



TASMANIA

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**RETIREMENT BENEFITS LEGISLATION (MISCELLANEOUS  
AMENDMENTS) ACT 1991**

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**No. 48 of 1991**

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**RETIREMENT BENEFITS LEGISLATION  
(MISCELLANEOUS AMENDMENTS) ACT 1991**

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**No. 48 of 1991**

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**AN ACT to amend the *Retirement Benefits Act 1982*, the *Retirement Benefits Amendment Act 1988*, the *Parliamentary Retiring Benefits Act 1985* and the *Parliamentary Superannuation Act 1973***

**[Royal Assent 18 December 1991]**

**B**E 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:—

**PART 1**

**PRELIMINARY**

**Short title**

**1—**This Act may be cited as the *Retirement Benefits Legislation (Miscellaneous Amendments) Act 1991*.

**Commencement**

2—(1) Sections 40, 41, 44, 45, except paragraph (b), and 49 are taken to have commenced on 1 July 1990.

(2) Sections 10, 24, 25 and 43 are taken to have commenced on 1 July 1991.

(3) Sections 13 and 18 commence on 1 July 1992.

(4) The remaining provisions of this Act commence on the day on which this Act receives the Royal Assent.

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**PART 2**
**AMENDMENTS OF THE RETIREMENT BENEFITS ACT 1982\* AND  
THE RETIREMENT BENEFITS AMENDMENT ACT 1988\*\***
***Division 1—Retirement Benefits Act 1982***
**Section 3 amended (Interpretation)**

3—Section 3 (1) of the *Retirement Benefits Act 1982* is amended as follows:—

(a) by inserting after the definition of “public hospital authority” the following definition:—

“public sector superannuation scheme” means a superannuation scheme established for the benefit of its employees—

(a) by the Government of the Commonwealth, a Territory of the Commonwealth or a State other than Tasmania; or

(b) by a public authority of any such Government—

or any other superannuation scheme that the Treasurer, by order published in the *Gazette*, declares to be a scheme to which section 24 applies;

(b) by omitting the definition of “redundancy agreement”.

\* No. 10 of 1982. Amended by 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 and No. 10 of 1991 and by S.R. 1988, No. 174, S.R. 1989, No. 147 and S.R. 1991, No. 56.

\*\* No. 5 of 1988.

**Section 4 amended (Non-application of Act)**

4—Section 4 of the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting “6 (1);” from subparagraph (ii) of paragraph (b) and substituting “6 (1); or”;
- (b) by inserting after that subparagraph the following subparagraph:—
  - (iiA) who has made an election under section 5A;  
or

**Section 8 amended (Exclusion of certain persons engaged outside the Commonwealth)**

5—Section 8 (5) of the *Retirement Benefits Act 1982* is amended by inserting after “Fund” (second occurring) “together with interest on those contributions as provided by section 90A”.

**Section 9 amended (Power of Governor to appoint Actuary in place of Commonwealth Actuary)**

6—Section 9 of the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting subsection (2);
- (b) by omitting from subsection (3) “his” and substituting “the”.

**Section 11 amended (Provisions with respect to constitution, membership and meetings of the Board)**

7—Section 11 of the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting from subsection (1) “5” and substituting “6”;
- (b) by omitting paragraph (a) of subsection (1) and substituting the following paragraph:—
  - (a) one must be a person nominated by the Treasurer and who is entitled to practise as a barrister under the *Legal Practitioners Act 1959*;

- (c) by inserting after paragraph (b) of that subsection the following paragraph:—
  - (ba) one must be the person undertaking the duties of Commissioner for Public Employment or the nominee of any such person; and
- (d) by omitting “Superannuation Fund” (wherever occurring) in subsection (9) and substituting “SAF”.

**Section 12 amended (Continuation of the Retirement Benefits Fund Investment Trust)**

8—Section 12 (3) of the *Retirement Benefits Act 1982* is amended by omitting “the secretary” and substituting “an officer of the Trust appointed pursuant to section 14”.

**Section 13 amended (Provisions with respect to constitution, membership and meetings of the Trust)**

9—Section 13 of the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting from subsection (4) “Crown Officers Federation of Tasmania” and substituting “Tasmanian Trades and Labor Council”;
- (b) by omitting subsection (8) and substituting the following subsections:—

(8) Subject to subsection (8A), a person holding a position or an office under the *Tasmanian State Service Act 1984* is eligible for appointment as a member of the Trust and may hold office as such a member in conjunction with the office held under that Act.

(8A) A person who is appointed pursuant to section 14 or employed in that part of the Department responsible for the administration of superannuation matters is not eligible for appointment to the Trust.

- (c) by omitting “Superannuation Fund” in subsection (9) and substituting “SAF”.

**Section 19 amended (Annual report)**

10—Section 19 (1) of the *Retirement Benefits Act 1982* is amended by omitting “4” and substituting “5”.



**Section 20 amended (Continuation of the Fund)**

11—Section 20 of the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting from subsection (3) “Board.” and substituting “Board and the Board must conduct a review each year of any directions given by it to the Trust under section 21 (3).”;
- (b) by omitting from subsection (5) (c) “section” and substituting “sections 62 and”.

**Section 21A amended (Provision by Trust of investment management services to SAF Board and Parliamentary Superannuation and Retiring Benefits Trust)**

12—Section 21A of the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting subsection (1) and substituting the following subsections:—

(1) In this section, “the PSRB Trust” means the Parliamentary Superannuation and Retiring Benefits Trust.

**(1A) The Trust—**

- (a) may, alone or in partnership with other persons, enter into an agreement with the SAF Board or the PSRB Trust for the purposes of the investment of money standing to the credit of the Accumulation Fund or any fund maintained for the purposes of the *Parliamentary Retiring Benefits Act 1985* or the *Parliamentary Superannuation Act 1973*; and
  - (b) is entitled to be paid out of any such fund such management fees as are specified in that agreement.
- (b) by omitting from subsection (2) “the Accumulation Fund” and substituting “any fund referred to in subsection (1A)”;
  - (c) by omitting “less” from paragraph (a) of subsection (3) and substituting “greater”;
  - (d) by omitting “(1)” from that subsection and substituting “(1A)”;

- (e) by inserting after “Board” (wherever occurring) in that subsection “or the PSRB Trust”;
- (f) by inserting after “Board” in subsection (5) “or the PSRB Trust”.

### **Section 24 substituted**

13—Section 24 of the *Retirement Benefits Act 1982* is repealed and the following section is substituted:—

#### **Contributions by certain transferred employees**

24—(1) The Board may, with the approval of the Treasurer, enter into agreements with authorities responsible for the management of public sector superannuation schemes to provide reciprocal facilities for—

- (a) contributors under this Act to transfer accrued superannuation rights in the event of transferring employment to employers responsible for those other schemes; and
- (b) contributors to those other schemes to transfer accrued superannuation rights to the 40 years’ service scheme under this Act in the event of transferring employment to an employer under this Act.

(2) For the purpose of subsection (1) (a), the Board may—

- (a) recommend to the Governor that regulations be made to give effect to agreements made by the Board under this section and to provide for and regulate transfers from the Fund of amounts payable in accordance with any such agreements; and
- (b) authorize a payment under section 34A on terms and conditions specified in any such agreement notwithstanding that any such terms and conditions might differ from those applicable to contributors under this Act.

(3) For the purpose of subsection (1) (b), the Board may not enter into an agreement unless the agreement provides that, on transfer from the relevant public sector superannuation scheme, a payment is to be made to the Board of an amount representing the sum of the contributor's contributions and the employer's contributions to that scheme together with interest on those contributions as provided by that scheme.

(4) Where the Board receives an amount under subsection (3), the Actuary must certify to the Board what proportion of the contributor's service is to be recognized as service under this Act as if the contributor had been a contributor to the 40 years' service scheme at the higher rate.

(5) On receipt of the Actuary's certificate under subsection (4), the Board must cause to be paid to the Treasurer to the credit of the Consolidated Fund or to the authority of the State by which the contributor is employed, a sum equal to 5/7ths of the amount received by the Board pursuant to subsection (3).

(6) If, at any time after an amount is transferred to the Board under subsection (3), an employee resigns from the Fund without giving notice as provided by section 34A (2) (b), the Treasurer or the authority of the State must cause to be paid to a fund authorized under the *Occupational Superannuation Standards Act 1987* of the Commonwealth to receive compulsorily preserved benefits—

- (a) the amount paid to the Treasurer or the authority under subsection (5); and
- (b) an additional amount representing the interest payable under section 90A on the amount referred to in paragraph (a) of this subsection.

**Section 25 amended (Commencement and cessation of contributions)**

14—Section 25 of the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting subsections (3), (4) and (5) and substituting the following subsection:—

(3) Except as provided in subsection (6), an employee's contributions cease to be payable on the day on which he or she ceases, for any reason, to be an employee or attains the age of 65 years, whichever is the earlier.

(b) by omitting "for retirement" from subsection (6) (b) and substituting "of 65 years";

(c) by omitting subsection (7).

#### **Section 28 amended (Rates of contributions and related matters)**

15—Section 28 (1) (b) of the *Retirement Benefits Act 1982* is amended by omitting "5" and substituting "5, 5A".

#### **Section 29 amended (Addition of years of service)**

16—Section 29 (5) of the *Retirement Benefits Act 1982* is amended by omitting "5" and substituting "5, 5A".

#### **Section 33 amended (Special provisions as to benefits on compulsory retirement)**

17—Section 33 of the *Retirement Benefits Act 1982* is amended as follows:—

(a) by omitting subsection (3A) and substituting the following subsection:—

(3A) A reduction is not to be made under subsection (3) if, at the time when the contributor becomes entitled to the pension, the pension is equal to two-thirds of his or her annual average salary in the year immediately preceding his or her retirement.

(b) by omitting subsection (7) and substituting the following subsection:—

(7) For the purposes of subsection (6) (a) and (b) (i), the amount of contribution is to be assessed as including the amount of any interest accrued in respect of those contributions.

**Section 34A inserted**

18—After section 34 of the *Retirement Benefits Act 1982*, the following section is inserted in Division 1 of Part V:—

**Payment to public sector superannuation schemes**

34A—(1) In this section, “prescribed sum of money” means—

- (a) in the case of a contributor to the 40 years’ service scheme or an amalgamated contributor, a sum equal to  $3\frac{1}{2}$  times the total amount of his or her contributions to the Fund including any interest accrued in respect of those contributions; or
- (b) in the case of a contributor to the 35 years’ service scheme or the 30 years’ service scheme, a sum equal to the total of the following amounts:—
  - (i)  $3\frac{1}{2}$  times that part of his or her total contributions to the Fund that the contributor would have paid if he or she had always been a contributor to the 40 years’ service scheme, including any interest accrued in respect of those contributions;
  - (ii) the amount of the refund of the balance of his or her total contributions to the Fund (being an amount attributable to both the 35 years’ and the 30 years’ service schemes, as the case requires), together with interest on that amount as provided by section 90A; or
- (c) in the case of a provident fund contributor, a sum equal to twice the total amount of that contributor’s contributions to the Fund, including any interest accrued in respect of those contributions.

(2) Where—

- (a) a person to whom section 35 (1) (a) relates ceases to be a contributor; and

- (b) within 3 months after so ceasing or within such other period as the Board may allow, that person notifies the Board in writing that he or she has become a member of a public sector superannuation scheme with which the Board has an agreement under section 24—

the Board must, on receipt of that notice, make a payment out of the Fund of a prescribed sum of money to that scheme instead of paying benefits under section 35 but, in making that payment, the Board must take into account any amount already paid under that section.

### **Section 35 amended (Refund of contributions)**

19—Section 35 (4) (b) (i) of the *Retirement Benefits Act 1982* is amended by inserting “together with interest on those contributions as provided by section 90A” after “scheme”.

### **Section 36 amended (Widows' pensions)**

20—Section 36 of the *Retirement Benefits Act 1982* is amended by omitting subsections (9) and (10).

### **Section 40 amended (Rate of child's pension)**

21—Section 40 (1) (a) of the *Retirement Benefits Act 1982* is amended by inserting “due to total and permanent incapacity” after “pension” (last occurring).

### **Section 43 amended (Interpretation: Division 5 of Part V)**

22—Section 43 of the *Retirement Benefits Act 1982* is amended by omitting “Hobart” in the definition of “Index” and substituting “All Capital Cities”.

**Section 50 amended (Right of contributor to convert whole or part of pension entitlement into lump sum payment)**

23—Section 50 of the *Retirement Benefits Act 1982* is amended as follows:—

(a) by omitting subsections (3) and (3A) and substituting the following subsection:—

(3) An election under this section by a contributor is to be made within the period of 3 months preceding the date of the contributor's retirement by notice in writing given to the Board stating, as the case may be—

(a) that, where the contributor's pension entitlement is less than \$76 a week, or in the case of a contributor to whom section 33 applies, less than \$200 a week, the whole of that entitlement is to be converted into a lump sum payment; or

(b) that, where the contributor's pension entitlement is \$76 or more a week or, in the case of a contributor to whom section 33 applies, \$200 or more a week—

(i) the percentage of the contributor's pension entitlement specified in the notice (being a percentage of that entitlement not exceeding 50 per cent) is to be converted into a lump sum payment; or

(ii) the percentage of the contributor's pension entitlement specified in the notice (being a percentage of that entitlement exceeding 50 per cent) is to be converted into a lump sum payment; or

(iii) the whole of the contributor's pension entitlement is to be converted into a lump sum payment.

(b) by omitting from subsection (3B) “(c) and (d)” and substituting “(a) and (b)”;

(c) by inserting after “payments” in subsection (10) (b) “together with interest on those payments as provided by section 90A”.

**Section 62 amended (Cost of administration)**

24—Section 62 (1) of the *Retirement Benefits Act 1982* is amended by omitting “money provided by Parliament” and substituting “the Fund”.

**Section 62A amended (Recovery of administration costs by Consolidated Fund)**

25—Section 62A of the *Retirement Benefits Act 1982* is amended by omitting subsections (3A), (3B) and (4) and substituting the following subsections:—

(2) The Board must pay out of the Fund such proportion of the expenses incurred in the administration of the Branch as relates to the Fund in respect of the month of July 1991 and each succeeding month.

(3) An amount required to be paid by subsection (2) is to be paid to the Treasurer to the credit of the Public Account.

**Section 63 amended (Contributions to the Fund by the State and by State authorities)**

26—Section 63 (3) of the *Retirement Benefits Act 1982* is amended by omitting “Revenue”.

**Section 64 amended (Appropriation)**

27—Section 64 of the *Retirement Benefits Act 1982* is amended by omitting subsection (1) and substituting the following subsection:—

(1) A contribution that is required by this Act to be paid to the Fund by the Treasurer in respect of the financial year commenced on 1 July 1991 or any subsequent financial year is to be paid by the Treasurer out of the Public Account.

**Section 64A repealed**

28—Section 64A of the *Retirement Benefits Act 1982* is repealed.



**Section 72 amended (Application of the *Public Servants' Retiring and Death Allowances Act 1925*)**

29—Section 72 (3) of the *Retirement Benefits Act 1982* is amended by omitting paragraph (e) and substituting the following paragraphs:—

- (e) who has made an election in accordance with section 61B or 61D (1); or
- (f) who has made, or is taken to have made, an election in accordance with section 61BA.

**Section 76 amended (False declarations, &c.)**

30—Section 76 (3) of the *Retirement Benefits Act 1982* is amended by inserting “together with interest on those contributions as provided by section 90A” after “contributions”.

**Section 84A amended (Restriction on liens over benefits)**

31—Section 84A of the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting “A” and substituting “(1) A”;
- (b) by adding the following subsection:—
  - (2) An entitlement under this Act—
    - (a) is not available as security for a loan; and
    - (b) on the death of the person entitled to that money, is not available as an asset in his or her estate for the payment of his or her debts or liabilities.

**Section 92 amended (Re-employment under the *Crown Servants' Reinstatement Act 1970*)**

32—Section 92 of the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting from subsection (1) “contributions, but the Board shall retain them.” and substituting “contributions together with interest on those contributions as provided by section 90A.”;

- (b) by omitting from subsection (2) “immediately.” and substituting “immediately together with interest on those contributions as provided by section 90A.”;
- (c) by inserting in subsection (3) (a) “together with interest on those contributions as provided by section 90A” after “immediately”;
- (d) by inserting in subsection (3) (b) (i) “together with interest on those contributions as provided by section 90A” after “contributions”;
- (e) by omitting subsection (4) and substituting the following subsection:—
  - (4) In respect of the period between the date on which a contributor terminated his or her service as provided in subsection (1) and the date on which he or she was reappointed, the contributor has no right to any benefit under this Act, except the right to a refund of his or her contributions with interest as mentioned in subsections (2) and (3).
- (f) by inserting in subsection (5) “with interest, as mentioned in this section,” after “contributions”.

**Schedule 3 amended (Rates of contributions and related matters)**

**33**—Schedule 3 to the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by inserting after “given” in clause 6 (2) “together with interest on those contributions as provided by section 90A”;
- (b) by omitting from clause 7 (1) “Subject to subclause (2), where” and substituting “Where”;
- (c) by omitting from clause 8 (1) “Subject to subclause (3), an” and substituting “An”;
- (d) by omitting from clause 8 (4) “, under subclause (3),”;
- (e) by inserting after “scheme” (lastly occurring) in clause 9 (4) “together with interest on those contributions as provided by section 90A”.

**Schedule 4 amended (Calculation of pensions payable to contributors for full benefits, other than amalgamated contributors)**

**34**—Schedule 4 to the *Retirement Benefits Act 1982* is amended by omitting subclause (2) from clause 12 and substituting the following subclause:—

(2) A pension is not payable under subclause (1) until the contributor ceases to be an employee or attains the age of 70 years, whichever is the earlier.

**Schedule 5 amended (Benefits of contributors for limited benefits, other than amalgamated contributors)**

**35**—Schedule 5 to the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting “(1)” from clause 2 (1);
- (b) by omitting from paragraph (c) of that clause, as amended by paragraph (a) of this section, “Fund, together with interest on that amount as provided by section 90A” and substituting “Fund;”;
- (c) by omitting from clause 2A “subclause (2) (d) (i)” and substituting “clause 2 (c) and (d) (i)”.

**Schedule 6 amended (Benefits of amalgamated contributors)**

**36**—Schedule 6 to the *Retirement Benefits Act 1982* is amended as follows:—

- (a) by omitting from clause 3 (4) “Except in the case of a person who receives a benefit under the redundancy agreement, an” and substituting “An”;
- (b) by omitting subclauses (8) and (8A) from clause 3 and substituting the following subclause:—

(8) A contributor to whom paragraph (a) of subclause (1) relates and who is entitled to a pension under that subclause may elect, by notice in writing to the Board, within one month before his or her retirement, to receive the actuarial equivalent of that pension in a lump sum payment being an amount equal to 3½ times the total amount of the contributor’s contributions to the Fund including interest on those contributions as provided by section 90A.

**Schedule 7 amended (Transitional and savings provisions)**

37—Schedule 7 to the *Retirement Benefits Act 1982* is amended by inserting in clause 18, after subclause (1B), the following subclause:—

- (1C) Where a woman makes an election under subclause (1) (a) (i), the Board may refund to her a sum equal to her total contributions to the Fund together with interest on those contributions as provided by section 90A.

***Division 2—Retirement Benefits Amendment Act 1988*****Section 27 of the *Retirement Benefits Amendment Act 1988* amended (Financial provisions)**

38—Section 27 of the *Retirement Benefits Amendment Act 1988* is amended as follows:—

- (a) by omitting from paragraph (b) of subsection (3) “loans.” and substituting “loans; and”;
- (b) by inserting after that paragraph the following paragraph:—
- (c) an administration fee representing the expense incurred by the Board in the administration of the Principal Act so far as it relates to provident fund contributors.

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**PART 3****AMENDMENTS OF THE PARLIAMENTARY RETIRING BENEFITS  
ACT 1985\*****Section 5 substituted**

39—Section 5 of the *Parliamentary Retiring Benefits Act 1985* is repealed and the following section is substituted:—

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\* No. 106 of 1985. Amended by No. 33 of 1990.

**Investment of the Fund**

5—(1) Money standing to the credit of the Fund may be invested by the Trust with the Retirement Benefits Fund Investment Trust continued under the *Retirement Benefits Act 1982* or with any investment manager in any manner which the Trust thinks fit.

(2) The Trust may engage such managers, financial and legal advisers and other experts in and in relation to the management of the investments of the Fund as it considers necessary.

(3) The Trust may authorize an investment manager to perform the powers and duties of the Trust with respect to all or part of the money of the Fund available for investment.

(4) Whether or not the Trust appoints an investment manager, it must conduct a review every 12 months of its investment policy and the management and performance of its investments.

(5) No part of the Fund may be lent to a person who is a member of the Fund.

**Section 10 amended (Deduction of contributions from salaries of members)**

40—Section 10 (1) of the *Parliamentary Retiring Benefits Act 1985* is amended by inserting “and ceasing when the member attains the age of 65 years or ceases to be a member, whichever is the earlier” after “member”.

**Section 14 amended (Payment of retiring benefit)**

41—Section 14 of the *Parliamentary Retiring Benefits Act 1985* is amended as follows:—

- (a) by inserting after “person” in subsection (1) “under the age of 65 years and”;

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

(3) The Trust must, out of the Fund, pay to a person who has attained the age of 65 years and who is entitled to a retiring benefit a lump sum payment calculated in accordance with subsection (1) less an amount calculated in accordance with the following formula:—

$$P = \frac{(K-L)}{4} \times FS \times \frac{2}{7}$$

where—

“P” is the amount to be paid; and

“K” is the total years of service of that person as a member; and

“L” is that person’s years of service at the age of 65 years; and

“FS” is the final salary of that person determined in accordance with section 12.

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## PART 4

### AMENDMENTS OF THE PARLIAMENTARY SUPERANNUATION ACT 1973\*

#### Section 5 substituted

42—Section 5 of the *Parliamentary Superannuation Act 1973* is repealed and the following section is substituted:—

#### Investment of the Fund

5—(1) Money standing to the credit of the Fund may be invested by the Trust with the Retirement Benefits Fund Investment Trust continued under the *Retirement Benefits Act 1982* or with any investment manager in any manner which the Trust thinks fit.

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\* 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, Nos. 51 and 105 of 1985, No. 1 of 1986, No. 57 of 1988, No. 42 of 1989 and Nos. 5 and 33 of 1990. Affected by No. 62 of 1983 and No. 41 of 1985.

(2) The Trust may engage such managers, financial and legal advisers and other experts in and in relation to the management of the investments of the Fund as it considers necessary.

(3) The Trust may authorize an investment manager to perform the powers and duties of the Trust with respect to all or part of the money of the Fund available for investment.

(4) Whether or not the Trust appoints an investment manager, it must conduct a review every 12 months of its investment policy and the management and performance of its investments.

(5) No part of the Fund may be lent to a person who is a member of the Fund.

#### **Section 9A amended (Annual report)**

**43**—Section 9A (1) of the *Parliamentary Superannuation Act 1973* is amended by omitting “4” and substituting “5”.

#### **Section 14 amended (Deduction of contributions from salaries of members)**

**44**—Section 14 (1) of the *Parliamentary Superannuation Act 1973* is amended by inserting “and ceasing when the member attains the age of 65 years or ceases to be a member, whichever is the earlier” after “day”.

#### **Section 16 amended (Members’ superannuation pensions)**

**45**—Section 16 of the *Parliamentary Superannuation Act 1973* is amended as follows:—

- (a) by omitting from subsection (3) “A pension to which a person is entitled under this section” and substituting “Where a person who at the date of retirement is aged 65 years or less is entitled to a pension under this section, the pension”;
- (b) by omitting from the definition of “A” in that subsection “for the time being”;

- (c) by inserting after that subsection the following subsection:—

(3A) Where a person has at the date of retirement attained the age of 65 years and is entitled to a pension under this section, the pension is payable at a rate determined in accordance with the following formula:—

$$P = E - \left[ (E - F) \times \frac{2}{7} \right]$$

where—

- “P” represents the pension payable under this subsection; and  
 “E” represents the pension that would be payable under subsection (3); and  
 “F” represents the pension that would have been payable under that subsection if the person had retired on attaining the age of 65 years.

**Section 19 amended (Pension for spouse of deceased member or former member)**

**46**—Section 19 of the *Parliamentary Superannuation Act 1973* is amended as follows:—

- (a) by omitting from subsection (2) (b) “salary for the time being,” and substituting “salary—”;  
 (b) by omitting from subsection (3) (b) “salary for the time being,” and substituting “salary—”;  
 (c) by omitting from subsection (4) “salary for the time being.” and substituting “salary.”;  
 (d) by omitting from subsection (5) “section, unless sooner suspended,” and substituting “section”;  
 (e) by omitting subsections (6) and (8).

**Section 20 amended (Children’s pensions)**

**47**—Section 20 of the *Parliamentary Superannuation Act 1973* is amended by omitting subsection (5).



**Insertion of Division IIIAA in Part IV**

48—After section 22 of the *Parliamentary Superannuation Act 1973* the following Division is inserted:—

***Division IIIAA—Adjustment of Pensions*****Interpretation**

22AA—In this Division, unless the contrary intention appears—

“basic rate”, in relation to a pension, means the rate at which the pension is or was payable on 31 December 1991;

“half-year” means a period of 6 months commencing on 1 July or 1 January;

“Index” means the table described as the “Consumer Price Index Numbers—All Groups, All Capital Cities” that is published by the Commonwealth Statistician under the authority of the *Census and Statistics Act 1905* of the Commonwealth;

“pay-day” means a day on which a fortnightly instalment of a pension is payable pursuant to section 26;

“quarter” means a period of 3 months commencing on 1 July, 1 October, 1 January or 1 April.

**Half-yearly adjustment of pensions**

22AB—(1) Subject to this section, a pension under this Act is to be adjusted by the Trust in accordance with this section in each half-year commencing on 1 January 1992.

(2) The Government Statistician must, as soon as practicable after the end of the first quarter in each half-year, give to the Treasurer a notice specifying the percentage by which the Index for that quarter is greater or less than the Index for the first quarter of the last preceding half-year.

(3) On receipt of a notice under subsection (2), the Treasurer must, by order—

(a) declare the percentage by which pensions are to be adjusted (whether by way of increase or decrease) in respect of the half-year following the half-year first mentioned in that subsection; or

(b) if, by reason of the operation of subsection (9), no adjustment is to be made in respect of that half-year, declare that pensions are not to be adjusted in respect of that half-year.

(4) A percentage declared under subsection (3) (a) in respect of a half-year is to be the same as the percentage specified in the notice given to the Treasurer under subsection (2).

(5) An adjustment of a pension in respect of any half-year made under this section is to be made—

- (a) by increasing, or as the case may require, by decreasing, the rate at which, immediately before the making of the adjustment, the pension was payable by the percentage declared in respect of that half-year under subsection (3); and
- (b) so as to operate from and including the first pay-day in that half-year.

(6) The following provisions apply to the first adjustment pursuant to this section of a pension that first becomes payable after 1 January 1992:—

- (a) in the case of a pension that comes into force during the second quarter of any half-year, the first adjustment to that pension is to be made so as to operate from the first pay-day after the end of the half-year next following that half-year;
- (b) in the case of a pension that comes into force during the first quarter of any half-year, the first adjustment to that pension is to be made so as to operate from the first pay-day after the end of that half-year;
- (c) the annual amount by which such a pension is to be increased or decreased is to be calculated in accordance with the prescribed formula.

(7) For the purposes of paragraph (c) of subsection (6), the prescribed formula is the formula—

$$P = A \times \frac{B}{182}$$

where—

- “P” represents the annual amount referred to in that paragraph; and
- “A” represents the amount by which, but for the operation of that subsection, the pension would have been increased or decreased; and
- “B” represents the number of days falling within the period beginning with the day on which the pension came into force and ending—

- (a) if that day falls within the second quarter of any half-year, at the end of the first quarter of the half-year next following; or
- (b) if that day falls within the first quarter of any half-year, at the end of that quarter.

(8) In their application to a widow's pension, a widower's pension or a child's pension that becomes payable as a consequence of the death of a pensioner, subsections (6) and (7) have effect as if that pension came into force when the pension payable to that pensioner came into force.

(9) Except as provided in subsection (10), where the percentage specified in a notice under subsection (2) in respect of a half-year is less than one per cent, no adjustment of pensions is to be made in respect of that half-year.

(10) Where each of the percentages specified in a notice under subsection (2) in respect of any 2 or more successive half-years is less than one per cent but those percentages are, in the aggregate, equal to, or greater than, one per cent (whether by way of an increase or a decrease), pensions are to be adjusted in respect of the latest of those half-years as if the percentage declared in respect of that half-year were a percentage equal to that aggregate.

(11) Nothing in this section requires the rate of a pension to be decreased below the basic rate and if, by reason of the making of an adjustment under this section, the rate of a pension would be so decreased, that pension, until it is next increased to a rate exceeding the basic rate by reason of the making of such an adjustment, is to be taken to be payable at the basic rate.

(12) Where—

- (a) by reason solely of the operation of subsection (11), a pension is being paid at the basic rate; and
- (b) an adjustment, by way of increase, is required to be made to the rate of that pension in respect of any half-year—

that adjustment is to be made as if, immediately before the making of the adjustment, the pension were payable at the rate at which, but for the operation of that subsection, it would have been payable.

**Section 25 amended (Suspension of pensions)**

**49**—Section 25 of the *Parliamentary Superannuation Act 1973* is amended by omitting subsection (5).

**Section 27 amended (Pensions not assignable)**

**50**—Section 27 of the *Parliamentary Superannuation Act 1973* is amended as follows:—

(a) by inserting after subsection (1) the following subsection:—

(1A) A pension under this Act—

(a) is not available as security for a loan; and

(b) on the death of the person entitled to the pension is not available as an asset in his or her estate for the payment of his or her debts or liabilities.

(b) by inserting “or (1A)” after “(1)” in subsection (2).

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**PART 5****SAVINGS AND TRANSITIONAL PROVISIONS****Interpretation: Part 5**

**51**—Expressions used in this Part have the same meanings as in the *Retirement Benefits Act 1982* and the application of section 37 of that Act extends accordingly.

**Savings**

**52**—(1) The amendments made by section 7 do not affect the tenure or term of office of the member of the Board holding office as such under section 11 (1) (a) of the *Retirement Benefits Act 1982* immediately before the date on which this Act receives the Royal Assent.

(2) The amendments made by section 9 do not affect the tenure or term of office of the member of the Trust holding office as such under section 13 (1) (d) of the *Retirement Benefits Act 1982* immediately before the date on which this Act receives the Royal Assent.

(3) Where—

(a) a woman was entitled, as the widow of a contributor or pensioner, to a pension under the *Superannuation Act 1938*, the *Retirement Benefits Act 1970* or the *Retirement Benefits Act 1982*; and

(b) that entitlement has ceased by virtue of subsection (9) of section 36 of the *Retirement Benefits Act 1982* as in force immediately before 1 July 1991—

that woman, if otherwise entitled under that section, is to be taken to be entitled to the pension on and from 1 July 1990 as if that pension had not been suspended.

(4) Section 52 of the *Retirement Benefits Act 1982* does not apply to a woman to whom subsection (3) of this section applies.

(5) A payment to a person referred to in section 61BA (1) of the *Retirement Benefits Act 1982* made on or after 21 December 1989 which would have been valid pursuant to section 72 of that Act as amended by section 29 of this Act is validated.

(6) Where—

(a) on or after 1 July 1982 a payment was made to a woman referred to in clause 18 (1c) of Schedule 7 to the *Retirement Benefits Act 1982* as amended by this Act; and

(b) the payment would have been valid if the amendment made by section 37 of this Act had then been in force—

the payment is validated.

**Transitional**

**53**—A person who—

- (a) having been a contributor, has retired and is in receipt of a pension; and
- (b) has attained the age of 55 years but had not attained the age of 56 years on the date on which this Act receives the Royal Assent—

may, within the period of 3 months after that date or within such other period as the Board may allow, make an election to convert the whole or part of his or her pension entitlement into a lump sum payment as provided by section 50 of the *Retirement Benefits Act 1982*.