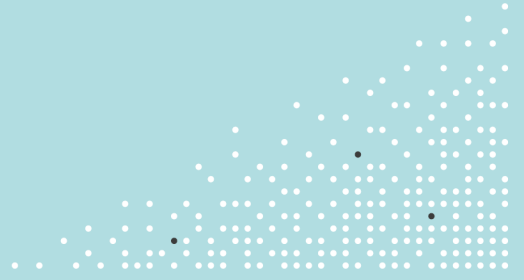




Australian Government
Department of Finance



PARLIAMENTARY CONTRIBUTORY SUPERANNUATION SCHEME

HANDBOOK

August 2022

PREFACE

The Department of Finance (Finance) provides advice and assistance to the Parliamentary Retiring Allowances Trust (the Trust) and administers the Parliamentary Contributory Superannuation Scheme (PCSS).

The PCSS is established under the *Parliamentary Contributory Superannuation Act 1948* (the Act). This Handbook is intended to provide a guide to the main provisions of the Act as it applies to members of Parliament who became members before 9 October 2004.

This Handbook is an illustrative guide only and not exhaustive in its coverage of the complete range of possible situations faced by members of the PCSS. Accordingly, before actually taking any action or making any elections in relation to the PCSS, members are strongly advised to seek specific information based on their own individual circumstances from Finance and their own financial advisor. Members are advised not to rely solely on the contents of this Handbook when considering such decisions.

Further information about the PCSS may be obtained from:

Parliamentary Superannuation Team
Funds and Superannuation
Department of Finance
One Canberra Avenue
FORREST ACT 2603

Telephone: (02) 6215 3676

Email: parlsuper@finance.gov.au

Due to Privacy obligations, Finance requires a three-point identity check and (if applicable) a third-party authorisation in writing, before a member's account details can be accessed.

We are committed to protecting members' privacy. We will only share relevant personal information where necessary to government or regulatory bodies. Members' information will not be otherwise used or disclosed unless required or permitted under law.

Department of Finance
August 2022

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PART I – ABOUT THE PCSS

MEMBERSHIP

1. The *Parliamentary Contributory Superannuation Act 1948* (the Act) provides for a contributory superannuation scheme under which benefits are paid to former members of Parliament, their spouses and orphan children. Membership of the Parliamentary Contributory Superannuation Scheme (the PCSS) was compulsory for all persons who entered Parliament prior to the closure of the PCSS to new members from 9 October 2004.
2. Persons who entered Parliament after 8 October 2004, including former parliamentarians who return to Parliament and former State parliamentarians who join the Commonwealth Parliament, are not eligible to join the PCSS. Similarly, sitting parliamentarians who leave Parliament and become entitled to a parliamentary pension and are re-elected to Parliament, will not be eligible to re-join the PCSS except where the circumstances that are described in paragraph 3 apply.
3. A serving parliamentarian who ceases to be a member of the House of Representatives on dissolution of the House to stand for the Senate, or resigns from the Senate to stand for election to the House of Representatives, and is elected to the other House within three months, will remain a member of the PCSS. The three-month period is taken from the date of dissolution of the House of Representatives or resignation from the Senate, whichever is appropriate, to the date of the polling day, notwithstanding that the person may not take their place in Parliament until a later time.

ADMINISTRATION

4. The PCSS is administered by the Department of Finance (Finance) on behalf of the Minister for Finance. The Parliamentary Retiring Allowances Trust (the Trust) has responsibility for matters where discretion has been given under the Act. The Trust consists of five trustees - the Minister for Finance (or a Minister authorised by the Minister for Finance) who is the presiding Trustee, plus two Senators and two Members of the House of Representatives appointed by their respective Houses. The current trustees are:

Minister authorised by the Minister for Finance:

- * Senator the Hon Katy Gallagher

The Senate:

- * Senator the Hon Richard Colbeck
- * Senator Glenn Sterle

The House of Representatives:

- * The Hon Warren Entsch MP
- * Ms Maria Vamvakinou MP

5. The Trustees, with the exception of the Minister for Finance, are appointed, and may be removed, by the House of which they are members.
6. The day to day administration of the PCSS is undertaken by the Department of Finance, One Canberra Avenue, FORREST, ACT, 2603.

- * The Parliamentary Superannuation Team can be contacted by telephone on (02) 6215 3676 or by email to parlsuper@finance.gov.au.

PART II - OUTLINE OF THE MAIN PROVISIONS OF THE PCSS

DETERMINATION OF PARLIAMENTARY SALARIES

7. The Remuneration Tribunal has the power to determine a range of allowances and entitlements for parliamentarians including certain components of parliamentary salaries.
8. The Remuneration Tribunal also has the power to determine that portions of the parliamentary salaries paid to sitting parliamentarians do not count for contributions and benefits under the PCSS. The salaries paid to sitting parliamentarians and the salaries for superannuation under the PCSS are therefore not linked.
9. References to the parliamentary allowance, salary for Ministers of State and allowance by way of salary for office holders (including references to “Ministerial or office holder salary” or “salary”) in this Handbook should be read as the superannuation salaries applicable to the PCSS where relevant.

CONTRIBUTIONS

10. Contributions are a fixed percentage of:

- a) parliamentary allowance;
- b) salary for Ministers of State; and
- c) allowance by way of salary for office holders.

* Contributions are paid to the Consolidated Revenue Fund.

11. In respect of contributions under 10a) above, for members whose period of parliamentary service is less than 18 years, the rate of contribution is eleven and one-half per cent of the monthly amount of the parliamentary allowance. Once a member has completed 18 years of service, the contribution rate reduces to five and three-quarter per cent.

12. In respect of 10b) and c) above, members who have not attained their maximum additional pension entitlement (refer to paragraph 32) are required to pay contributions, in addition to the contributions under 10a) above, at the rate of eleven and one-half per cent of the monthly amount of the Ministerial or office holder salary. Members who have attained their maximum additional pension entitlement have a reduced contribution rate of five and three-quarter per cent while that maximum applies. The contributions under 10b) and c) above cease to be payable when the Ministerial or office holder salary ceases to be received.

13. Salary sacrifice arrangements are not allowed under the PCSS.

TAXATION OF CONTRIBUTIONS

14. Since 1 July 2017, the value of unfunded employer defined benefit contributions in relation to the PCSS is counted towards the concessional contributions cap, a limit on the amount of contributions that receive concessional tax treatment in a scheme.

15. Currently, the annual concessional contributions cap is \$27,500. Where the value of these contributions exceed the cap they will not be treated as excess concessional contributions. This is because these employer contributions are unfunded and are subject to taxation when the member's benefit is paid.

16. If a member has a combined income and annual defined benefit employer contributions of more than \$250,000 in a financial year, they may have to pay an extra tax known as Division 293 tax. The Division 293 tax is assessed by the Australian Taxation Office (ATO). The Division 293 tax is charged at 15% of an individual's taxable contributions, and for defined benefit schemes, the repayment of the debt can be deferred until the benefit is claimed. Further information on the Division 293 tax, including repayment options, is outlined on pages 6-7.

17. Non-concessional contributions are personal post-tax member contributions for which a tax deduction is not claimed. The non-concessional contributions cap is a limit on the amount of non-concessional contributions that can be made into a superannuation scheme or fund. The annual non-concessional contributions cap is four times the annual concessional contributions cap. This equals \$110,000 (4 x \$27,500).

18. Where an individual has a total superannuation balance of \$1.7 million or more as at 30 June of the previous financial year, (that is, 30 June 2021 in respect of the 2021-22 financial year) the non-concessional contributions cap is reduced to zero.

19. Member contributions are required to be made to the PCSS, even if the non-concessional contributions cap is zero.

20. The superannuation balance includes an accumulation phase value which is reported each year to the ATO by the PCSS administrator. This benefit would become payable under the Act if a person retired voluntarily at 30 June, and is not currently in the retirement phase.

PERIOD OF SERVICE

21. For the purpose of determining entitlements under the PCSS, a member's period of service means the period during which he or she was entitled to receive a parliamentary allowance plus any other allowable service such as previous service or State service.

BENEFIT PAYABLE TO MEMBERS

22. On retirement from Parliament, a member is entitled to a pension if:

- a) 12 or more years of service has been completed; or
- b) the member has on four occasions, ceased* to be a member on the dissolution or expiration of the House of which he or she was then a member or on the expiration of a term of office; or
- c) retirement is involuntary and the member has completed not less than eight years of service or has on three occasions, ceased* to be a member on the dissolution or expiration of the House of which he or she was then a member or on the expiration of a term of office.

23. A member with less than eight years of service, who qualifies for a pension under b) or c) above, is deemed to have completed eight years of service.

24. For the purpose of determining the number of "occasions", a Senator whose term of office was six years is regarded as having an "occasion" after the completion of three years of a six-year-term, in addition to an occasion on the expiration of that six-year-term.

* A member is considered to have ceased to be a member on the dissolution of the House of which he or she was a member or on the expiration of a term of office on the day on which he or she ceases to receive his or her parliamentary allowance in respect of that term.

BENEFIT PAYABLE TO MEMBERS NOT ENTITLED TO A PENSION

25. A member, other than a member referred to in paragraph 28, who does not qualify for a pension is entitled to a lump sum payment (refer to paragraphs 62-70 regarding preservation). The lump sum comprises a refund of contributions plus a supplement. The amount of the supplement is:

- a) if the retirement is involuntary, two and one-third times the contributions paid by the person during their period of service, or if that period exceeds eight years, the last eight years of service, or
- b) if retirement is deemed to be voluntary, one and one-sixth times the contributions paid by the person during the last eight years of service.

26. Lump sum benefits, however, will be increased where the minimum level of superannuation required under the Superannuation Guarantee (SG) legislation has not been provided by the payment of the lump sums described at either 25(a) or (b). The SG minimum amount is calculated on the following basis:

- Member's voluntary retirement benefit as at 30 June 1992, plus
- Member's own contributions from 30 June 1992, plus
- Minimum SG employer contributions from 30 June 1992.
- All accumulated with PSS* interest until retirement.

27. The relevant SG amounts, expressed as a percentage of salary for superannuation purposes are specified in the SG legislation. The SG percentages from 1 July 2021 are:

– 1 July 2021 - 30 June 2022	10.00%
– 1 July 2022 - 30 June 2023	10.50%
– 1 July 2023 - 30 June 2024	11.00%
– 1 July 2024 - 30 June 2025	11.50%
– 1 July 2025	12.00%

* Relevant interest rates are the same as those applied to member contributions in the Public Sector Superannuation (PSS) scheme. Interest rates are used to accumulate lump sum benefits with interest, as required by SG legislation.

DISQUALIFICATION OF BENEFIT

28. A member whose place becomes vacant through the operation of the Constitution’s section 44 paragraph (i) concerning citizenship of a foreign power, or paragraph (ii) concerning treason or conviction for an offence, or through section 45 paragraph (iii), as it relates to services rendered to the Parliament, is entitled to a refund of contributions only.

RATES OF BASIC PENSION

29. The rates of basic pension payable are expressed as a percentage of the parliamentary allowance payable from time-to-time to members of Parliament. The rates are as follows:

COMPLETED YEARS OF SERVICE	PERCENTAGE OF PARLIAMENTARY ALLOWANCE
8	50
9	52.5
10	55
11	57.5
12	60
13	62.5
14	65
15	67.5
16	70
17	72.5
18 or more	75

30. Where a member has served for more than eight years but less than 18 years, and his or her period of service includes an incomplete year, the percentage in the above table is increased by 0.00685 for each additional day of service. For example, the percentage applicable to a member who has completed 15 years and 50 days service is 67.50% + 0.343%, that is 67.843% of the parliamentary allowance.

ADDITIONAL PENSION FOR SERVICE AS A MINISTER OR OFFICE HOLDER

31. A member:

- a) who is entitled to a pension; and
- b) whose period of service included a period or periods as a Minister or office holder in the Commonwealth Parliament in which a salary was payable,

is entitled, in addition to the basic pension described in paragraphs 29-30, to an additional pension in respect of his or her service in each such office.

32. The additional pension for each office is expressed as a percentage of the Ministerial or office holder salary for that office. The appropriate percentage is obtained by multiplying 6.25 by the number of years the member served in the office. Where a member has served in more than one office, the additional pensions in respect of those offices are aggregated. A parliamentarian’s additional pensions may not total more than 75 per cent of the Ministerial or office holder salary for the highest paying office held.

33. The following hypothetical example illustrates the calculation of the additional pensions for a member who held the office of a Chairman of a Committee for two years, was a Minister in Cabinet for four years and 80 days and the Treasurer for 200 days. The additional pensions would be:

- in respect of service as a Chairman of a Committee:
6.25 x 2 years, i.e. 12.5% of the current salary for a Chairman of a Committee;
- in respect of service as a Minister in Cabinet:
6.25 x (4 years + (80 days / 365)), i.e. 26.37% of the current salary for a Minister in Cabinet;
- in respect of service as the Treasurer:
6.25 x (200 days / 365), i.e. 3.425% of the current salary for the Treasurer.

34. The member would be entitled to receive the aggregate of the additional pensions in respect of his or her service as a Chairman of a Committee, a Minister in Cabinet and the Treasurer, provided this amount does not exceed 75 per cent of the salary for the Treasurer (the position with the highest salary of the three positions).

TAXATION OF BENEFITS

35. Where a PCSS pension member is at least 60 years of age, the amount up to the applicable threshold (currently \$106,250) for an annual pension, may be eligible for a 10 per cent tax offset, subject to the amounts of tax-free and untaxed amounts. The 10 per cent tax offset will not apply to the amount of a pension over this threshold.

36. The threshold is reduced where a pension is commenced part way through a financial year.

37. If a member is under 60 years of age, the tax-free amount is not assessable income. The untaxed amount of the pension is included as assessable income and taxed at the marginal tax rates. No tax offset is payable.

TRANSFER BALANCE CAP

38. The transfer balance cap was introduced on 1 July 2017. It is a lifetime limit on the total amount of superannuation that can be transferred into retirement phase income streams, including most pensions and annuities. PCSS pensions are counted towards a transfer balance cap (currently \$1.7 million). Where the value of the pension exceeds the transfer balance cap, there may be tax implications for other superannuation interests a pensioner holds. The transfer balance cap applies to those receiving a pension from the PCSS, or when a pension commences to be paid from the PCSS.

39. Finance will calculate a value for a pension being paid from the PCSS and report this to the ATO. A pension will not have a new value calculated each time the pension increases. Generally, only the commencing value (or the value at 30 June 2017 for existing pensioners) will be reported against the transfer balance cap.

SUPERANNUATION SURCHARGE

40. The superannuation surcharge legislation imposed a surcharge on a member's surchargeable contributions, where the member's adjusted taxable income, i.e. adjusted taxable income plus surchargeable contributions is greater than the surcharge threshold. In 1996-97 the minimum threshold was \$70,000 and had risen to \$99,710 for the year 2004-2005. For 1996-97, the full 15 per cent surcharge only applied where the member's adjusted taxable income was \$85,000 or more. The corresponding amount for 2004-2005 is \$121,075.

41. The maximum surcharge rates are:

- 15% from 1996-97 to 2002-03
- 14.5% in 2003-04
- 12.5% in 2004-05
- the surcharge was abolished for superannuation accruing after 1 July 2005.

42. Superannuation that accrued during the superannuation surcharge period of 20 August 1996 to 30 June 2005 will have surchargeable contributions which may result in an assessment being issued by the ATO.

43. The PCSS, like other defined benefit schemes, applies a Notional Surchargeable Contributions Factor (NSCF) developed by the Scheme's actuary to derive the surchargeable "employer" contributions. The NSCF represents the cost of "employer financed" benefits accruing in respect of the member.

44. Members are identified for surcharge purposes by their Tax File Number, and the ATO cross-matches the information supplied by Finance with tax returns lodged by taxpayers. The ATO determines the member's adjusted taxable income, calculates a surcharge (if applicable), advises the member directly and forwards a report to the superannuation provider (i.e. the PCSS).

45. Finance maintains a surcharge debt account for each member which accumulates all surcharge assessments during the member's period of membership. Interest at the ten-year Treasury bond rate is also applied to the balance of this account at the end of each financial year.

46. When a benefit becomes payable, the total accrued amount in the surcharge debt account will be paid to the ATO and the member's benefit reduced, having regard to the accumulated surcharge debt. Alternatively, members may choose to pay any surcharge liability as it accrues, directly to Finance for on-forwarding to the ATO. In this case, the amount paid will be credited to the member's surcharge debt account and the member advised of the revised balance of that account.

47. A member's benefit must not be reduced by more than the maximum surcharge rate for each financial year, applied to the employer-financed component of the benefit accrued for that year by the member since 20 August 1996, the date the superannuation surcharge was introduced. The reduction in benefit will be made in accordance with the methodology agreed by the Trust on the advice of an Actuary.

DIVISION 293 TAX

48. The Division 293 tax reduces the superannuation tax concessions of very high income earners, on concessional superannuation contributions.

49. The concessional superannuation contributions for defined benefit schemes such as the PCSS for Division 293 tax purposes is the amount of 'defined benefit contributions' in the relevant financial year. The defined benefit contributions amount is calculated using a methodology set out in regulations and actuarial factors and is reported to the ATO after the end of each financial year.

50. Tax is imposed at a rate of 15 per cent on PCSS members whose income and defined benefit contributions exceed \$250,000 in a financial year. The amount of the Division 293 tax which applies to the defined benefit contributions above the \$250,000 threshold, is determined by the Commissioner of Taxation following assessment of the individual's tax return.

51. The ATO establishes a debt account for the amount of tax assessed on the individual, where their income and defined benefit contributions exceed \$250,000 in a financial year.

52. Any outstanding amount in a debt account becomes liable for payment by the individual when a benefit becomes payable.

53. Where a Division 293 tax liability is assessed **prior** to retirement, the member has the option to:

- pay some or all of the debt to the ATO before their PCSS benefit becomes payable; or
- wait until their PCSS benefit becomes payable to pay their deferred Division 293 debt account.

54. Where a PCSS contributor elects to wait until their PCSS benefit becomes payable to pay their Division 293 debt, the member has the option of providing to the PCSS, a Division 293 'release authority' that they have received from the ATO. The member must complete the release authority and provide it to the PCSS administrator by the date specified in the release authority form. The release authority will not be processed by the PCSS administrator after the due date.

55. Under a release authority, a lump sum amount is paid to the Commissioner of Taxation in respect of the debt account and there is a corresponding reduction to the PCSS benefit.

56. The amount that is paid to the Commissioner of Taxation under a release authority will depend upon the amount of the debt account (which would be stated in the release authority), and the amount of PCSS benefit that is available after any other applicable deduction under the PCSS legislation (for example, following a surcharge deduction or a family law split).

57. The reduction to a PCSS benefit in respect of a payment under a release authority is permanent and irreversible (including to any reversionary pension to a spouse or child that later becomes payable).

58. Where a PCSS member wishes to convert part of their benefit to a lump sum at the time of their retirement, this election must be made before, or at the same time as any release authority is received from the member. Where money is paid under a release authority, the member will not be able to make a later election to commute part of their benefit to a lump sum.

59. Calculation of the reduction to the PCSS benefit is undertaken based on a formula set out in the PCSS legislation and depends upon the amount released and a factor based on the person's age and gender. If the PCSS pension has already commenced to be paid, the PCSS legislation requires any pension reduction due to Division 293 purposes to apply retrospectively from the time the member's PCSS pension commenced. Any resulting overpaid PCSS pension will be recovered from the member.

CONVERSION TO A LUMP SUM

60. A member entitled to a pension, may elect to convert up to 50 per cent of the pension, including any additional pension, to a lump sum payment (refer to paragraphs 62-70 regarding preservation). An election to convert to a lump sum may be made no earlier than three months before, and no later than three months after becoming entitled to a pension.

61. The lump sum is calculated by multiplying the annual amount of the pension the retired PCSS member elects to convert by a factor of ten if the person is under the age of 66 or has attained age 66 but retires from Parliament at the expiration of the term of office during which he or she attained that age. In any other case, the factor of ten is reduced by one twenty-fourth for each whole month by which the parliamentarian's age at retirement exceeds 65. By way of illustration the following table sets out the conversion factors for those who are exactly the ages specified at the time of becoming entitled to a pension:

AGE	FACTOR	AGE	FACTOR	AGE	FACTOR
65 or less	10	72	6.5	79	3
66	9.5	73	6	80	2.5
67	9	74	5.5	81	2
68	8.5	75	5	82	1.5
69	8	76	4.5	83	1
70	7.5	77	4	84	0.5
71	7	78	3.5	85	0

PRESERVATION OF LUMP SUM BENEFITS

62. The Superannuation Industry (Supervision) Legislation (SIS) requires that certain lump sum benefits be preserved in a superannuation fund or an approved deposit fund until beneficiaries reach the preservation age (generally age 55) and retire from the workforce.

63. The main effect is that all superannuation contributions, including member contributions made from 1 July 1999 will be preserved until retirement from the workforce, after a member reaches their preservation age (generally age 55)¹, except where the benefit is a complying pension² or special circumstances apply.

Members who retire with a lump sum benefit

64. The preservation arrangements mean that all lump sum benefits accruing after 1 July 1999, including member contributions, will have to be preserved until preservation age.

65. The amount of the lump sum benefit that exceeds the 30 June 1999 amount of benefit (i.e. the non-preserved amount), must be preserved until retirement from the workforce after reaching the preservation age. The non-preserved amount will not be indexed.

66. New members elected after 1 July 1999, and who do not qualify for a pension upon retirement, will be required to preserve all their contributions and the Government supplement until retirement from the workforce after reaching the preservation age.

67. These preserved amounts will be paid into a rollover fund of the member's choice.

Members who retire with a pension benefit

68. The same rules apply after 30 June 1999, to lump sums received from the conversion of a portion of the pension benefit.

69. Members who retire with a pension entitlement, and who wish to convert up to 50 per cent of the pension to a lump sum, will be required to preserve part of that lump sum until the preservation age is reached. The amount of the lump sum that would be available in cash (i.e. the non-preserved amount) before the preservation age is reached is that part of the lump sum, based on the level of pension converted to a lump sum that relates to the pension accrual as at 30 June 1999.

70. Members elected on or after 1 July 1999 will be required to preserve the whole of their lump sum benefit if they elect to convert part of their pension to a lump sum on retirement before their preservation age.

INVALIDITY BENEFIT

71. The Trust may determine that the retirement of a member is to be treated as an invalidity retirement, if satisfied that the person is unable to perform the duties of a member because of physical or mental impairment. Where such a determination is made, the retirement is deemed to be involuntary. If sufficient service has been achieved (at least 8 years of service), the member would qualify for the standard retirement benefits under the provisions outlined in paragraph 22.

72. Where an invalid pensioner dies without eligible dependents and the pension payments have not exceeded the greater of the lump sum of three and one-third times his or her own contributions over the last eight years of service and the superannuation guarantee benefit, the balance is payable to the person's estate.

73. The PCSS does not allow for additional death and invalidity or Total and Permanently Disabled cover.

¹A phased increase in the preservation age from 55 to 60 applies between the years 2015 and 2025. This will mean that, for someone born before 1 July 1960, the preservation age will remain at 55 years, while for someone born after 30 June 1964 the preservation age will rise to 60.

²The preservation rules do not apply to pension benefits payable from any superannuation scheme, provided the pension is a complying pension under the Superannuation Industry Supervision (SIS) regulations dealing with preservation. The pension paid by the PCSS is a complying pension for the purposes of the SIS preservation arrangements. However, for new members elected on or after the 2001 general election, see the section on Deferral of Pension Benefits to Age 55.

DEFERRAL OF PENSION TO AGE 55 FOR CERTAIN MEMBERS

74. Certain categories of PCSS members are **not** entitled to receive their parliamentary pension before the age of 55 (the age 55 restriction). These categories are as follows:

- PCSS members who joined the Parliament on or after 10 November 2001.
 - The age 55 restriction does not apply to PCSS members who joined the scheme before 2001 and have continuously remained in the Parliament. If they qualify for a pension they can receive this regardless of age from the time of their retirement.
- PCSS members who were re-elected to Parliament after 2001 and were previously entitled to a pension under the PCSS before the age of 55.

75. When the age 55 restriction applies, the option to convert part of the pension to a lump sum benefit is also deferred until age 55. The rate of pension payable at age 55 will be based on the salaries payable at that time and from time-to-time thereafter.

76. The age 55 restriction does not apply if the member's retirement is on invalidity grounds, regardless of the age.

77. A pension that has been deferred may be paid before age 55 if the Trust considers that, because of ill health, the member is incapable of performing the duties of a parliamentarian. Any decision to activate the pension would be subject to review on a regular basis by the Trust.

78. The Trust can decide to pay part of the deferred pension early in special circumstances where the former member is in severe financial hardship or on compassionate grounds in line with the meaning in the *Superannuation Industry (Supervision) Regulations 1994*. When the pension ultimately becomes payable at age 55, it will be reduced to take account of these payments. The reduction to the pension is permanent and irrevocable, including in relation to any future lump sum commutation and reversionary spouse benefit.

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

REVERSIONARY BENEFITS

80. Eligible reversionary beneficiaries of the PCSS are set out in the Act and therefore there is no provision for making Binding Death Nominations.

81. A pension is payable to:

- a) the spouse of a member who dies while a parliamentarian, irrespective of the length of the deceased person's service in Parliament; or
- b) the spouse of a retired member in receipt of a PCSS pension, provided that:
 - (i) the marital or couple relationship commenced before the member's retirement from Parliament; or
 - (ii) the marital or couple relationship commenced after the member's retirement from Parliament but before their 60th birthday, and the relationship commenced at least three years before the retired member's death.
 - (iii) the marital or couple relationship commenced after the member's retirement from Parliament but after their 60th birthday, and the relationship commenced at least five years before the retired member's death.

82. The definition of marital or couple relationship includes both legally married, de facto spouses or a partner of a person with a relationship as a couple (whether the persons are the same sex or different sexes). The primary criteria for the payment of a reversionary benefit will be that the couple lived together on a permanent and bona fide domestic basis at the time of the death of the member or pensioner.

83. If a couple are living apart in the lead up to, or at the time of death, the Act requires the Trust to be satisfied that the couple would have been living together as a couple except for a period of temporary absence (for example, when the couple are separated by work commitments or absence due to illness or infirmity). Under this situation, additional information will be required from the spouse for the Trust's consideration, prior to the spouse pension being payable.

84. A relationship will be considered to be permanent and bona fide where the relationship existed for the minimum period or there is other evidence that the relationship is permanent and bona fide, including (but not limited to) the existence of a legal marriage, the relationship was registered under a law of a State or Territory prescribed as a kind of relationship prescribed for the purposes of that section, a child of the relationship, a jointly owned home which is the usual residence of the couple, or dependency.

85. A reversionary pension is five-sixths of the rate of the pension and additional pension to which the member would have been entitled. If the member died while a parliamentarian and had not completed eight years of service, he or she is deemed to have completed eight years of service for the purpose of calculating the amount of the pension.

86. Recognition of de facto spouses and relationships could mean that a person has both a legally married spouse and another couple or marital type relationship. The Trust will apportion the reversionary benefit, on a needs basis, amongst more than one eligible person. The Trust will also apportion the benefit amongst spouses and orphans where the member is survived by a spouse or spouses who are not natural or adoptive parents of any surviving eligible children.

87. A spouse who is in receipt of a pension will continue to receive that pension if the spouse is elected to the Commonwealth Parliament. Similarly, a spouse's pension will continue to be paid to a person who is also in receipt of a pension resulting from their own service in the Commonwealth Parliament.

88. If a person who is in receipt of a spouse's pension is elected to a State or Territory Parliament, the pension will be reduced by the salary received by virtue of holding that position.

89. A person in receipt of a spouse's pension following the death of a person first elected after 1 July 1994, will not have that pension reduced in respect of any State or Territory spouse pension payable.

90. A pension continues to be payable whether or not the spouse commences a new relationship.

Benefit payable to orphan children

91. Subject to the qualifications in paragraphs 86, 92 and 93, pensions are payable to any eligible children (including adopted and ex-nuptial children) of:

- a) a member who dies while a parliamentarian; or
- b) a member who dies while entitled to a pension.

* Provided a member is not survived by a spouse who is the natural or adoptive parent of the child and who is entitled to a pension. A pension is also payable to any eligible children on the death of a spouse who was in receipt of a pension.

92. No benefit is payable in respect of a child who was born to or adopted by a member after retirement from Parliament and after the member attained age 60, unless the child is a child of a marital relationship that lasted for five years. No benefit is payable in respect to a child of the spouse of a deceased member who is born or adopted after the date of death of the member, unless the Trust is of the opinion that the child would have been dependent on the member had he or she lived.

93. To be eligible for a pension, a child must be under 18, or under 25 if a full-time student, and have been dependent on the member at the time of his or her death.

94. Subject to paragraph 88, the rate of pension payable in respect of a child is an amount calculated by dividing the pension that was or would have been payable to the spouse by four, or by the number of children in respect of which an annuity is payable if more than four.

95. The pension payable in respect of a child is payable in such manner, to such persons and subject to such conditions as the Trust determines.

Benefit payable to a personal representative

96. On the death of a member who is not survived by an eligible spouse or an orphan who is entitled to a pension, a lump sum is payable to the personal representative of the deceased person, to be dispersed in accordance with the terms of his or her will. The lump sum consists of:

- a) a refund of the former member's contributions plus a supplement equal to two and one-third times the contributions paid during the last eight years of service; or the superannuation guarantee safety net amount (whichever is the higher) less the superannuation surcharge deduction amount; less
- b) the amount of any benefits paid to the member.

97. If a reversionary pension or orphan's pension was payable on the death of a member but the total amount paid to the member, the spouse or orphan is less than the amount in paragraph 98, the balance is payable to the personal representative of the member.

FAMILY LAW AND THE PCSS

98. Family Law legislation allows for superannuation to be treated like property and to be divided on relationship breakdown.

99. The PCSS was amended with effect from 18 May 2004 to provide an approach for dealing with the splitting of superannuation on relationship breakdown under the Family Law regime. This allows for the former spouse of a member to become entitled to their own superannuation benefit under the Act.

100. Exceptions to this include where the parliamentarian or former parliamentarian's benefit is not a splittable benefit under the Family Law regime (for example, an orphan's pension), where one or both of the parties dies after the agreement or Court Order is made, but before it takes effect, or where the value of the amount to be transferred to the former spouse's account is larger than the value of the amount calculated under the Family Law regime.

101. For a binding agreement or Court Order to be made regarding a superannuation interest, it is necessary to value that superannuation.

102. Couples can seek superannuation information from the PCSS administrator to help them make binding agreements (through a Form 6 Declaration and Superannuation Information Request Form). This information can be used by the couple and the Court to value superannuation as part of a property settlement. A valuation method specific to the PCSS applies to the valuation of benefits for Family Law purposes.

103. When the administrator of the PCSS is served with an agreement by the separating parties, or a Court Order, a separate interest will be created for the former spouse, and an amount will be transferred to the former spouse's account to give effect to the agreement or Court Order. A member in receipt of a pension will have their benefit reduced.

104. Where the relationship breakdown occurs before the member becomes entitled to a benefit, an amount is transferred from the member's account to an account in the name of the former spouse and will be indexed until it becomes payable. The member's final benefit is reduced to take account of this transfer.

105. The former spouse's benefit may become payable from age 55 on request and subject to the general rules governing the preservation of superannuation benefits; if and when the trustee decides that the non-member is permanently incapacitated, at age 65, or to a personal legal representative on death.

106. Where the former spouse's account is created after the member has become entitled to a pension, the former spouse's benefit becomes payable immediately and the member's pension will be reduced. The former spouse's benefit is payable for life and is indexed in the same way and at the same time as the member's benefit. The former spouse's benefit is not able to be converted to a lump sum benefit.

INCREASES IN PENSIONS

107. Because pensions and additional pension entitlements are expressed as a percentage of salaries as determined from time-to-time, the actual amount of the pension or additional pension will increase each time salaries are increased (see also paragraphs 7-9) as to the salaries applicable to the PCSS.

108. The pension being paid to a spouse will also be increased by five-sixths of the increase that would have applied to the deceased person's pension or additional pensions had he or she lived.

109. A corresponding adjustment will apply to orphans' pensions.

PART III – SPECIAL PROVISIONS

BENEFICIARIES WHO ARE RE-ELECTED TO PARLIAMENT

110. Where a member who is entitled to a pension is re-elected, the pension is suspended while the person is a sitting parliamentarian. The person will not be entitled to further accrual of benefits under the PCSS.

111. The pension will once again recommence on retirement from the Parliament and on reaching age 55 at the same rate as when the pension was suspended but based on the salaries at time of payment.

BENEFICIARIES WHO ARE ELECTED TO STATE PARLIAMENTS

112. Where a beneficiary who is in receipt of a pension becomes a member of, or a Minister in, a State Parliament or the Northern Territory Legislative Assembly or the Australian Capital Territory Assembly, the pension is reduced by the rate of salary, or allowance in the nature of salary, received in respect of that State or Territory parliamentary service.

BENEFICIARIES WHO TAKE UP OFFICES OF PROFIT UNDER THE CROWN

113. Where a beneficiary who is entitled to a pension holds an office of profit under the Crown, the pension may be reduced on a fortnightly basis depending on the amount of the remuneration received for the holding of such office(s). The Act specifies a range of State and Commonwealth Government positions that constitute an office of profit (see the definitions of "holder of an office of profit under a State" and "holder of an office of profit under the Commonwealth" in section 21B of the Act).

114. There is no reduction in the pension unless the remuneration from the office of profit exceeds 20 per cent of the fortnightly rate of the parliamentary allowance (currently this threshold is \$1,317.46 per fortnight). For every dollar the office of profit remuneration exceeds this threshold, the pension is reduced by 50 cents. The maximum amount by which the pension can be reduced is 50 per cent of the pension entitlement before any decision to convert a portion to a lump sum.

115. The following example illustrates the reductions in pension that would occur with different levels of salary from an office of profit. In this example, the varying pension reductions are shown for a PCSS pension entitlement of \$90,000 per annum (\$3,452.05 per fortnight). In this example, the maximum reduction that can be made to the PCSS pension is \$1,726.03 per fortnight (50% of the fortnightly payment of \$3,452.05).

Office of profit Salary <i>\$ Per annum</i>	Office of profit Salary <i>\$ Per fortnight</i>	Threshold <i>\$ Per fortnight</i>	Pension reduction <i>\$ Per fortnight</i>
60,000.00	2,300.32	1,317.46	491.00
70,000.00	2,683.71	1,317.46	683.00
80,000.00	3,067.09	1,317.46	874.50
90,000.00	3,450.48	1,317.46	1,066.50
100,000.00	3,833.87	1,317.46	1,258.00
110,000.00	4,217.25	1,317.46	1,449.50
120,000.00	4,600.64	1,317.46	1,641.50
130,000.00	4,984.03	1,317.46	1,726.02 (maximum)

116. The reduction to a PCSS pension due to an office of profit salary will be calculated for each fortnightly pay period, and where applicable, backdated to the commencement of the office of profit position.

117. Any tax-free salaries will be grossed up to a pre-tax equivalent before application of the "Office of Profit" provisions. This provision would apply to a person holding the office of Governor-General or involved in the administration of Norfolk Island.

118. There will be no reduction to the pension for any pension payments derived from the holding of an office of profit.

* For the purpose of this provision, a beneficiary who is appointed to an office of profit is required to notify Finance in writing of that appointment within 14 days of being appointed irrespective of the level of salary applicable. A penalty is prescribed in the Act for contravention of this requirement.

PART IV - GENERAL PROVISIONS

PAYMENT OF BENEFITS

119. Benefits are paid from the Consolidated Revenue Fund. Payments are made by the Department of Finance, One Canberra Avenue, FORREST, ACT, 2603.

120. Pensions and additional pensions are paid fortnightly and are subject to income tax. If an overpayment should occur, it may be deducted from future payments. A Payment Summary is provided after the end of each financial year.

121. Payments will be credited to an Australian bank, building society or credit union account in the name of the recipient.

122. Benefits under the Act are non-transferable. In special circumstances, for example where the person entitled to the benefit is incapacitated, the Trust may authorise payment of the benefit to another person to be used for the benefit of the person entitled.

ELECTIONS OR OPTIONS

123. An election, or the exercise of an option, may be revoked before a payment has been made in accordance with the election or option. However, once a payment has been made the election is irrevocable.

REVIEW OF DECISIONS

124. A person who is affected by a decision of the Trust and who is dissatisfied with the decision, may request within 30 days of being notified of the decision or such longer period as the Trust allows, that the Trust reconsider the matter. Upon receipt of the request, the Trust will review its decision and may confirm, revoke or vary the earlier decision. If, after this review the person is still dissatisfied, he or she may apply to the Administrative Appeals Tribunal for a further review of the Trust's decision.