

## HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

Tuesday, 16 December 1986

**This Supplementary Order Paper replaces Supplementary Order Paper No. 55 of 9 December 1986, and includes the amendments proposed in that Supplementary Order Paper.**

## GOVERNMENT SUPERANNUATION FUND AMENDMENT BILL

*Proposed Amendments*

Hon. DAVID CAYGILL, in Committee, to move the following amendments:

*Clause 2:* To add at line 26 on page 3 the following subclause:

(2) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term "spouse" (as inserted by section 2 (1) of the Government Superannuation Fund Amendment Act 1976), the following definition:

" 'State enterprise' means a State enterprise specified in the **Second Schedule** to the State-Owned Enterprises Act 1986."

*New clause 2A:* To insert after clause 2, at line 26 on page 3, the following section:

**2A. Application to certain employees of State enterprises**—The principal Act is hereby amended by inserting, after section 2, the following section:

"2A. (1) This section applies to every person—

"(a) Who becomes an employee of a State enterprise at any time before the 1st day of January 1988; and

"(b) Who was, immediately before becoming so employed, a contributor under this Act.

"(2) For the purposes of this Act, every person to whom this section applies shall be deemed to be employed in the Government service so long as that person continues to be employed by any State enterprise; and this Act shall apply to that person in all respects as if service with any State enterprise were Government service.

"(3) Except as provided in sections 61R and 61s of this Act, once any person to whom this section applies has ceased to be a contributor under this Act that person shall not be entitled to again become a contributor under this Act by virtue of any employment in any State enterprise.

"(4) For the purposes of applying this Act to any person to whom this section applies in accordance with subsection (2) of this section, the State enterprise by whom that person is for the time being employed shall be deemed to be the controlling authority of that person."

*New clauses 18AA and 18AB: To insert at line 35 on page 29, between clauses 18 and 18A, the following new clauses:*

**18AA. New Part inserted**—The principal Act is hereby amended by inserting, after section 74M (as substituted by section 2 of the Government Superannuation Fund Amendment Act 1980), the following heading and sections:

“PART IVA

“SUPERANNUATION OF MASTERS

“74N. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—

“ ‘Master’ means a Master of the High Court appointed under section 26C of the Judicature Act 1908:

“ ‘Judge’ has the same meaning as in Part IV of this Act.

“74O. **Masters may elect to contribute under Part IV of this Act**—(1) Subject to this section, any person who is appointed as a Master may elect to pay contributions in respect of that person’s service as a Master as if that service were service as a Judge.

“(2) No person shall be entitled to make an election under subsection (1) of this section who has made an election under section 74P (1) or section 74R (1) of this Act.

“(3) Every election under subsection (1) of this section shall be irrevocable, and shall be delivered to the Superintendent within 3 months after the person is appointed as a Master.

“(4) Where any person makes an election under subsection (1) of this section, the provisions of Part IV of this Act shall apply to that person as if that person had been appointed as a Judge on the date on which that person was appointed as a Master, and the contributions payable by that person, and the benefits payable in respect of those contributions, shall be calculated accordingly.

“74P. **Judges appointed as Masters may elect to continue to contribute under Part IV**—(1) Subject to this section, where any person—

“(a) Is appointed as a Master; and

“(b) Was, immediately before that appointment, holding office as a Judge,—

that person may elect to pay contributions in respect of that person’s service as a Master as if that service were service as a Judge.

“(2) No person shall be entitled to make an election under subsection (1) of this section who has made an election under section 74O (1) of this Act.

“(3) Every election under subsection (1) of this section shall be irrevocable, and shall be delivered to the Superintendent within 3 months after the person is appointed as a Master.

“(4) Where any person makes an election under subsection (1) of this section, the provisions of Part IV of this Act shall apply to that person as if that person had received a further appointment as a Judge on the date on which that person was appointed as a Master, and the contributions payable by that person, and the benefits payable in respect of those contributions, shall be calculated accordingly.

**“74Q. Part-time Masters—(1)** Notwithstanding anything in this Act, where any Master to whom **section 74o (4)** or **section 74P (4)** of this Act applies acts as a Master on a part-time basis at any time during that Master’s period of service as a Master, every retiring allowance, annuity, other allowance, or payment (other than any payment under **section 91** or **section 91A** or **section 91B** of this Act, or a refund of that Master’s contributions under this Act and any interest payable on those contributions) payable to any person by reason of that Master’s contributions under this Act shall be reduced by the proportion by which the total amount paid to that Master by way of salary during that Master’s period of service is less than the total amount that would have been paid by way of salary to a Master who had acted on a full-time basis during that same period.

**“(2) Subsection (1)** of this section shall apply whether or not the retiring allowance, annuity, other allowance, or payment is payable at a minimum rate prescribed by this Act, but nothing in **subsection (1)** of this section shall apply in respect of any allowance payable to a child under **section 61Q** of this Act.

**“(3)** For the purposes of determining any retiring allowance, annuity, other allowance, or payment that would, apart from **subsection (1)** of this section, be payable to any person by reason of a Master’s contributions under this Act, the retiring allowance, annuity, other allowance, or payment shall be calculated in accordance with this Act, except that, for the purposes of **section 61M (1) (a) (i)** and **section 74E** of this Act, where any Master to whom **section 74o (4)** or **section 74P (4)** of this Act applies—

**“(a)** Was, at the time of the resignation, retirement, or death of that Master, acting as a Master on a part-time basis; or

**“(b)** Had, at any time during the period of 12 months immediately preceding the resignation, retirement, or death of that Master, acted as a Master on a part-time basis,—

the retiring allowance, annuity, other allowance, or payment shall be calculated as if the annual salary of that Master at the date of that Master’s resignation, retirement, or death, were the annual salary payable by law to a Master who, at that date, had at all times acted as a Master on a full-time basis.

**“(4)** Subject to **subsection (1)** of this section, in determining, for the purposes of Part IV of this Act, the period of service of any Master, any period of service during which a Master has acted as a Master on a part-time basis shall be deemed to be service on a full-time basis.

**“74R. Masters may elect to continue to contribute under Parts II, IIA, III, or IIIA—(1)** Notwithstanding anything in this Act but subject to this section, any person who—

**“(a)** Is appointed as a Master; and

**“(b)** Was, immediately before that appointment, a contributor under Part II or Part IIA or Part III or Part IIIA of this Act,—

may elect to continue to contribute under Part II or Part IIA or Part III or Part IIIA of this Act, as the case may be, while that person continues to hold office as a Master.

“(2) No person shall be entitled to make an election under **subsection (1)** of this section who has made an election under **section 74o (1)** of this Act.

“(3) Every election under **subsection (1)** of this section shall be irrevocable, and shall be delivered to the Superintendent within 3 months after that person is appointed as a Master.

“(4) Where any person makes an election under **subsection (1)** of this section, that person shall be deemed, for the purposes of Part II or Part IIA or Part III or **Part IIIA** of this Act, as the case may require, to be employed in the Government service so long as that person continues to hold office as a Master, and Part II or Part IIA or Part III of **Part IIIA** of this Act, as the case may require, shall continue to apply to that person in all respects as if that person’s service as a Master were Government service.

“(5) For the purposes of applying Part II or Part IIA or Part III or **Part IIIA** of this Act, in accordance with **subsection (4)** of this section, to a person who holds office as a Master, and is a contributor to the Fund, the term ‘controlling authority’ in relation to any such person, means the Secretary for Justice.

“74s. **Master deemed to have retired on expiration of term of appointment**—For the purposes of applying this Act to a person who holds office as a Master and is a contributor under this Act, where any Master vacates office by reason of that Master’s term of appointment having expired, that Master shall, unless that Master is reappointed as a Master or is appointed as a Judge, be deemed to have retired on the date on which that term of appointment expired.

“74t. **Transitional provision**—Notwithstanding anything in this Act, where any person holds office as a Master on the date of the commencement of this section, that person shall be entitled to make an election under **section 74o (1)** or **section 74p (1)** or **section 74r (1)** of this Act as if that person had been appointed as a Master on that date.”

**18AB. Consequential amendment to Judicature Act 1908**—Section 26C of the Judicature Act 1908 (as inserted by section 5 of the Judicature Amendment Act 1986) is hereby amended by repealing subsections (2) to (4).

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#### EXPLANATORY NOTE

The proposed amendment to *clause 2* defines the term State enterprise which is relevant to the proposed *clause 2A*.

*Clause 2A* preserves the superannuation rights of contributors who become employees of State enterprises before 1 January 1988.

The proposed *clause 18AA* inserts a new Part IVA into the Government Superannuation Fund Act 1956. The effect of the amendment is to allow persons appointed as Masters of the High Court under section 26c of the Judicature Act 1908 to elect to contribute to the superannuation scheme provided for Judges under Part IV of that Act. Provision is also made—

- (a) For persons who, before their appointment as Masters, were Judges, to continue to contribute under Part IV of the Government Superannuation Fund Act 1956; and
- (b) For persons who, before their appointment as Masters, were contributors under Parts II, IIA, III, or IIIA of that Act, to continue to contribute under those Parts of that Act.

The proposed *clause 18AB* effects a consequential amendment.