
RETIREMENT BENEFITS ACT 1977

ANALYSIS

- | | |
|--|---|
| <ol style="list-style-type: none">1. Short title and citation.2. Interpretation.3. Investment of the Fund.4. Rights of contributors for full benefits.5. Rights of contributors for limited benefits.6. Interpretation.
Right of employees of the appropriate authority to elect to contribute to the Fund. | <ol style="list-style-type: none">Certain employees of the appropriate authority not entitled to contribute to prescribed schemes.7. Provisions as to payments in respect of benefits under the <i>Public Servants' Retiring and Death Allowances Act 1925</i>.8. New Schedule.9. Repeal.10. Interpretation of Principal Act. |
|--|---|





RETIREMENT BENEFITS

No. 106 of 1977

AN ACT to amend the Retirement Benefits Act 1970 and the Retirement Benefits Act 1976.

[14 December 1977]

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. 1977.

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

* No. 76 of 1970. Subsequently amended by No. 101 of 1971, No. 33 of 1972, Nos. 32 and 113 of 1974 and No. 93 of 1976.

Interpretation.

2 Section 2 of the Principal Act is amended—

- (a) by inserting in the definition of “employee” in subsection (1), after the word “means” the words “, subject to subsection (1A),”;
- (b) by transposing the word “or” at the end of paragraph (b) of that definition to the end of paragraph (i);
- (c) by adding at the end of that definition the following paragraph:—
- “(j) an employee of the Ambulance Commission of Tasmania, the Fire Brigades Commission of Tasmania or the Inland Fisheries Commission who, having been appointed as such before the second appointed day, has not made an election under section 52B.”;
- (d) by inserting in subsection (1) after the definition of “salary” the following definition:—
- “‘second appointed day’ means such day as the Governor, by order, declares to be the second appointed day for the purposes of the Act;” and
- (e) by inserting after that subsection the following subsections:—
- “(1A) Where a person is employed on or after the commencement of the *Retirement Benefits Act 1977* by any corporation established by an Act he shall be deemed by virtue of that employment to be employed in an undertaking carried on by or on behalf of the State if, but only if—
- (a) by virtue of any Act (other than this Act) that person is in that employment, deemed, for the purposes of this Act or the *Superannuation Act 1938*, to be so employed; or
- (b) that employment is declared by this or any other Act to be employment to which this Act applies.
- “(1B) Employment with any of the bodies specified in the Schedule is declared to be employment to which this Act applies.”.

3 Section 5 of the Principal Act is amended by omitting paragraphs (a) and (b) of subsection (5) and substituting therefor the following paragraphs:— Investment of the Fund.

- “(a) not more than 25 per cent of that sum is, at any one time, invested in the manner permitted by paragraphs (c) and (e) of subsection (3);
- “(b) not more than 20 per cent of that sum is, at any one time, invested in the manner permitted by paragraph (c) of that subsection;
- “(ba) not more than 10 per cent of that sum is, at any one time, invested in the manner permitted by paragraph (e) of that subsection; and”.

4 Section 26 of the Principal Act is amended by inserting in subsection (4) after the word “retire” the words “, on or before 30th June 1979,”. Rights of contributors for full benefits.

5 Section 27 of the Principal Act is amended— Rights of contributors for limited benefits.

- (a) by omitting from subsection (5) the words “age for retirement” and substituting the words “appropriate age”; and
- (b) by inserting after that subsection the following subsection:—
- “(5A) In subsection (5) ‘appropriate age’ means—
- (a) in the case of a male officer (other than a police officer) who attains the age of 63 years on or before 30th June 1979, that age; and
- (b) in any other case, the age for retirement.”.

6 After section 52 of the Principal Act the following Division is inserted in Part VI:—

“Division IV—Special provisions relating to employees of prescribed authorities to which this Division applies

“52A In this Division, unless the contrary intention appears— Interpretation.

‘appropriate authority’ means—

- (a) in the case of an employee of the Ambulance Commission of Tasmania, that Commission;

(b) in the case of an employee of the Fire Brigades Commission of Tasmania, that Commission; or

(c) in the case of an employee of the Inland Fisheries Commission, that Commission;

‘ person to whom this Division applies ’ means a person who, immediately before the second appointed day is an employee of the appropriate authority and is contributing, or is eligible to contribute, to a prescribed scheme;

‘ prescribed scheme ’ means a scheme or fund (being a scheme or fund administered by or on behalf of the appropriate authority or some other prescribed authority) for the provision of pensions or other benefits on death or retirement for employees or their dependants, or both, of—

(a) the Ambulance Commission of Tasmania;

(b) the Fire Brigades Commission of Tasmania; or

(c) the Inland Fisheries Commission.

Right of employees of the appropriate authority to elect to contribute to the Fund.

“ 52B—(1) A person to whom this Division applies may, by notice in writing to the appropriate authority, elect to contribute to the Fund.

“(2) An election under this section shall be made within a period of 6 months after the second appointed day.

“(3) As soon as is practicable after receipt of a notice under subsection (1) the appropriate authority shall notify the Board that the person by whom the notice was given has made an election under this section.

“(4) Where a person to whom this Division applies makes an election under this section he may contribute to the Fund on and subject to the following conditions:—

(a) He may not contribute to the Fund unless he has first produced to the Board such medical certificates as the Board may require or as may be prescribed and the Board, after considering those certificates, admits him either as a contributor for full benefits or as a contributor for limited benefits; and

(b) If he is so admitted, all sums required under this Division to be paid, in relation to him, to the Board by the appropriate authority or by the trustees of a prescribed scheme shall be made within one month after he is so admitted or within such extended time as the Board may allow.

“(5) Where the Board admits a person to whom this Division applies as a contributor to the Fund it shall notify the appropriate authority accordingly and upon being so notified the appropriate authority shall pay to the Board, on behalf of that person, an amount equal to the total amount of that person’s contributions to the relevant prescribed scheme up to the day on which the appropriate authority pays that amount, together with the accumulations of interest thereon (if any) calculated up to that day at a rate determined by the Actuary.

“(6) With the approval of the Treasurer given on the recommendation of the Actuary, the appropriate authority may, in lieu of paying in cash the whole of the sum referred to in subsection (5) pay part of that sum in cash and transfer to the Board securities held by the appropriate authority and having a book value equal to the balance of that sum.

“(7) Where—

- (a) the Board admits a person to whom this Division applies as a contributor to the Fund; and
- (b) the prescribed scheme to which that person contributes is based on the purchase of a policy of endowment life assurance,

the trustees of the scheme shall pay to the Board a sum certified by the insurer to bear the same proportion to the surrender value (as at the relevant date) of the policy effected on that person’s life for the purposes of the scheme, or if the policy is converted to a paid-up policy, to the value (as at that date) of the paid-up policy, as that person’s contributions to the scheme bear to the total amount of the premiums paid in respect of that policy (as at that date).

“(8) The relevant date, for the purposes of subsection (7) is the date on which the person made an election under this section.

“(9) Where a person to whom this Division applies is admitted as a contributor to the Fund—

- (a) his contributions to the Fund shall comprise—
 - (i) an annual sum equal to the annual contribution payable by him immediately before he was admitted as a contributor, by way of contributions to the relevant prescribed scheme or prescribed schemes; or

(ii) an annual sum calculated at the rate of 5½ per cent of the amount of his annual salary for the time being,

whichever is the greater sum; and

(b) he ceases to be entitled to any right or benefit under that scheme or those schemes.

“(10) All sums paid, in relation to a person to whom this Division applies, to the Board by the appropriate authority or by the trustees shall, for the purposes of this Act, be deemed to be contributions by that person to the Fund.

“(11) For the purpose of calculating the pension that is payable under this Act to or in respect of a person who has made an election under this section the period for which that person was a contributor to a prescribed scheme shall be regarded as service within the meaning of this Act; but no service with the appropriate authority while that person was not a contributor to a prescribed scheme shall be deemed to be part of his service.

Certain employees of the appropriate authority not entitled to contribute to prescribed schemes.

“ 52c Notwithstanding anything in any trust deed, policy of life assurance, or other document relating to the establishment, operation, or eligibility for membership of, or liability or eligibility to pay contributions to, a prescribed scheme, a person who becomes an employee of the appropriate authority on or after the second appointed day may not contribute to such a scheme but shall contribute to the Fund as provided in Part IV.”.

Provisions as to payments in respect of benefits under the *Public Servants' Retiring and Death Allowances Act 1925*.

7 Section 63 of the Principal Act is amended by omitting from subsection (1) all the words after the word “ except ” and substituting the words “ in relation to their rights in respect of the amounts referred to in section 44 of the *Superannuation Act 1938* ”.

New Schedule.

8 The Principal Act is amended by adding at the end the following Schedule:—

“ THE SCHEDULE

(Section 2)

“ LIST OF BODIES TO WHICH ACT APPLIES ”

Forestry Commission
 Hydro-Electric Commission
 Tasmanian Racing and Gaming Commission
 Transport Commission ”.

9 Section 3 of the *Retirements Benefits Act* 1976 is repealed. Repeal.

10 Where by an Act passed in the session of Parliament in which this Act is passed the functions of a Commission referred to in Division IV of Part VI of the Principal Act are transferred to another body or authority references in the Principal Act to that Commission shall be construed as references to that body or authority. Interpretation
of Principal
Act.

