

TASMANIA

**PUBLIC SECTOR SUPERANNUATION
(MISCELLANEOUS AMENDMENTS) BILL
2003**

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**PUBLIC SECTOR SUPERANNUATION
(MISCELLANEOUS AMENDMENTS) BILL
2003**

(Brought in by the Secretary to Cabinet, Steven Kons)

A BILL FOR

An Act to make revisionary amendments arising from the *Public Sector Superannuation (Splitting of Superannuation Interests) Act 2003* and the *Relationships (Consequential Amendments) Act 2003*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Short title

1. This Act may be cited as the *Public Sector Superannuation (Miscellaneous Amendments) Act 2003*.

Commencement

2. This Act commences on the day on which the *Relationships Act 2003* commences.

Miscellaneous amendments

3. The legislation specified in Schedule 1 is amended as specified in that Schedule.

SCHEDULE 1 – MISCELLANEOUS AMENDMENTS

Section 3

Governor of Tasmania Act 1982**1. Schedule 1 is amended as follows:**

- (a) by omitting clause 1 and substituting the following clause:

Interpretation**1. In this Schedule –**

“Family Law Act” means the *Family Law Act 1975* of the Commonwealth;

“flag lifting agreement” has the meaning given by section 90MN of the Family Law Act;

“flagging order” means an order mentioned in section 90MU(1) of the Family Law Act;

“member” has the meaning given by section 90MD of the Family Law Act;

“member spouse” has the meaning given by section 90MD of the Family Law Act;

“non-member spouse” has the meaning given by section 90MD of the Family Law Act;

“operative time” has the meaning given by section 90MD of the Family Law Act;

“splittable payment” has a meaning in accordance with section 90ME of the Family Law Act;

“splitting instrument” means a superannuation agreement, a flagging order, a flag lifting agreement or a splitting order;

“splitting order” means an order mentioned in section 90MT(1) of the Family Law Act;

“spouse” has the meaning given by section 90MD of the Family Law Act;

“superannuation agreement” has the meaning given by section 90MH of the Family Law Act;

“superannuation interest” has the meaning given by section 90MD of the Family Law Act.

- (b) by omitting from clause 8 “member spouse” and substituting “person entitled to a pension under this Act”.

Judges’ Contributory Pensions Act 1968

1. Schedule 1 is amended as follows:

- (a) by omitting clause 1 and substituting the following clause:

Interpretation**1. In this Schedule –**

“Family Law Act” means the *Family Law Act 1975* of the Commonwealth;

“flag lifting agreement” has the meaning given by section 90MN of the Family Law Act;

“flagging order” means an order mentioned in section 90MU(1) of the Family Law Act;

“member” has the meaning given by section 90MD of the Family Law Act;

“member spouse” has the meaning given by section 90MD of the Family Law Act;

“non-member spouse” has the meaning given by section 90MD of the Family Law Act;

“operative time” has the meaning given by section 90MD of the Family Law Act;

“splittable payment” has a meaning in accordance with section 90ME of the Family Law Act;

“splitting instrument” means a superannuation agreement, a flagging order, a flag lifting agreement or a splitting order;

“splitting order” means an order mentioned in section 90MT(1) of the Family Law Act;

“spouse” has the meaning given by section 90MD of the Family Law Act;

“superannuation agreement” has the meaning given by section 90MH of the Family Law Act;

“superannuation interest” has the meaning given by section 90MD of the Family Law Act.

- (b) by omitting from clause 8 “member spouse” and substituting “person entitled to a pension under this Act”.

Retirement Benefits Regulations 1994

1. Regulation 3 is amended as follows:

- (a) by omitting the definition of “Family Law Act” from subregulation (1);
- (b) by omitting the definition of “RBF member” from subregulation (1) and substituting the following definition:

“RBF member” means –

- (a) a contributor; or
- (b) a former contributor or a former eligible employee holding a compulsory preservation account; or
- (c) a pensioner unless he or she is in receipt of a pension under regulation 79;
- (c) by omitting the definition of “splitting instrument” from subregulation (1);
- (d) by omitting subregulation (1AA).

2. Regulation 60(1) is amended as follows:

- (a) by omitting from paragraph (e) “subregulation.” and substituting “subregulation; and”;
- (b) by inserting the following paragraph after paragraph (e):
 - (f) a person holding an investment account.

3. Regulation 78(4)(d) is amended by omitting “Part VIIIB of the Family Law Act” and substituting “section 90MD of the *Family Law Act 1975* of the Commonwealth”.

4. Before regulation 88J, the following regulation is inserted in Part 7B:

Interpretation of Part

88IA. In this Part –

“**Family Law Act**” means the *Family Law Act 1975* of the Commonwealth;

“flag lifting agreement” has the meaning given by section 90MN of the Family Law Act;

“flagging order” means an order mentioned in section 90MU(1) of the Family Law Act;

“member” has the meaning given by section 90MD of the Family Law Act;

“member spouse” has the meaning given by section 90MD of the Family Law Act;

“non-member spouse” has the meaning given by section 90MD of the Family Law Act;

“operative time” has the meaning given by section 90MD of the Family Law Act;

“splittable payment” has a meaning in accordance with section 90ME of the Family Law Act;

“splitting instrument” means a superannuation agreement, a flagging order, a flag lifting agreement or a splitting order;

“splitting order” means an order mentioned in section 90MT(1) of the Family Law Act;

“spouse” has the meaning given by section 90MD of the Family Law Act;

“superannuation agreement” has the meaning given by section 90MH of the Family Law Act;

“superannuation interest” has the meaning given by section 90MD of the Family Law Act.

5. Regulation 88R is amended by omitting “spouse”.

6. Regulation 107A is rescinded and the following regulation is substituted:

Payment of benefits on death of RBF member

107A. (1) Except as provided in subregulation (2), where a benefit is payable under these regulations on the death of an RBF member, that benefit is to be paid to –

- (a) the surviving partner of that RBF member; or
- (b) if there is no surviving partner, the person with whom the RBF member was in a caring relationship which was the subject of a deed of relationship registered under Part 2 of the *Relationships Act 2003*, which deed was revoked by the death of that RBF member; or
- (c) if there is no person referred to in paragraph (a) or (b), the estate of that RBF member, subject to the production of grant of probate or letters of administration.

(2) Notwithstanding subregulation (1), an RBF member may, by notice in writing to the Board –

- (a) elect that in the event of his or her death all or part of the benefit payable on his

or her death is to be paid to his or her estate; or

(b) revoke any such election –

and, where the election is in force, subregulation (1) does not apply to any part of the benefit that is subject to the election.

(3) In this regulation, “**RBF member**” includes a person holding an investment account.

***Retirement Benefits (Parliamentary
Superannuation) Regulations 2002***

1. Regulation 77A is rescinded and the following regulation is substituted:

Interpretation of Part

77A. In this Part –

“**Family Law Act**” means the *Family Law Act 1975* of the Commonwealth;

“**flag lifting agreement**” has the meaning given by section 90MN of the Family Law Act;

“**flagging order**” means an order mentioned in section 90MU(1) of the Family Law Act;

“**member**” has the meaning given by section 90MD of the Family Law Act;

“**member spouse**” has the meaning given by section 90MD of the Family Law Act;

“non-member spouse” has the meaning given by section 90MD of the Family Law Act;

“operative time” has the meaning given by section 90MD of the Family Law Act;

“splittable payment” has a meaning in accordance with section 90ME of the Family Law Act;

“splitting instrument” means a superannuation agreement, a flagging order, a flag lifting agreement or a splitting order;

“splitting order” means an order mentioned in section 90MT(1) of the Family Law Act;

“spouse” has the meaning given by section 90MD of the Family Law Act;

“superannuation agreement” has the meaning given by section 90MH of the Family Law Act;

“superannuation interest” has the meaning given by section 90MD of the Family Law Act.

2. Regulation 77H is amended by omitting “member spouse” and substituting “person entitled to a benefit under Part 3 or 4 of these regulations”.

Solicitor-General Act 1983

1. Section 13(4) is amended by omitting “subsection (1)(c)” and substituting “subsection (2)(c)”.

2. Part 2 of Schedule 1 is amended as follows:

- (a) by omitting clause 1 and substituting the following clause:

Interpretation

1. In this Part –

“**Family Law Act**” means the *Family Law Act 1975* of the Commonwealth;

“**flag lifting agreement**” has the meaning given by section 90MN of the Family Law Act;

“**flagging order**” means an order mentioned in section 90MU(1) of the Family Law Act;

“**member**” has the meaning given by section 90MD of the Family Law Act;

“**member spouse**” has the meaning given by section 90MD of the Family Law Act;

“**non-member spouse**” has the meaning given by section 90MD of the Family Law Act;

“operative time” has the meaning given by section 90MD of the Family Law Act;

“splittable payment” has a meaning in accordance with section 90ME of the Family Law Act;

“splitting instrument” means a superannuation agreement, a flagging order, a flag lifting agreement or a splitting order;

“splitting order” means an order mentioned in section 90MT(1) of the Family Law Act;

“spouse” has the meaning given by section 90MD of the Family Law Act;

“superannuation agreement” has the meaning given by section 90MH of the Family Law Act;

“superannuation interest” has the meaning given by section 90MD of the Family Law Act.

- (b) by omitting from clause 8 “member spouse” and substituting “person entitled to a pension under Part 1 of this Schedule”.