

**PUBLIC SERVANTS' RETIRING AND DEATH  
ALLOWANCES AMENDMENT ACT 1983**

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**No. 50 of 1983**

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**No. 50 of 1983**

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**AN ACT to amend the Public Servants' Retiring and Death Allowances Act 1925 to make further provision in relation to the payment of allowances in respect of the retirement or death of public servants and for other purposes.**

**[Royal Assent 17 November 1983]**

**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**—This Act may be cited as the *Public Servants' Retiring and Death Allowances Amendment Act 1983*. Short title.

**2**—This Act shall be deemed to have commenced on 1st November 1983. Commence-  
ment.

**3**—In this Act, the *Public Servants' Retiring and Death Allowances Act 1925*\* is referred to as the Principal Act. Principal Act.

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\* 16 Geo. V No. 11. For this Act, as amended to 1959, see Volume 4 of the Reprint of Statutes (1826-1959), p. 921. Subsequently amended by No. 14 of 1969, No. 45 of 1970, No. 105 of 1977, No. 61 of 1979, and Nos. 10 and 93 of 1982.

Amendment of  
section 2 of  
Principal Act  
(Interpreta-  
tion).

**4—**(1) Section 2 of the Principal Act is amended by inserting the following definition before the definition of “ public hospitals authority ”:—

“ employing authority ” means—

- (a) in the case of a public servant employed in a department of the Public Service, the permanent head of that department;
- (b) in the case of a public servant employed by an authority of the State, that authority; and
- (c) in the case of a public servant employed by a public hospitals authority, that authority;

(2) Section 2 of the Principal Act is further amended by omitting paragraph (c) in the definition of “ public servant ” and substituting the following paragraph:—

- (c) a person to whom this Act does not apply by virtue of the operation of section 72 of the *Retirement Benefits Act 1982*;

Amendment of  
section 2A of  
Principal Act  
(Application  
of Act).

**5—**Section 2A of the Principal Act is amended as follows:—

- (a) by omitting “ a public servant ” from subsection (1) and substituting “ a person ”;
- (b) by omitting “ the public servant ” from subsection (2) and substituting “ the person ”;
- (c) by omitting “ the public servant ” from subsection (3) and substituting “ the person making the application ”.

Insertion in  
Principal Act  
of new sections  
2B and 2C.

**6—**After section 2A of the Principal Act, the following sections are inserted:—

Duty of  
employing  
authority to  
inform public  
servant of his  
rights, &c.

**2B—**The employing authority of a public servant shall—

- (a) in the case of a person employed in the Public Service on 1st November 1983, within 2 months after that date; or

- (b) in the case of a person commencing employment in the Public Service after 1st November 1983, within 2 months after the day on which he commences that employment,

send, or cause to be sent, to that public servant a written notice specifying the rights and duties of a public servant under this Act.

2c—(1) Subject to subsection (4), a public servant shall, by notice in writing to his employing authority, elect—

Public servant to elect to be considered eligible for allowance under section 3 or 4.

- (a) in the case of a person employed in the Public Service on 1st November 1983, within 2 months after that date or after receiving the written notice specified in section 2B, whichever occurs later, whether or not he is to be considered, in respect of his service subsequent to 30th June 1983, for eligibility for an allowance under section 3 or 4 upon his retirement or death; or

- (b) in the case of a person commencing employment in the Public Service after 1st November 1983, within 2 months after—

(i) the day on which he commenced employment in the Public Service;

(ii) the day on which he received notification that he was ineligible to contribute to the Retirement Benefits Fund under the provisions of the *Retirement Benefits Act* 1982; or

(iii) the day on which he received the written notice specified in section 2B,

whichever occurs later, whether or not he is to be considered for eligibility for an allowance under section 3 or 4 upon his retirement or death.

(2) Where a public servant, or his executor on his behalf, has elected, in accordance with subsection (1), (4), or (5) that he is not to be considered for eligibility for an allowance under section 3 or 4 upon his retirement or death, that public servant shall not be eligible to receive, in respect of his service subsequent to 30th June 1983, an allowance under section 3 or 4.

(3) Subject to subsection (4), where a public servant fails to make an election in accordance with subsection (1), that public servant is deemed to have elected that he is not to be considered for eligibility for an allowance under section 3 or 4.

(4) Where the Treasurer is satisfied that a public servant has not been supplied with the written notice specified in section 2B in accordance with that section, that public servant, or his executor on his behalf, may, at any time, elect whether or not he is to be considered for eligibility for an allowance under section 3 or 4 upon his retirement or death.

(5) Where a public servant has elected, in accordance with subsection (1) or (4), that he is to be considered for eligibility for an allowance under section 3 or 4 upon his retirement or death, he may, at any time after having made that election, by notice in writing addressed to his employing authority, elect that he is not to be considered eligible for an allowance under section 3 or 4 upon his retirement or death.

Amendment of  
section 3 of  
Principal Act  
(Retiring  
allowances to  
public  
servants).

**7**—Section 3 of the Principal Act is amended as follows:—

- (a) by omitting “unnecessary;” from subsection (1) (b) (iii) and substituting “unnecessary; or”;
- (b) by omitting paragraphs (c) and (d) of subsection (1) and substituting the following paragraph:—
  - (c) having attained the age of 55 years, voluntarily retires,
- (c) by omitting “Such allowance” from subsection (2) and substituting “Subject to subsection (3), an allowance payable under subsection (1)”;
- (d) by omitting subsection (3) and substituting the following subsections:—

(3) Where a male public servant, not being a police officer, voluntarily retires during the prescribed period, the amount of the allowance to which that public servant is entitled to under this section shall be reduced by 1 per cent for each 3 months or part of 3 months by which that public servant retires before attaining the age of 60 years.

(4) For the purposes of this section, "prescribed period", in relation to the retirement of a public servant, means the period commencing on the day on which the public servant attains the age of 55 years and ending on the day immediately preceeding that on which the public servant will attain the age of 60 years.

**8**—(1) Section 4AA (1) of the Principal Act is amended by omitting "Subject to subsection (3), where" and substituting "Where".

Amendment of section 4AA of Principal Act (Reimbursement of allowances paid to or in respect of certain public servants).

(2) Section 4AA of the Principal Act is further amended by omitting subsection (3).

**9**—Section 4A of the Principal Act is amended as follows:—

Amendment of section 4A of Principal Act (Broken service).

- (a) by omitting "Superannuation Fund Board" from subsection (1) and substituting "Retirement Benefits Fund Board";
- (b) by omitting "*Superannuation Act 1938*" from subsection (2) and substituting "*Retirement Benefits Act 1982*";
- (c) by omitting "three months" from subsection (3) and substituting "3 months".

