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The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Parliamentary Superannuation
Amendment (Removal of Excessive
Super) Bill 2009**

No. , 2009

(Senator Fielding)

**A Bill for an Act to amend the *Parliamentary
Contributory Superannuation Act 1948* to remove
excessive superannuation arrangements for federal
politicians, and for related purposes**

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1 **3 Objects of Act**

2 The objects of this Act are:

- 3 (a) to terminate the retirement scheme constituted by the
4 *Parliamentary Contributory Superannuation Act 1948* (the
5 Parliamentary Contributory Superannuation Scheme); and
6 (b) to require existing members of the Parliamentary
7 Contributory Superannuation Scheme to choose a complying
8 superannuation fund in line with the arrangements applying
9 to new parliamentarians since 2004, under the *Parliamentary*
10 *Superannuation Act 2004*; and
11 (c) to require the Commonwealth to pay into the complying
12 superannuation funds chosen by existing members their
13 respective commuted superannuation benefits and ongoing
14 superannuation contributions.

15 **4 Schedule(s)**

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17 repealed as set out in the applicable items in the Schedule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

1 **Schedule 1—Amendment of the Parliamentary**
2 **Contributory Superannuation Act 1948**

3 **Part 1—Commutated benefits**

4 **1 Subsection 4(1)**

5 Insert:

6 *complying superannuation fund* has the same meaning as in the
7 *Parliamentary Superannuation Act 2004*.

8 *RSA* has the same meaning as in the *Retirement Savings Accounts*
9 *Act 1997*.

10 *termination date* means 1 July 2009.

11 **2 After section 18B**

12 Insert:

13 **18C Calculation of accrued benefits by 30 June 2009**

- 14 (1) The Trust must calculate the monetary value of the commuted
15 benefits under this Act accruing to each member of the retirement
16 scheme constituted by this Act as at 30 June 2009, as if each
17 member ceased to be entitled to a parliamentary allowance on that
18 date and was therefore entitled to a retiring allowance as at that
19 date.
- 20 (2) Calculations under subsection (1) must take into account all
21 matters that would be taken into account in calculating benefits
22 under section 18.
- 23 (3) The Trust must by 30 June 2009 provide to each member a
24 statement of his or her commuted benefits calculated under
25 subsection (1).

1 **18D Closing off contributions to retirement scheme constituted by**
2 **this Act**

3 A member is not entitled or required to make contributions to the
4 retirement scheme constituted by this Act after the payment of
5 parliamentary allowance received by the member on 30 June 2009.

6 **3 After Part V**

7 Insert:

8 **Part VAAA—Payment of commuted benefits on**
9 **termination date**

10 **22BA Meaning of *fund*—includes schemes and accounts**

11 In this Part:

12 *fund* includes a scheme or account.

13 **22BB Members to choose funds for payment of commuted benefits**

14 (1) A person who is a member of the retirement scheme constituted by
15 this Act on 31 May 2009 may by 21 June 2009 choose a fund (the
16 *chosen fund*) to be the fund to which the member's commuted
17 benefits calculated under subsection 18C(1) (the *transfer amount*)
18 are to be paid.

19 (2) The chosen fund must, at the time the choice is made, be either:
20 (a) a complying superannuation fund, other than a self managed
21 superannuation fund; or
22 (b) an RSA.

23 (3) There can be only one chosen fund in relation to a member for the
24 purposes of this section.

25 (4) A choice of a fund must be made by notice in writing (a *choice*
26 *notice*) signed by the member.

27 (5) The notice must:
28 (a) specify the name of, and contact details for, the chosen fund;
29 and

- 1 (b) contain such other information (if any) as is required by the
2 regulations.
- 3 (6) The notice must be accompanied by evidence that the chosen fund
4 will accept the transfer amount.
- 5 (7) The notice must be given to the Trust.
- 6 (8) If a member fails to choose a fund under this section by 21 June
7 2009, the transfer amount will be paid to the default fund declared
8 under section 22BC.

9 **22BC Declaration of the default fund**

- 10 (1) The Minister for Finance must, by notice in writing signed by the
11 Minister, declare that a fund or scheme is the default fund for the
12 purposes of this Part. At the time the declaration is made, the fund
13 or scheme must be a complying superannuation fund (other than a
14 self managed fund).
- 15 (2) The Minister must make a declaration under subsection (1) within
16 7 days after the commencement of this section.

17 **22BD Transfer amounts to be paid by Commonwealth**

18 Payments of transfer amounts provided for by this Part must be
19 made by the Commonwealth.

20 **22BE Transfer amounts to be paid on 1 July 2009**

21 The Commonwealth must pay the transfer amount of a member to
22 the fund chosen by the member under section 22BB or the default
23 fund declared under section 22BC, as the case may be, on 1 July
24 2009.

1 **Part 2—Superannuation arrangements from 1 July**
2 **2009**

3 **4 After Part VI**

4 Insert:

5 **Part VII—Superannuation arrangements from**
6 **1 July 2009 for persons who on 30 June**
7 **2009 are members of retirement scheme**
8 **constituted by this Act as at that date**

9 **Division 1—Preliminary**

10 **30 Persons to whom this Part applies**

11 This Part applies to a person in respect of a month from and
12 including July 2009 if the person:

- 13 (a) on 30 June 2009 is a member of the retirement scheme
14 constituted by this Act as at that date; and
15 (b) is entitled to a parliamentary allowance for the relevant
16 month or for part of the relevant month.

17 **31 Definitions**

18 (1) In this Part:

19 *basic contributions fund*, in relation to a member at a particular
20 time, means:

- 21 (a) if a choice notice given by the member is in force under
22 Division 3 of this Part at that time—the fund that is, at that
23 time, specified in the notice as the chosen fund; or
24 (b) otherwise—the fund or scheme that is, at that time, the
25 default fund under Division 4 of this Part.

26 *member* means a person who on 30 June 2009 is a member of the
27 retirement scheme constituted by this Act as at that date.

- 1 (2) Subject to subsection (1), an expression used in this Part has the
2 same meaning as it has in the *Parliamentary Superannuation Act*
3 *2004*.

4 **Division 2—Commonwealth’s obligations to make**
5 **contributions**

6 **32 The Commonwealth’s obligations to make contributions**

- 7 (1) If this Part applies to the member in respect of a month, the
8 Commonwealth must make a contribution, in respect of the
9 member, to the basic contributions fund of the member.

10 Note: The *basic contributions fund* of the member is defined in section 31.
11 It will be either a fund, scheme or account chosen by the member
12 under Division 3 or the default fund under Division 4.

- 13 (2) Subject to subsections (3) and (4), the amount of the contribution is
14 an amount equal to 15.4% of the sum of:

- 15 (a) the amount of parliamentary allowance to which the person is
16 entitled in respect of the month; and
17 (b) the amount (if any) of salary to which the member is entitled
18 because he or she was a Minister of State for some or all of
19 the month; and
20 (c) the amount (if any) of allowance by way of salary to which
21 the member is entitled because he or she was an office holder
22 for some or all of the month.

- 23 (3) For the purpose of paragraph (2)(a), any reduction of the member’s
24 entitlement to parliamentary allowance under Division 2 of Part 1
25 of Schedule 3 to the *Remuneration and Allowances Act 1990*
26 (salary sacrifice) is to be disregarded.

- 27 (4) An amount of parliamentary allowance, salary, or allowance by
28 way of salary, is not to be taken into account under subsection (2)
29 to the extent (if any) that it does not count as salary or wages for
30 the purposes of section 19 of the *Superannuation Guarantee*
31 *(Administration) Act 1992*.

- 32 (5) If:

- 1 (a) this Part applies to the member in respect of one or more of
2 the months in a quarter (as defined in the *Superannuation*
3 *Guarantee (Administration) Act 1992*); and
4 (b) the Commonwealth makes contributions as required by this
5 section in respect of the member and the month or months in
6 the quarter in respect of which this Part applies; and
7 (c) the Commonwealth would otherwise have an individual
8 superannuation guarantee shortfall, in respect of the member
9 and the quarter, for the purposes of the *Superannuation*
10 *Guarantee (Administration) Act 1992*;
11 then, for the purposes of the *Superannuation Guarantee*
12 *(Administration) Act 1992*, the Commonwealth is, by making those
13 contributions, taken to have reduced its charge percentage for the
14 quarter to nil under whichever of section 22 or 23 of that Act is
15 applicable.
- 16 (6) Despite anything else in this section, the Commonwealth is not
17 required by this section to pay contributions to the person's basic
18 contributions fund if, under the *Superannuation Industry*
19 *(Supervision) Act 1993* (including the regulations under that Act),
20 the basic contributions fund is not permitted to receive those
21 contributions.

22 **Division 3—Choice of funds**

23 **33 Meaning of *fund*—includes schemes and accounts**

24 In this Division:

25 *fund* includes a scheme or account.

26 **34 When may a member choose a fund?**

27 A member to whom this Part applies may choose a fund as
28 described in section 35 at any time on or after the day the
29 *Parliamentary Superannuation Legislation Amendment (New*
30 *Superannuation Arrangements) Act 2009* is assented to.

- 1 (b) a revocation of the notice takes effect (see section 39); or
2 (c) the chosen fund ceases to exist; or
3 (d) the chosen fund ceases to accept contributions under this
4 Part; or
5 (e) the chosen fund ceases to be a complying superannuation
6 fund or an RSA; or
7 (f) the chosen fund becomes a self managed superannuation
8 fund.

9 **38 Variation of a choice notice**

- 10 (1) The member may vary a choice notice he or she has given by
11 notice in writing signed by the member and given to the
12 administering authority.
- 13 (2) The only variations that are permitted are:
14 (a) to change the chosen fund to another fund that is, at the time
15 the notice is given:
16 (i) a complying superannuation fund, other than a self
17 managed superannuation fund; or
18 (ii) an RSA; or
19 (b) to change the start date to a later date (but only if the start
20 date has not already occurred).
- 21 (3) The notice of variation must specify a date (the *variation date*)
22 from which the variation is to take effect, being the date on which
23 the notice is given or a later date.
- 24 (4) A notice of variation to change the chosen fund to another
25 complying superannuation fund or RSA (the *new fund*) must:
26 (a) specify the name of, and contact details for, the new fund;
27 and
28 (b) be accompanied by evidence that the new fund will accept
29 contributions under this Part.
- 30 (5) If the notice of variation complies with this section, it varies the
31 choice notice accordingly (subject to any later variations) with
32 effect from the variation date.

1 **39 Revocation of a choice notice**

- 2 (1) The member may revoke a choice notice he or she has given by
3 notice in writing signed by the member and given to the
4 administering authority.
- 5 (2) The notice of revocation must specify a date from which the
6 revocation is to take effect, being the date on which the notice of
7 revocation is given or a later date.
- 8 (3) If the notice of revocation complies with this section, the
9 revocation takes effect on the specified date.

10 **40 Obligation to notify member of right to choose a fund**

11 Within 28 days after the day the *Parliamentary Superannuation*
12 *Legislation Amendment (New Superannuation Arrangements) Act*
13 *2009* is assented to, the administering authority must cause each
14 member to be given a written notice containing the following
15 information:

- 16 (a) a statement that the member may choose a complying
17 superannuation fund (other than a self managed fund) or an
18 RSA as the fund to which contributions in respect of the
19 member will be paid under this Part;
- 20 (b) a statement to the effect that if the member does not choose a
21 fund under section 36 by 31 July 2009, the contributions will
22 be paid to the fund chosen by the member under
23 section 22BB, and if the member has not chosen a fund under
24 that section, the contributions will be paid to the fund that is,
25 from time to time, the default fund declared under section 42;
- 26 (c) such other information (if any) as is required by the
27 regulations.

28 **Division 4—The default fund**

29 **41 Failure to choose a fund**

- 30 (1) If a member fails to choose a fund under section 36 before 31 July
31 2009, the contributions in respect of the member under this Part
32 will be paid to the fund chosen by the member under section 22BB.

1 (2) If the member has not chosen a fund under section 36 or 22BB, the
2 contributions will be paid to the fund that is at that time the default
3 fund declared under section 42.

4 **42 Declaration of the default fund**

5 (1) The Minister may, by notice in writing signed by the Minister,
6 declare that a fund or scheme is the default fund for the purposes of
7 this Part. At the time the declaration is made, the fund or scheme
8 must be a complying superannuation fund (other than a self
9 managed fund).

10 (2) A declaration under subsection (1) must specify the date of effect
11 of the declaration. The specified date may be the day on which the
12 declaration is signed, or an earlier or later day.

13 (3) The Minister must make a declaration under subsection (1) as soon
14 as practicable after the commencement of this section.

15 (4) The Minister must ensure that there is only one default fund at any
16 one time.

17 (5) The Minister may, by notice in writing signed by the Minister,
18 revoke a declaration made under subsection (1) at any time.

19 (6) A revocation under subsection (5) must specify the date of effect of
20 the revocation. The specified date may be the day on which the
21 notice is signed, or an earlier or later day.

22 (7) If the Minister, under subsection (5), revokes a declaration under
23 subsection (1), the Minister must make another declaration under
24 subsection (1) which takes effect immediately after the revocation
25 takes effect.

26