

Members of Parliament (Life Gold Pas) and Other Legislation Amendment Bill

Submission

The provisions of the Bill reducing the vested entitlements of holders of a Life Gold Pass recognise the necessity for the provision of a constitutional safety net (Clause 10 of Schedule 1).

A like provision should be inserted to apply with respect to the provisions of Schedule 2 to ensure its constitutional validity.

The clauses contained in Schedule 2 equally affect vested entitlements and affect a reduction of those rights without compensation. Former members and senators and those currently serving with accrued entitlements under the defined benefit pension scheme face unspecified reductions in benefits as contrasted with those benefits that they would otherwise be entitled to by operation of law.

Members and senators under the defined benefit scheme paid a percentage of the salary each year to the trustees of the scheme. On retirement after service of the minimum term required for them to be entitled under the scheme they could exercise a once only choice as to receipt of up to 50% of their pension as a lump sum. The remaining component was payable as a pension representing as a defined percentage of the salary of a member of parliament as fixed from time to time and a defined percentage of allowances paid by salary as a minister or a parliamentary office holder.

Such vested superannuation entitlements are in the nature of property.

Schedule 2 purports to authorise subsequent unspecified reductions in those entitlements. If in consequence reductions are made the effect would be to later and reduce vested entitlements conferred by law. The economic benefit of those reductions would be in the hands of the Commonwealth.

In those circumstances the effect of Schedule 2 is to result in the acquisition of property otherwise on just terms.

If the Bill is to proceed without the prospect of the provisions of Schedule 2 being held to be wholly invalid, a like savings clause as provided for in Schedule 1 should be included.

Advice from QC - referring to Section 51 of the Australian Constitution.