsections (2) and (3) are modified as set out in subsections (6) and (7).

Note: If the same superannuation interest is subject to 2 or more payment splits, then section 22CD applies separately in relation to each of those splits.

(6) In applying the formula in subsection (2), the component (BSF at OT × Transfer factor) is to be replaced by the number calculated using the following steps, based on the chronological order of the operative times (starting with the earliest):

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(a) calculate a factor (the ***interim factor***) for the first split using the formula:

$$\begin{matrix}\text{BSF at OT} \\ \text{for first split}\end{matrix} \times \begin{matrix}\text{Transfer factor} \\ \text{for first split}\end{matrix}$$

(b) calculate a factor (the ***interim factor***) for the next split (the ***current split***), using the formula:

$$\left(\begin{matrix}\text{BSF at OT} \\ \text{for current split}\end{matrix} - \begin{matrix}\text{Interim factor} \\ \text{for previous split}\end{matrix}\right) \times \begin{matrix}\text{Transfer factor} \\ \text{for current split}\end{matrix}$$

(c) calculate a factor for each remaining split (if any), using the formula in paragraph (b);

(d) add together the factors calculated under paragraphs (a) to (c).

Example: Assume 2 splits, with the first split having a basic service factor (BSF) of 0.4 and a transfer factor of 0.5 and the second split having a basic service factor of 0.6 and a transfer factor of 0.5. Applying the above steps, the replacement number for the formula is 0.4, that is:

$$(0.4 \times 0.5) + \big((0.6 - 0.2) \times 0.5\big)$$

(7) In applying the formula in subsection (3), the component (ASF at OT × Transfer factor) is to be replaced by the number calculated using the following steps, based on the chronological order of the operative times (starting with the earliest):

(a) calculate a factor (the ***interim factor***) for the first split using the formula:

$$\begin{matrix}\text{ASF at OT} \\ \text{for first split}\end{matrix} \times \begin{matrix}\text{Transfer factor} \\ \text{for first split}\end{matrix}$$

(b) calculate a factor (the ***interim factor***) for the next split (the ***current split***), using the formula:

$$\left(\begin{matrix}\text{ASF at OT} \\ \text{for current split}\end{matrix} - \begin{matrix}\text{Interim factor} \\ \text{for previous split}\end{matrix}\right) \times \begin{matrix}\text{Transfer factor} \\ \text{for current split}\end{matrix}$$

(c) calculate a factor for each remaining split (if any), using the formula in paragraph (b);

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(d) add together the factors calculated under paragraphs (a) to (c).

Reduction not to affect later non-standard annuity

(8) A reduction under this section is to be disregarded in calculating the amount of any non-standard annuity that later becomes payable.

Note: For example, the reduction will be disregarded in calculating the amount of annuity payable under section 19AA in respect of a child of the member spouse after the member spouse's death.

22CI Operative time during growth phase—reduction where original interest is entitlement to associate deferred annuity

(1) This section applies if:

(a) at the operative time, standard allowance or annuity is not payable in respect of the original interest; and

(b) the original interest is an entitlement to an associate deferred annuity.

(2) The annual rate of that associate annuity (when it becomes payable) is reduced to the amount calculated under the Orders.

Note: Although an associate immediate annuity becomes payable at the operative time, an associate deferred annuity will often not become payable until some time after the operative time.

22CJ Operative time during payment phase—reduction of standard allowance or annuity

(1) If, at the operative time, standard allowance or annuity is payable in respect of the original interest, then the annual rate of that allowance or annuity is reduced to the amount calculated under the Orders.

(2) A reduction under subsection (1) is to be disregarded in calculating the amount of any non-standard annuity that later becomes payable.

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Note: For example, the reduction will be disregarded in calculating the amount of annuity payable under section 19AA in respect of a child of the member spouse after the member spouse's death.

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Division 4—Miscellaneous

22CK Ministerial Orders

(1) The Minister may, by legislative instrument, make Orders prescribing matters required or permitted by this Part to be prescribed.

(2) Despite anything in regulations made for the purposes of paragraph 44(2)(b) of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to an Order made under subsection (1) of this section.

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Part VA—Deferred payment of retiring allowance

22DA Definitions

In this Part, unless the contrary intention appears:

deferral day means the day on which the deferring member attains the age of 55 years.

deferral period means the period that starts when the deferring member ceases to be entitled to parliamentary allowance and ends immediately before the deferral day.

deferring member has the meaning given by section 22DB.

invalidity determination means a determination under section 22DD.

SIS regulations means regulations under the *Superannuation Industry (Supervision) Act 1993*.

transitional general election means the first general election after the commencement of this Part.

22DB Members who are subject to deferral

(1) A person is a ***deferring member*** in relation to the person's entitlement to a retiring allowance if:

(a) the person was elected as a member at the transitional general election; or

(b) the person became a member (by election or otherwise) after the transitional general election.

(2) However, a person is not a ***deferring member*** if the person was entitled to parliamentary allowance continuously for a period that:

(a) started before the polling day for the transitional general election; and

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(b) ended at the time of the cessation that gave rise to the person's entitlement to the retiring allowance.

Note: Under section 18, a person's entitlement to a retiring allowance arises because the person ceases to be entitled to parliamentary allowance.

(3) The following provisions apply in determining for the purposes of subsection (2) whether a person was entitled to parliamentary allowance at a particular time.

(4) If the person:

(a) ceased to be a member of the House of Representatives upon the dissolution or expiration of that House; and

(b) was elected as a member of the Senate within 3 months after so ceasing to be a member of the House of Representatives;

then the person is taken to have been entitled to parliamentary allowance from the time the person so ceased to be a member of the House of Representatives until the time the person first became entitled to parliamentary allowance after being so elected as a member of the Senate.

(5) If the person:

(a) resigned as a member of the Senate; and

(b) was elected as a member of the House of Representatives within 3 months after the resignation;

then the person is taken to have been entitled to parliamentary allowance from the time the person resigned as a member of the Senate until the time the person was elected as a member of the House of Representatives.

(6) For the purposes of this section, a member who is elected as a result of a polling is taken to be elected on the polling day.

22DC Deferral of retiring allowance

(1) Subject to section 22DE, the retiring allowance of a deferring member is payable from the deferral day.

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(2) For the purposes of section 18B, the deferring member is taken not to have become entitled to the retiring allowance before the deferral day.

(3) This section does not apply to a retiring allowance under subsection 18(2AA).

(4) This section does not affect any benefit payable under section 19, 19AA or 19AB.

22DD Invalidity determination during deferral period

(1) If:

(a) a written application for an invalidity determination is made in accordance with section 22DF by, or on behalf of, a deferring member; and

(b) the Trust is satisfied that the deferring member would be unable, because of physical or mental impairment, to perform the duties of a member if he or she were still a member;

then the Trust may make a written determination to that effect.

(2) An invalidity determination takes effect on the day it is made, or on an earlier day specified in the determination (not being earlier than the day on which the application was made).

(3) If the Trust makes a decision refusing to make an invalidity determination, the Trust must give the applicant a written notice of the refusal.

22DE Effect of invalidity determination

Retiring allowance is payable for any part of the deferral period that is covered by an invalidity determination (not including any part of the period during which the determination is suspended under subsection 22DH(3)).

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22DF Invalidity determination—application requirements

(1) An application for an invalidity determination must be accompanied by the following:

(a) such additional information (if any) as the Trust requires;

(b) a certificate given by a medical practitioner nominated by the Trust;

(c) a certificate given by a medical practitioner nominated by, or on behalf of, the deferring member;

(d) such additional documents (if any) as the Trust requires.

(2) Each certificate must include a statement to the effect that, in the opinion of the medical practitioner concerned, the deferring member would be unable, because of physical or mental impairment, to perform the duties of a member if he or she were still a member.

22DG Review of invalidity determination

(1) The Trust may at any time review an invalidity determination. The Trust must review it at least once every 2 years.

(2) If, after reviewing an invalidity determination, the Trust is satisfied that the deferring member would no longer be unable, because of physical or mental impairment, to perform the duties of a member if he or she were still a member, then the Trust may revoke the determination.

(3) The revocation takes effect on the day it is made or on a later day specified in the revocation.

(4) The Trust must give the deferring member a written notice of the revocation.

22DH Review of invalidity determination—medical examination

(1) For the purposes of a review under section 22DG, the Trust may, by written notice given to the deferring member, request the deferring member:

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(a) to submit himself or herself for medical examination by a specified medical practitioner at a time and place specified in the notice; or

(b) to give to the Trust, within the period specified in the notice, specified information that is relevant to the review; or

(c) to produce to the Trust, within the period specified in the notice, specified documents that are relevant to the review.

(2) The Trust may give more than one such notice in relation to the review.

(3) If the deferring member fails to comply with a notice under subsection (1), the Trust may, by written notice given to the deferring member, suspend the invalidity determination with effect from a specified day. The day must not be earlier than the day on which the notice was given.

(4) If the deferring member:

(a) submits himself or herself for medical examination in accordance with a notice under subsection (1); and

(b) incurs, in respect of attendance at that examination, expenses in respect of:

(i) transport; or

(ii) accommodation; or

(iii) the purchase of food or drink; or

(iv) incidental matters;

then the Trust may determine that the deferring member is entitled to be paid by the Commonwealth an amount equal to so much of those expenses as the Trust considers reasonable. The Consolidated Revenue Fund is appropriated for the purposes of this subsection.

22DI Other special payments during deferral period

(1) If the Trust is satisfied that a deferring member qualifies on a ground prescribed by the regulations, the Trust may make a written determination that:

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(a) authorises payment to the deferring member of an amount specified in the determination; and

(b) specifies the manner in which the deferring member's retiring allowance is to be reduced on account of the payment.

(2) The determination cannot be revoked or varied after the payment referred to in paragraph (1)(a) is made.

(3) In specifying the manner in which the deferring member's retiring allowance is to be reduced, the Trust must have regard to advice from an actuary. The reduction may be more than the amount of the payment.

(4) The deferring member's retiring allowance is reduced in accordance with the determination.

(5) The regulations may prescribe:

(a) the grounds for payments under this section; and

(b) the matters that the Trust must take into account when determining the amount of a payment under this section.

(6) Before the Governor-General makes a regulation prescribing grounds for the purposes of paragraph (5)(a), the Minister must be satisfied that those grounds are the same as, or substantially similar to, the conditions of release that are referred to in the SIS regulations as "severe financial hardship" and "compassionate ground".

(7) Before the Governor-General makes a regulation prescribing matters for the purposes of paragraph (5)(b), the Minister must be satisfied that those matters are the same as, or substantially similar to, matters that are prescribed by the SIS regulations in relation to the conditions of release referred to in subsection (6).

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Part VB—Preservation of rights of certain members

22Q Members who pay to Commonwealth transfer values received from previous employment

(1) Where:

(a) a person who becomes a member on or after 8 June 1973 has, at any time before becoming a member, been in employment within or outside Australia upon the termination of which a transfer value or transfer values became payable to or in respect of him or her on or after 8 June 1973 under a superannuation scheme applicable in relation to that employment;

(b) the person elected not later than 3 months after the date on which he or she became a member to pay to the Commonwealth an amount equal to:

(i) the amount of that transfer value; or

(ii) if 2 or more transfer values became payable—the sum of the amounts of those transfer values; and

(c) that amount has, before the expiration of that period of 3 months, been paid to the Commonwealth;

the following provisions of this section have effect.

(2) The Trust may, if it is satisfied that there are special circumstances that justify it in so doing, extend the period for the making of an election, and for the payment of an amount to the Commonwealth, under subsection (1).

(3) So much of the amount paid to the Commonwealth as is equal to the employee component of the transfer value, or to the sum of the employee components of the transfer values, as the case may be, shall be deemed, for the purposes of this Act other than section 16, to be contributions made by the member.

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(4) For the purposes of section 18, the period of service of the member shall be deemed to be increased by such period as the Trust, having regard to the amount paid to the Commonwealth under subsection (1) in respect of him or her, the rate of the contributions payable by him or her at the time when he or she became a member and the nature of the benefits provided for by this Act, determines as being appropriate in the circumstances.

(5) If:

(a) a refund of the whole or any part of the contributions paid by the member to the Commonwealth, together with the whole or any part of the Commonwealth supplement, is payable to or in respect of the member; or

(b) the superannuation guarantee safety-net amount is payable to or in respect of the member;

the sum of the following amounts is payable to or in respect of the member by the Commonwealth:

(c) so much of the amount paid to the Commonwealth under subsection (1) as is equal to the employer component of the transfer value or the sum of the employer components of the transfer values, as the case may be;

(d) the interest that would have accrued on the amount worked out under paragraph (c) if it were assumed that:

(i) the amount had been a member contribution made under the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(ii) interest on that contribution had accrued in accordance with determinations by CSC under that scheme as to rates of interest and the method of allocating interest; and

(iii) no interest on that contribution had accrued during any period when the member was not entitled to a parliamentary allowance; and

(iv) if the amount paid to the Commonwealth under subsection (1) was so paid before 1 July 1992—that contribution was made on 1 July 1992.

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(6) If:

(a) under the superannuation scheme applicable in relation to any previous employment of the member, the whole or any part of the employer component of a transfer value was payable to the member upon the termination of that employment irrespective of whether he or she engaged in further employment;

(b) the member ceases to be a member; and

(c) a refund of the contributions paid by him or her is payable to or in respect of him or her but no part of the Commonwealth supplement or the superannuation guarantee safety-net amount is so payable;

so much of the amount paid to the Commonwealth under subsection (1) as is equal to the employer component of the transfer value or to that part of that employer component, as the case may be, is payable to or in respect of him or her by the Commonwealth.

(7) For the purposes of this section:

(a) the employee component of a transfer value payable to or in respect of a person is the part (if any) of that transfer value that was based upon contributions made by the person; and

(b) the employer component of a transfer value payable to or in respect of a person is the part of that transfer value that was based upon contributions by an employer or employers of the person.

22R Special provisions affecting former participants in certain superannuation schemes

(1) Where:

(a) a person who becomes a member on or after 8 June 1973 was, at any time before becoming a member, a participant in:

(i) a superannuation scheme conducted in accordance with the system established in the United Kingdom of Great Britain and Northern Ireland and known as the Federated Superannuation System for Universities; or

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(ii) a superannuation scheme that was, or is deemed to have been, an approved superannuation scheme for the purposes of this section at the time when the person became a member;

(b) by virtue of subsection 4A(3), a transfer value is deemed for the purposes of this Act to have become payable in respect of the person on or after 8 June 1973 under that superannuation scheme because the person was the owner of a life policy or policies of a kind referred to in that subsection, or because the person was entitled to have the rights of the owner of such a policy or policies assigned to him or her; and

(c) the person has elected in accordance with paragraph 22Q(1)(b) to pay to the Commonwealth an amount equal to the amount of that transfer value;

the following provisions of this section have effect.

(2) The person may, within the period within which he or she was entitled to make an election under paragraph 22Q(1)(b), elect that this subsection shall have effect in relation to him or her and, where an election is so made, section 22Q has effect as if the amount referred to in paragraph 22Q(1)(c), or, if part only of that amount relates to the transfer value referred to in subsection (1) of this section, that part of that amount, had been paid to the Commonwealth in accordance with that paragraph.

(3) An election under subsection (2) does not have effect unless the person causes to be assigned to the Commonwealth within the period referred to in that subsection, the life policy or life policies referred to in paragraph (1)(b) free from any mortgages, charges or other encumbrances.

(4) If:

(a) the amount per annum of the parliamentary allowance payable to the person upon his or her becoming a member was greater than the annual remuneration that was payable to him or her in respect of the last employment in which he or she was employed and to which a superannuation scheme referred to in subsection (1) related; or

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(b) after the person became a member his or her parliamentary allowance is increased;

the Trust, on behalf of the Commonwealth, shall, so far as is practicable, arrange for the amount or amounts of any life policy or life policies assigned to the Commonwealth by the person to be increased by the amount or amounts by which the life policy or life policies would have been increased under that scheme, or for the issue of such additional life policy or life policies in relation to the person as would have been issued under that scheme, if he or she had remained a participant in the scheme and had been in receipt of an annual remuneration equal to the amount per annum of that parliamentary allowance or that increased parliamentary allowance, as the case may be.

(5) So much of any premium payable in respect of any life policy assigned to the Commonwealth in accordance with subsection (3) or issued in accordance with subsection (4) as relates to a period during which the person is a member shall be paid by the Commonwealth.

(6) Where the person ceases to be a member and is not entitled to a retiring allowance and, within 3 months after so ceasing, becomes employed in employment in respect of which a superannuation scheme referred to in paragraph (1)(a) is applicable and becomes a participant in that scheme, he or she may elect within that period that this subsection shall have effect in relation to him or her and, if he or she so elects:

(a) any benefit that, but for this subsection, would be payable to him or her is not payable;

(b) the Commonwealth shall assign to the person administering that superannuation scheme the life policy or life policies assigned by the first-mentioned person to the Commonwealth in accordance with subsection (3) or issued in relation to him or her in accordance with subsection (4); and

(c) the Commonwealth shall pay to the first-mentioned person the amount by which the amount of the benefit that, but for this section, would be payable to him or her exceeds the sum of the amounts of the annual premiums paid by the

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Commonwealth under the life policy or life policies assigned by him or her to the Commonwealth in accordance with subsection (3) or issued in relation to him or her in accordance with subsection (4).

(7) Where the person is entitled to make an election under subsection (6) but does not make the election:

(a) the Commonwealth shall surrender the life policy or life policies assigned by him or her to the Commonwealth in accordance with subsection (3) or issued in relation to him or her in accordance with subsection (4); and

(b) the Commonwealth is entitled to the proceeds of the surrender but, in the case of a policy or policies assigned by the person to the Commonwealth in accordance with subsection (3), shall pay to the person an amount equal to so much of any premiums paid by the person in respect of the policy or policies as related to, or to any part of, the period that commenced on the date on which the transfer value referred to in paragraph (1)(b) is deemed for the purposes of this Act to have become payable in respect of him or her and ended on the date on which he or she became a member.

(8) If the life policy or life policies assigned by the person to the Commonwealth in accordance with subsection (3) becomes or become payable at or before the time when he or she ceases to be a member, the Commonwealth shall pay to the person, or, if he or she is dead, to his or her legal personal representative, an amount equal to so much of any premiums paid by the person in respect of the policy or policies as related to, or to any part of, the period that commenced on the date on which the transfer value referred to in paragraph (1)(b) is deemed for the purposes of this Act to have become payable in respect of him or her and ended on the date on which he or she became a member.

(9) Where:

(a) the person has attained the age of 50 years and would, if he or she ceased to be entitled to a parliamentary allowance, be entitled to a pension; or

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(b) the person ceases to be a member and subsections (6), (7) and (8) do not apply in relation to him or her;

then, if the election made by him or her under subsection (2) has not been revoked in accordance with subsection (10), paragraphs (7)(a) and (b) have effect in relation to him or her.

(10) A person who has made an election under subsection (2) may, if:

(a) he or she has not ceased to be a member; and

(b) the life policy or life policies assigned by him or her to the Commonwealth in accordance with subsection (3) or issued in relation to him or her in accordance with subsection (4) has not or have not become payable;

by notice in writing to the Trust revoke the election and, in that case, paragraphs (7)(a) and (b) have effect in relation to him or her.

(11) The Finance Minister may, by instrument under his or her hand published in the *Gazette*, declare a superannuation scheme, being a scheme under which benefits are provided for by means of life policies, to be an approved superannuation scheme for the purposes of this section.

(12) A declaration under subsection (11) shall come into force on the day on which the instrument of declaration is published in the *Gazette* or, if an earlier day (not being earlier than 1 January 1970) is specified in the instrument as the day on which the declaration is deemed to have come into force, shall be deemed to have come into force on that earlier day.

(13) A superannuation scheme shall be taken, for the purposes of this section, to have been an approved superannuation scheme at a particular time if a declaration by the Finance Minister under subsection (11) in respect of that scheme was, or is deemed to have been, in force at that time.

22S Power of Trust to vary determinations

Where, in pursuance of this Part, the Trust has power to make a determination in relation to a matter, the power shall be construed

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as including a power, exercisable in the like manner and subject to the like conditions (if any), to vary a determination so made.

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Part VC—Division 293 and 296 tax laws

Division 1—Preliminary

22SA Definitions

In this Part:

defined benefit interest has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

Division 293 tax law has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

Division 296 tax law has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

release authority lump sum has the meaning given by section 22SC.

superannuation provider has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

22SB Secretary treated as superannuation provider

For the purposes of this Act, the Division 293 tax law and Division 296 tax law apply as if the Secretary of the Finance Department was the superannuation provider in relation to the defined benefit interest established under this Act.

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Division 2—Release under a release authority

22SC Release of benefits under a release authority

(1) A lump sum (the ***release authority lump sum***) may be paid at a time in compliance with a release authority issued to a person under item 3 or 4 of the table in subsection 135-10(1) in Schedule 1 to the *Taxation Administration Act 1953* and given to the Secretary of the Finance Department in accordance with Subdivision 135-B in that Schedule if, at that time:

(a) the person's surcharge debt account is not in debit; or

(b) subsection (2) applies; or

(c) the person is entitled to an associate deferred annuity.

Note: The purpose of the release authority is to allow a lump sum to be paid to the Commissioner to meet a debt the person has under Subdivision 133-C or 134-C in Schedule 1 to the *Taxation Administration Act 1953*.

Surcharge election must be made or forgone

(2) This subsection applies if any of the following are satisfied:

(a) the person has made an election under subsection 18A(1) (which deals with the adjustment of benefits to take account of the surcharge deduction amount);

(b) the person has not made an election under that subsection and the period within which such an election may be made has expired;

(c) the person gives the Secretary of the Finance Department written notice that the person forgoes making an election under that subsection.

Appropriation

(3) Payment of a release authority lump sum must be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

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22SD Limit on amount that may be released

(1) In addition to any requirements in Division 135 in Schedule 1 to the *Taxation Administration Act 1953*, the amount of a release authority lump sum paid in relation to a release authority issued to a person must not have the effect that the person's retiring allowance or associate deferred annuity is reduced below zero.

(2) For the purpose of subsection (1), the effect of a release authority lump sum on the amount of the person's retiring allowance is to be worked out after taking account of:

(a) the amount of any surcharge adjustment applicable in relation to the person's retiring allowance under a provision of this Act; and

(b) any reduction under section 22DI (which deals with special payments during deferral period); and

(c) any reduction under Part VAA (which deals with family law splitting).

(3) For the purpose of subsection (1), the effect of a release authority lump sum on the amount of the person's associate deferred annuity is to be worked out after taking account of any reduction under Part VAA (which deals with family law splitting).

22SE Calculation of benefits after payment of release authority lump sum

Retiring allowance

(1) If:

(a) a release authority lump sum is paid in relation to a release authority issued to a person; and

(b) the person is entitled to a retiring allowance in accordance with section 18;

the person's rate of retiring allowance is the applicable percentage of the rate of retiring allowance that would, apart from this section (but having regard to any other provisions of this Act that affect that rate), be worked out under section 18.

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(2) For the purposes of subsection (1), the applicable percentage is worked out using this formula:

$$\left[1 - \left(\frac{\text{Release authority lump sum}}{\text{Age factor}} \div \text{Basic rate}\right)\right] \times 100$$

where:

age factor means the age factor for the person on the day on which the retiring allowance becomes payable (see subsection (4)).

basic rate means the rate of the retiring allowance that would, apart from this subsection (but having regard to any other provisions of this Act that affect that rate), be worked out under section 18 for the person at the time the retiring allowance becomes payable.

(3) The applicable percentage mentioned in subsection (1) is to be calculated to 3 decimal places (rounding up if the fourth decimal place is 5 or more).

(4) The Secretary of the Finance Department may, by legislative instrument, determine the age factor, or the method for working out the age factor, for the purposes of subsection (2).

Associate deferred annuity

(5) If a release authority lump sum is paid in relation to a release authority issued to a person and an associate deferred annuity is payable to the person, the annual rate of the annuity is to be reduced so that it equals the amount worked out using this formula:

$$\text{Pre-reduction rate} - \frac{\text{Release authority lump sum}}{\text{Age factor}}$$

where:

age factor means the age factor for the person on the day on which the annuity becomes payable (see subsection (6)).

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pre-reduction rate means the annual rate of the annuity that would, apart from this section (but having regard to any other provisions of this Act that affect that rate), be payable to the person.

(6) The Secretary of the Finance Department may, by legislative instrument, determine the age factor, or the method for working out the age factor, for the purposes of subsection (5).

Multiple release authority lump sums

(7) If more than one release authority lump sum is paid in relation to release authorities issued to a person, a reference in the formula in subsection (2) or (5) to the release authority lump sum is taken to be a reference to the total amount of those release authority lump sums.

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Part VI—Miscellaneous

22T Treatment of decreases in rates used to calculate retiring allowance

(1) If:

(a) after 2 March 1996, the rate of any of the following payments (the ***underlying payment***) is decreased:

(i) parliamentary allowance payable to a member;

(ii) salary payable to a Minister of State in respect of an office;

(iii) allowance by way of salary payable to an office holder in respect of that office; and

(b) at a time after the decrease, retiring allowance is payable to a person, or would have been payable to a person if he or she had not died, who was receiving the underlying payment at a time before the decrease;

this section applies for the purposes of calculating the rate of the retiring allowance after the decrease. The rate of the underlying payment immediately before the decrease is the ***preserved rate***.

Note 1: For the purposes of applying paragraph (b), it does not matter if the retiring allowance was or would also have been payable to the person before the decrease.

Note 2: For the purposes of applying paragraph (b), the time when the person was receiving the underlying payment may be a time before or after 2 March 1996.

(1A) For the purpose of paragraph (1)(a), any reductions under Division 3 of Part 2 of the *Parliamentary Business Resources Act 2017* (about salary sacrifice) of a particular member's entitlement to parliamentary allowance are to be disregarded.

(2) In calculating the rate of the retiring allowance, the rate of the underlying payment is to be taken to remain at the preserved rate until the actual rate of the payment increases to at least the preserved rate.

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(3) If the actual rate of the underlying payment is further decreased before increasing to at least the preserved rate, this section does not apply separately in relation to that further decrease.

(4) If a decrease of a payment is expressed to have effect from a particular time before the taking of the decision to decrease the payment, this section applies as if the payment had actually been decreased at that earlier time.

(5) To avoid doubt, if:

(a) a determination under paragraph 45(3)(a) or (b) of the *Parliamentary Business Resources Act 2017*; and

(b) a determination under subsection 45(1) of that Act;

take effect at the same time in relation to the same allowance referred to in subparagraph (1)(a)(i) or (iii) of this section, the net effect of the determinations is taken into account, for the purposes of this section, as a single alteration of the allowance.

(6) To avoid doubt, if:

(a) a determination is made under subsection 45(5) of the *Parliamentary Business Resources Act 2017*; and

(b) the determination states that it relates to an alteration in salary referred to in subparagraph (1)(a)(ii) of this section;

the net effect of the determination and the alteration is taken into account, for the purposes of this section, as a single alteration of the salary.

23 Notional salaries etc. for certain offices

Where a person is entitled to additional retiring allowance under subsection 18(9) in respect of an office in respect of which a salary or an allowance by way of salary was not or is not being paid at any relevant time, whether for the reason that there was not or is not any such office at that time or for any other reason, then, for the purposes of this Act, salary or allowance by way of salary, as the case may be, shall be deemed to have been or to be paid in respect of that office at that time at such annual rate as the Minister determines by instrument in writing.

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24 Benefits not assignable

(1) Retiring allowances, annuities and other benefits under this Act shall be absolutely inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy, or otherwise howsoever.

(2) Subsection (1) has effect subject to subsection 24AA(4).

24AA Recoverable payments

(1) If, apart from this subsection, the Commonwealth does not have power under this Act to pay an amount (the ***relevant amount***) to a person (the ***recipient***) purportedly as a benefit, then the Commonwealth may pay the relevant amount to the recipient.

Recovery

(2) If a payment is made under subsection (1) to the recipient, the relevant amount:

(a) is a debt due to the Commonwealth by the recipient; and

(b) may be recovered by the Secretary of the Department, on behalf of the Commonwealth, in a court of competent jurisdiction.

(3) If:

(a) a payment is made under subsection (1) to the recipient; and

(b) the recipient is receiving, or is entitled to receive, a benefit;

then:

(c) the relevant amount; or

(d) such part of the relevant amount as the Secretary of the Department determines;

may, if the Secretary of the Department so directs, be recovered by deduction from that benefit.

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Benefit

(4) For the purposes of this section, ***benefit*** means a retiring allowance, annuity or other benefit under this Act.

24AB Recoverable death payments

(1) If, apart from this subsection, the Commonwealth does not have power under this Act to pay an amount (the ***relevant amount***) in any of the following circumstances:

(a) the relevant amount is deposited to an account kept in the name of a deceased person;

(b) the relevant amount is deposited to an account kept in the names of a deceased person and another person;

(c) the relevant amount is paid by way of a cheque made out to a deceased person;

the Commonwealth may pay the relevant amount in the circumstances mentioned in paragraph (a), (b) or (c), so long as:

(d) on the last day on which changes could reasonably be made to the payment of the relevant amount, the Secretary of the Department did not know that the deceased person had died; and

(e) apart from this subsection, the relevant amount would have been payable as a benefit to the deceased person if the deceased person had not died.

(2) If a payment is made under subsection (1), the relevant amount is taken to have been paid to the deceased person's estate.

Recovery

(3) If a payment is made under subsection (1), the relevant amount:

(a) is a debt due to the Commonwealth by the legal personal representative of the deceased person; and

(b) may be recovered by the Secretary of the Department, on behalf of the Commonwealth, in a court of competent jurisdiction.

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Benefit

(4) For the purposes of this section, ***benefit*** means a retiring allowance, annuity or other benefit under this Act.

24AC Reports about recoverable payments and recoverable death payments

(1) During the applicable publication period for a reporting period, the Secretary of the Department must cause to be published, in such manner as the Secretary thinks fit, a report that sets out:

(a) both:

(i) the number of payments made under subsection 24AA(1) during the reporting period; and

(ii) the total amount of those payments; and

(b) both:

(i) the number of payments made under subsection 24AB(1) during the reporting period; and

(ii) the total amount of those payments.

(2) However, a report is not required if:

(a) the number mentioned in subparagraph (1)(a)(i) is zero; and

(b) the number mentioned in subparagraph (1)(b)(i) is zero.

Deferred reporting

(3) Paragraph (1)(a) of this section does not require a report to deal with a payment unless, before the preparation of the report, a Departmental official was aware the payment was made under subsection 24AA(1).

(4) Paragraph (1)(b) of this section does not require a report to deal with a payment unless, before the preparation of the report, a Departmental official was aware the payment was made under subsection 24AB(1).

(5) For the purposes of this section, if:

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(a) a payment was made under subsection 24AA(1) or 24AB(1) in a reporting period; and

(b) either:

(i) because of subsection (3) of this section, paragraph (1)(a) of this section did not require a report to deal with the payment; or

(ii) because of subsection (4) of this section, paragraph (1)(b) of this section did not require a report to deal with the payment; and

(c) during a later reporting period, a Departmental official becomes aware that the payment was made under subsection 24AA(1) or 24AB(1), as the case may be;

the payment is subject to a ***deferred reporting obligation*** in relation to the later reporting period.

(6) If one or more payments made under subsection 24AA(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Secretary of the Department must, during the applicable publication period for the later reporting period:

(a) prepare a report that sets out:

(i) the number of those payments; and

(ii) the total amount of those payments; and

(iii) the reporting period during which the payments were made; and

(b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and

(c) if paragraph (b) does not apply—publish, in such manner as the Secretary thinks fit, the paragraph (a) report.

(7) If one or more payments made under subsection 24AB(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Secretary of the Department must, during the applicable publication period for the later reporting period:

(a) prepare a report that sets out:

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(i) the number of those payments; and
(ii) the total amount of those payments; and
(iii) the reporting period during which the payments were made; and

(b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and

(c) if paragraph (b) does not apply—publish, in such manner as the Secretary thinks fit, the paragraph (a) report.

Reporting period

(8) For the purposes of this section, a ***reporting period*** is:
(a) a financial year; or
(b) if a shorter recurring period is specified in a legislative instrument made by the Minister—that period.

Applicable publication period

(9) For the purposes of this section, the ***applicable publication period*** for a reporting period is the period of:
(a) 4 months; or
(b) if a lesser number of months is specified, in relation to the reporting period, in a legislative instrument made by the Minister—that number of months;

beginning immediately after the end of the reporting period.

Departmental official

(10) For the purposes of this section, ***Departmental official*** means an official (within the meaning of the *Public Governance, Performance and Accountability Act 2013*) of the Department.

24A Accrual of retiring allowances, annuities and contributions

Retiring allowances, annuities and contributions under this Act grow due from day to day.

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24B Payment of retiring allowances and annuities

(1) Retiring allowances and annuities under this Act are payable fortnightly.

(2) Where the rate of a retiring allowance or annuity is an annual rate, the amount of the retiring allowance or annuity, as the case may be, payable in respect of a period that is not a complete year, or an exact number of complete years, shall be ascertained:

(a) where the period is one day—by dividing the annual amount of the retiring allowance or annuity, as the case may be, by 365; and

(b) where the period is a number of days—by multiplying the annual amount of the retiring allowance or annuity, as the case may be, by the number of days in the period and dividing the product by 365.

(3) Where the rate of a retiring allowance or annuity is a weekly rate, the amount of the retiring allowance or annuity, as the case may be, payable in respect of a period that is not a complete week, or an exact number of complete weeks, shall be ascertained:

(a) where the period is one day—by dividing the weekly amount of the retiring allowance or annuity, as the case may be, by 7; and

(b) where the period is a number of days—by multiplying the weekly amount of the retiring allowance or annuity, as the case may be, by the number of days in the period and dividing the product by 7.

24C Revocation of elections or the exercise of options

An election, or the exercise of an option, under this Act may be revoked, as prescribed, at any time before a payment has been made in accordance with the election or the exercise of the option.

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24D Trust may give advice to members who are contemplating invalidity retirement

When section applies

(1) This section applies to a member who is considering:
  (a) ceasing to be a member; and
  (b) making an application for a determination under section 15A in relation to that cessation.

Member may ask Trust for advice

(2) The member may ask the Trust for advice that would be likely to assist the member's consideration of those matters.

Trust may give advice

(3) The Trust may give the member such advice as it thinks appropriate.

Kinds of advice that may be given

(4) The advice may include, but is not limited to, the following:
  (a) recommending that the member undertake medical treatment;
  (b) recommending that the member seek leave of absence from the Parliament;
  (c) advising the member about the provisions of this Act relating to invalidity retirement;
  (d) advising the member to submit himself or herself for medical examination by a medical practitioner nominated by the Trust.

Consultation about medical practitioners

(5) The Trust must consult a Senior Commonwealth Medical Officer about the identity of a medical practitioner nominated under paragraph (4)(d).

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Definition

(6) In this section:

medical treatment includes medical treatment within the meaning of the *Safety, Rehabilitation and Compensation Act 1988*.

24E Trust may give advice to recipients of retiring allowances and annuities who are contemplating a commutation in order to pay surcharge

(1) This section applies to a person who is considering making an election under subsection 18A(1), 19AAA(1) or 19ABA(1).

(2) The person may ask the Trust for advice that will be likely to assist the person's consideration of whether to make the election.

(3) The Trust may give the person such advice as it thinks appropriate.

25 Review of decisions

(1) In this section:

decision has the same meaning as in the *Administrative Review Tribunal Act 2024*, but does not include a decision in respect of which an appeal has been made to the High Court before the commencement of this section.

reviewable decision means a decision of the Trust given under this Act or under the regulations, whether given before or after the commencement of this section.

(2) A person affected by a reviewable decision who is dissatisfied with the decision may, by notice in writing given to the Trust within the period of 30 days after the day on which the decision first comes to the notice of the person, or within such further period as the Trust allows, request the Trust to reconsider the decision.

(3) There shall be set out in the request the reasons for making the request.

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(4) Upon receipt of the request, the Trust shall reconsider the decision and may confirm or revoke the decision or vary the decision in such manner as it thinks fit.

(5) Where the Trust confirms, revokes or varies a decision, the Trust shall, by notice in writing served either personally or by post on the person who made the request, inform the person of the result of the Trust's reconsideration of the decision and its reasons for confirming, revoking or varying the decision, as the case may be.

(6) Applications may be made to the Administrative Review Tribunal for review of reviewable decisions that have been confirmed or varied under subsection (4) of this section and for review of decisions of the Trust made under section 25 of the *Parliamentary Contributory Superannuation Act 1948* as amended and in force before the commencement of this section.

26 Payment otherwise than to person entitled

Where, in the opinion of the Trust, payment of a retiring allowance, annuity or other benefit under this Act should be made to a person other than the person entitled to the retiring allowance, annuity or other benefit, the Trust may make the payment to that other person upon such conditions as the Trust thinks fit.

26A Calculation of period of service in certain circumstances

For the purposes of this Act, where the period of service of a member or former member comprises a number of periods that are not continuous with one another and 2 or more of which are periods other than a complete year or an exact number of complete years, the number of complete years in that period of service shall be taken to be the sum of:

(a) the numbers of complete years in the periods comprised in that period of service; and

(b) the number ascertained by dividing the total of the number of days remaining in those periods by 365 and disregarding any fraction in the number so ascertained.

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26B Preservation of benefits and disclosure of information to members

Regulations to which section applies

(1) This section applies to the Superannuation Industry (Supervision) Regulations in so far as they deal with:

(a) the preservation of benefits; or

(b) the disclosure of information to members of regulated superannuation funds.

Regulations apply to the parliamentary contributory superannuation scheme

(2) Those regulations apply, with any necessary modifications, to:

(a) the Trust; and

(b) the scheme constituted by the provisions of this Act;

as if that scheme were a regulated superannuation fund.

Regulations to prevail over inconsistent provisions of this Act

(3) If those regulations are inconsistent with a provision of this Act, the regulations prevail and that provision, to the extent of the inconsistency, is of no effect.

Preserved benefits to be paid into a regulated superannuation fund, an approved deposit fund or an RSA or used to buy a deferred annuity

(4) If the whole or a part of a benefit payable under this Act in respect of a person is required by those regulations to be preserved, the whole or the part of the benefit, as the case requires, must be paid to:

(a) if the person nominates a regulated superannuation fund within 90 days after the benefit became payable—the regulated superannuation fund; or

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(b) if the person nominates an approved deposit fund within 90 days after the benefit became payable—the approved deposit fund; or

(ba) if the person nominates an RSA within 90 days after the benefit became payable—the RSA; or

(c) if:

(i) the person nominates a deferred annuity within 90 days after the benefit became payable; and

(ii) the deferred annuity is issued by a life insurance company or a registered organisation for the benefit of the person or for the benefit of the dependants of the person in the event of the death of the person; and

(iii) the annuity cannot be surrendered or assigned before the person turns 55; and

(iv) the annuity does not provide for the payment of amounts except in the following circumstances:

(A) the person retires from the workforce after reaching the age of 55 years;

(B) the person retires from the workforce before reaching the age of 55 years on the ground of permanent incapacity or permanent invalidity;

(C) the person leaves Australia permanently;

(D) the person dies;

(E) such other circumstances (if any) as the Australian Securities and Investments Commission approves;

the life insurance company or the registered organisation, as the case requires, in respect of the purchase of the deferred annuity; or

(d) in any other case—an approved deposit fund nominated by the Trust.

Preserved benefits taken to have been received

(5) For the purposes of this Act (other than this section), if an amount is paid to a fund, a life insurance company or a registered

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organisation under subsection (4), the person concerned is taken to have received the amount.

Definitions

(6) In this section:

approved deposit fund has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

dependant has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

life insurance company has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

registered organisation has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

regulated superannuation fund has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

RSA has the same meaning as in the *Retirement Savings Accounts Act 1997*.

26C Trustee of Scheme for purposes of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*

(1) For the purposes of the definition of ***trustee*** in section 43 of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*, the Trust is taken to be the person who manages the retirement scheme constituted by this Act (the ***Scheme***).

Note: The definitions of ***public sector superannuation scheme***, ***superannuation fund*** and ***trustee*** in section 43 of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* are relevant to this section.

(2) Section 4 of the *Superannuation Contributions Tax (Application to the Commonwealth—Reduction of Benefits) Act 1997* does not apply to the Trust in its capacity (because of subsection (1)) of

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trustee of the Scheme for the purposes of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

26D Appropriation for surcharge payable by the Trust

Amounts payable by the Trust on or after 1 July 2001 under subsection 16(6) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

27 Appropriation

Payments by the Commonwealth for the purposes of this Act shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

28 Regulations

(1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are by this Act required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made for the purposes of the definition of ***allowance by way of salary***, or the definition of ***office***, in subsection 4(1) may be expressed to have taken effect from and including a day not earlier than 3 months before the making of the regulations.

29 Closing off the scheme constituted by this Act, and related matters

The preceding provisions of this Act have effect subject to Schedule 1. That Schedule provides for closing off the scheme constituted by this Act, and related matters.

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Schedule 1—Closing off the scheme constituted by this Act, and related matters

Note: See section 29.

Part 1—Interpretation

1 Definitions

(1) In this Schedule:

new scheme contribution period, in relation to a person, has the same meaning as in the *Parliamentary Superannuation Act 2004*.

new scheme entry time, in relation to a person, has the same meaning as in the *Parliamentary Superannuation Act 2004*.

(2) In this Schedule, unless the contrary intention appears:

(a) a reference to a clause or subclause is a reference to a clause or subclause of this Schedule; and

(b) a reference to a section or subsection is a reference to a section or subsection of this Act.

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Part 2—Closing off contributions to the scheme

2 No section 13 contributions in respect of new scheme contribution periods

A person is not required or entitled to make contributions under section 13 in respect of any new scheme contribution period of the person.

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Part 3—Closing off entitlements to benefits under the scheme

Division 1—The close-off

3 No section 18 benefits at the end of new scheme contribution periods etc.

(1) A person is not entitled to any benefits under section 18 on ceasing to be entitled to a parliamentary allowance at the end of the first, or any later, new scheme contribution period of the person.

Note: A person may, however, be entitled to an allowance under clause 4 or 5 at a preserved percentage.

(2) Any retiring allowance, or additional retiring allowance, to which the person was entitled under section 18 immediately before the start of the first new scheme contribution period of the person is cancelled by force of this clause (rather than subsection 20(3)) as from the start of that period.

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Division 2—Situations in which a person is entitled to a retiring allowance, or additional retiring allowance, at a preserved percentage

4 Entitlement to a retiring allowance at a preserved percentage

(1) This clause applies to a person if, immediately before the start of the first new scheme contribution period of the person, a retiring allowance (other than additional retiring allowance) was payable to the person under section 18.

Note: The reference in this subclause to a retiring allowance being payable to the person is affected by subclause (6).

(2) The person is entitled, after the end of the first new scheme contribution period, to a retiring allowance (the ***preserved basic allowance***) under this clause during his or her lifetime at the preserved basic percentage (see subclause (5)) of the rate of parliamentary allowance for the time being payable to a member.

Note 1: The reference in this subclause to the rate of parliamentary allowance for the time being payable to a member is affected by section 22T.

Note 2: Because of Division 3 of this Part, other provisions (for example, Part VA, subsection 20(3A) and sections 21 and 21B) may apply so that the preserved basic allowance is not payable to the person, or is payable at a reduced rate.

(3) For the purpose of the reference in subclause (2) to the rate of parliamentary allowance for the time being payable to a member, any reductions under Division 3 of Part 2 of the *Parliamentary Business Resources Act 2017* (about salary sacrifice) of a particular member's entitlement to parliamentary allowance are to be disregarded.

(4) The person's entitlement to the preserved basic allowance is suspended for the duration of any later new scheme contribution period of the person.

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(5) The ***preserved basic percentage*** is, from the end of a new scheme contribution period of the person to the start of the next (if any) new scheme contribution period of the person, the percentage that was applied to the rate of parliamentary allowance in order to calculate the rate of retiring allowance (other than additional retiring allowance) payable to the person under section 18, or under this clause, immediately before the start of the first-mentioned new scheme contribution period.

Note: The reference in this subclause to the rate of retiring allowance payable to the person is affected by subclause (6).

(6) If, immediately before the start of a new scheme contribution period of the person, the person was not being paid a retiring allowance, or was being paid a reduced rate of retiring allowance, because of all or any of the following provisions:

(a) Part VA;

(b) subsection 20(3A);

(c) section 21;

(d) section 21B;

this clause applies to the person as if the person were, at that time, being paid the retiring allowance he or she would have been paid if those provisions had not applied.

5 Entitlement to an additional retiring allowance at a preserved percentage

(1) This clause applies to a person if, immediately before the start of the first new scheme contribution period of the person, additional retiring allowance was payable to the person under subsection 18(9) in respect of either or both of the following:

(a) his or her service in an office or offices he or she held as a Minister of State;

(b) his or her service in an office or offices by virtue of which he or she was an office holder.

In this clause, each office in respect of which the additional retiring allowance was payable is a ***relevant office***.

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Note: The reference in this subclause to a retiring allowance being payable to the person is affected by subclause (5).

(2) The person is entitled, after the end of the first new scheme contribution period and in respect of each relevant office, to additional retiring allowance (the ***preserved additional allowance***) under this clause during his or her lifetime at the preserved additional percentage for the office (see subclause (4)) of the rate, for the time being, of:

(a) for an office referred to in paragraph (1)(a)—the salary payable to a Minister of State; or

(b) for an office referred to in paragraph (1)(b)—the allowance by way of salary payable to an office holder in respect of that office.

Note 1: The reference in this subclause to the rate of salary, or allowance by way of salary, for the time being payable in respect of an office is affected by sections 22T and 23.

Note 2: Subclause (6) imposes a cap on the rate of the preserved additional allowance.

Note 3: Because of Division 3 of this Part, other provisions (for example, Part VA, subsection 20(3A) and sections 21 and 21B) may apply so that the preserved additional allowance is not payable to the person, or is payable at a reduced rate.

(3) The person's entitlement to the preserved additional allowance is suspended for the duration of any later new scheme contribution period of the person.

(4) The ***preserved additional percentage*** for a relevant office is, from the end of a new scheme contribution period of the person to the start of the next (if any) new scheme contribution period of the person, the percentage that was applied to:

(a) for an office referred to in paragraph (1)(a)—the salary payable to a Minister of State; or

(b) for an office referred to in paragraph (1)(b)—the allowance by way of salary payable to an office holder in respect of that office;

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in order to calculate the rate of additional retiring allowance payable to the person in respect of the office under subsection 18(9), or under this clause, immediately before the start of the first-mentioned new scheme contribution period.

Note: The reference in this subclause to the rate of additional allowance payable to the person is affected by subclause (5).

(5) If, immediately before the start of a new scheme contribution period of the person, the person was not being paid additional retiring allowance, or was being paid a reduced rate of additional retiring allowance, because of all or any of the following provisions:

(a) Part VA;

(b) subsection 18(10B) or subclause (6) of this clause;

(c) subsection 20(3A);

(d) section 21;

(e) section 21B;

this clause applies to the person as if the person were, at that time, being paid the additional retiring allowance he or she would have been paid if those provisions had not applied.

(6) Nothing in this clause entitles the person to additional retiring allowance at a rate that exceeds:

(a) if the person is entitled to additional retiring allowance in respect of one relevant office only—75% of the rate, for the time being, at which salary or allowance by way of salary, as the case may be, is payable in respect of that office; or

(b) if a person is entitled to additional retiring allowance in respect of 2 or more relevant offices—75% of the rate that is the highest rate, for the time being, at which salary or allowance by way of salary, as the case may be, is payable in respect of either or any of those offices.

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Division 3—How this Act applies in relation to a person after the new scheme entry time

6 Act applies subject to this Division in relation to a person after the new scheme entry time

(1) This Act applies in relation to a person after the new scheme entry time for the person subject to Division 1 and this Division, and to Part 2.

(2) Subject to Division 1 and this Division, this Act applies in relation to a retiring allowance (the ***preserved basic allowance***) to which the person is entitled under clause 4 in the same way as it applies in relation to a retiring allowance under section 18.

(3) Subject to Division 1 and this Division, this Act applies in relation to additional retiring allowance (the ***preserved additional allowance***) to which the person is entitled under clause 5 in the same way as it applies in relation to an additional retiring allowance under subsection 18(9).

7 Disapplying sections 15A, 15B and 15C

(1) Sections 15A and 15B do not apply in relation to the person ceasing to be a member as mentioned in section 15A, if the cessation occurs after the new scheme entry time for the person.

(2) The Trust cannot, under section 15C, review a person's classification as a class 1 invalid or a class 2 invalid after the new scheme entry time for the person.

8 Modified application of section 16A

Section 16A applies after the new scheme entry time for a person as if the reference in subparagraph (1)(c)(i) to the person's capacity as a member were a reference to the person's capacity as a member before the new scheme entry time.

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9 Provisions applying instead of subsection 18(8A)

(1) Subsection 18(8A) does not apply in relation to the preserved basic allowance. Instead, subclauses (2) and (3) of this clause apply.

(2) If the person's surcharge debt account is in debit at the end of a new scheme contribution period (the ***most recent contribution period***) of the person, then, until whichever (if any) of the following happens first:

(a) another new scheme contribution period of the persons starts;

(b) the person makes an election under subsection 18A(1);

clause 4 applies as if the reference in subclause 4(2) to the preserved basic percentage were instead a reference to the percentage worked out under subclause (3) of this clause.

(3) The percentage is worked out using the formula:

$$\text{Percentage} \times \frac{\text{Basic rate} - \text{Surcharge adjustment}}{\text{Basic rate}}$$

where:

basic rate means the rate at which, after the end of the most recent contribution period, the preserved basic allowance would have been payable to the person if subclause (2) did not apply to the person.

percentage means the preserved basic percentage determined in accordance with subclause 4(5).

surcharge adjustment means the person's notional adjustment debit arising under subclause 10(2) at the end of the most recent contribution period.

10 Provision applying instead of subsection 18(8AA)

(1) Subsection 18(8AA) does not apply in relation to the preserved basic allowance. Instead, subclause (2) of this clause applies.

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(2) If the person's surcharge debt account is in debit at the end of a new scheme contribution period of the person, there is taken to have arisen, at the end of that period, a notional adjustment debit of the person equal to the amount worked out using the formula:

$$\frac{\text{Surcharge deduction amount}}{\text{Conversion factor}}$$

where:

conversion factor means the factor applicable to the person under the determination made by the Trust under section 22A.

surcharge deduction amount means the person's surcharge deduction amount.

11 Provisions applying instead of subsection 18(8AC)

(1) Subsection 18(8AC) does not apply in relation to the preserved basic allowance. Instead, subclauses (2) and (3) of this clause apply.

(2) If the person makes an election under subsection 18A(1) on a particular day (the ***election day***) after the end of a new scheme contribution period of the person (the ***most recent contribution period***) then, from the election day until another (if any) new scheme contribution period of the person starts, clause 4 applies as if the reference in subclause 4(2) to the preserved basic percentage were instead a reference to the percentage worked out under subclause (3) of this clause.

(3) The percentage is worked out using the formula:

$$\text{Percentage} \times \frac{\text{Basic rate} - \text{Surcharge adjustment}}{\text{Basic rate}}$$

where:

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basic rate means the rate at which, after the end of the most recent contribution period, the preserved basic allowance would have been payable to the person if subclause (2) of this clause and subclause 9(2) did not apply to the person.

percentage means the preserved basic percentage determined in accordance with subclause 4(5).

surcharge adjustment means the sum of the following:

(a) the person's notional adjustment debit (if any) arising under subclause 10(2) at the end of the most recent contribution period;

(b) the person's notional adjustment debit arising under subsection 18A(6) because of the making of the election.

12 Modified application of section 18A

Section 18A applies in relation to the preserved basic allowance as if:

(a) paragraph 18A(1)(a) included a reference to the preserved basic allowance; and

(b) the note under subsection 18A(4) included a reference to subclause 11(2).

13 Disapplying section 18B

Section 18B does not apply in relation to the preserved basic allowance or the preserved additional allowance.

14 Modified application of section 19

Section 19 applies in relation to the preserved basic allowance and the preserved additional allowance as if paragraph 19(3)(b) were omitted.

15 Modified application of section 20

(1) After the new scheme entry time for the person, the person cannot:

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(a) enter into a contract as mentioned in subsection 20(1AA); or
(b) make an election as mentioned in subsection 20(2A) or (2B).

(2) Subsection 20(3) does not apply in relation to the preserved basic allowance or the preserved additional allowance.

16 Modified application of section 21AA

Section 21AA applies in relation to the preserved basic allowance and the preserved additional allowance as if paragraph 21AA(5)(c) were omitted.

17 Modified application of section 21B

Section 21B applies in relation to the preserved basic allowance and the preserved additional allowance as if paragraph 21B(4)(a) were omitted.

18 Modified application of Part VB

After the new scheme entry time for a person, the person cannot make an election under any of the provisions of Part VB.

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment

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can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

C[x] = Compilation No. x

ch = Chapter(s)

cl = clause(s)

cont. = continued

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

Ord = Ordinance

orig = original

p = page(s)

para = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

pt = Part(s)

r = regulation(s)/Court rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s) /rule(s)/subrule(s)/order(s)/suborder(s)

sch = Schedule(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

sub ch = Sub-Chapter(s)

sub div = Subdivision(s)

sub pt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Parliamentary Retiring Allowances Act 1948	89, 1948	21 Dec 1948	1 Dec 1948 (s 2)	
Parliamentary Retiring Allowances Act 1952	3, 1952	13 Mar 1952	s 3–10: 1 Jan 1952 (s 2)	—
Parliamentary Retiring Allowances Act 1955	30, 1955	15 June 1955	16 June 1955 (s 2)	s 9
Parliamentary Retiring Allowances Act 1959	20, 1959	24 Apr 1959	1 Mar 1959 (s 2)	s 3(2), 6(2) and 13
Parliamentary Retiring Allowances Act 1964	72, 1964	30 Oct 1964	1 Nov 1964 (s 2) (s 5(1) inserts s 9A–9C *see* s 5(2) for commencement of s 9C: 1 Dec 1948)	s 6(2), 7(2) and 16–19
as amended by				
Parliamentary Retiring Allowances Act 1965	35, 1965	2 June 1965	s 11 and 13: 2 June 1965 (s 2(1)) s 12: 1 Nov 1964 (s 2(2))	s 13
Parliamentary Retiring Allowances (Decimal Currency) Act 1965	147, 1965	18 Dec 1965	s 3: 14 Feb 1966 (s 2)	—
Parliamentary Retiring Allowances Act 1966	71, 1966	29 Oct 1966	s 7 and Sch (Pt II): 29 Oct 1966 (s 2(1))	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	Sch 1: 31 Dec 1973 (s 2)	—
Parliamentary Retiring Allowances Act 1965	35, 1965	2 June 1965	s 3–6, 8–10 and 13: 2 June 1965 (s 2(1)) s 7: 1 Nov 1964 (s 2(2))	s 13

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Parliamentary Retiring Allowances Act 1966	71, 1966	29 Oct 1966	s 3, 5 and Sch (Pt I): 29 Oct 1966 (s 2(1)) s 4: 1 Jan 1966 (s 2(2))	s 4(2)
Parliamentary Retiring Allowances Act 1968	103, 1968	29 Nov 1968	1 Dec 1968 (s 2)	s 8
Parliamentary and Judicial Retiring Allowances Act 1973	47, 1973	8 June 1973	s 4–32: 8 June 1973 (s 2)	s 9(2), (3), 15(2)–(4), 17(2), (3), 19(2), (3), 22(2)–(15) and 32
as amended by				
Commonwealth Superannuation Schemes Amendment Act 1992	185, 1992	17 Dec 1992	s 7 and Sch: 25 June 1993 (s 2)	s 7
Administrative Changes (Consequential Provisions) Act 1978	36, 1978	12 June 1978	s 3(1), 8, Sch 1 and 3: 12 June 1978 (s 2)	s 8
Parliamentary Contributory Superannuation Amendment Act 1978	41, 1978	12 June 1978	12 June 1978 (s 2)	s 5(2), 9(2), 11(2)–(4) and 12(2)
Jurisdiction of Courts (Miscellaneous Amendments) Act 1979	19, 1979	28 Mar 1979	s 124: 28 Mar 1979 (s 2(1)) Sch: 15 May 1979 (s 2(3) and gaz 1979, No S86)	s 124
Parliamentary Contributory Superannuation Amendment Act 1979	131, 1979	19 Nov 1979	19 Nov 1979 (s 2)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Parliamentary Contributory Superannuation Amendment Act 1981	37, 1981	21 Apr 1981	s 3 and 6: 1 July 1980 (s 2(2)) s 10(2), 11(2) and 12: never commenced (s 2(3)) Remainder: 21 Apr 1981 (s 2(1))	s 15 and 16
as amended by				
Superannuation Laws Amendment Act 1994	96, 1994	29 June 1994	s 36 and 38–41: 1 July 1994 (s 2(1))	s 36
Parliamentary Contributory Superannuation Amendment Act 1983	74, 1983	3 Nov 1983	s 3(2), (3) and 9(2): 4 June 1982 (s 2(2)) s 7(2), 11(2), 12–14, 16–19 and 23: 31 Mar 1984 (s 2(4) and gaz 1984, No S121) s 10: never commenced (s 2(3)) Remainder: 3 Nov 1983 (s 2(1))	s 3(3), 4(2), 6(2), 11(3), 12(3), 13(3), 18(2), 19(2) and 23
as amended by				
Superannuation Laws Amendment Act 1994	96, 1994	29 June 1994	s 42, 44 and 45: 1 July 1994 (s 2(1))	s 42
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 1992	94, 1992	30 June 1992	Sch: 1 July 1990 (s 2(2))	—
Commonwealth Superannuation Schemes Amendment Act 1992	185, 1992	17 Dec 1992	s 8, Sch and Note 3 of Notes about section headings: 25 June 1993 (s 2)	s 8

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Laws Amendment Act 1994	96, 1994	29 June 1994	s 4–30, 34, 35 and Sch: 1 July 1994 (s 2(1)) s 32 and 33: 1 July 1990 (s 2(2))	s 4, 12, 21, 22, 24, 25, 28, 30, 32 and 34
as amended by				
Parliamentary Contributory Superannuation Legislation Amendment Act 1995	23, 1995	29 Mar 1995	Sch (item 5): 1 July 1994 (s 2(2))	—
Life Insurance (Consequential Amendments and Repeals) Act 1995	5, 1995	23 Feb 1995	s 3(1) and Sch (items 64–69): 1 July 1995 (s 2)	s 3(1)
as amended by				
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 3 (item 39): 23 Feb 1995 (s 2(3))	—
Parliamentary Contributory Superannuation Legislation Amendment Act 1995	23, 1995	29 Mar 1995	Sch (items 1–4): 29 Mar 1995 (s 2(1))	Sch (items 3, 4)
Superannuation Legislation Amendment Act (No. 1) 1995	54, 1995	23 June 1995	Sch 7: 23 June 1995 (s 2(1))	—
Parliamentary Contributory Superannuation Amendment Act 1996	29, 1996	9 July 1996	Sch 1: 2 Mar 1996 (s 2(2)) Remainder: 9 July 1996 (s 2(1))	Sch 1 (item 6)
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 2 (items 80–82): 23 June 1995 (s 2(2)) Sch 2 (items 83–85): 1 July 1995 (s 2(2))	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Income Tax (Consequential Amendments) Act 1997	39, 1997	17 Apr 1997	Sch 3 (items 105–109): 1 July 1997 (s 2)	—
Retirement Savings Accounts (Consequential Amendments) Act 1997	62, 1997	28 May 1997	Sch 8: 2 June 1997 (s 2)	—
Superannuation Legislation Amendment (Superannuation Contributions Tax) Act 1997	187, 1997	7 Dec 1997	Sch 3: 7 Dec 1997 (s 2(1))	—
Financial Sector Reform (Consequential Amendments) Act 1998	48, 1998	29 June 1998	Sch 1 (item 127): 1 July 1998 (s 2(2))	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (item 724): 5 Dec 1999 (s 2(1), (2))	—
Federal Magistrates (Consequential Amendments) Act 1999	194, 1999	23 Dec 1999	Sch 22: 23 Dec 1999 (s 2(1))	—
Parliamentary Contributory Superannuation Amendment Act 2001	87, 2001	18 July 2001	18 July 2001 (s 2)	—
Superannuation Legislation Amendment (Post-retirement Commutations) Act 2001	98, 2001	22 Aug 2001	Sch 1: 22 Aug 2001 (s 2)	Sch 1 (items 28–31)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Finance and Administration Legislation Amendment (Application of Criminal Code) Act 2001	109, 2001	17 Sept 2001	s 5 and Sch 1 (items 1–7): 15 Oct 2001 (s 2(a))	s 5
Superannuation (Surcharge Rate Reduction) Amendment Act 2003	112, 2003	12 Nov 2003	Sch 1 (items 25, 33): 1 July 2003 (s 2(1) item 2)	Sch 1 (item 33)
Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004	58, 2004	4 May 2004	s 4: 4 May 2004 (s 2(1) item 1) Sch 1 (items 11A–11F): 18 May 2004 (s 2(1) item 2)	s 4
Parliamentary Superannuation and Other Entitlements Legislation Amendment Act 2004	87, 2004	25 June 2004	Sch 1 and Sch 2 (items 1–3): 26 June 2004 (s 2)	—
Superannuation Budget Measures Act 2004	106, 2004	30 June 2004	Sch 2 (items 5, 11(2)): 30 June 2004 (s 2)	Sch 2 (item 11(2))
Superannuation Laws Amendment (Abolition of Surcharge) Act 2005	102, 2005	12 Aug 2005	Sch 1 (item 5): 12 Aug 2005 (s 2)	—
Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008	26, 2008	23 June 2008	Sch 1 (items 102–104) and Sch 2 (items 1, 2): 23 June 2008 (s 2(1) items 4, 5)	—
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 4 (items 409–411): 4 July 2008 (s 2(1) item 64)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008	134, 2008	4 Dec 2008	s 4: 4 Dec 2008 (s 2(1) item 1) Sch 1 (items 1–15): 1 Jan 2009 (s 2(1) item 2)	s 4 and Sch 1 (item 15)

Act (Register ID)	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act 2011 (C2011A00005)	5, 2011	22 Mar 2011	sch 5 (items 172-177), sch 6 (items 81-87), sch 7 (items 106, 107): 19 Apr 2011 (s 2(1) items 13, 17, 18)	—
Acts Interpretation Amendment Act 2011 (C2011A00046)	46, 2011	27 June 2011	sch 2 (item 902), sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 7, 12)	sch 3 (items 10, 11)
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011 (C2011A00058)	58, 2011	28 June 2011	sch 1 (items 148-151): 1 July 2011 (s 2(1) item 2)	—
Remuneration and Other Legislation Amendment Act 2011 (C2011A00075)	75, 2011	25 July 2011	sch 2 (items 1-5, 21): 5 Aug 2011 (s 2(1) item 3)	sch 2 (item 21)

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Act (Register ID)	Number and year	Assent	Commencement	Application, saving and transitional provisions
Members of Parliament (Life Gold Pass) and Other Legislation Amendment Act 2012 (C2012A00004)	4, 2012	6 Mar 2012	sch 2 (items 1-3): 6 Mar 2012 (s 2(1) item 6)	—
Financial Framework Legislation Amendment Act (No. 2) 2012 (C2012A00082)	82, 2012	28 June 2012	sch 1 (items 77, 78): 29 June 2012 (s 2(1) item 2)	—
Federal Circuit Court of Australia Legislation Amendment Act 2012 (C2012A00165)	165, 2012	28 Nov 2012	sch 1 (items 407, 408): 12 Apr 2013 (s 2(1) item 4)	—
Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Act 2013 (C2013A00082)	82, 2013	28 June 2013	sch 4 (items 2-5): 28 June 2013 (s 2)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014 (C2014A00062)	62, 2014	30 June 2014	sch 11 (items 30-33), sch 14: 1 July 2014 (s 2(1) items 6, 14)	sch 14
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015 (C2015A00036)	36, 2015	13 Apr 2015	sch 2 (items 7-9), sch 7: 14 Apr 2015 (s 2)	sch 7

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Endnote 3—Legislation history

Act (Register ID)	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015 (C2015A00126)	126, 2015	10 Sept 2015	sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015 (C2015A00126)	126, 2015	10 Sept 2015	sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015 (C2015A00126)	126, 2015	10 Sept 2015	sch 1 (item 468): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2016 (C2016A00004)	4, 2016	11 Feb 2016	sch 1 (item 25): 10 Mar 2016 (s 2(1) item 2)	—
Parliamentary Business Resources (Consequential and Transitional Provisions) Act 2017 (C2017A00038)	38, 2017	19 May 2017	sch 1 (items 26-39), sch 3 (items 1-3, 9, 11): 1 Jan 2018 (s 2(1) items 3, 5)	sch 3 (items 1-3, 9, 11)
Marriage Amendment (Definition and Religious Freedoms) Act 2017 (C2017A00129)	129, 2017	8 Dec 2017	sch 3 (item 33), sch 4: 9 Dec 2017 (s 2(1) item 7)	sch 4

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Act (Register ID)	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021 (C2021A00013)	13, 2021	1 Mar 2021	sch 2 (item 540): 1 Sept 2021 (s 2(1) item 5)	—
Public Sector Superannuation Legislation Amendment Act 2018 (C2018A00080)	80, 2018	24 Aug 2018	sch 1 (items 9-14): 25 Aug 2018 (s 2(1) item 2) sch 1 (items 18, 19, 27, 28): 1 Jan 2020 (s 2(1) item 3)	sch 1 (items 27, 28)
Civil Law and Justice Legislation Amendment Act 2018 (C2018A00130)	130, 2018	25 Oct 2018	sch 6 (items 58, 63): 22 Nov 2018 (s 2(1) item 10)	—
Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Act 2020 (C2020A00112)	112, 2020	8 Dec 2020	sch 3 (items 59-68), sch 4 (items 1, 5): 28 Sept 2022 (s 2(1) item 1)	sch 4 (items 1, 5)
Parliamentary Business Resources Legislation Amendment (Review Implementation and Other Measures) Act 2024 (C2024A00031)	31, 2024	30 May 2024	sch 4 (items 25-38): 1 July 2024 (s 2(1) item 4)	sch 4 (items 37, 38)

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Endnote 3—Legislation history

Act (Register ID)	Number and year	Assent	Commencement	Application, saving and transitional provisions
Administrative Review Tribunal (Consequential and Transitional Provisions No. 2) Act 2024 (C2024A00039)	39, 2024	31 May 2024	sch 7 (items 60, 61): 14 Oct 2024 (s 2(1) item 2)	—
Treasury Laws Amendment (Payday Superannuation) Act 2025 (C2025A00057)	57, 2025	6 Nov 2025	sch 1 (items 103-108, 181, 183): 1 July 2026 (s 2(1) item 1)	sch 1 (items 181, 183)
Treasury Laws Amendment (Building a Stronger and Fairer Super System) Act 2026 (C2026A00008)	8, 2026	13 Mar 2026	sch 1 (items 43-54): 1 Apr 2026 (s 2(1) item 2)	—

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Endnote 4—Amendment history

Provision affected	How affected
Title	am No 41, 1978
Part I	
s 1	am No 41, 1978
s 2	am No 47, 1973; No 37, 1981
s 3	rs No 72, 1964
	am No 35, 1965
	rep No 47, 1973
s 4	am No 3, 1952
	rs No 47, 1973
	am No 36, 1978; No 41, 1978; No 37, 1981; No 74, 1983; No 185, 1992; No 96, 1994; No 5, 1995; No 54, 1995; No 187, 1997; No 98, 2001; No 58, 2004; No 87, 2004; No 134, 2008; No 5, 2011; No 58, 2011; No 75, 2011; No 4, 2012; No 62, 2014; No 38, 2017
s 4A	ad No 47, 1973
	am No 37, 1981; No 74, 1983; No 94, 1992; No 5, 1995; No 54, 1995
s 4B	ad No 185, 1992
	am No 134, 2008; No 46, 2011; No 129, 2017
	ed C38
s 4C	ad No 185, 1992
	am No 134, 2008
s 4D	ad No 96, 1994
s 4E	ad No 187, 1997
	am No 112, 2003; No 58, 2004; No 87, 2004; No 106, 2004; No 102, 2005
s 4F	ad No 109, 2001
Part II	
s 5	am No 36, 1978; No 37, 1981; No 54, 1995; No 5, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 6	am No 37, 1981; No 74, 1983; No 54, 1995
s 7	am No 47, 1973
s 8	am No 36, 1978; No 37, 1981; No 54, 1995; No 5, 2011
s 8A	ad No 35, 1965
	am No 47, 1973
	rep No 37, 1981
	ad No 80, 2018
Part III	rep No 47, 1973
s 9	am No 72, 1964
	rep No 47, 1973
	ad No 37, 1981
s 9A	ad No 72, 1964
	rep No 47, 1973
s 9B	ad No 72, 1964
	rep No 47, 1973
s 9C	ad No 72, 1964
	rep No 47, 1973
s 10	rep No 47, 1973
s 11	rep No 47, 1973
s 12	am No 30, 1955
	rep No 47, 1973
Part IV	
s 13	am No 30, 1955; No 20, 1959; No 72, 1964
	rs No 35, 1965
	am No 47, 1973; No 41, 1978; No 37, 1981
	rs No 74, 1983
	am No 54, 1995; No 31, 2024
s 14	rs No 3, 1952; No 30, 1955
	am No 20, 1959
	rs No 72, 1964
	rep No 47, 1973

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Provision affected	How affected
	ad No 41, 1978
	am No 131, 1979; No 37, 1981; No 74, 1983; No 54, 1995; No 5, 2011
Part V	
Part V heading	rs No 47, 1973
s 14A	ad No 47, 1973
s 15	am No 3, 1952; No 47, 1973
s 15A	ad No 96, 1994
s 15B	ad No 96, 1994
s 15C	ad No 96, 1994
s 16	am No 20, 1959; No 72, 1964; No 41, 1978; No 37, 1981; No 74, 1983; No 54, 1995
s 16A	ad No 96, 1994
	am No 26, 2008; No 58, 2011; No 80, 2018; No 31, 2024; No 57, 2025
s 17	am No 20, 1959; No 72, 1964; No 47, 1973; No 37, 1981; No 96, 1994; No 54, 1995; No 43, 1996; No 73, 2008
	ed C38
s 18	am No 3, 1952; No 30, 1955
	rs No 20, 1959
	am No 72, 1964; No 35, 1965; No 71, 1966; No 47, 1973; No 41, 1978; No 37, 1981; No 74, 1983; No 96, 1994 (as am by No 23, 1995); No 54, 1995; No 29, 1996; No 43, 1996; No 187, 1997; No 98, 2001; No 58, 2004; No 87, 2004; No 75, 2011; No 82, 2013; No 38, 2017; No 8, 2026
s 18A	ad No 47, 1973
	am No 37, 1981
	rep No 96, 1994
	ad No 98, 2001
	am No 5, 2011; No 82, 2013
s 18B	ad No 41, 1978

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Endnote 4—Amendment history

Provision affected	How affected
	am No 131, 1979; No 37, 1981; No 74, 1983; No 96, 1994; No 54, 1995; No 187, 1997; No 87, 2001; No 98, 2001; No 58, 2004; No 5, 2011; No 82, 2013
s 19	am No 3, 1952; No 30, 1955; No 20, 1959; No 72, 1964; No 71, 1966
	rs No 47, 1973
	am No 41, 1978; No 131, 1979; No 37, 1981; No 74, 1983; No 185, 1992; No 54, 1995; No 98, 2001
s 19AAA	ad No 98, 2001
	am No 5, 2011; No 80, 2018
s 19AA	ad No 20, 1959
	am No 72, 1964
	rs No 71, 1966; No 47, 1973
	am No 41, 1978; No 131, 1979; No 37, 1981; No 74, 1983; No 185, 1992; No 98, 2001; No 134, 2008; No 80, 2018
s 19ABA	ad No 98, 2001
	am No 5, 2011; No 80, 2018
s 19AB	ad No 41, 1978
	am No 37, 1981; No 74, 1983; No 185, 1992; No 96, 1994; No 187, 1997
s 19A	ad No 3, 1952
	am No 20, 1959; No 71, 1966; No 47, 1973; No 41, 1978; No 37, 1981; No 74, 1983; No 185, 1992; No 54, 1995; No 5, 2011
s 20	am No 3, 1952; No 30, 1955; No 20, 1959; No 47, 1973; No 41, 1978; No 131, 1979; No 37, 1981; No 74, 1983; No 185, 1992; No 96, 1994; No 23, 1995; No 54, 1995; No 187, 1997; No 87, 2001; No 98, 2001; No 73, 2008; No 5, 2011
s 20A	ad No 47, 1973
	am No 41, 1978; No 131, 1979; No 37, 1981; No 74, 1983; No 96, 1994; No 54, 1995; No 73, 2008
s 21	am No 3, 1952; No 20, 1959; No 72, 1964
	rs No 47, 1973
	am No 37, 1981; No 74, 1983; No 96, 1994

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Provision affected	How affected
s 21AA	ad No 185, 1992
	am No 98, 2001
s 21B	ad No 74, 1983
	am No 96, 1994; No 54, 1995; No 39, 1997; No 146, 1999; No 194, 1999; No 98, 2001; No 109, 2001; No 87, 2004; No 5, 2011; No 75, 2011; No 165, 2012; No 4, 2016; No 38, 2017; No 31, 2024
s 22	am No 47, 1973; No 37, 1981; No 54, 1995
s 22A	ad No 72, 1964
	am No 103, 1968
	rep No 47, 1973
	ad No 187, 1997
	am No 80, 2018
s 22B	ad No 72, 1964
	am No 35, 1965
	rep No 47, 1973
	ad No 98, 2001
	am No 80, 2018
s 22C	ad No 72, 1964
	rep No 47, 1973
Part VAA	
Part VAA	ad No 58, 2004
Division 1	
s 22CA	ad No 58, 2004
	am No 130, 2018; No 112, 2020
s 22CB	ad No 58, 2004
s 22CC	ad No 58, 2004
Division 2	
s 22CD	ad No 58, 2004
s 22CE	ad No 58, 2004
s 22CF	ad No 58, 2004

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Endnote 4—Amendment history

Provision affected	How affected
Division 3	
s 22CG	ad No 58, 2004
s 22CH	ad No 58, 2004
s 22CI	ad No 58, 2004
s 22CJ	ad No 58, 2004
Division 4	
s 22CK	ad No 58, 2004
	am No 26, 2008; No 126, 2015
s 22D	ad No 72, 1964
	am No 103, 1968
	rep No 47, 1973
Part VA	
Part VA	ad No 72, 1964
	rep No 47, 1973
	ad No 87, 2001
s 22DA	ad No 87, 2001
s 22DB	ad No 87, 2001
s 22DC	ad No 87, 2001
s 22DD	ad No 87, 2001
s 22DE	ad No 87, 2001
s 22DF	ad No 87, 2001
s 22DG	ad No 87, 2001
s 22DH	ad No 87, 2001
s 22DI	ad No 87, 2001
s 22E	ad No 72, 1964
	am No 35, 1965; No 71, 1966; No 103, 1968
	rep No 47, 1973
s 22F	ad No 72, 1964
	rep No 47, 1973
s 22G	ad No 72, 1964
	rep No 47, 1973

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Provision affected	How affected
s 22H	ad No 72, 1964
	am No 35, 1965; No 71, 1966; No 103, 1968
	rep No 47, 1973
s 22HA	ad No 103, 1968
	rep No 47, 1973
s 22J	ad No 72, 1964
	rep No 47, 1973
s 22K	ad No 72, 1964
	am No 71, 1966
	rep No 47, 1973
s 22L	ad No 72, 1964
	rep No 47, 1973
s 22M	ad No 72, 1964
	rep No 47, 1973
s 22N	ad No 72, 1964
	rep No 47, 1973
s 22P	ad No 72, 1964
	rep No 47, 1973
Part VB	
Part VB	ad No 47, 1973
s 22Q	ad No 47, 1973
	am No 37, 1981; No 96, 1994; No 54, 1995; No 26, 2008; No 58, 2011
s 22R	ad No 47, 1973
	am No 36, 1978; No 37, 1981; No 5, 1995 (as am by No 43, 1996); No 54, 1995; No 43, 1996; No 5, 2011
s 22S	ad No 47, 1973
Part VC	
Part VC heading	rs No 8, 2026
Part VC	ad No 82, 2013

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Endnote 4—Amendment history

Provision affected	How affected
Division 1	
s 22SA	ad No 82, 2013
	am No 8, 2026
s 22SB	ad No 82, 2013
	am No 8, 2026
Division 2	
s 22SC	ad No 82, 2013
	am No 8, 2026
s 22SD	ad No 82, 2013
	am No 8, 2026
s 22SE	ad No 82, 2013
	am No 8, 2026
Part VI	
s 22T	ad No 29, 1996
	am No 87, 2004; No 75, 2011; No 4, 2012; No 38, 2017
s 23	rep No 47, 1973
	ad No 37, 1981
	am No 74, 1983
s 24	am No 47, 1973; No 37, 1981; No 82, 2012
s 24AA	ad No 82, 2012
	am No 62, 2014
s 24AB	ad No 82, 2012
	am No 62, 2014
s 24AC	ad No 82, 2012
	am No 62, 2014
s 24A	ad No 35, 1965
	am No 47, 1973
s 24B	ad No 35, 1965
	am No 47, 1973; No 37, 1981; No 74, 1983
s 24C	ad No 35, 1965
s 24D	ad No 96, 1994

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Endnote 4—Amendment history

Provision affected	How affected
s 24E	ad No 98, 2001
s 25	rs No 19, 1979
	am No 37, 1981; No 39, 2024
s 26	am No 47, 1973
s 26A	ad No 47, 1973
	am No 37, 1981
s 26B	ad No 96, 1994
	am No 62, 1997; No 48, 1998
s 26C	ad No 187, 1997
s 26D	ad No 98, 2001
s 27	am No 72, 1964
	rs No 47, 1973
s 28	am No 74, 1983
s 29	ad No 87, 2004
Schedule 1	
Schedule 1	ad No 87, 2004
	am No 75, 2011; No 38, 2017

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