

Superannuation benefits for senators and members

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IMPORTANT NOTE - This background note describes superannuation benefits available to Senators and Members who first served in parliaments prior to the general election held 9 October 2004. Those who were re-elected will continue to be eligible for benefits under the arrangements described below.

Parliamentarians elected for the first time at the 2004 election, however, will be eligible for benefits under the [Parliamentary Superannuation Act 2004](#). Newly-elected parliamentarians will nominate a complying superannuation fund into which contributions of 15.4 per cent will be made by the government on their behalf. These arrangements have the stated aim of bringing superannuation arrangements for parliamentarians in line with current community standards of superannuation arrangements in the Commonwealth Public Sector. There will not, therefore, be a paper written to outline these new arrangements. Interested readers are referred to the [general discussion](#) of these changes in the publication *Parliamentary Retiring Allowances Act 1948: Debates, Committee Reports, Remuneration Tribunal Reviews and a Chronology of Legislative Amendments*. Further information can be found on the Department of Finance and Deregulation website, [Parliamentary superannuation arrangements for new members of Parliament](#).

Introduction

This background note is a response to client demand for a summary of Commonwealth Parliamentary superannuation benefits in place prior to the 2004 general election. It provides explanation, hyperlinks and documents pertaining to the operation of the Parliamentary Contributory Superannuation Scheme (the Scheme). A table of eligibility requirements and benefits under the Scheme is given.

The background note should be read in conjunction with an earlier background note, [Parliamentary allowances, benefits and salaries of office](#).

A history of parliamentary superannuation can be read in [The Parliamentary Retiring Allowances Act 1948: Debates, Committee Reports, Remuneration Tribunal Reviews and a Chronology of Legislative Amendments](#).

Legislation

The [Parliamentary Contributory Superannuation Act 1948](#) (the Act) established the Parliamentary Retiring Allowances Trust (the Trust) and the Scheme. The Scheme is administered by the [Department of Finance and Deregulation](#) (Finance) under the direction of the Trust. The Minister for Finance and Deregulation, currently [Senator the Hon. Penny Wong](#), is a trustee of the Scheme, along with two Senators and two Members of the House of Representatives.

The Scheme

Operation of the Parliamentary Contributory Superannuation Scheme is outlined in the [Parliamentary Superannuation Handbook](#) published by Finance.

The Scheme is an unfunded defined benefit scheme. 'Unfunded' means that when a pension becomes payable, benefits are funded from an appropriation within the Commonwealth Budget while 'Defined Benefit' means that the member's entitlement is, in general, a multiple of years of service and a percentage of salary. In other words, the amount of benefit is fixed by a formula rather than by market returns on investments made by the fund.

Contributions

Membership of the scheme is compulsory for all Senators and Members. Contribution rates are given as a fixed percentage of the Annual Allowance, or basic parliamentary salary, and of any additional salary payable to Ministers and Parliamentary Office-holders. Contributions are paid into the Consolidated Revenue Fund.

Current Contribution Rates for Senators and Members:

- 11 ¹/₂ per cent of Annual Allowance until completion of 18 years service;
- 5 ³/₄ per cent of Annual Allowance after completion of 18 years service

Current Contribution Rates for Office-holders receiving additional salary:

- 11½ per cent of the monthly amount of additional salary received is contributed by those Office-holders who have not attained their [maximum additional pension entitlement](#);
- For Office-holders who have attained their [maximum additional pension entitlement](#), the contribution rate reduces to 5 ³/₄ per cent while that maximum applies.

Contributions are only paid while any additional salary is received.

Parliamentarians currently receive an Annual Allowance of \$136 640 per annum. Information about the Annual Allowance can be found in [The annual allowance for senators and members](#) and [Parliamentary allowances, benefits and salaries of office](#).

Retirement benefits

Summary

Former parliamentarians gain an entitlement to a pension, called a Retiring Allowance, if they meet the minimum eligibility requirements set out in the Act. The Scheme provides an additional pension entitlement for Office-holders. The benefits payable depend upon a parliamentarian's length of service, the mode of retirement and the receipt of any additional salary. In certain circumstances a portion of the retiring allowance may be converted to a lump sum. If no retiring allowance is

payable, former parliamentarians are entitled to a lump sum benefit that may include a refund of their contributions.

Retiring allowances are payable fortnightly from the Consolidated Revenue Fund and are subject to income taxation.

Benefits are summarised in the following table and discussed in the subsequent paragraphs.

Table of Benefits under the Act

Senator or Member	Mode of Retirement	Benefit	Eligibility Requirements
Senator or Member	Voluntary— expiration of term	Retiring allowance—a pension payable for life ¹	12 or more years' service or if has ceased to be a Senator or Member on four occasions.
Senator or Member	Voluntary— and has attained the age of 60 years	Retiring allowance	Deemed to be involuntary retirement. Eight or more years' service or if has ceased to be a Senator or Member on three occasions.
Senator	Involuntary— due to the loss of preselection or loss at an election	Retiring allowance	Eight or more years' service or if has ceased to be a Senator on three occasions.
Member	Involuntary— due to the loss of preselection or loss at an election	Retiring allowance	Eight or more years' service or if has ceased to be a Member on three occasions.
Senator or Member	Ill-health	Retiring allowance 50% of the Parliamentary Allowance payable	Senators and Members who do not qualify for a retiring allowance under the above conditions may be entitled to a retiring allowance if the Parliamentary Retiring Allowances Trust (the Trust) is satisfied that the retirement is due to ill-health Eight or more years' service or if he or she has ceased to be a Senator or Member on three occasions.
Senator or Member	Ill-health	Retiring allowance 50% of the Parliamentary Allowance payable	Eligibility in Row 4 does not apply and he or she is classified as a Class 1 invalid by the Trust
Senator or Member	Ill-health	Retiring allowance 30% of the parliamentary allowance payable	Eligibility in Row 4 does not apply and he or she is classified as a Class 2 invalid by the Trust
Senator or Member	Ill-health	The greater of the	Eligibility in Row 4 does not apply

1. Parliamentarians elected for the first time at the 2001 general election cannot access the retiring allowance until age 55. Those members of the scheme elected prior to 2001 are eligible to receive the retiring allowance immediately after retirement.

Senator or Member	Mode of Retirement	Benefit	Eligibility Requirements
		following: Refund of his or her contributions together with a payment of the Commonwealth Supplement the superannuation guarantee safety-net amount	and he or she is classified as a Class 3 invalid
Senator or Member— if not entitled to retiring allowance	Involuntary	Lump sum comprising the higher of— a refund of contributions plus a supplement or a lump sum representing the superannuation guarantee safety-net amount	
Senator or Member— if not entitled to retiring allowance or superannuation benefit; have joined the Parliament at or since the November 2001 election.	Involuntary	Resettlement Allowance— equal to 12 weeks of the annual allowance that is current on the date Parliament is prorogued prior to the election	Payable only after ceases to be a senator or member. Involuntary retirement when: did not stand for re-election due to loss of party endorsement for reasons other than misconduct; was defeated at an election, including when stood for different electorate or Chamber.
Senator or Member— if not entitled to retiring allowance	Voluntary	Lump sum comprising the higher of— a refund of contributions plus a supplement or a lump sum representing the superannuation guarantee safety-net amount	
Senator or Member— entitled to retiring allowance except for reasons of ill-health	Voluntary or involuntary as per above	Commutation of retiring allowance. Up to 50 percent of the retiring allowance may be commuted to a lump sum. The lump sum is equal to the annual amount of retiring allowance commuted, multiplied by the commutation factor	
Spouse— of a serving Senator or Member who dies	If a serving Senator or Member has served less than 8	Annuity 5/6 of the rate of the retiring allowance which	Irrespective of length of service. The spouse and deceased having had a marital relationship

Senator or Member	Mode of Retirement	Benefit	Eligibility Requirements
<p>while entitled to a Parliamentary Allowance² or would have been entitled to a retiring allowance had they not died.</p> <p>'Spouse' is defined as someone who had a marital relationship with a Senator or Member.</p> <p>'Marital relationship' is defined as living with the Senator or Member on a "permanent and bona fide domestic basis" ... "whether or not legally married" for a continuous period of at least 3 years (or less in some circumstances)³</p>	<p>years at the time of death, the annuity is calculated on the benefit that would have been payable had 8 years service been completed</p>	<p>would have been applicable.</p> <p>Commutation is allowed to pay surcharge liability</p>	
<p>Spouse— of a retired Senator or Member who dies.</p>		<p>Annuity 5/6 of the rate of the retiring allowance which would have been applicable.</p> <p>Commutation is allowed to pay surcharge liability</p>	<p>Deceased Senator or Member was in receipt of a retiring allowance and:</p> <p>Marital relationship commenced before retirement; or commenced at least 5 years before death; or commenced prior to parliamentarian attaining 60 years of age⁴</p>
<p>Orphaned children</p>		<p>Annuity</p> <p>The rate of annuity payable is an amount calculated by dividing the spouse's annuity that was, or would have been payable, by four— or by the number of children in respect of which an annuity is payable, if there are more than four children</p>	<p>Deceased Senator or Member was in receipt of, or eligible for, a retiring allowance or</p> <p>Deceased spouse was in receipt of an annuity and</p> <p>A child must be under 16, or under 25 if a full-time student, and has been dependent on the Senator or Member, or former Senator or Member, or spouse, at the time of death. There are also other qualifications see Section 19AA of the Act</p>

2. Essentially an 'annual allowance' or 'salary of office' see *Parliamentary Contributory Superannuation Act 1948* [Section 4 Interpretation](#).

3. *Parliamentary Contributory Superannuation Act 1948* [Section 4B](#) Marital relationship.

4. *Parliamentary Contributory Superannuation Act 1948* [Section 4C](#) Spouse who survives a deceased person.

Occasions

An 'occasion' occurs on the dissolution or expiration of the Senate or House of Representatives or at the expiration of a Senator's or Member's term of office.

Senators who have six year terms achieve an 'occasion' after the completion of three years of that term, as well as when their term expires.

Members achieve an 'occasion' when they cease to be a Member upon the dissolution or expiration of the House or upon the expiration of the Member's term of office.

Supplements

Involuntary retirement—the supplement is $2\frac{1}{2}$ times the member's contributions

Voluntary retirement—the supplement is $1\frac{1}{6}$ times the member's contributions

Retiring Allowance

A retiring allowance is paid as a percentage of the minimum annual allowance payable at the time of retirement, currently \$136 640 per annum. The applicable percentage is linked to a parliamentarian's years of service as follows:

Retiring Allowance Rates

Years of Service	Percentage of Parliamentary Allowance (%)	Years of Service	Percentage of Parliamentary Allowance (%)
8	50	14	65
9	52.5	15	67.5
10	55	16	70
11	57.5	17	72.5
12	60	18 or more	75
13	62.5		

The table represents an additional retiring allowance of 0.00685 per cent of the annual allowance for each additional day's service between eight and 18 years.

Retiring Allowances for Ministers and Office-holders

The Scheme provides an additional retiring allowance for those parliamentarians paid a salary of office. This means that these parliamentarians may become eligible, in effect, for two retiring allowances—the first may be gained by virtue of being an eligible Senator or Member in the manner described above, the second accrues by way of being a Minister, or holding a parliamentary office such as chair of a committee. Offices are determined by the Remuneration Tribunal and can be found in Determination 2006/21 [Parliamentary Office-holders – additional salary](#). The Tribunal also reports on Ministerial salary, see Report No 1 of 2009 [Report on Ministers of State-salaries additional to basic parliamentary salary](#). For an explanation of the status of these reports, readers

should consult the relevant [section](#) in the Library's publication, [Parliamentary Allowances, salaries of office](#) and entitlements.

The additional retiring allowance is expressed as a percentage of the additional salary paid. It accrues at the rate of 6.25 per cent of the additional salary for each year the office is held. Put another way, each day as an Office-holder attracts a benefit of 0.0171 per cent of additional salary.⁵ Where a Senator or Member has served in more than one office, the additional pensions in respect of those offices are aggregated.

Maximum Additional Pension Entitlement

A 'maximum additional pension entitlement' limit applies to additional retirement benefits. This is a limit whereby a Senator's or Member's additional retiring allowance must not total more than 75% of the salary payable for the highest paying office they have held. Note that if a parliamentarian holds more than one office concurrently, only the highest salary of office is paid.

Retirement for Reasons of Ill-health

A retiring parliamentarian who has not qualified for a retiring allowance under the Act may gain entitlement if their retirement is caused by ill-health. The retiring parliamentarian can write to the Trust and ask for a determination to be made on invalidity retirement. [Section 15A](#) of the Act requires the parliamentarian to provide a medical certificate and any other documentation the Trust requires. The medical certificate must include a statement setting out the medical practitioner's opinion about the percentage of the person's incapacity in relation to non-parliamentary employment. To issue a determination, the Trust must be satisfied that the member is unlikely ever to be able to again perform the duties of a parliamentarian because of physical or mental impairment. The determination on invalidity must specify the nature of these impairments.

The Trust must also classify the member's invalidity in terms of the percentage of the person's incapacity in relation to non-parliamentary employment. Classifications and associated benefits are as follows:

Invalidity Classification Sect 15B of the Act

Percentage of Incapacity in relation to non-parliamentary employment	Classification	Benefit if have served less than eight years or three occasions	Amount
60% or more	Class 1 invalid	Retiring allowance	50% of annual allowance
30% or more but less than 60%	Class 2 invalid	Retiring Allowance	30% of annual allowance
Less than 30%	Class 3 invalid	Lump sum	The greater of the following: Refund of his or her contributions together with a

5. D Kehl, [Parliamentary Contributory Superannuation Amendment Bill 2001](#), Bills Digest no. 51, 2001–02, p. 3.

Percentage of Incapacity in relation to non-parliamentary employment	Classification	Benefit if have served less than eight years or three occasions	Amount
			payment of the Commonwealth Supplement the superannuation guarantee safety-net amount
Percentage of Incapacity in relation to non-parliamentary employment	Classification	Benefit if have served not less than eight years' or three occasions	Amount
Not applicable in terms of benefit	Not applicable in terms of benefit	Retiring Allowance	50% of annual allowance

The annual allowance is currently \$136 640.⁶

Commonwealth Supplement

The Commonwealth Supplement is defined in [Section 16](#) of the Act as 2 ½ times the contributions paid during parliamentary service or, if service exceeds eight years, the contributions paid in the last eight years of that service. This explanation simplifies the operation of Section 16. Readers should consult the Act for further information.

Superannuation guarantee safety-net amount

The Superannuation guarantee safety-net amount is described in [Section 16A](#) of the Act. It is the sum of—certain member contributions, plus interest earned on contributions, plus any government-funded 'top-up' benefit provided for under the *Superannuation Guarantee (Administration) Act 1992* designed to cover potential superannuation guarantee shortfalls. It is, in essence, a minimum benefit or 'vested benefit'.

Increases to Retiring Allowance

Retiring allowances are increased in line with increases in the annual allowance for serving Senators and Members.

6. The annual allowance is set as a reference salary in the *Principle Executive Office Classification Structure* determined by the Remuneration Tribunal. The Tribunal examines the reference salary annually and usually reports on the matter to Parliament in July each year. Note that the Remuneration Tribunal only advises and reports to Parliament, it does not determine the annual allowance. See L. Manthorpe, [The annual allowance for senators and members](#), Ebrief, online only.

Retiring Allowance for those elected for the first time at the 2001 general election

Senators and Members who joined Parliament on or after the 2001 election and become eligible for a retiring allowance have the benefit deferred until they reach 55 years of age, or until they reach their [deferring day](#), commonly called 'preservation age'. Benefits commuted to a lump sum are also deferred until the retiring allowance is paid.

Commutation of Retiring Allowance to Lump Sum

Up to 50 per cent of a retiring allowance can be commuted to a lump sum. The lump sum is equal to the amount of retiring allowance commuted, multiplied by the commutation factor.

The commutation factor, for ages up to and including 65 years, is 10. The commutation factor reduces by 0.5 per year until reducing to zero at age 85. The commutation factor applicable at selected ages is as follows:

Commutation factor

Age	Factor
65 or less	10.0
70	7.5
75	5.0
80	2.5
85 or over	0.0

Preservation of Lump Sum Benefits

Parliamentarians who were elected for the first time at the 2001 election and become eligible for a retiring allowance, are required to preserve any lump sum commutation benefit until their [preservation age](#). The amounts commuted and preserved will naturally vary in each case.

Parliamentarians who retired after 1st July 1999, but before the 2001 election, could commute fifty per cent of their retiring allowance to a lump sum, but were required to preserve *part of this amount* until their preservation age.

Parliamentarians who retired before 1st July 1999, except for reasons of ill-health, had the option of taking a full retiring allowance or commuting up to fifty per cent of this amount to a lump sum that was immediately accessible. In other words the preservation age rules do not generally apply to those elected prior to 1st July 1999. If the retired parliamentarian is subsequently re-elected, however, the rules may apply.

Deferral of benefits is not required if retirement is on [invalidity](#) grounds, regardless of the age of the member.

Deferral of Retiring Allowance and Preservation of Benefits

In 1994, the *Parliamentary Contributory Superannuation Act 1948* was amended to make the Scheme subject to the same preservation age rules applying to members of other superannuation funds.⁷ In effect, this meant that many members of the Scheme were required to preserve any lump sum benefit, but were still able to access a retiring allowance immediately after retirement. From 2001, certain retiring parliamentarians became 'deferring members' under the Act and they are required to preserve *all* benefits, including their retiring allowance, until their 'deferral day', generally the day they reach age 55.

Preservation is a prudential regulatory requirement under the [Superannuation Industry \(Supervision\) Act 1993](#) (SIS Act) and associated [Regulations](#) whereby certain superannuation benefits (superannuation contributions, including member contributions, and superannuation fund investment earnings) must be maintained either in a superannuation or roll-over fund until permanent retirement, or until the member reaches preservation age.

Preservation Age

Preservation age is that at which a member can gain access to preserved benefits that have accumulated in their superannuation fund or [Retirement Savings Account](#), provided that they have permanently retired from the workforce.

In the 1997 Commonwealth Budget, the Howard Government announced that the preservation age would be increased from 55 to 60 years on a phased-in basis. By 2025, the preservation age will be 60 years for anyone born after June 1964, with the preservation age being reduced by one year for each year that a birthday occurs before 1 July 1964. This means that persons born before 1 July 1960 will continue to have a preservation age of 55 under the SIS Act.⁸

Preservation Age—Phase-in Timetable

For a person born	Preservation age (years)
before 1 July 1960	55
1 July 1960 - 30 June 1961	56
1 July 1961 - 30 June 1962	57
1 July 1962 - 30 June 1963	58
1 July 1963 - 30 June 1964	59
after 30 June 1964	60

Hardship

The Trust can determine to allow early payment of part of a deferred retiring allowance in circumstances of severe financial hardship or on compassionate grounds. When the retiring

7. [Section 26B](#) of the *Parliamentary Contributory Superannuation Act 1948* was inserted by the [Superannuation Laws Amendment Act 1994](#).

8. Summary courtesy of [Kehl](#), op. cit., 2001, p. 9.

allowance ultimately becomes payable at age 55 it will be reduced to take account of these payments.

Resettlement Allowance

The resettlement allowance is determined by the Remuneration Tribunal in [Determination 2006/18](#) Clauses 8.6 to 8.8.--

Resettlement Allowance

8.6 Subject to clauses 8.7 and 8.8, a senator or member who retires involuntarily from the Parliament will be paid a Resettlement Allowance equal to 12 weeks of the basic parliamentary salary.

8.7 Senators and members eligible for the Resettlement Allowance are those who:

- (a) have joined the Parliament at or since the November 2001 election; and
- (b) are not able to access a pension or superannuation benefit (related to their service in the Parliament) immediately upon ceasing to be a Member of the Parliament; and
- (c) have retired involuntarily through:
 - (i) electing not to stand for re-election following loss of party endorsement, for reasons other than misconduct, or
 - (ii) through defeat at an election (including defeat at an election where he or she has campaigned to be elected to represent a different electoral division or to the other House of the Parliament).

8.8 The Resettlement Allowance will be payable:

- (a) only after the senator or member ceases to be a senator or member; and
- (c) at the rate of basic parliamentary salary that is current on the date the Parliament is prorogued prior to the election.

Administration

The Resettlement Allowance is administered and paid by the Chamber Departments. The allowance is not a redundancy payment—it is an amount determined as appropriate to provide re-skilling and re-employment assistance to those parliamentarians who do not have access to superannuation benefits at the point of losing office. The allowance is fully tax assessable.

For further information, please refer to the [2006](#) and [2007](#) sections in *The Parliamentary Retiring Allowances Act 1948: Debates, Committee Reports, Remuneration Tribunal Reviews and a Chronology of Legislative Amendments*.

Reversionary Benefit – paid as an Annuity

Benefit

Benefits payable to the spouse of a deceased parliamentarian under the Scheme are outlined in Part V, [Sections 19 to 19AB](#) of the Act.

Upon the death of a serving MP, their spouse receives an annuity equal to $\frac{5}{6}$ of the rate of the retiring allowance which would have been payable had the MP not died.

If the MP has served less than eight years at the time of death, the retiring allowance is calculated as if they had served eight years.

Upon the death of a former MP already in receipt of a retiring allowance, the spouse receives $\frac{5}{6}$ of the rate of the retiring allowance being paid.

Annuities continue to be paid if a spouse remarries. Annuities are also paid if the spouse is subsequently elected to Commonwealth Parliament.

In summary, a spouse will be paid an annuity for their lifetime, equivalent to $\frac{5}{6}$ of the retiring allowance to which the deceased parliamentarian would have been entitled.

Spouse

For the purposes of the Act, a person is a *spouse* if the person has, or had, a marital relationship with the deceased person at the time of the death of the deceased person.

Where the deceased was a retired member at the time of death, a *spouse* is one where:

- the marital relationship began before the member retired; **or**
- the marital relationship began after the member retired but before they reached 60 years; **or**
- where the marital relationship had continued for a period of at least five years up to the time of death. [[Section 4C](#)]

In certain other circumstances under [subsection 4\(3\)](#), a person will be a *spouse* if, in the Trust's opinion, the person was wholly or substantially dependent upon the deceased person at the time of the death.⁹

Marital relationship

Under [Section 4B](#), a relationship, at a particular time, is a *marital relationship* if a couple lived together a permanent and bona fide domestic basis at that particular time—whether or not the couple were legally married. The time a couple spent living on this basis must be of at least three

9. *The Parliamentary Contributory Superannuation Act 1948* [Section 4C](#) ss 2(a) and ss 3(d).

continuous years in duration. However, the Trust has some discretion in this matter and ss 4B(4) provides guidance on relevant evidence that can be used to inform the Trust's opinion. A deceased MP may have both a legally married spouse and a de facto spouse and the Trust will apportion the reversionary benefit amongst more than one spouse on a needs basis.¹⁰

Orphaned children

If a deceased parliamentarian has no spouse, orphan children are entitled to an annuity equal to— $\frac{1}{4}$ of an annuity that would have been payable to a spouse or equal to the spouse's annuity divided by the number of children if there are more than four. In effect the annuity payable to orphaned children is $\frac{1}{4}$ of $\frac{5}{6}$ of the deceased parliamentarian's retiring allowance. Orphan children are also eligible for an annuity if the spouse of a deceased parliamentarian dies while in receipt of a reversionary benefit—they are eligible to receive $\frac{1}{4}$ of the annuity their parent had received upon the death of the parliamentarian.

[Ss19AA\(5\)](#) --

child ... means a child (including an adopted child or an ex-nuptial child) of the deceased MP.

eligible child means: (a) a child who has not attained the age of 16 years; or (b) a child who: (i) has attained the age of 16 years but has not attained the age of 25 years; and (ii) is receiving full-time education at a school, college or university.

To receive these benefits, a child:

- must not have a surviving natural or adoptive parent, including where that parent was a former spouse of the deceased MP
- must be an 'eligible child' (see definition above)
- must have been dependent on the deceased MP
- must not have been born or adopted after the MP became eligible for a retiring allowance or reached the age of 60 years—unless their parents' marriage lasted for five years or more
- must not have been born or adopted after the member's death—unless the Trust is of the opinion that the child would have been dependent on that member had they lived.

[Section 19ABA](#) allows the commutation of such a benefit to pay a surcharge liability.

Reversionary benefit to personal representative

With no spouse or children to receive benefits, the personal representative of a deceased MP may receive the following benefit to disperse in accordance with the terms of the member's will as follows¹¹:

10. Department of Finance and Deregulation, [Parliamentary Contributory Superannuation Scheme: Handbook](#), February 2010, p. 11.

11. Ibid.

[Section 19AB\(1\)\(c\)](#) --

...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 MP before their death.

Certain other conditions surround the position of the deceased MP's surcharge debt account and the payment of any benefit.

Annuities from Deferred Benefits

[Part VA](#) of the Act defers payment of retirement benefits to certain members of the Scheme. Finance's [Parliamentary Contributory Superannuation Scheme: Handbook](#) states on page 8:

"Reversionary benefits will continue to be available to the eligible spouse or eligible children of all PCSS members who die in service. Also, eligible spouses or eligible children will receive a reversionary pension on the death of a former Member of Parliament whose pension is deferred before age 55."

Family Law and the Scheme

Since 18 May 2004, the Scheme has allowed for the splitting of superannuation when marriages break down. Under [Part VAA](#), with some exceptions, former spouses may become entitled to their own superannuation benefit.¹²

Reduction of Benefit

Office of Profit held subsequent to parliamentary service

Where former Senators and Members who are entitled to a retiring allowance—or their spouses in receipt of an annuity—are held to be the 'holders of an office of profit' under a State or the Commonwealth, their benefit may be reduced. [Section 21B](#) of the Act defines the 'holder of an office of profit' as:

- Governors-General and state Governors
- federal court and state court justices or judges
- appointments to any public office made by Governors and Ministers
- federal magistrates

12. [Superannuation Legislation Amendment \(Family Law and Other Matters\) Act 2004](#).

- Judges or justices of Territory Supreme Courts (or others of that status)
- an office of Head of Administration or Associate Head of Administration under section 49 of the [Australian Capital Territory \(Self-Government\) Act 1988](#) [Note that section 49 appears to have been repealed in 1994]
- Secretaries within the meaning of the Public Service Act 1999
- Head of a diplomatic mission or Head of a Consular post under Schedules to the [Diplomatic Privileges and Immunities Act 1967](#) and the [Consular Privileges and Immunities Act 1972](#)
- Holder of a public office within the meaning of Part II of the [Remuneration Tribunal Act 1973](#)

In these circumstances, the retiring allowance is reduced, above a threshold of 20 per cent of backbench salary, at the rate of 50 cents in the dollar. The maximum reduction that may apply is 50 per cent of the retiring allowance before commutation.

Section 21B does not apply to members of state parliaments. In [Section 21](#), however, the Act does allow for reductions in benefit for those who subsequently serve in other legislatures.

Prior and Subsequent Parliamentary Service

Those parliamentarians who become eligible for a retiring allowance under the Scheme—and who are already in receipt of a retiring allowance or annuity by virtue of prior service in a state legislature—have their retiring allowance reduced by the amount already received. Those parliamentarians in receipt of a retiring allowance under the Act, who are subsequently elected to a state legislature, will have this benefit reduced by the amount of any state retiring allowance they later receive. See *The Parliamentary Contributory Superannuation Act 1948*, Part V [Sections 20, 20A, 21 and 21B](#)

Re-election to the Commonwealth Parliament

Former Commonwealth parliamentarians who are re-elected to federal Parliament are required to repay any lump sum benefit received.

If a former Senator or Member is re-elected to the Commonwealth Parliament after June 2004 their PCSS pension is cancelled, and they cannot accrue further PCSS benefits. Once they again leave Federal Parliament their pension recommences, but at the level it would have otherwise been had they not returned to political life. See *The Parliamentary Contributory Superannuation Act 1948* Schedule 1.

Notional Commonwealth Employer Contribution Rate

A notional employer contribution rate is actuarially calculated to illustrate the effective cost of the superannuation benefits being provided by the employer in unfunded schemes, the Commonwealth, as a percentage of the salaries of scheme members. It represents the contribution rate that would be required if benefits were fully funded and is presented as a percentage of the total salaries of Scheme members.

The Australian Government Actuary reports to the Department of Finance and Deregulation (Finance) on the long-term cost of benefits provided under the *Parliamentary Contributory Superannuation Act 1948*. At each of these reviews, the notional employer contribution rate is reported. In accordance with common practice this advice is normally provided every three years. A full actuarial review was undertaken in 2008. The notional employer contribution rate to the Parliamentary Contributory Superannuation Scheme is quoted at 47.9 per cent.¹³

A comparative table of rates for other commonwealth schemes is provided:

Scheme	Legislation	Calculation date	Notional contribution rate—% of salaries
Parliamentary Contributory Superannuation Scheme (PCSS)	Parliamentary Contributory Superannuation Act 1948	30 June 2008 ¹⁴	-47.9
Judge's Pension Scheme	Judges' Pensions Act 1968	30 June 2002 ¹⁵	55.3
Public Sector Superannuation Scheme (PSS) ¹⁶	Superannuation Act 1990	30 June 2008 ¹⁷	16.3
Commonwealth Superannuation Scheme (CSS) ¹⁸	Superannuation Act 1976 and Superannuation Act 1922	30 June 2008 ¹⁹	21.4
Military Superannuation and Benefits Scheme (MSBS)	Military Superannuation and Benefits Act 1991	30 June 2008 ²⁰	27.0
Defence Force Retirement and Death Benefits Scheme (DFRDB) ²¹	Defence Force Retirement and Death Benefits Act 1973	30 June 2008 ²²	33.4
Superannuation Guarantee	Superannuation Guarantee Charge Act 1992 and Superannuation Guarantee (Administration) Act 1992	from 1 July 2002 ²³	9

13. C J Stevenson, Principal, Mercer Human Resources Consulting Pty Ltd, [Evidence to Senate Finance and Public Administration Legislation Committee](#), 31 May 2004, p. 21.

14. House of Representatives, *Debates*, Answer to QON 2425, [4 June 2001](#) p. 27231.

15. Senate, *Debates*, Answer to QON no 1516, [13 August 2003](#), p. 13591.

16. The government [announced](#) changes to the PSS on 17 October 2003, with an [exposure draft](#) of proposed changes being issued in December 2003. The proposed changes will apply to new members of the scheme from 1 July 2005

17. Mercer Human Resource Consulting Pty Ltd, *Report on long-term costs of the PSS and CSS at* http://www.finance.gov.au/super/docs/PSS_CSS_LTCR_2005.pdf pp. 3 and 29.

18. Scheme closed to new entrants.

19. [Mercer](#), op. cit.

20. Australian Government Actuary, [Military Superannuation and Benefits Scheme and Defence Force Retirement and Death Benefits Scheme \(MSBS and DFRDB\): A report on long-term costs carried out by the Australian Government Actuary using data to 30 June 2008](#) Canberra, 2009, p. v.

21. Scheme closed to new entrants.

22. Australian Government Actuary, op. cit.

23. see D Kehl, [Superannuation Guarantee Charge Amendment Bill 2002](#), Bills Digest no. 160, 2001–02.

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