

# House of Representatives

## Supplementary Order Paper

Tuesday, 21 June 2005

Statutes Amendment Bill (No 5)

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*Proposed amendments*

Hon Rick Barker, in Committee, to move the following amendments:

*Clause 2*

To omit all the words in lines 2 and 3 on page 4, and substitute the following subclauses:

- (1) **Part 12A and the Schedule** come into force as provided in **section 44A**.
- (2) The rest of this Act comes into force on the day after the date on which this Act receives the Royal assent.

*New Part 3A*

To insert, after *Part 3* (after line 13 on page 6), the following Part:

**Part 3A**  
**Civil Aviation Act 1990**

**12A Civil Aviation Amendment Act 2004 called principal Act in this Part**

In this Part, the Civil Aviation Amendment Act 2004<sup>1</sup> is called “the principal Act”.

<sup>1</sup> 2004 No 8

**12B Commencement of Civil Aviation Amendment Act 2004**

- (1) Section 2(1) of the principal Act is amended by omitting the expression “29”, and substituting the expression “29(1), 29(2)”.
- (2) Section 2(1) of the principal Act is amended by adding the words “; and 1 or more Orders in Council may be made appointing different dates for different provisions”.

**12C New Section 29 substituted**

The principal Act is amended by repealing section 29, and substituting the following section:

**“29 Appeal to District Court**

“(1) Section 66(5) of the principal Act is amended by adding the following paragraphs:

“ ‘(e) concerning the issue of a medical certificate under section 27B (other than a decision under subsection (5)(b) of that section):

“ ‘(f) to impose or amend conditions, restrictions, or endorsements on a medical certificate under section 27I(7)(a):

“ ‘(g) to disqualify a licence holder under section 27I(7)(c):

“ ‘(h) to revoke a medical certificate under section 27I(7)(d) and (11):

“ ‘(i) concerning the implementation of the results of a report by the convener under section 27L or section 27M.’

“(2) Section 66(5) of the principal Act is amended by adding the following paragraph:

“ ‘(j) to amend an AOC with ANZA privileges or withdraw those privileges under section 11I(3).’ ”

*New Part 5A*

To insert, after *Part 5* (after line 29 on page 7), the following Part:

**Part 5A  
Corrections Act 2004**

**17A Corrections Act 2004 called principal Act in this Part**

In this Part, the Corrections Act 2004<sup>2</sup> is called “the principal Act”.

<sup>2</sup> 2004 No 50

**17B Interpretation**

Section 3(1) of the principal Act is amended by omitting the word “section” the first time that it occurs, and substituting the word “Act”.

**17C Functions of probation officers**

Section 25(1) of the principal Act is amended by inserting, after paragraph (ab), the following paragraphs:

“(ac) to supervise all offenders released on parole and to ensure that the conditions of parole are complied with:

“(ad) to supervise offenders released on compassionate release under section 41 of the Parole Act 2002 and to ensure that the conditions of release (if any) are complied with:”.

**17D Matters to be included in annual report**

Section 190(1)(b)(i) of the principal Act is amended by omitting the words “control and supervision”, and substituting the words “control or supervision”.

**17E Regulations**

Section 200(1)(b) of the principal Act is amended by adding the following subparagraph:

“(v) controlling officers of probation areas:”.

*New clause 27A*

To insert, after *clause 27* (after line 28 on page 9), the following clause:

**27A Regulations**

Section 101(1) of the principal Act is amended, by inserting after paragraph (gb), the following paragraph:

“(gc) prescribing offences for the contravention of or non-compliance with any regulations made under paragraph (ga) or paragraph (gb), and providing that the maximum penalty that, on summary conviction, may be imposed for those offences is a term of imprisonment not exceeding 3 months or a fine not exceeding \$1,000:”.

*New Part 12A*

To insert, after *Part 12* (after line 21 on page 12), the following Part:

**Part 12A**

**Government Superannuation Fund Act 1956**

**44A Commencement**

**This Part and the Schedule** come into force on **1 July 2006**.

*Amendments to 1969 Amendment Act*

**44B Rates of contribution to fund**

Section 2 of the Government Superannuation Fund Amendment Act 1969 is amended by repealing subsection (8), and substituting the following subsection:

“(8) Where any contributor who has not made an election under subsection (7) has made an election under subsection (4), and the contributor’s contributory service has not terminated before 1 April 1975, the proportion of the percentage to be applied to any retiring allowance, annual allowance, or annuity in accordance with section 5 must be the higher of—

“(a) 90%; and

“(b) 80% plus a percentage calculated in accordance with the following formula:

$$\frac{20p}{h + p}$$

$$h + p$$

where—

*h* is the period of contributory service before 1 April 1975; and

*p* is the period of contributory service after 1 April 1975,—

the calculation to be the nearest whole number percent unless the application of the formula gives a figure exactly 0.5% below a whole number percent in which case the calculation must be to the nearest whole number percent above.”

#### 44C Percentage of annual adjustment

Section 5 of the Government Superannuation Fund Amendment Act 1969 is amended by adding the following subsection:

“(4) No person is entitled, because of the amendments made to this Act by **sections 44B and 44D of the Statutes Amendment Act (No 5) 2005**, to any increased payment for any retiring allowance, annual allowance, or annuity that was paid or is payable for any period before **1 July 2006**.”

#### 44D New Schedule 2 substituted

The Government Superannuation Fund Amendment Act 1969 is amended by repealing Schedule 2, and substituting the Schedule 2 set out in the Schedule of this Act.

#### *Amendments to 1990 Amendment Act*

#### 44E Amount of annuity payable to spouse where contributor dies before 1 April 1996

- (1) The heading to section 8 of the Government Superannuation Fund Amendment Act 1990 is amended by omitting the words “where contributor dies before 1 April 1996”.
- (2) Section 8(1) of the Government Superannuation Fund Amendment Act 1990 is amended by repealing paragraph (a).
- (3) Section 8 of the Government Superannuation Fund Amendment Act 1990 is amended by adding the following subsection:

“(3) No person is entitled, because of **section 44E(3) of the Statutes Amendment Act (No 5) 2005**, to any increased payment for any annuity that was paid or is payable for any period before **1 July 2006**.”

#### *New Part 19A*

To insert, after *Part 19* (after line 13 on page 24), the following Part:

## Part 19A Retirement Villages Act 2003

### 83A Retirement Villages Act 2003 called principal Act in this Part

In this Part, the Retirement Villages Act 2003<sup>3</sup> is called “the principal Act”.

<sup>3</sup> 2003 No 112

### 83B Retirement villages to be registered

Section 10(3)(b) of the principal Act is amended by omitting the expression “subsection (1)”, and substituting the expression “subsection (2)”.

### 83C Annual return

Section 13(3) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(b) a copy of the audited financial statements that the operator is required to prepare under the Financial Reporting Act 1993 (being statements that comply with that Act); and”.

### 83D Occupation right agreement voidable

Section 31(2)(a) of the principal Act is amended by repealing subparagraphs (ii) and (iii).

### 83E Time for giving dispute notice

Section 57(1) of the principal Act is amended by omitting the word “complaint”, and substituting the words “dispute notice given”.

### 83F Panel may refuse to hear dispute

Section 66 of the principal Act is amended by adding the following subsection:

“(7) Any person against whom costs are awarded under this section must pay them within 28 days of the decision to award them.”

### 83G Schedule 4 amended

(1) Schedule 4 of the principal Act is amended by repealing paragraph (c) under the heading “**Other contact persons**”.

(2) Schedule 4 of the principal Act is amended by adding the following heading and note:

#### “**Information**

The Retirement Commissioner publishes information on the code of residents’ rights and disputes procedures available under the Retirement Villages Act 2003 that may assist to resolve your complaint.”

*New Part 25 and new Schedule*

To add, after line 34 on page 33, the following Part and Schedule:

**Part 25**  
**Wine Act 2003**

**116 Wine Act called principal Act in this Part**

In this Part, the Wine Act 2003<sup>4</sup> is called “the principal Act”.

<sup>4</sup> 2003 No 114

**117 Applications for registration of wine standards management plans**

Section 18 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) Despite the requirement in subsection (1)(b), the Director-General may waive or modify the requirement for an independent evaluation report where—

“(a) a wine standards management plan is fully based on a template, model, or code of practice that the Director-General considers to be valid and appropriate for the business concerned in accordance with section 8(2); or

“(b) a wine standards management plan is a multi-business wine standards management plan approved by the Director-General in accordance with section 15; or

“(c) the risks to human health are negligible and the Director-General is satisfied that the nature of the business does not require an independent evaluation report to ensure validity in terms of sections 8 and 14.”

**118 Director-General may recognise agencies that may be responsible for verification and other specialist functions**

Section 69(3)(c) of the principal Act is amended by omitting the expression “section 18(2)(b)”, and substituting the expression “section 18(1)(b)”.

**119 Director-General may recognise persons to carry out verification or other specialist functions**

Section 70(3)(c) of the principal Act is amended by omitting the expression “section 18(2)(b)”, and substituting the expression “section 18(1)(b)”.

**Schedule**  
**New Schedule 2 substituted**

s 44D

**Schedule 2**  
**Proportion of percentage to be applied to any  
retiring allowance, annual allowance, or annuity**

s 5

1. Where the contributory service terminated before 15 June 1969. 90%
2. Where the contributory service commenced before 15 June 1969 and has not terminated by that date, and the case is not one to which clause 3 of this Schedule applies.  
The higher of—
  - (a) 90%; and
  - (b) 80% plus a percentage calculated in accordance with the following formula:  
$$\frac{a}{b} \times 20\%$$

where—

    - a is the period of contributory service after 14 June 1969; and
    - b is the total period of contributory service,—

the calculation to be to the nearest whole number percent unless the application of the formula gives a figure exactly 0.5% below a whole number percent, in which case the calculation shall be to the nearest whole number percent above.
3. Where—
  - (a) the contributory service commences on or after 15 June 1969; or
  - (b) the retiring allowance, annual allowance, or annuity is payable under Part 2A, Part 3A, Part 4, Part 5A, Part 6A, or Part 6B of the principal Act; or
  - (ba) the annual retiring allowance, annual allowance, or annuity is payable under Part 6 of the principal Act as a result of a person ceasing to be a member after 30 June 1992; or
  - (c) the retiring allowance, annual allowance, or annuity is payable to or in respect of any person in respect of whom an election has been made under section 16 or section 17 of the Government Superannuation Fund Amendment Act 1986.100%.

## Explanatory note

This Supplementary Order Paper proposes to amend the Statutes Amendment Bill (No 5) by inserting in it, or adding to it, the following new clause, Parts, and Schedule:

- *new Part 3A* (Civil Aviation Act 1990):
- *new Part 5A* (Corrections Act 2004):
- *new Part 12A and Schedule* (Government Superannuation Fund Act 1956):
- *new clause 27A* (Defence Act 1990):
- *new Part 19A* (Retirement Villages Act 2003):
- *new Part 25* (Wine Act 2003).

*New Part 3A* contains amendments to the Civil Aviation Amendment Act 2004.

*Clause 12B* amends section 2 of the Act (the commencement section) to clarify that—

- 1 or more Orders in Council may be made to bring into force the provisions specified in section 2(1); and
- the 2 different subsections of *new section 29* (substituted by *clause 12C*) may be brought into force on different dates.

*Clause 12C* repeals section 29 of the Act (which relates to appeals to the District Court) and substitutes a *new section 29*, which has 2 subsections, and so enables section 66(5)(e) to (i) and section 66(5)(j) of the Civil Aviation Act 1990 to be added on different dates.

*New Part 5A* contains amendments to the Corrections Act 2004.

*Clause 17B* amends section 3 (the interpretation section) of the Act. The amendment clarifies that the terms defined by section 3 apply to all of the Act.

*Clause 17C* amends section 25 of the Act (which sets out the functions of probation officers). The amendment adds 2 functions of probation officers that were inadvertently omitted from the Act. Those functions are the supervision of offenders released on parole and the supervision of offenders released on compassionate release.

*Clause 17D* amends section 190(1)(b)(i) of the Act to correct a minor drafting error. Section 190 relates to matters that must be included in the annual report. Section 190(1)(b)(i) is amended by omitting the words “control and supervision”, and substituting the words “control or supervision”.

*Clause 17E* amends section 200(1) of the Act (which enables the powers and functions of staff members, probation officers, and other specified persons to be prescribed by regulation). The amendment enables the powers and functions of controlling officers of probation areas to be prescribed by regulation.

*New clause 27A* contains an amendment to the Defence Act 1990. The amendment provides that regulations may be made under the Act prescribing offences for the contravention of or non-compliance with any regulations made under section 101(1)(ga) or (gb) of the Act (which provides for the officer in charge of any defence area to regulate traffic of all classes on any specified road or any specified class of road in the area and to regulate the use of vehicles and the



conditions of their use in the area). The amendment also provides that regulations may be made prescribing the maximum penalty that, on summary conviction, may be imposed for those offences. The maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000.

*New Part 12A* and the *new Schedule* contain amendments to the following:

- Government Superannuation Fund Amendment Act 1969 (**1969 Amendment Act**);
- Government Superannuation Fund Amendment Act 1990 (**1990 Amendment Act**).

*Clause 44A* provides that *new Part 12A* and the *new Schedule* come into force on **1 July 2006**.

*Clauses 44B and 44D* replace section 2(8) and Schedule 2 of the 1969 Amendment Act so as to provide that all payments under the superannuation scheme are to be adjusted to keep pace with inflation by a minimum of 90% of the movement in the Consumer Price Index.

Currently, the minimum adjustments are 80% of the movement in the Consumer Price Index. This will increase to 90% on and after **1 July 2006**.

*Clause 44E* amends section 8 of the 1990 Amendment Act. The amendment ensures that, on and after **1 July 2006**, spouses of contributors who were receiving payments as at 31 March 1990 will be entitled to no less an annuity than they would be entitled to if their contributing spouse had died before that date. This means the tax changes in 1990 do not lessen the amount of spousal annuities.

The amendments in *new Part 12A* and the *new Schedule* are not backdated. Changes are to be made only to payments on and after **1 July 2006**.

*New Part 19A* contains amendments to the Retirement Villages Act 2003.

*Clause 83B* amends section 10(3)(b) of the Act to correct a minor drafting error.

*Clause 83C* amends section 13(3)(b) of the Act. That section requires the operator of a retirement village to submit the financial statements of the retirement village with the annual return. The Act amended the Financial Reporting Act 1993 to impose certain obligations on operators of retirement villages. The amendment to section 13(3)(b) ensures that the audited financial statements to be submitted with the annual return are those statements that the operator is required to prepare under the Financial Reporting Act 1993.

*Clause 83D* amends section 31(2)(a) of the Act by removing subparagraphs (i) and (ii). Those subparagraphs are not necessary as they are repeated in paragraphs (b) and (c) of section 31(2).

*Clause 83E* amends section 57 of the Act (which sets out the time for giving notice of the dispute). The amendment corrects a drafting error by omitting the word “complaint” and substituting the words “dispute notice given”.

*Clause 83F* amends section 66 of the Act. That section sets out the circumstances in which a disputes panel may refuse to hear or continue to hear a dispute. Section 66(5) provides that the panel may award costs up to the point that it refuses to continue hearing the dispute, taking into account the conduct

of the parties. The existing section does not specify a period in which costs (if awarded) must be paid. The amendment adds *new subsection (7)* which provides that a person against whom costs are awarded must pay them within 28 days of the decision to award them.

*Clause 83G* amends Schedule 4 of the Act (which sets out the basic rights of residents). Schedule 4 provides a list of contact persons available to a resident who wishes to make a complaint. The amendments remove the Retirement Commissioner from that list, and clarify the role of the Retirement Commissioner in publishing information that may assist a resident in resolving a complaint.

*New Part 25* contains amendments to the Wine Act 2003.

*Clause 117* amends section 18 of the Act, which currently requires an independent evaluation report to be submitted with an application for registration of a wine standards management plan. The new subsection allows this requirement to be waived or modified where the plan concerned is based on a template, model, or code of practice, or where it is a multi-business wine standards management plan, or where the Director-General is otherwise satisfied that the nature of the business does not require an independent evaluation report.

*Clauses 118 and 119* correct 2 wrong cross-references in sections 69 and 70 of the Act.

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