

**RETIREMENT BENEFITS AMENDMENT ACT 1993**

No. 38 of 1993

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AN ACT to amend the *Retirement Benefits Act 1982***[Royal Assent 13 August 1993]**

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:—

Short title

1—This Act may be cited as the *Retirement Benefits Amendment Act 1993*.

Commencement

2—This Act is taken to have commenced on 12 October 1992.

Principal Act

3—In this Act, the *Retirement Benefits Act 1982** is referred to as the Principal Act.

Section 82A amended (Duties of responsible officers)

4—Section 82A of the Principal Act is amended by inserting after subsection (5) the following subsections:—

(6) No action lies in respect of the failure by a responsible officer of an Agency or branch—

(a) to notify a person that the person is entitled to elect to become a contributor; or

(b) provide the person with a form of election—

as required under this section or a corresponding previous enactment.

(7) Subsection (6) applies in respect of a failure referred to in that subsection that occurred before, on or after the day on which that subsection commenced notwithstanding that proceedings have been instituted and are pending on that day.

(8) The enactment of subsection (6) does not affect any judgment of a court made before the day on which a Bill for the *Retirement Benefits Amendment Act 1993* was presented to the Parliament.

* No. 10 of 1982. Amended by Acts Nos. 12 and 85 of 1983, No. 29 of 1984, Nos. 22, 51 and 112 of 1985, Nos. 21 and 63 of 1987, No. 5 of 1988, No. 56 of 1989, No. 5 of 1990, Nos. 10 and 48 of 1991 and No. 27 of 1993 and by S.R. 1988, No. 174, S.R. 1989, No. 147 and S.R. 1991, Nos. 56 and 211.

Section 87 amended (Discretionary powers of the Board)

5—Section 87 of the Principal Act is amended by inserting the following subsection after subsection (1):—

(1A) The Board must not exercise its powers under subsection (1)—

- (a) so as to allow a person who, at the time the Board makes a determination under that subsection, is not an employee or is not a person referred to in section 5 (1) or 6 (1) to become a contributor; or
- (b) so as to allow the date on which a person referred to in paragraph (a) became a contributor to be varied.

Section 88 amended (Provision in respect of employees accidentally excluded from contributing)

6—Section 88 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “reached the age for retirement, or has”;
- (b) by omitting from subsection (1) “to or in respect of that employee in accordance with this section.” and substituting “in accordance with this section to—
 - (a) the widow or widower of that deceased employee; and
 - (b) the child of that deceased employee, if the child is a child referred to in section 39.”;
- (c) by omitting subsection (2) and substituting the following subsection:—

(2) For the purposes of subsection (1), “**widow or widower**” includes a person referred to in section 38.
- (d) by omitting from subsection (3) “by the pensioner”;
- (e) by omitting from subsection (3) “by him while he” and substituting “by the deceased employee while he or she”;
- (f) by omitting from subsection (3) all the words following “occurred”;
- (g) by inserting after “subsection (3)” in subsection (4) “or such part of that amount that the Board considers appropriate”;

- (h) by omitting from subsection (4) “pensioner who is required to pay those contributions.” and substituting “widow, widower, person referred to in section 38 or child in respect of the deceased employee.”.

*[Presentation speech made in:—
House of Assembly on 25 May 1993
Legislative Council on 9 June 1993]*