

## PARLIAMENTARY RETIRING BENEFITS ACT 1985

### No. 106 of 1985

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PARLIAMENTARY RETIRING BENEFITS ACT 1985

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 No. 106 of 1985  
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**AN ACT** to establish a superannuation scheme for persons who become members of Parliament after the commencement of this Act.

[Royal Assent 12 November 1985]

**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

**1**—This Act may be cited as the *Parliamentary Retiring Benefits Act 1985*. Short title.

**2**—This Act shall commence on the day on which it receives the Royal assent. Commencement.

## Interpretation.

- 3—(1) In this Act, unless the contrary intention appears—
- “ Actuary ” means—
- (a) the Commonwealth Actuary; or
  - (b) some other person who is appointed by the Governor under subsection (2) as the Actuary for the purposes of this Act;
- “ additional salary ”, in relation to a member, means the salary that is payable to him under Part II or Part III of Schedule 1 to the *Parliamentary Salaries and Allowances Act 1973*;
- “ basic salary ” has the same meaning as it has in the *Parliamentary Salaries and Allowances Act 1973*;
- “ benefit ” means a benefit payable under this Act;
- “ contributions ” means contributions to the Fund;
- “ death or invalidity benefit ” means a benefit payable under Division 3 of Part IV;
- “ Fund ” means the Parliamentary Retiring Benefits Fund established by this Act;
- “ House ” means a House of the Parliament of this State;
- “ member ” means a person who is elected for the first time as a member of a House after the commencement of this Act;
- “ parliamentary salary ” means the basic salary that is payable to a member and includes the additional salary, if any, that is payable to him;
- “ period of service ”, used in relation to a member, means the period, or the sum of the periods, during which that member was or is entitled to a parliamentary salary;
- “ retiring benefit ” means a benefit payable under Division 2 of Part IV;
- “ termination benefit ” means a benefit payable under Division 4 of Part IV;
- “ Trust ” means the Parliamentary Superannuation and Retiring Benefits Trust established under the *Parliamentary Superannuation Act 1973*;
- “ trustee ” means one of the trustees who constitute the Trust.
- (2) The Governor may appoint a person, being a Fellow of the Institute of Actuaries of Australia, to be the Actuary for the purposes of this Act.

(3) For the purposes of this Act, the period of service of a member shall be determined in accordance with the following provisions:—

- (a) where a member of the House of Assembly ceases to be a member of the House by reason of the dissolution of that House or the expiry of that House by effluxion of time, he shall be deemed to remain a member until the day fixed for the taking of the poll next following the dissolution or expiry of that House;
- (b) subject to paragraph (a), the actual period during which a person is a member shall be regarded as service for the purposes of this Act;
- (c) broken periods of a member's service shall be aggregated and credited to the member.

(4) For the purposes of sections 14 (1), 16 (1) and (2), and 18 (1), in calculating the number of years of service as a member, a part of a year of service shall be regarded as a full year of service.

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## PART II

### THE PARLIAMENTARY RETIRING BENEFITS FUND

**4**—(1) For the purposes of this Act there shall be a Parliamentary Retiring Benefits Fund. Parliamentary  
Retiring  
Benefits Fund.

(2) The Fund shall consist of—

- (a) contributions paid by members;
- (b) money paid by the Treasurer in pursuance of this Act;  
and
- (c) income derived from the investment of money forming part of the Fund.

(3) From the Fund there shall be paid all benefits provided by this Act.

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

(5) The Fund is exempt from taxation imposed by or under any law of the State.

Investment of  
the Fund.

**5**—(1) Money in the Fund may be invested by the Trust in any manner in which the Retirement Benefits Fund Investment Trust may, under the *Retirement Benefits Act 1982*, invest money standing to the credit of the Retirement Benefits Fund.

(2) The Trust may vary an investment made by it under subsection (1).

Actuarial  
investigations of  
the Fund.

**6**—(1) An investigation as to the state and sufficiency of the Fund shall be made as at 30th June 1988, and as at the expiration of each period of 3 years after that date.

(2) An investigation for the purposes of this section shall be made by the Actuary who shall report the result of such an investigation to the Treasurer and to the Trust.

(3) The Actuary in a report for the purposes of this section—

(a) shall determine the factor for the purposes of section 11;  
and

(b) may recommend to the Treasurer that he pay such amounts into the Fund as the Actuary may determine to enable the Fund to meet its liabilities.

(4) In addition to the investigation referred to in subsection (1), the Actuary shall make an investigation as to the state and sufficiency of the Fund at such other times as the Treasurer may require.

Cheques drawn  
on the Fund.

**7**—Cheques drawn on an account containing money belonging to the Fund shall be signed by any two trustees or by a trustee and the secretary to the Trust.

Audit.

**8**—The accounts of the Fund are subject to audit under the *Audit Act 1918*.

### PART III

#### CONTRIBUTIONS

Contributions  
by members.

**9**—(1) A member shall contribute to the Fund as provided in this section.

(2) A member's contributions shall comprise a sum calculated at the rate of—

- (a) in respect of his first 20 years' service as a member—9 per cent of the annual amount for the time being of his parliamentary salary; and
- (b) in respect of any service after his first 20 years' service as a member—9 per cent of the annual amount for the time being of any part of his parliamentary salary that exceeds his basic salary.

**10**—(1) A member's contributions shall be made by way of deduction from each instalment of parliamentary salary that becomes payable to him, commencing with the first instalment paid after he becomes a member. Deductions of contributions from salaries of members.

(2) So far as is practicable the deductions made in respect of a member shall be equal in amount.

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

**11**—(1) The Treasurer shall, in respect of each member, pay into the Fund a contribution comprising an amount equal to the member's contributions from time to time multiplied by the factor of 2·5 or such other factor as the Actuary may from time to time determine. Contributions by Treasurer.

(2) The Treasurer shall pay into the Fund such additional amounts as the Actuary may recommend from time to time under section 6 (3).

(3) Payments required by this Act to be made by the Treasurer into the Fund shall be a charge on the Consolidated Revenue, and shall be payable out of the Consolidated Revenue without further appropriation than this section.

(4) Payments required to be made by the Treasurer under subsection (1) shall be paid on the same day as the contributions of members are paid into the Fund.

(5) Payments required to be paid into the Fund by the Treasurer under subsection (2) shall be paid within such period as the Treasurer and the Trust may agree.

## PART IV

## BENEFITS

*Division 1—Preliminary*

Calculation of  
final salary.

**12**—For the purposes of this Part, the final salary of a member shall be determined in the following manner:—

- (a) in the case of a member who has not, during any time in his period of service as a member, been in receipt of an additional salary—the basic salary payable to the member at the date that his service as a member ceased;
- (b) in the case of a member who has, at some time in his period of service as a member, been in receipt of an additional salary—an amount calculated in accordance with the following formula:—

$$FS = A \times \frac{B}{C}$$

where—

“ FS ” is the final salary to be calculated;

“ A ” is the basic salary payable to the member at the date that his service as a member ceased;

“ B ” is the total parliamentary salary that would have been received by the member during his period of service as a member calculated at the rates applicable at the date that his service as a member ceased; and

“ C ” is the total basic salary that would have been received by the member during his period of service as a member calculated at the rate applicable at the date that his service as a member ceased.

*Division 2—Retiring benefits*

Eligibility for  
retiring  
benefit.

**13**—(1) A member is entitled to be paid a retiring benefit if—

- (a) he has completed not less than 15 years' service as a member and he ceases, for any reason, to be a member;
- (b) he has completed not less than 8 years' service as a member but has not completed 15 years' service, and he ceases to be a member by reason of the expiration of his term of office as a member or of his election having been



declared void as referred to in section 181B (3) of the *Electoral Act* 1907 or, in the case of a member of the House of Assembly, by reason of the dissolution or expiry of that House or of his seat having become vacant by virtue of section 181B (3) (b) of that Act and he—

- (i) 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 the Trust certifies that it is satisfied that his failure to be a candidate was due 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;
  - (ii) is a candidate at that election but is defeated at that election; or
  - (iii) is not a candidate at that election for reasons that the Trust certifies in writing to be reasons that appear to it to be good and sufficient;
- (c) subject to subsection (2), he has completed 8 years' service as a member but has not completed 15 years' service and he ceases to be a member by reason of his resignation for the purpose of becoming a candidate at an election for an electoral division other than the electoral division that he represented immediately before ceasing to be a member and he is defeated at that election; or
- (d) he has completed not less than 8 years' service as a member but has not completed 15 years' service, and he ceases to be a member by reason of his resignation—
- (i) after he has attained the age of 60 years; or
  - (ii) in any other circumstances that the Trust considers, and certifies in writing, to be sufficient.

(2) A member is not entitled to be paid a retiring benefit under paragraph (c) of subsection (1) unless the election referred to in that paragraph is held not later than 3 months after the date on which he ceased to be a member.

Payment of  
retiring  
benefit.

**14**—(1) The Trust shall, out of the Fund, pay to a person who is entitled to a retiring benefit a lump sum payment calculated in accordance with the following formula:—

$$P = \left( \frac{n}{4} + 2 \right) FS$$

where—

“ P ” is the amount to be paid;

“ n ” is the number of years of service of the member; and

“ FS ” is the final salary of the member determined in accordance with section 12.

(2) In calculating the amount referred to in subsection (1), “ n ” shall not exceed 20.

#### *Division 3—Death or invalidity benefit*

Eligibility  
for death or  
invalidity  
benefit.

**15**—A member is, or, as the case may require, his personal representatives are, entitled to be paid a death or invalidity benefit if—

(a) the member dies; or

(b) the Trust is satisfied, on the report of a duly qualified medical practitioner appointed by the Trust, that the member has been rendered totally and permanently incapable of performing the duties of a member, by reason of ill-health or physical incapacity or mental incapacity, and the member ceases to be a member.

Payment of  
death or  
invalidity  
benefit.

**16**—(1) If a member dies, or the Trust is satisfied of the matters referred to in section 15 (b), and the member ceases to be a member before the member attains the age of 60 years, the Trust shall pay out of the Fund in respect of the member a lump sum payment calculated in accordance with the following formula:—

$$P = \left( \frac{n}{4} + 2 \right) FS$$

where—

“ P ” is the amount to be paid;

“ n ” is the number of years service the member would have served if he had attained the age of 60 and still been a member; and

“ FS ” is the final salary of the member determined in accordance with section 12.

(2) If a member dies, or the Trust is satisfied of the matters referred to in section 15 (*b*) and the member ceases to be a member on or after the member attaining the age of 60 years, the Trust shall pay out of the Fund in respect of the member a lump sum payment calculated in accordance with the following formula:—

$$P = \left( \frac{n}{4} + 2 \right) FS$$

where—

“ P ” and “ FS ” have the meanings assigned to those symbols in subsection (1); and

“ n ” is the number of years served by the member on the date that he died or the date on which the duly qualified medical practitioner referred to in paragraph (*b*) of section 15 certifies in his report the matters referred to in that paragraph.

(3) In calculating the amounts referred to in subsections (1) and (2), “ n ” shall not exceed 20.

#### *Division 4—Termination benefits*

**17**—A person who ceases to be a member and who is not entitled to a retiring benefit or a death or invalidity benefit is entitled to a termination benefit. Eligibility for termination benefit.

**18**—(1) The Trust shall, out of the Fund, pay to a person who is eligible for a termination benefit a lump sum payment calculated in accordance with the following formula:— Payment of termination benefit.

$$P = \left( \frac{n}{5} + 1 \right) C$$

where—

“ P ” is the amount to be paid;

“ n ” is the number of years of service of the member; and

“ C ” is the total of the member’s contributions during his period of service as a member.

(2) In calculating the amount referred to in subsection (1), “ n ” shall not exceed 10.

*Division 5—Benefit payable to former member who again becomes a member*

Benefit payable to former member who again becomes a member.

**19**—(1) If a person who was a member and was paid a benefit under this Act again becomes a member, that person, on ceasing to be a member, is entitled to a benefit under this Act.

(2) For the purpose of calculating the benefit to which a person referred to in subsection (1) is entitled—

- (a) any period served by that person before again becoming a member shall be taken into account; and
- (b) the benefit which he would, but for this section, have been entitled to be paid under this Act shall be reduced by the adjusted benefit.

(3) For the purposes of subsection (2) (b), “ adjusted benefit ” means the benefit paid to a person in respect of his service as a member before again becoming a member multiplied by the ratio of the basic salary payable on his ceasing to be a member to the basic salary payable on the date on which the benefit in respect of his service as a member before again becoming a member was paid.

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## PART V

### MISCELLANEOUS

Periods within which benefits payable.

**20**—The Trust shall pay any benefit payable under this Act—

- (a) in the case of a retiring benefit or a termination benefit, within 28 days of the member ceasing to be a member; or
- (b) in the case of a death or invalidity benefit, within 28 days of the member dying or ceasing to be a member, as the case may be.

Power of Trust to recover amounts overpaid or paid in error.

**21**—Any amount overpaid or paid in error to a person as a benefit under this Act may be recovered from that person by the Trust in a court of competent jurisdiction as a debt due to the Trust.

**22**—(1) Any dispute under this Act shall be determined in the first instance by the Trust. Settlement of disputes.

(2) A person who is aggrieved by a decision of the Trust may appeal 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).

**23**—Where in the opinion of the Trust, payment of a benefit should be made to a person other than the person entitled to the benefit, the Trust may make the payment to that other person on such conditions as it thinks fit. Payment otherwise than to person entitled.

**24**—The costs of the administration of this Act shall be defrayed out of the Fund. Costs of administration.

**25**—The Governor may make regulations for the purposes of this Act. Regulations.

