

## PARLIAMENTARY SUPERANNUATION AMENDMENT ACT 1985

### No. 105 of 1985

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PARLIAMENTARY SUPERANNUATION AMENDMENT  
ACT 1985

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No. 105 of 1985

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AN ACT to amend the Parliamentary Superannuation Act 1973.  
[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:—

**1**—This Act may be cited as the *Parliamentary Superannuation Amendment Act 1985*. Short title.

**2**—This Act shall commence on the day on which the *Parliamentary Retiring Benefits Act 1985* commences. Commencement.

Principal Act **3**—In this Act, the *Parliamentary Superannuation Act 1973*\* is referred to as the Principal Act.

Amendment of section 3 of Principal Act. (Interpretation).

**4**—Section 3 of the Principal Act is amended as follows:—

(a) by omitting the definition of “ member ” in subsection (1) and substituting the following definition:—

“ member ” means a person who is a member of either House immediately before the day on which the *Parliamentary Retiring Benefits Act 1985* commences or a person who, having been a member of either House before that day, again becomes a member;

(b) by inserting in the definition of “ Trust ” in subsection (1) “ and Retiring Benefits ” after “ Superannuation ”;

(c) by adding after subsection (2) the following subsection:—

(3) A person who is in receipt of, or entitled to receive, a pension under the repealed Act and the payment of whose pension is made out of the Fund shall be deemed to be a person in receipt of, or entitled to receive, a pension under this Act immediately before the commencement of the *Parliamentary Superannuation Amendment Act 1985*.

Amendment of section 4 of Principal Act (The Fund).

**5**—Section 4 of the Principal Act is amended by inserting in subsection (3) “, lump sum payments,” after “ pensions ” (firstly occurring).

Substitution of section 5 of Principal Act.

**6**—Section 5 of the Principal Act is repealed and the following section is substituted:—

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.

\* No. 28 of 1973. Amended by No. 70 of 1973, No. 67 of 1974, No. 41 of 1976, No. 88 of 1979, and Nos. 15 and 92 of 1982. Affected by No. 62 of 1983 and No. 41 of 1985.

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

**7**—Section 6 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 6 of Principal Act.

6—(1) The Trust may open and maintain an account or accounts with a bank or banks and shall maintain at all times at least one such account.

Bank accounts.

(2) The Trust shall pay all money received by it into an account referred to in subsection (1).

**8**—Section 7 of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsections:—

Amendment of section 7 of Principal Act (Actuarial investigations of the Fund).

(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 state whether, in his opinion, any change should be made in the proportions referred to in section 8; 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.

**9**—Section 8 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 8 of Principal Act.

8—(1) The Treasurer shall pay to the Fund a contribution comprising an amount equal to—

Payments by Treasurer into the Fund.

(a) in respect of a person who, immediately before the commencement of the *Parliamentary Superannuation Amendment Act 1985*, is in receipt of, or entitled to receive, a pension under this Act, one

half, or such other proportion as the Actuary may recommend, of each payment by way of pension or other benefit made out of the Fund to that person after 1st August 1986;

- (b) in respect of a person who, immediately before the commencement of the *Parliamentary Superannuation Amendment Act 1985* is in receipt of, or entitled to receive, a pension under this Act and who elects to commute that pension to a lump sum payment, one-half, or such other proportion as the Actuary may recommend, of the lump sum paid to that person;
- (c) in respect of a person who, on or after the commencement of the *Parliamentary Superannuation Amendment Act 1985* becomes entitled to receive a pension under this Act, 5/7ths, or such other proportion as the Actuary may recommend, of each payment by way of pension or other benefit made to that person; and
- (d) in respect of a person who, on or after the commencement of the *Parliamentary Superannuation Amendment Act 1985* becomes entitled to receive a pension under this Act and who elects to commute that pension to a lump sum payment, 5/7ths, or such other proportion as the Actuary may recommend, of the lump sum payment to that person.

(2) The Treasurer shall pay into the Fund such additional amount as the Actuary may recommend from time to time under section 7 or such other amount as the Treasurer may from time to time determine to enable the Fund to meet its liabilities under this Act.

(3) A payment required to be made by the Treasurer under subsection (1)—

- (a) in the case of a lump sum payment made under subsection (1) (b) or (d), shall be made on the day on which the lump sum is paid; and
- (b) in the case of a pension referred to in subsection (1) (a) or (c), shall be made on the day on which the pension is payable.

(4) 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.

(5) 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.

**10**—Section 9 of the Principal Act is amended by inserting after “ transactions ” in subsection (1) “ under this Act or any other Act ”.

Amendment of section 9 of Principal Act (Accounts and audit).

**11**—After section 9 of the Principal Act, the following section is inserted in Division I of Part II:—

Insertion in Principal Act of new section 9A.

9A—(1) The Trust shall, not later than 4 months after the end of each financial year, prepare and submit to the Treasurer a report on the exercise and performance of its powers and functions under this Act or any other Act during that financial year.

Annual report.

(2) A report under this section—

- (a) shall include a report by the Trust on the nature and state of the investments which it has made; and
- (b) shall be accompanied by, or have incorporated with it, a copy of the financial statements prepared by the Trust in relation to the period to which the report relates.

(3) The Treasurer shall cause a copy of a report under this section to be laid on the table of each House within the first 10 sitting days of the House after the date on which he receives the report.

(4) After a copy of the report under this section has been laid on the table of each House in accordance with subsection (3), the Trust shall cause a copy of the report to be delivered to each member of each House.

**12**—Section 10 of the Principal Act is amended by inserting after “ Superannuation ” in subsection (1) “ and Retiring Benefits ”.

Amendment of section 10 of Principal Act (Constitution and incorporation of the Trust).

Amendment of section 10A of Principal Act (Power of delegation).

**13**—Section 10A of the Principal Act is amended by inserting after “ powers ” in subsection (1) “ under this Act or any other Act ”.

Amendment of section 11 of Principal Act (Proceedings of the Trust).

**14**—Section 11 of the Principal Act is amended by inserting the following subsection after subsection (1):—

(1A) Meetings of the Trust may be convened by the Chairman of the Trust or by any 2 members of the Trust.

Amendment of section 11A of Principal Act (Protection for trustees).

**15**—Section 11A of the Principal Act is amended by inserting after “ functions ” in subsection (1) “ under this Act or any other Act ”.

Amendment of section 12 of Principal Act (Secretary and other officers).

**16**—Section 12 of the Principal Act is amended by inserting after “ Act ” in subsection (1) “ or any other Act ”.

Amendment of section 13 of Principal Act (Contributions by members).

**17**—Section 13 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:—

(1) A person who—

- (a) is a member of either House on the appointed day;
- (b) becomes a member of either House at any time after that day but before the day on which the *Parliamentary Retiring Benefits Act* 1985 commences;
- or
- (c) having been a member of either House before the day on which the *Parliamentary Retiring Benefits Act* 1985 commences, again becomes a member of either House,

shall contribute to the Fund as provided in this section.

Substitution of section 15 of Principal Act.

**18**—Section 15 of the Principal Act is repealed and the following section is substituted:—

To whom pensions, &c., are payable.

**15**—Except as provided in section 4 (3), pensions, lump sum payments, and other benefits under this Act are payable only to or in relation to persons who—

- (a) are members of either House on the appointed day;
- (b) become members of either House after that day but before the day on which the *Parliamentary Retiring Benefits Act* 1985 commences; or
- (c) having been members of either House before the day on which the *Parliamentary Retiring Benefits Act* 1985 commences, again become members of either House.



**19**—Section 16 of the Principal Act is amended as follows:—

(a) by omitting from paragraph (b) (iii) of subsection (2) “sufficient; or” and substituting “sufficient;”;

(b) by inserting after that paragraph the following paragraph:—

(ba) subject to subsection (2A), that person’s period of service as a member is 8 years or more but less than 15 years 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

(c) by inserting after subsection (2) the following subsection:—

(2A) A person is not entitled to a pension under paragraph (ba) of subsection (2) 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.

Amendment of section 16 of Principal Act (Members’ superannuation pensions).

**20**—Section 22 of the Principal Act is amended by inserting the following subsection after subsection (2):—

(3) Where a pension is paid under this Division, the child in respect of whom the pension is paid is beneficially entitled to that pension.

Amendment of section 22 of Principal Act (Persons to whom children’s pensions are payable).

**21**—After Division III of Part IV of the Principal Act the following Division is inserted:—

*Division IIIA—Commutation of pensions into lump sum payments*

22A—(1) A person who is in receipt of, or entitled to, a pension referred to in Division I or II immediately before the commencement of the *Parliamentary Superannuation Amendment Act 1985* may, by not later than 31st March 1986, elect by notice in writing given to the secretary to the Trust to commute that pension entitlement to a lump sum payment in accordance with this section.

Insertion in Part IV of Principal Act of new Division IIIA.

Commutation of existing pensioner’s entitlements, &c.

(2) Where an election is made under subsection (1), the Trust shall, out of the Fund, pay to the person who made the election a lump sum equal to the amount of the annual pension which, but for his election, he would have been entitled to receive multiplied by the conversion factor specified in the third Schedule that is applicable to the person as at 30th April 1986.

(3) Payment of the lump sum under subsection (2) shall be made in 2 equal instalments, the first instalment payable on 30th April 1986 and the second instalment payable on 31st July 1986.

(4) Where a person is paid a lump sum under subsection (2), all entitlements under this Act in respect of himself and his spouse and children (if any) cease.

Commutation  
of existing  
members, &c.,  
entitlements.

22B—(1) A person who becomes entitled to a pension referred to in Division I or II on or after the commencement of the *Parliamentary Superannuation Amendment Act 1985* may, within 28 days after becoming so entitled, elect by notice in writing given to the secretary to the Trust to commute that pension entitlement to a lump sum payment in accordance with this section.

(2) Where an election is made under subsection (1) the Trust shall, out of the Fund, pay to the person who made the election or the personal representative of that person, as the case may require, a lump sum equal to the amount of the annual pension which, but for his election, he would have been entitled to receive multiplied by the conversion factor specified in the fourth Schedule that is applicable to the person on the expiration of the period of 28 days referred to in subsection (1).

(3) Payment of the lump sum under subsection (2) shall be made within 14 days of the election having been made or the expiration of the period of 28 days referred to in subsection (1), whichever is the later.

(4) Where a person is paid a lump sum under subsection (2) in respect of an entitlement to a pension referred to in Division I, all entitlements under this Act in respect of himself and his spouse and children (if any) cease.

(5) Where a person is paid a lump sum under subsection (2) in respect of an entitlement to a pension referred to in Division II, all entitlements under this Act in respect of that person cease.

22c—(1) An entitlement to a pension referred to in Division III which arises on or after the commencement of the *Parliamentary Superannuation Amendment Act 1985* by a child who has not attained the age of 18 years at the date on which the entitlement arises may be commuted to a lump sum payment in accordance with this section. Commutation of children's pensions.

(2) The spouse, if any, of the deceased member or former member or, if there is no spouse, the guardian of the child, may elect on behalf of the child to commute the pension entitlement to a lump sum payment.

(3) An election on behalf of a child under subsection (2) shall be made by giving a written notice of election to the secretary to the Trust within 28 days of the child becoming entitled to the pension.

(4) Where an election is made on behalf of a child under subsection (2), the Trust shall, out of the Fund, pay to the spouse of the deceased member or former member or, if there is no spouse, to the guardian of the child, a lump sum equal to the amount of the annual pension which, but for the election, the child would have been entitled to receive multiplied by the conversion factor specified in the fifth Schedule that is applicable to the child on the expiration of the period of 28 days referred to in subsection (3).

(5) Payment of the lump sum under subsection (4) shall be made within 14 days of the election having been made on behalf of the child, or the expiration of the period of 28 days referred to in subsection (3), whichever is the later.

(6) Where, by reason of the death of a member or a former member, a child becomes entitled to a pension under section 20 (2) (a) (i) or (b) (i) and a lump sum payment is made under this section, the election to receive that lump sum does not prevent a further election being made in respect of the pension payable under section 20 (2) (a) (ii) or (b) (ii) if the spouse of the member or former member subsequently dies.

(7) A lump sum payment made in commutation of a pension entitlement payable under section 20 (2) (a) (ii) or (b) (ii) shall be calculated at the rate of 15 per cent of the annual pension that would have been payable to the deceased member or former member multiplied by the conversion factor specified in the fifth Schedule that is applicable to the child on the date that the lump sum payment is made in respect of the child pursuant to subsection (5).

(8) Where a lump sum payment is made in respect of a child pursuant to subsection (5), the child in respect of whom that lump sum is paid is beneficially entitled to that lump sum.

Amendment of section 24 of Principal Act (Termination of pensions in certain cases).

**22**—Section 24 of the Principal Act is amended as follows:—

- (a) by inserting “(1)” before “If a person”;
- (b) by adding the following subsections as subsections (2) and (3) of that section:—

(2) Where a person who commuted a pension to which he was entitled under Division I of Part IV in respect of his service as a member again becomes a member, that person shall, within the period of 3 months after again becoming a member, or within such other period as the Trust may specify, pay into the Fund an amount equal to the lump sum received by him, and on the payment of that amount his rights and liabilities under this Act shall be deemed to be the same as if he had never received a lump sum payment.

(3) A person referred to in subsection (2) who does not pay into the Fund the lump sum within the period specified in that section or, where the Trust has specified another period, within that period, is not entitled to any pension or other benefit for the period of service by that person after again becoming a member, and, notwithstanding any other provision of this Act, shall not be required to make any contributions under this Act in respect of that period of service.

**23**—Section 25 of the Principal Act is amended by omitting subsection (1) and substituting the following subsections:—

Amendment of section 25 of Principal Act (Suspension of pensions).

(1) Where a refund of contributions is or was made under section 18 or under the repealed Act to a person who was a member, and that person again becomes a member, that person shall, within a period of 28 days after again becoming a member, or within such other period as the Trust may specify, pay to the Fund an amount equal to the contributions refunded to him.

(1A) Where a person referred to in subsection (1) does not pay to the Fund an amount equal to the contributions refunded to him within the period specified in that subsection, or, where the Trust has specified another period, within that period, his service as a member before again becoming a member shall be disregarded for the purposes of calculating any pension or other benefit payable to him under this Act.

(1B) Where a person has received a refund of contributions under section 18 and, on the commencement of the *Parliamentary Superannuation Amendment Act 1985*, is a member, that person shall, within a period of 28 days from that commencement, or within such other period as the Trust may specify, pay to the Fund an amount equal to the contributions refunded to him unless he has, before the commencement of that Act, paid such an amount to the Fund.

(1C) Where a person referred to in subsection (1B) does not pay to the Fund an amount equal to the contributions refunded to him within the period specified in that subsection, or, where the Trust has specified another period, within that period, his service as a member for which he received a refund of contributions shall be disregarded for the purposes of calculating any pension or other benefit payable to him under this Act.

**24**—Section 27 of the Principal Act is amended by omitting from subsection (1) “and other benefits”.

Amendment of section 27 of Principal Act (Pensions not assignable).

**25**—After the second Schedule to the Principal Act the following Schedules are inserted:—

Insertion in Principal Act of new third, fourth, and fifth Schedules.

## THE THIRD SCHEDULE

Section 22A

## CONVERSION FACTORS FOR PURPOSES OF SECTION 22A

## PART I

For the purposes of section 22A, the conversion factor for determining a lump sum payment under that section for each \$1 converted by a person referred to in that section shall, subject to Part II, be as follows:—

Age of person on 30th April 1986	Conversion factor
Less than 65	8·0
65	8·0
66	7·8
67	7·6
68	7·5
69	7·4
70	7·3
71	7·16
72	7·02
73	6·88
74	6·74
75	6·6
76	6·18
77	5·76
78	5·34
79	4·92
80	4·5
81	4·14
82	3·78
83	3·42
84	3·06
85	2·7
86	2·61
87	2·52
88	2·43
89	2·34
90	2·25
91	2·16
92	2·07
93	1·98
94	1·89
95	1·8
96	1·71
97	1·62
98	1·53
99	1·44
100	1·35
Over 100	1·35

PART II

The factor relating to any age is to be reduced by  $\frac{1}{12}$ th of the difference between that factor and the next following factor for each complete month by which the age of the person entitled exceeds that for which a factor is given.

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## THE FOURTH SCHEDULE

Section 22B

## CONVERSION FACTORS FOR PURPOSES OF SECTION 22B

## PART I

For the purposes of section 22B, the conversion factor for determining a lump sum payment under that section for each \$1 converted by a person referred to in that section shall, subject to Part II, be as follows:—

Age of person on expiration of period of 28 days referred to in section 22B (1)	Conversion factor
Less than 65	10
65	10
66	9.8
67	9.6
68	9.4
69	9.2
70	9
71	8.6
72	8.2
73	7.8
74	7.4
75	7
76	6.6
77	6.2
78	5.8
79	5.4
80	5
81	4.6
82	4.2
83	3.8
84	3.4
85	3
86	2.9
87	2.8
88	2.7
89	2.6
90	2.5
91	2.4
92	2.3
93	2.2
94	2.1
95	2
96	1.9
97	1.8
98	1.7
99	1.6
100	1.5
Over 100	1.5



PART II

The factor relating to any age is to be reduced by  $\frac{1}{12}$ th of the difference between that factor and the next following factor for each complete month by which the age of the person entitled exceeds that for which a factor is given.

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## THE FIFTH SCHEDULE

Section 22c

## CONVERSION FACTORS FOR PURPOSES OF SECTION 22c

## PART I

For the purposes of section 22c, the conversion factor for determining a lump sum payment under that section for each \$1 converted by a child shall, subject to Part II, be as follows:—

Age of child on expiration of period of 28 days referred to in section 22c (3)	Conversion factor
0	11·15
1	10·79
2	10·41
3	10
4	9·57
5	9·12
6	8·63
7	8·12
8	7·58
9	7
10	6·39
11	5·75
12	5·06
13	4·34
14	3·57
15	2·75
16	1·89
17	0·97
18	0

## PART II

The factor relating to any age is to be reduced by 1/12th of the difference between that factor and the next following factor for each complete month by which the age of the child entitled exceeds that for which a factor is given.