



TASMANIA

**RETIREMENT BENEFITS AMENDMENT (RBFIT
DISSOLUTION) ACT 1995**

No. 5 of 1995

TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 10 amended (Functions of Retirement Benefits Fund Board)
6. Section 12 amended (Power of delegation of Board)
7. Sections 18 to 25 repealed
8. Section 26 amended (Investment of Fund)
9. Section 27 amended (Audit)
10. Section 29 amended (Regulations)
11. Section 29A inserted
29A—Continuation and dissolution of Trust
12. Schedule 3 substituted and Schedules 4 and 5 repealed
Schedule 3—Transitional and savings provisions arising from dissolution of Retirement Benefits Fund Investment Trust
13. Consequential amendment of *Parliamentary Retiring Benefits Act 1985*
14. Consequential amendment of *Parliamentary Superannuation Act 1973*



**RETIREMENT BENEFITS AMENDMENT (RBFIT
DISSOLUTION) ACT 1995**

No. 5 of 1995

AN ACT to amend the *Retirement Benefits Act 1993*

[Royal Assent 10 May 1995]

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 (RBFIT Dissolution) Act 1995*.

Commencement

2—This Act commences on 1 July 1995.

Principal Act

3—In this Act, the *Retirement Benefits Act 1993** is referred to as the Principal Act.

Section 3 amended (Interpretation)

4—Section 3 (1) of the Principal Act is amended as follows:—

- (a) by omitting the definition of “Council”;
- (b) by omitting “continued in existence under section 18” from the definition of “Trust” and substituting “as in existence under this Act on 30 June 1995”.

Section 10 amended (Functions of Retirement Benefits Fund Board)

5—(1) Section 10 (3) (c) of the Principal Act is amended by omitting “or the Trust”.

(2) Section 10 of the Principal Act is further amended by inserting after subsection (3) the following subsection:—

(3A) The Board may make an agreement with the PSRB Trust for employees employed in the administration of this Act to assist in the administration and investment of money standing to the credit of the funds established under the *Parliamentary Superannuation Act 1973* and the *Parliamentary Retiring Benefits Act 1985*.

(3) Section 10 (4) of the Principal Act is amended by omitting “duties.” and substituting “duties or otherwise in the administration of this Act.”.

* No. 103 of 1993. Amended by No. 68 of 1994.

Section 12 amended (Power of delegation of Board)

6—Section 12 (1) of the Principal Act is amended by omitting “Board, the Trust” and substituting “Board”.

Sections 18 to 25 repealed

7—Sections 18 to 25, both inclusive, of the Principal Act are repealed.

Section 26 amended (Investment of Fund)

8—(1) Section 26 of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:—

(3) The Board must, so far as is practicable, invest all money that is paid to it under this Act and that is not required in the administration of this Act.

(2) Section 26 of the Principal Act is further amended as follows:—

- (a) by omitting “the Trust or” from subsection (4) (b);
- (b) by omitting “Subject to any directions given by the Board relating to the investment of money paid by it to the Trust, the Trust” from subsection (5) and substituting “The Board”;
- (c) by omitting “Trust” from subsection (6) and substituting “Board”.

Section 27 amended (Audit)

9—Section 27 of the Principal Act is amended by omitting “and the Trust are” and substituting “is”.

Section 29 amended (Regulations)

10—Section 29 (5) of the Principal Act is amended by inserting after “Act”, firstly occurring, “or the abolition of the Trust”.

Section 29A inserted

11—After section 29 of the Principal Act, the following section is inserted:—

Continuation and dissolution of Trust

29A—(1) The Trust is continued in existence until 31 October 1995 but only for the purpose of providing a statement of accounts and annual report and Schedules 3 and 4, as in force on 30 June 1995, continue to apply with respect to members and meetings of the Trust.

(2) On 31 October 1995 the Trust is dissolved and its members cease to hold office as such.

(3) The transitional and savings provisions specified in Schedule 3 have effect.

Schedule 3 substituted and Schedules 4 and 5 repealed

12—Schedules 3, 4 and 5 to the Principal Act are repealed and the following Schedule is substituted:—

SCHEDULE 3

Section 29A (3)

**TRANSITIONAL AND SAVINGS PROVISIONS ARISING FROM
DISSOLUTION OF RETIREMENT BENEFITS FUND INVESTMENT
TRUST****Transfer of staff of Trust**

1—The Minister may, on the recommendation of the Board and by notice published in the *Gazette* before 1 July 1995, specify persons holding office as officers of the Trust who on that day—

(a) are to become subject to the *Tasmanian State Service Act 1984*; or

(b) are to be employed in the administration of this Act on terms and conditions determined by the Board.

Consequences of transfer of officers of Trust

2—(1) An officer of the Trust who is transferred under clause 1—

- (a) is not entitled to receive any payment or other benefit by reason only of the fact that he or she has ceased to be employed by the Trust; and
- (b) retains all existing and accruing rights to leave as if his or her service as an employee were a continuation of his or her service as an officer of the Trust; and
- (c) if the officer elects, by notice in writing given to the Trust before 30 June 1995, that this paragraph is to apply to him or her, is taken to be compulsorily retired on that day for the purposes of the *Long Service Leave (State Employees) Act 1994*.

(2) Subclause (1) (b) does not apply to the rights of an officer of the Trust to recreation leave or long service leave if arrangements have been made for payment to the officer for loss of those rights.

(3) Where an officer of the Trust is a contributor to the Scheme, nothing in this Schedule is taken to affect his or her rights or obligations as such.

Transfer of property of Trust, &c.

3—(1) On 1 July 1995—

- (a) any estate or interest in land and any money, investments or other property of the Trust are transferred to and vest in the Board; and
- (b) all obligations and liabilities of the Trust that are subsisting before that day become obligations and liabilities of the Board.

(2) On and after 1 July 1995—

- (a) any debt, money or claim, whether liquidated or unliquidated, that, immediately before that day, was payable to, or recoverable by, the Trust is to be a debt, money or a claim payable to, or recoverable by, the Board, as the case may be; and

- (b) any debt due from, money payable by or any other claim, whether liquidated or unliquidated, enforceable against, the Trust immediately before that day becomes a debt due from, money payable by or a claim enforceable against, the Board.

Construction of instruments

4—(1) This clause applies to an instrument which was in force immediately before 1 July 1995 and in which there is a reference to the Trust.

(2) An instrument to which this clause applies has effect on and from 1 July 1995 as if—

- (a) the reference were a reference to the Board; or
(b) if the case so requires, the reference included a reference to the Board—

unless the context or subject-matter of the instrument otherwise indicates or requires.

Continuation of proceedings

5—(1) Any legal or other proceedings that might, before 1 July 1995, have been continued or instituted by, or against, the Trust may, on and after that day, be continued or instituted by, or against, the Board.

(2) A judgment or order of a court obtained in legal proceedings by or against the Trust may be enforced by or, as the case may be, against the Board.

Powers of Board in respect of matters arising under clauses 4 and 5

6—On and after 1 July 1995—

- (a) the Board may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of debts, money and claims referred to in clause 3 (2) that are payable to, or recoverable by, the Board and for the prosecution of proceedings referred to in clause 5 as the Trust might have done but for the enactment of this Schedule; and

- (b) the Board may enforce and realise any security or charge existing immediately before that day in favour of the Trust and may exercise any powers conferred under the security or charge on the Trust as if it were a security or charge in favour of the Board.

Contracts and agreements

7—Any contract, agreement, arrangement or undertaking entered into by the Trust, if not executed, discharged or otherwise terminated before 1 July 1995, is taken to be a contract, agreement, arrangement or undertaking entered into with the Board.

Statement of accounts and annual report

8—It is the duty of the Trust to prepare and submit to the Board before 31 October 1995 a statement of accounts and an annual report relating to the year ended on 30 June 1995 and, for the purposes of this clause, the Board must—

- (a) allow the Trust to have the services of employees and access to all relevant documents and records; and
(b) pay all reasonable costs incurred by the Trust.

Liabilities of Trust

9—Any liability incurred by the Trust under section 23 as in force before 1 July 1995 is to be paid out of the Consolidated Fund without further appropriation than this clause.

Instruments by delegates of Trust

10—An instrument purporting to be signed by a person acting as delegate of the Trust under section 24 as in force before 1 July 1995 in his or her capacity as such a delegate—

- (a) may be received in evidence in all courts and before all persons acting judicially as if it were an instrument executed by the Trust under seal; and
(b) until the contrary is proved, is taken to be an instrument signed by a delegate of the Trust under that section.

Exemption from tax for documents under this Schedule

11—(1) In this clause, “State tax” means application or registration fees, stamp duty or any other tax, duty, fee or charge imposed by any Act or law of Tasmania.

(2) State tax is not payable in respect of any document prepared, or transaction effected, under this Schedule.

Consequential amendment of *Parliamentary Retiring Benefits Act 1985*

13—Section 5 of the *Parliamentary Retiring Benefits Act 1985** is amended by omitting subsection (1) and substituting the following subsection:—

(1) Money standing to the credit of the Fund may be invested by the Trust by arrangement with the Retirement Benefits Fund Board or directly with any investment manager in any manner which the Trust thinks fit.

Consequential amendment of *Parliamentary Superannuation Act 1973*

14—Section 5 of the *Parliamentary Superannuation Act 1973*† is amended by omitting subsection (1) and substituting the following subsection:—

(1) Money standing to the credit of the Fund may be invested by the Trust by arrangement with the Retirement Benefits Fund Board or directly with any investment manager in any manner which the Trust thinks fit.

* No. 106 of 1985. Amended by No. 33 of 1990, No. 48 of 1991 and No. 68 of 1994.

† No. 28 of 1973. Amended by No. 70 of 1973, No. 67 of 1974, No. 41 of 1976, No. 88 of 1979, Nos. 15, 92 and 99 of 1982, No. 29 of 1984, No. 105 of 1985, No. 1 of 1986, No. 57 of 1988, No. 42 of 1989, Nos. 5 and 33 of 1990, No. 48 of 1991 and No. 68 of 1994.

1995

*Retirement Benefits Amendment
(RBFIT Dissolution)*

No. 5

*[Second reading presentation speech made in:—
House of Assembly on 6 April 1995
Legislative Council on 12 April 1995]*

