

ROADS AND JETTIES.

No. 58 of 1955.

AN ACT to amend the *Roads and Jetties Act 1935*.

[15 December, 1955.]

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:—

1—(1) This Act may be cited as the *Roads and Jetties Act 1955*. Short title, citation, and commencement.

(2) The *Roads and Jetties Act 1935*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall commence on the first day of July 1956.

2 Section four of the Principal Act is amended—

State Highways Trust Fund.

(a) by inserting after paragraph III of subsection (2) the following paragraph:—

“ IIIA A sum equal to the total amount of all sums, fees, and charges imposed under section twenty A of the *Traffic Act 1925*, and received by the Transport Commission in any financial year: ”;

(b) by omitting from subsection (3) the word “ and ” (at the end of sub-paragraph (b) of paragraph I thereof), and by adding at the end of that subsection the following paragraph:—

“ : and

“ III The moneys received by it in each financial year from the source mentioned in paragraph IIIA of subsection (2) of this section.”; and

(c) by inserting in subsection (4), after the numeral “ III ”, the numeral “ IIIA ”.

PARLIAMENTARY RETIRING ALLOWANCES.

No. 59 of 1955.

AN ACT to make provision for contributory retiring allowances for persons who have served as members of Parliament, and for matters incidental thereto.

[15 December, 1955.]

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:—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1—(1) This Act may be cited as the *Parliamentary Retiring Allowances Act 1955*.

(2) This Act (other than section fifteen) shall be deemed to have commenced on the first day of November 1955.

(3) Section fifteen of this Act shall commence on a date to be fixed by proclamation.

Interpreta-
tion.

Cf., No. 89
of 1948
(Cwlth.), s. 4.

No. 32 of
1946
(N.S.W.),
s. 2.

No. 5185
(Vict.), s. 2.

13 Geo. VI
No. 18
(Q'ld), s. 2.

No. 8 of
1948 (S.A.),
ss. 2, 11 (2).

No. 60 of
1948 (W.A.),
s. 3.

2—(1) In this Act, unless the contrary intention appears—

“basic wage for Hobart” means—

(a) the sum of twelve pounds two shillings a week; or

(b) such other sum as may be fixed and declared to be the basic wage for Hobart pursuant to subsection (3) of this section;

“contributions” means contributions to the Fund;

“Fund” means the Parliamentary Retiring Allowances Fund established by this Act;

“House” means a House of the Parliament of this State;

“member” means a member of either House;

“parliamentary salary” means the salary payable to a member under section four of the *Parliamentary Salaries and Allowances Act 1955*, and includes an allowance payable to a person holding any office specified in subsection (1) of section five of that Act (whether or not the holder of that office is at any time entitled to payment of a salary under the first-mentioned section) and any salary or allowance payable under any enactment repealed by that Act;

“pension” means a pension under this Act;

“period of service”, used in relation to a member or former member, means the period, or the sum of the periods (whether continuous or not and whether before or after the commencement of this Act), during which that member or former member was or is entitled to a parliamentary salary;

“Trust” means the Parliamentary Retiring Allowances Trust established by this Act;

“trustee” means one of the trustees who constitute the Trust.

(2) For the purposes of this Act, the period of service of a member or former member shall be computed in accordance with the following provisions, namely:—

- (a) If a person ceases to be a member by reason of a dissolution of the House of Assembly taking place within three months before the expiry of that House by effluxion of time, that person shall be deemed to remain a member until the day when that House, but for the dissolution, would have expired;
- (b) Subject to paragraph (a) of this subsection, the actual period during which a person is a member shall be regarded as service for the purposes of this Act;
- (c) Service before or after the passing of this Act of members holding office at the commencement of this Act shall be taken into account; and
- (d) Broken periods of a member's service shall be aggregated and credited to the member.

(3) If at any time it appears to the Governor that the basic wage for Hobart, as determined pursuant to the provisions of the *Conciliation and Arbitration Act 1904-1952* of the Commonwealth has been altered (whether by way of increase or decrease) the Governor may, by order, fix and declare, as and to be the basic wage for Hobart for the purposes of this Act, such sum per week as may be necessary in order to ensure that the maximum rate of pension is equivalent to the rate of that wage for the time being, and any sum so fixed and declared shall be deemed to be the basic wage for Hobart for the purposes of this Act as if it were expressly prescribed as such in this Act.

PART II.

THE PARLIAMENTARY RETIRING ALLOWANCES TRUST.

3—(1) There shall be a body, to be known as the Parliamentary Retiring Allowances Trust.

(2) The Trust shall consist of—

- (a) the President of the Legislative Council;
- (b) the Speaker of the House of Assembly; and
- (c) the Under-Treasurer.

(3) If the President of the Legislative Council or the Speaker of the House of Assembly ceases to hold office by reason of the expiration of his term as a member, he may continue to act as a trustee until his successor in the office of President or Speaker is elected to that office.

(4) If a vacancy occurs in the office of a trustee, the Governor may appoint a temporary trustee to hold office until the vacancy is filled by the person designated by this section to hold that office.

(5) The Trust is a body corporate with perpetual succession and a common seal, and may hold and dispose of property, and sue and be sued in its corporate name, and do and suffer all such other acts and things as bodies corporate may by law do and suffer.

Constitution
and incor-
poration of
the Trust.

Cwth., s. 5.
N.S.W., s. 10.
Vict., s. 4.
Q'ld., s. 3.
S.A., s. 3.
W.A., s. 9.

(6) The seal of the Trust shall not be affixed to a document except in accordance with a resolution of the trustees, and shall be authenticated by the signatures of not less than two trustees.

Quorum of
the Trust.

Cwith., ss. 5
(5), 8 (2).
N.S.W., s.
10 (4).

4—(1) Two trustees constitute a quorum of the Trust.

(2) The Trust may function, notwithstanding a vacancy in its membership, so long as a quorum remains.

Proceedings
of the
Trust.

Cwith., s. 8.

5—(1) The affairs of the Trust shall be conducted at meetings of the Trust.

(2) The trustees shall, as and when necessary, elect one of their number as the chairman of the Trust.

(3) The chairman, or, in his absence, such one of the remaining trustees as they may mutually decide, shall preside at all meetings of the Trust at which he is present.

(4) The chairman has a deliberative vote only.

(5) A question arising at a meeting of the Trust shall be decided by a majority of the votes of the trustees who are present thereat and vote on the question.

(6) In the event of an equality of votes on a question arising at a meeting of the Trust, at which all the trustees are not present, that question shall be postponed until a meeting at which all the trustees are present.

(7) Subject to this section, the Trust may regulate its own procedure.

Secretary.

6 The Trust may appoint a person to act as the secretary to the Trust, and the person so appointed shall perform such duties in relation to the Trust as the Trust may determine.

PART III.

THE PARLIAMENTARY RETIRING ALLOWANCES FUND.

The Fund.

Cwith., s. 9.
N.S.W., s. 3.
Vict., s. 3.
Q'ld., s. 4.
S.A., s. 4.
W.A., s. 4.

7—(1) For the purposes of this Act there shall be a Parliamentary Retiring Allowances Fund.

(2) The Fund shall consist of—

(a) contributions paid and repayments made by members and former members in pursuance of this Act;

(b) moneys paid into the Fund by the Treasurer in pursuance of this Act; and

(c) income derived from the investment of moneys forming part of the Fund.

(3) From the Fund there shall be paid all pensions and other benefits (including refunds of contributions) provided by this Act.

(4) The Fund is vested in, and shall be managed by, the Trust.

(5) The income of the Fund is not subject to any tax imposed by or under any law of this State.

8—(1) The assets of the Fund may be invested by the Trust in any manner for the time being allowed by law for the investment of trust funds.

Investment
of Fund, &c.
Cwlth., s. 10.
N.S.W., s. 4.
W.A., s. 7.

(2) Moneys held uninvested by the Trust may be lodged either at call or on fixed deposit, or partly at call and partly on fixed deposit, with the Treasurer or with the Commonwealth Trading Bank of Australia.

9 The accounts of the Fund are subject to audit under the provisions of the *Audit Act* 1918.

Audit.
Cwlth., s. 11.
N.S.W., s. 7.
Q'ld., s. 5.

PART IV.

CONTRIBUTIONS.

10—(1) Every member, and every person who, having ceased to be a member, is in receipt of a parliamentary salary, shall contribute to the Fund at the rate of one hundred and fifty-six pounds a year.

Contributions by members.
Cwlth., s. 13.
N.S.W., s. 9.
S.A., s. 9.
W.A., s. 10.

(2) Contributions under subsection (1) of this section shall be deducted in equal instalments from every payment of parliamentary salary made to the member or other person.

(3) All deductions so made shall be paid into the Fund.

11 If the Treasurer is satisfied, upon the report of the Trust, that the moneys standing to the credit of the Fund (including the investments thereof) are, at any time, insufficient to provide for the payment of the benefits that are a charge upon the Fund, he shall pay into the Fund out of the Consolidated Revenue (which, to the necessary extent, is appropriated accordingly) such sum as appears to him to be necessary to meet the insufficiency.

Contributions by the State in certain circumstances.
Cwlth., s. 14.
S.A., s. 10.

PART V.

PENSIONS AND OTHER BENEFITS.

12 Pensions and other benefits under this Act are payable only to or in relation to persons who are members at the commencement of this Act or become members thereafter.

Benefits applicable only to present and future members.
Cwlth., s. 15.

13—(1) Subject to this Act, a person—

(a) who—

(i) has ceased to be a member but has not retired voluntarily;

Benefits for members.
Cwlth., s. 18.
N.S.W., s. 12.
Vict., s. 7.
Q'ld., ss. 7, 8,
9, 10, 11, 12.
S.A., ss. 12,
14.
W.A., s. 11.

(ii) has attained the age of forty-five years; and

(iii) has ceased to be entitled to a parliamentary salary; and

(b) whose period of service as a member is not less than eight years,

is entitled to a pension during his life-time, calculated at the appropriate rate prescribed in subsection (5) of this section.

(2) Notwithstanding the provisions of subsection (1) of this section, if a person whose period of service as a member is not less than eight years ceases to be a member before he attains the age of forty-five years, but does not retire voluntarily, that person, if otherwise qualified under that subsection for payment of a pension, may elect, as prescribed, to accept—

(a) a refund of his contributions; or

(b) a pension under this Act payable as from the day on which he attains the age of forty-five years.

(3) A pension under paragraph (b) of subsection (2) of this section is payable at the appropriate rate prescribed in subsection (5) of this section, having regard to the pensioner's length of service as a member as at the date when he ceases to be a member.

(4) Where a person—

(a) ceases to be a member of either House by reason of the expiration of his term of office as a member or, in the case of the House of Assembly, by reason of the dissolution or expiry of that House;

(b) is not a candidate, at the next ensuing election for the electoral division that he represented immediately before ceasing to be a member, for election to represent that division, or, if an election is held at the same time for any other electoral division for either House, for election to represent that other division; and

(c) at the time when he ceases to be a member, is qualified in accordance with subsection (1) of this section for payment of a pension,

that person shall be deemed to be entitled to payment of a pension only if the Trust certifies that it is satisfied that his failure to be a candidate was due to ill-health, or to his failure to secure the support of a political party from which he reasonably sought support, or to his expulsion from a political party, but if the Trust refuses so to certify that person shall be deemed to be entitled only to a refund of his contributions.

(5) Subject to section fifteen, the rate of pension payable to a person under this section is—

(a) where that person's period of service as a member is not less than fifteen years, a rate equal to the rate of the basic wage for Hobart; or

(b) where that person's period of service as a member is less than fifteen years, a rate that bears the same proportion to the rate of the basic wage for Hobart as the length of his period of service bears to fifteen years.

(6) Where a person—

(a) who has not attained the age of forty-five years; or

(b) whose period of service as a member is less than eight years,

ceases to be a member by reason of his defeat at an election, that person is entitled only to a refund of his contributions.

14—(1) Subject to this section, where a person dies while he is entitled to a parliamentary salary and is survived by a widow or widower, there is payable to the widow or widower—

Benefits on death of a member.

Cwth., s. 19.

N.S.W., s. 12.

Q'ld., ss. 14,

15.

S.A., s. 16.

(a) if the deceased person's period of service as a member was, at the time of his death, not less than eight years, a pension at the rate of two-thirds of the pension that could have been paid to the deceased person if he had retired (otherwise than voluntarily) on the day of his death and if he were then otherwise qualified under section thirteen for payment of a pension; or

(b) if the deceased person's period of service as a member was, at the time of his death, less than eight years, a pension at the rate of two-thirds of the pension that could have been paid to the deceased person if he had retired (otherwise than voluntarily) on the day of his death, and if he were then otherwise qualified under section thirteen for payment of a pension and had, on that day, completed eight years' service as a member.

(2) A pension under subsection (1) of this section is payable whether the deceased person, at the time of his death, had attained the age of forty-five years or not.

(3) Where a former member dies while he is entitled to a pension (whether presently payable or not) and is survived by a widow or widower, there is payable to the widow or widower a pension at the rate of two-thirds of the first-mentioned pension.

(4) The pension payable to a widow or widower under this section ceases upon the re-marriage of the widow or widower, but except as provided in this subsection is payable during her or his life-time.

(5) Where a person to whom subsection (1) of this section relates is not survived by a widow or widower, an amount equal to the sum of that person's contributions shall be paid out of the Fund to his personal representatives.

(6) Notwithstanding anything in this section, a pension is not payable under this section to a widow or widower who is entitled to a pension, retiring allowance, or annuity (whether presently payable or not) under any law of the Commonwealth or of a State other than this State relating to the payment of pensions, retiring allowances, or annuities to members or former members of Parliament or their dependants.

Adjustment of
pensions.

Cf., No. 11
of 1955
(Tas.), s. 7.

15—(1) Notwithstanding anything in section thirteen or section fourteen, the pension to which, but for this section, a person would be entitled under either of those sections is subject to adjustment in accordance with variations in the cost of living.

(2) For the purposes of this section, the basis and method of adjustment of pensions shall be as prescribed.

Meaning of
voluntary
retirement.
Cwlt., s. 17.

16—(1) For the purposes of this Part, the cases in which a member shall be deemed to have retired voluntarily are the cases specified in this section.

(2) A member who resigns his place before he attains the age of forty-five years shall be deemed to have retired voluntarily.

(3) A member who resigns his place before the expiration of his term of office shall be deemed to have retired voluntarily if he fails to satisfy the Trust that his resignation was made in good faith—

- (a) on account of ill-health;
- (b) for the purpose of securing election for an electoral division other than the division that he represented at the date of his resignation;
- (c) for the purpose of submitting himself for re-election by the electors of his former electoral division; or
- (d) for the purpose of securing election as a member of the House of which he was not a member.

(4) A member shall be deemed to have retired voluntarily if his seat becomes vacant—

- (a) by reason of the operation of section thirty-two or section thirty-three of the *Constitution Act 1934*; or
- (b) under paragraph 1 of section thirty-four of that Act.

(5) Notwithstanding anything in this section—

(a) a member shall not be deemed to have retired voluntarily if—

(i) he has attained the age of sixty-five years; or

(ii) having attained the age of forty-five years but not having attained the age of sixty-five years, the Trust is satisfied, upon the certificates of not less than three legally-qualified medical practitioners appointed by the Trust to examine the member, that the member's state of health is such as to justify his retirement; and

(b) subject to paragraph (a) of this subsection, a member shall be deemed to have retired voluntarily if he ceases to be a member in circumstances which, in the opinion of the Trust, should justly be treated as constituting a voluntary retirement for the purposes of this Part.

(6) A member who retires voluntarily is entitled only to a refund of his contributions.

17—(1) Subject to this section, where a person has received under this Act an amount by way of a refund of contributions, and that person again becomes a member, the period or periods in respect of which, or by reference to which, he received that amount or any part thereof shall not be taken into account as part of his period of service, for the purposes of determining his rights in respect of any further benefit under this Act, unless, within twelve months after he again becomes a member, he repays that amount to the Trust.

Re-election.
Cwith., s. 20.

(2) Where a person who is in receipt of a pension in respect of his service as a member again becomes a member the pension shall be cancelled, and thereafter his rights and liabilities under this Act shall be deemed to be the same as if he had never received a pension.

(3) Where a person who is in receipt of a pension as a widow or widower becomes a member—

(a) the pension is not payable in respect of the period during which the pensioner is entitled to a parliamentary salary; and

(b) the pensioner is not entitled to receive the pension at any time after becoming entitled to a pension by virtue of the pensioner's own period of service (whether or not another benefit is accepted in lieu of that last-mentioned pension).

Cancellation
or reduction
of pension
in certain
cases.

Cwlth., s. 21.
Vict., s. 8.
S.A., s. 17.
W.A., s. 14.

18 If a person who is entitled to a pension (whether presently payable or not)—

(a) becomes a member of the Parliament of the Commonwealth or of a State other than this State; or

(b) becomes a person in receipt of a pension, retiring allowance, or annuity under any law of the Commonwealth or of a State other than this State relating to the payment of pensions, retiring allowances, or annuities to members or former members of Parliament or their dependants,

the pension that, but for this section, would be payable to him under this Act shall be cancelled during the period of his membership of that Parliament or so long as he continues to receive a pension, retiring allowance, or annuity under a law to which paragraph (b) of this section relates.

Provisions
relating to
persons
entitled to
pensions
under other
laws.

19—(1) If, at the time when he becomes or became a member, a person is or was entitled to or qualified for the payment of a pension, retiring allowance, or annuity (whether presently payable or not) under any Act of the Parliament of the Commonwealth or of any State (other than this State), being an Act relating to the payment of pensions, retiring allowances, or annuities to members or former members of that Parliament or to their dependants, that person may, on or before ceasing to be a member, elect, as prescribed, to receive a refund of his contributions in lieu of the pension (if any) to which he is entitled under this Act, and the Trust may refund his contributions accordingly when he ceases to be a member.

(2) If a person to whom this section relates dies without having made an election under this section, he shall be deemed to have been entitled only to a refund of his contributions, and the amount to be refunded shall be paid by the Trust to his personal representatives.

Certain
disqualifica-
tions.

Cwlth., s. 22.

20 A member whose seat becomes vacant by reason of the operation of paragraph II, paragraph III, paragraph IV, or paragraph V of section thirty-four of the *Constitution Act 1934* is entitled only to a refund of his contributions.

PART VI.

MISCELLANEOUS.

Refunds of
contributions.
Q'ld., s. 18.
S.A., s. 20.

21—(1) Where by virtue of any provision of this Act a person is entitled to a refund of his contributions, that person shall be deemed to be entitled only to be paid an amount that is equal to the sum of his contributions without interest thereon.

(2) Except as expressly provided in this Act, refunds of contributions shall not be made.

22 Pensions are payable in fortnightly instalments, and are apportionable in point of time.

23—(1) Pensions and other benefits under this Act are inalienable, whether by way of, or in consequence of, sale, assignment, charge, execution, bankruptcy, or otherwise.

(2) Notwithstanding anything in subsection (1) of this section, the Trust may deduct from a pension or other benefit payable to a person under this Act any amount previously overpaid or paid in error to that person as pension or other benefit under this Act.

24—(1) Any dispute under this Act shall be determined in the first place by the Trust.

(2) A person who is aggrieved by a decision of the Trust may appeal, as prescribed, to the Supreme Court in accordance with the Rules of Court under the *Supreme Court Civil Procedure Act 1932* relating to appeals from statutory tribunals other than courts.

(3) The Supreme Court has jurisdiction to hear and determine appeals under subsection (2) of this section.

25 Where, in the opinion of the Trust, payment of a pension or other benefit under this Act should be made to a person other than the pensioner or other person entitled to the benefit, the Trust may make the payment to that other person upon such conditions as the Trust thinks fit.

26 The costs of the administration of this Act shall be defrayed out of the Fund.

27 The Governor may make regulations under this Act.

Payment of pensions.

Q'ld., s. 19.

S.A., s. 21.

W.A., s. 15.

Benefits not assignable.

Cwlth., s. 14.

N.S.W., s. 16.

Q'ld., s. 20.

S.A., s. 22.

Settlement of disputes.

Cwlth., s. 25.

Payment otherwise than to person entitled.

Cwlth., s. 26.

Costs of administration.

Regulations.

Cwlth., s. 23.

N.S.W., s. 17.

Vict., s. 9.

Q'ld., s. 21.

S.A., s. 23.