

---

**RETIREMENT BENEFITS ACT 1974**

---

## ANALYSIS

- |  |  |
|--|--|
| <ol style="list-style-type: none"><li>1. Short title and citation.</li><li>2. Interpretation.</li><li>3. Retirement under <i>State Employees (Long-Service Leave) Act 1950</i>.</li><li>4. Exclusion of <i>Superannuation Act 1938</i> in certain cases.</li><li>5. Obligation of employees to contribute to Fund.</li><li>6. Commencement and cessation of contributions.</li><li>7. Rates, &amp;c., of contributions.</li><li>8. Certain information to be supplied by departments &amp;c.</li></ol> | <ol style="list-style-type: none"><li>9. Interpretation of Division IA. Further right to elect to contribute to the Fund. Calculation of past service in certain cases. Employees dying, retiring, &amp;c., before election takes effect. Certain information to be supplied by departments.</li><li>10. Transfer of assets from the Superannuation Fund to the Fund as a consequence of further elections.</li><li>11. Revocation of elections.</li></ol> |
|--|--|





## RETIREMENT BENEFITS

---

No. 32 of 1974

---

\*\*\*\*\*

**AN ACT to amend the Retirement Benefits Act 1970 and to make provision for the revocation of certain elections made thereunder.**

**[28 June 1974]**

**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 *Retirement Benefits Act* Short title and citation. 1974.

(2) The *Retirement Benefits Act* 1970, as subsequently amended, is in this Act referred to as the Principal Act.

Interpretation.

**2** Section 2 of the Principal Act is amended by inserting in the definition of “ transferred contributor ” in subsection (1), after the word “ forty-six ”, the words “ or a person to whom Division IA of that Part applies who has made an election under section 48B ”.

**3** After section 2 of the Principal Act the following section is inserted:—

Retirement  
under *State*  
*Employees*  
*(Long-Service*  
*Leave) Act*  
1950.

“ 2A—(1) This section applies in the case of an employee who is deemed, by virtue of subsection (3B) of section 8 of the *State Employees (Long-Service Leave) Act 1950*, to have retired at the commencement of a period referred to in that subsection.

“(2) If the period referred to in subsection (1) commences on or before 1st July 1979 the employee shall be deemed, for the purposes of this Act, to have elected to retire at the commencement of that period and, accordingly, his service as an employee shall be deemed to have then terminated and his long service leave payment shall not be regarded as part of his salary.

“(3) If the period referred to in subsection (1) commences after 1st July 1979 the employee shall, for the purposes of this Act, be deemed to continue as an employee until the end of that period, or his earlier death, and, unless he dies during that period, to have retired at the end thereof.

“(4) For the purposes of this Act the long service leave payment of an employee to whom subsection (3) applies shall be treated as his salary for the period referred to therein if he is living at the end of the period, and, if he dies during that period, a proportionate part of that payment shall be treated as his salary for the portion of that period that had elapsed before his death.

“(5) References in this section, in relation to an employee, to a long service leave payment shall be construed as references to an allowance or other payment to which he becomes entitled under the *State Employees (Long-Service Leave) Act 1950* on his retirement in accordance with section 8 of that Act.”

Exclusion of  
*Superannuation*  
*Act 1938* in  
certain cases.

**4** Section 3 of the Principal Act is amended by inserting in paragraph (b), after the word “ forty-six ”, the words “ or section 48B ”.

Obligation of  
employees to  
contribute to  
Fund.

**5** Section 21 of the Principal Act is amended by omitting from subsection (1) (a) (ii) the word “ or ” and substituting therefor the following sub-paragraph:—

“(iia) being a person to whom Division IA of Part VI applies, has made an election under section 48B, not being a person who immediately before that election takes effect is in receipt of or entitled to a pension under the *Superannuation Act 1938*; or”.

**6** Section 23 of the Principal Act is amended—

Commencement  
and cessation of  
contributions.

- (a) by omitting from subsection (1) (a) the words “ first pay-day following the appointed day ” and substituting therefor the words “ appropriate pay-day in his case ”; and  
(b) by inserting after subsection (1) the following subsection:—

“(1A) For the purposes of subsection (1) (a) the appropriate pay-day is—

- (a) in the case of an employee who is a transferred contributor otherwise than by virtue of an election under section 48B, the first pay-day following the appointed day;  
(b) in the case of an employee who is a transferred contributor by virtue of an election under section 48B, the pay-day falling on 1st January 1975 or, if he does not have a pay-day falling on that day, the first pay-day thereafter.”.

**7** Section 25 of the Principal Act is amended—

Rates &c., of  
contributions.

- (a) by omitting from subsection (1) (a) the words “ appointed day ” and substituting therefor “ appropriate day in his case ”; and

- (b) by inserting after subsection (1) the following subsection:—

“(1A) For the purposes of subsection (1) (a) the appropriate day is—

- (a) in the case of a person who is a transferred contributor otherwise than by virtue of an election under section 48B, the appointed day; and  
(b) in the case of a person who is a transferred contributor by virtue of an election under section 48B, 1st January 1975.”.

**8** Section 48 of the Principal Act is amended by adding at the end thereof the following subsection:—

Certain  
information to  
be supplied by  
departments,  
&c.

“(3) Nothing in this section shall be construed as preventing the Board from receiving from any other source information in relation to any of the matters referred to in subsection (1) of this

section, and if that information is verified by statutory declaration the Board is entitled to treat that declaration as conclusive evidence of the matters to which it relates.”.

9 After Division I of Part VI of the Principal Act the following Division is inserted:—

“ *Division IA—Further right of contributors, &c., under the Superannuation Act 1938 to elect to contribute to the Fund.*

Interpretation  
of Division IA.

“ 48A In this Division, ‘ person to whom this Division applies ’ means a person—

(a) who, at the commencement of the *Retirement Benefits Act 1974*, is a contributor within the meaning of the *Superannuation Act 1938*; or

(b) who, not being a person referred to in paragraph (a)—

(i) becomes, after the appointed day but before 1st ~~ppp~~ <sup>10</sup> October 1974, eligible to receive an invalidity pension under the *Superannuation Act 1938*; and

(ii) is subsequently reappointed in a permanent capacity to a position in the service of the State or of an authority of the State.

Further right  
to elect to  
contribute to  
the Fund.

“ 48B—(1) A person to whom this Division applies may notify the Board in writing that he elects to contribute to the Fund.

“(2) A notification referred to in subsection (1) shall be given to the Board—

(a) in the case of a person to whom section 48A (a) relates, within the period commencing on the commencement of the *Retirement Benefits Act 1974* and ending on the 30th September 1974; or

(b) in the case of a person to whom section 48A (b) relates, within the period of three months after the day on which his reappointment takes effect.

“(3) An election notified to the Board under subsection (1) shall be deemed to have been made and to have effect—

(a) at the expiration of a period of three months beginning on the day on which it was so notified; or

(b) on the 1st January 1975,

whichever is the later.

“(4) Subsections (3), (4), (5), (6), (7), and (8) of section 46 apply and have effect in relation to a person to whom this Division applies as if—

- (a) references in those provisions to a person to whom Division I applies were references to a person to whom this Division applies;
- (b) references in those provisions to that section, or subsection (1), or subsection (2) thereof, were references respectively to this section, subsection (1) thereof, and subsection (2) thereof; and
- (c) references in those provisions to the appointed day were references to the commencement of the *Retirement Benefits Act 1974*.

“48C—(1) Where an election is made under section 48B and the person who made the election is, at the time the election takes effect, contributing to the Superannuation Fund for less than his maximum unit entitlement or has at any previous time been contributing thereto for less than his maximum unit entitlement, this Act has effect in relation to any pension payable thereunder to or in respect of him as if the length of his service as an employee before 1st January 1975 were a period ascertained in accordance with the prescribed formula referred to in section 47.

Calculation of past service in certain cases.

“(2) For the purposes of its application to this section, section 47 has effect as if the references therein to the appointed day were references to 1st January 1975.

“48D Subject to the foregoing provisions of this Division, where before an election notified to the Board under section 48B takes effect a pension becomes payable under the *Superannuation Act 1938* to or in respect of the person by whom it was made and, by virtue of section 3 (b), that pension ceases to become payable, such pensions shall, in respect of any period thereafter, be paid to or in respect of him as would have been payable if he had been a contributor under this Act.

Employees dying, retiring, &c., before election takes effect.

“48E Section 48 has effect in relation to a person to whom this Division applies who has made an election under section 48B as it has effect in relation to a person to whom Division I applies who has made an election under section 46.”

Certain information to be supplied by departments.

**10** After section 61 of the Principal Act the following section is inserted in Part VII of that Act:—

“61A—(1) As soon as possible after 30th September 1974, the Actuary shall determine the value of assets that are to be transferred to the Fund from the Superannuation Fund on 1st January 1975 as a consequence of the elections notified to the Board under section 48B on or before the former day.

Transfer of assets from the Superannuation Fund to the Fund as a consequence of further elections.

“(2) In making the determination for the purposes of this section the Actuary shall have regard to actuarial principles and practice and shall take into account all relevant matters.

“(3) On making a determination under this section, the Actuary shall notify the Superannuation Board thereof, in writing, and shall specify the sum that, by virtue of the determination, is payable to the Board.

“(4) As soon as practicable after receipt of a notification under subsection (3), the Superannuation Board with the approval of the Treasurer, shall pay to the Board to the credit of the Fund the sum specified in the notification.

“(5) With the approval of the Treasurer given on the recommendation of the Actuary, the Superannuation Board may, in lieu of paying the whole of the sum referred to in subsection (4) in cash, pay part of that sum in cash and transfer to the Board or if the Board so requests it, to the Trust, securities held by the Superannuation Board and having a book value equal to the balance of that sum.

“(6) Where the whole of the sum referred to in subsection (4) is not paid to the Board on or before 31st December 1974 the Superannuation Board shall pay to the Board compound interest on so much of that sum as remains unpaid calculated from that day with monthly rests at such rate as the Treasurer may determine.”.

Revocation of elections.

**11—(1)** A person who has made an election under section 46 of the Principal Act may, not later than 30th September 1974, by notice in writing to the Board, revoke that election.

(2) Where a person referred to in subsection (1) has died, the right of revocation conferred by that section may be exercised by, if that person leaves a widow surviving, that widow, or, in any other case, the legal personal representative of that person.

(3) Where an election is revoked under this section the relevant legislation, subject to any directions given under subsection (4), shall have effect and be deemed always to have had effect as if the election had not been made.

(4) On the revocation of an election under subsection (1) the Treasurer, acting on the advice of the Actuary, shall give such directions as he considers necessary or desirable in consequence of that revocation with respect to all or any of the following matters, that is to say:—

(a) The financial adjustments to be made between the Superannuation Fund and the Retirement Benefits Fund;



- (b) The payments to be made to either of those funds out of the Consolidated Revenue or by any authority of the State; and
- (c) The contributions to be paid to either of those funds by the person by whom the election was made, and the benefits payable out of either of those funds to or in respect of that person,

and the relevant legislation has effect subject to any such directions.

(5) Where by virtue of this section or any direction given thereunder a person becomes liable, in respect of any period before the revocation of his election, to make contributions payable into the Superannuation Fund he shall, before 1st January 1975 or such later day as the Superannuation Fund Board may determine, pay those contributions to the Superannuation Fund Board in a lump sum or in such other manner as may be arranged by him with the Board.

(6) Where under subsection (4) of this section the Treasurer directs any sum to be paid out of the Consolidated Revenue, that revenue is to the necessary extent appropriated accordingly.

(7) In this section, "relevant legislation" means the Principal Act, the *Superannuation Act 1938*, and any Act amended or affected by either of those Acts.