



Members of Parliament (Life Gold Pass) and Other Legislation Amendment Act 2012

No. 4, 2012

**An Act to amend the law relating to the Life Gold
Pass scheme and Parliamentary superannuation,
and for other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title	1
2	Commencement	2
3	Schedule(s)	2
Schedule 1—Life Gold Pass		3
	<i>Members of Parliament (Life Gold Pass) Act 2002</i>	3
Schedule 2—Salary and allowance by way of salary		7
	<i>Parliamentary Contributory Superannuation Act 1948</i>	7
	<i>Remuneration Tribunal Act 1973</i>	8



Members of Parliament (Life Gold Pass) and Other Legislation Amendment Act 2012

No. 4, 2012

**An Act to amend the law relating to the Life Gold
Pass scheme and Parliamentary superannuation,
and for other purposes**

[Assented to 6 March 2012]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Members of Parliament (Life Gold
Pass) and Other Legislation Amendment Act 2012*.

Members of Parliament (Life Gold Pass) and Other Legislation Amendment Act 2012 No. 4,
2012 1

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	6 March 2012
2. Schedule 1, item 1	1 July 2012.	1 July 2012
3. Schedule 1, items 2 to 5	The day this Act receives the Royal Assent.	6 March 2012
4. Schedule 1, items 6 to 8	1 July 2012.	1 July 2012
5. Schedule 1, items 9 and 10	The day this Act receives the Royal Assent.	6 March 2012
6. Schedule 2	The day this Act receives the Royal Assent.	6 March 2012
Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.		

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Life Gold Pass

Members of Parliament (Life Gold Pass) Act 2002

1 Section 3

Omit “25 domestic return trips”, substitute “10 domestic return trips”.

2 At the end of section 3

Add:

Note: A person who becomes a new member after the commencement of section 4A cannot be a holder of a Life Gold Pass.

3 Section 4 (at the end of the definition of *holder of a Life Gold Pass*)

Add “, but does not include a former member who cannot be a holder of a Life Gold Pass because of section 4A”.

4 Section 4

Insert:

parliamentary allowance has the same meaning as in the *Parliamentary Superannuation Act 2004*.

5 After section 4

Insert:

4A Closing the Life Gold Pass scheme to new members

- (1) A former member cannot become a holder of a Life Gold Pass if the first time that the former member became entitled to a parliamentary allowance was at or after the commencement of this section.
- (2) A former member who has been entitled to a parliamentary allowance before the commencement of this section cannot become a holder of a Life Gold Pass if, immediately before that commencement, the former member:
 - (a) was not a holder of a Life Gold Pass; and

- (b) was not entitled to a parliamentary allowance.
- (3) A former member who was entitled to a parliamentary allowance immediately before the commencement of this section cannot become a holder of a Life Gold Pass if:
 - (a) at or after that commencement, the former member ceased to be entitled to a parliamentary allowance; and
 - (b) the former member was not a holder of a Life Gold Pass at the time of that cessation.
- (4) For the purposes of subsections (2) and (3), if a 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 a parliamentary allowance from the time of so ceasing to be a member of the House of Representatives until the time the person first becomes entitled to a parliamentary allowance after being so elected as a member of the Senate.
- (5) For the purposes of subsections (2) and (3), if a 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 a 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 subsections (4) and (5), a person who is elected as a result of a polling is taken to be elected on the polling day.

6 Subsection 11(2) (table items 1 and 2)

Omit “25”, substitute “10”.

7 Subsection 12(2) (table item 3)

Omit “25”, substitute “10”.

8 Application of items 6 and 7

To avoid doubt:

-
- (a) item 6 of this Schedule applies to every former member who is a holder of a Life Gold Pass, and the spouse or de facto partner of such a member, whether the former member became a holder of a Life Gold Pass before, on or after the commencement of that item; and
 - (b) item 7 of this Schedule applies to the spouse or de facto partner of every member who:
 - (i) has never held office as Prime Minister; and
 - (ii) has satisfied the relevant qualifying period for the issue of a Life Gold Pass;whether the member satisfied those requirements before, on or after the commencement of that item.

9 Entitlements for the transition period

- (1) Despite subsections 11(2) and 12(2) of the *Members of Parliament (Life Gold Pass) Act 2002*, if:
 - (a) under table item 1 or 2 of subsection 11(2) or table item 3 of subsection 12(2) of that Act, a person is entitled to a number of domestic return trips for the year ending on 30 June 2012; and
 - (b) the number of unused domestic return trips for that year to which the person is entitled immediately before the transition day is more than 2; and
 - (c) this item commences before 1 July 2012;the number of those domestic return trips to which the person is entitled, for the period starting at the start of the transition day and ending on 30 June 2012, is reduced to 2.
 - (2) For the purposes of this item, the number of unused domestic return trips to which the person is entitled immediately before the transition day is the difference between:
 - (a) the number of domestic return trips to which the person would, but for this item, be entitled for the year ending on 30 June 2012; and
 - (b) the number of such trips that the person has taken, or started to take, during the year but before the transition day.
 - (3) In this item:
transition day means the later of:
-

- (a) the day on which this item commences; and
- (b) 1 April 2012.

10 Compensation—constitutional safety net

- (1) If:
 - (a) the operation of this Act would result in the acquisition of property otherwise than on just terms; and
 - (b) the acquisition would not be valid, apart from this item, because a particular person has not been compensated;the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this item:
 - acquisition of property*** has the same meaning as in paragraph 51(xxxi) of the Constitution.
 - just terms*** has the same meaning as in paragraph 51(xxxi) of the Constitution.

Schedule 2—Salary and allowance by way of salary

Parliamentary Contributory Superannuation Act 1948

1 Subsection 4(1) (definition of *allowance by way of salary*)

Repeal the definition, substitute:

allowance by way of salary does not include the following:

- (a) in relation to any person—special allowance of office, electorate allowance, travelling allowance or any allowance, or any allowance included in a class of allowances, prescribed for the purposes of this definition;
- (b) in relation to an office holder—any portion determined under subsection 7(1B) of the *Remuneration Tribunal Act 1973*.

2 Subsection 4(1) (definition of *salary*)

Repeal the definition, substitute:

salary, in relation to a Minister of State, does not include the following:

- (a) any allowance;
- (b) any portion determined under subsection 7(2A) of the *Remuneration Tribunal Act 1973*.

3 At the end of section 22T

Add:

- (5) To avoid doubt, if:

- (a) a determination under subsection 7(1A) or (1B) of the *Remuneration Tribunal Act 1973*; and
- (b) a determination under subsection 7(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 7(2A) of the *Remuneration Tribunal Act 1973*; 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.

Remuneration Tribunal Act 1973

4 Subsection 3(1)

Insert:

additional Parliamentary office holder salary means so much of the allowances determined under subsection 7(1) as:

- (a) is to be paid to members of Parliament by reason of their holding particular offices, or performing particular functions, in, or in relation to, the Parliament or either House of the Parliament; and
- (b) is identified in the determination as additional salary.

5 After subsection 7(1A)

Insert:

- (1B) The Tribunal may determine that a portion of additional Parliamentary office holder salary is not ***allowance by way of salary*** for the purposes of the *Parliamentary Contributory Superannuation Act 1948*.
- (1C) Without limiting subsection (1B), the Tribunal may determine under that subsection that, in the circumstances specified in the determination, a different portion (which may be a portion equal to 100%) of additional Parliamentary office holder salary is not ***allowance by way of salary*** for the purposes of that Act in those circumstances.

6 After subsection 7(2)

Insert:

- (2A) The Tribunal may determine that a portion of a salary referred to in subsection 6(1) is not *salary* for the purposes of the *Parliamentary Contributory Superannuation Act 1948*.

7 After subsection 7(5F)

Insert:

- (5G) The Tribunal may, in a determination under subsection (2A), specify under subsection (5) that the determination's date of operation is the day on which an event specified in the determination occurs or occurred.

8 Paragraph 7(8AA)(a)

Omit "subsection (1), (1A) or (2)", substitute "subsection (1), (1A), (1B), (2) or (2A)".

9 Paragraph 7A(a)

Omit "subsection 7(1), (1A) or (2)", substitute "subsection 7(1), (1A), (1B), (2) or (2A)".

[*Minister's second reading speech made in—
House of Representatives on 9 February 2012
Senate on 9 February 2012*]

(4/12)

Members of Parliament (Life Gold Pass) and Other Legislation Amendment Act 2012 No. 4,
2012 9