



RETIREMENT BENEFITS ACT 1993

No. 103 of 1993

TABLE OF PROVISIONS

PART 1

PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Act binds Crown
5. Objects of Act
6. Application of Commonwealth law

PART 2

ADMINISTRATION

7. Continuation of Retirement Benefits Fund Board
8. Constitution of Board
9. Suspension and removal of members of Board
10. Functions of Retirement Benefits Fund Board
11. Continuation of Retirement Benefits Fund
12. Power of delegation of Board
13. Appropriation and Treasurer's guarantee
14. Actuarial investigation of Fund
15. Continuation of SAF Board
16. Dissolution of SAF Board
17. Savings

PART 3

INVESTMENT ARRANGEMENTS

18. Continuation of Retirement Benefits Fund Investment Trust
19. Constitution, membership and meetings of Trust
20. Powers and duties of Trust
21. Duty of Trust to give information and undertakings to Board
22. Suspension and removal of members of Trust
23. Protection for members and officers of Trust
24. Power of delegation of Trust
25. Investment management services for Parliamentary Superannuation and Retiring Benefits Trust
26. Investment of Fund

PART 4

MISCELLANEOUS AND SUPPLEMENTAL

27. Audit
28. Power of Treasurer to approve transfer arrangements
29. Regulations
30. Amendment of Acts
31. Transitional and savings provisions
32. Repeals
33. Administration of Act

SCHEDULE 1

MEMBERSHIP OF BOARD

SCHEDULE 2

MEETINGS OF BOARD

SCHEDULE 3

MEMBERSHIP OF TRUST

SCHEDULE 4

MEETINGS OF TRUST

SCHEDULE 5

APPOINTMENT AND TERMS AND CONDITIONS OF EMPLOYMENT OF OFFICERS
OF TRUST

1993

Retirement Benefits

No. 103

SCHEDULE 6

AMENDMENT OF ACTS

SCHEDULE 7

AMENDMENT OF RETIREMENT BENEFITS ACT 1982

SCHEDULE 8

TRANSITIONAL AND SAVINGS PROVISIONS

SCHEDULE 9

ACTS REPEALED



RETIREMENT BENEFITS ACT 1993

No. 103 of 1993

AN ACT to provide for superannuation benefits for persons employed by the State or State authorities and for the spouses and beneficiaries of those persons in certain cases, to provide for the winding up of the Superannuation Accumulation Fund scheme, to amend and repeal the *Retirements Benefits Act 1982*, to amend other Acts and to repeal the *Public Servants' Retiring and Death Allowances Act 1925*

[Royal Assent 23 December 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:—

PART 1

PRELIMINARY

Short title

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

Commencement

2—(1) Sections 1, 28, 29, 30 (2) and 33 and this section and Schedule 7 commence on the day on which this Act receives the Royal Assent.

(2) If, by notice published in the *Gazette* on or before 1 April 1994, the Treasurer declares that he is satisfied that the SAF Agreement will not be in force on 1 July 1994 except for the purposes of section 15 (d), the remaining provisions of this Act commence on 1 July 1994.

(3) If the remaining provisions of this Act have not commenced as provided by subsection (2), those provisions commence on a day to be proclaimed.

Interpretation

3—(1) In this Act, unless the contrary intention appears—

“**Accumulation Fund**” means the Fund established under clause 13 of the SAF Agreement;

“**Actuary**” means a person or organization appointed under the regulations as the Actuary for the purposes of this Act;

“**Board**” means the Retirement Benefits Fund Board continued in existence under section 7;

“**commencement day**” means 1 July 1994 or such later day as may be proclaimed under section 2 (3);

“**Commonwealth Commissioner**” means the person who is holding office as, or acting in the office of, the Insurance and Superannuation Commissioner under the *Insurance and Superannuation Commissioner Act 1987* of the Commonwealth;

“**contravene**” includes fail to comply with;

“**contributions**” means contributions paid or payable to the Fund under the regulations, less any amount deducted from those contributions as provided in the regulations;

“**Council**” means the Tasmanian Trades and Labor Council;

“**functions**” includes duties;

- “**Fund**” means the Retirement Benefits Fund continued in existence under section 11;
- “**member**” means a member of the Scheme;
- “**PSRB Trust**” means the Parliamentary Superannuation and Retiring Benefits Trust;
- “**regulations**” means regulations made and in force under this Act;
- “**repealed Act**” means the *Retirement Benefits Act 1982*;
- “**SAF Agreement**” means the agreement referred to in section 71A (1) of the repealed Act, including that agreement as amended or varied from time to time—
- (a) in accordance with clause 41.1 of that agreement; or
 - (b) by supplementary agreement approved by the Governor in accordance with regulations made under the repealed Act;
- “**SAF Board**” means the Superannuation Accumulation Fund Board constituted under section 71B of the repealed Act and continued in existence under section 15;
- “**Scheme**” means the Retirement Benefits Fund Scheme established under section 5;
- “**State authority**” means a body or authority, whether incorporated or not, which is established or constituted by or under an Act or under the Royal Prerogative, where the body or authority or its governing authority wholly or partly comprises a person or persons appointed by the Governor, a Minister or another State authority but does not include a Government department established under section 24 of the *Tasmanian State Service Act 1984*;
- “**Trust**” means the Retirement Benefits Fund Investment Trust continued in existence under section 18;
- “**winding up period**” means the period commencing on the commencement day and ending on such later day as is determined by the Treasurer and notified in the *Gazette*.

(2) For the purposes of this Act, any amendments to the *Retirement Benefits Act 1982* that, but for this subsection, have not commenced before the commencement day are to be taken as having commenced immediately before that day.

Act binds Crown

4—This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

Objects of Act

5—The objects of this Act are to provide a superannuation scheme for persons employed by the State or State authorities and for the spouses and beneficiaries of those persons in certain cases and the scheme is to be known as the Retirement Benefits Fund Scheme.

Application of Commonwealth law

6—Such of the requirements of the standards prescribed for the purposes of the *Occupational Superannuation Standards Act 1987* or any other law of the Commonwealth and in force from time to time as are applicable to matters arising under this Act have effect in relation to those matters as if they were included in this Act.

PART 2

ADMINISTRATION

Continuation of Retirement Benefits Fund Board

7—(1) The Board continued in existence under the repealed Act with the corporate name of “the Retirement Benefits Fund Board” continues in existence as a body corporate with that corporate name notwithstanding any change in the membership of the Board provided for by this Act.

(2) The Board—

- (a) has perpetual succession; and
- (b) is to have a common seal; and
- (c) may take proceedings, and be proceeded against, in its corporate name; and

- (d) may acquire, hold and dispose of real and personal property; and
- (e) has the functions imposed, and the powers conferred, on it by or under this or any other Act; and
- (f) may do, and be subject to, all other things that bodies corporate may, by law, do or be subject to, that are necessary for, or conducive, incidental or related to, the discharge of its functions and the exercise of its powers.

(3) The common seal of the Board is not to be attached to a document except by resolution of the Board and every sealing is to be authenticated by the signature of 2 members of the Board and the secretary of the Board appointed under the regulations.

(4) All courts, judges and persons acting judicially must take judicial notice of the common seal of the Board affixed to a document and must, unless the contrary is established, presume that the seal was duly affixed.

Constitution of Board

8—(1) The Board consists of 6 members to be appointed by the Governor by order published in the *Gazette*.

(2) The Governor must appoint the members so that—

- (a) 3 of the members are nominated by the Treasurer as representing the Crown; and
- (b) the remaining members are nominated by the Treasurer after being elected or chosen in accordance with the regulations as representing members of the Scheme—

and the Governor must, in the order or any subsequent order, appoint a President and Deputy President of the Board.

(3) An order under this section is not subject to the *Rules Publication Act 1953*.

(4) Schedule 1 has effect with respect to the members of the Board.

(5) Schedule 2 has effect with respect to meetings of the Board.

Suspension and removal of members of Board

9—(1) The Governor may suspend a member of the Board from office for misconduct, incompetence or inefficient administration or on the receipt of a recommendation to that effect from the Commonwealth Commissioner.

(2) Within the first 7 sitting days of each House of Parliament respectively occurring next after a suspension is imposed under subsection (1), the Treasurer must cause to be laid on the table of each House a full statement of the grounds on which the suspension was imposed together with any supporting evidence.

(3) If, within the first 21 sitting days of each House of Parliament respectively occurring next after a statement under subsection (2) is laid on the table of each House, each House by resolution declares that the member should be removed from office, the Governor must remove the member from office accordingly.

(4) If, after a statement under subsection (2) is laid on the table of each House, either House does not make a declaration as provided in subsection (3), the member is restored to office.

(5) If the Governor suspends or removes a member or members of the Board, the Governor must, on the recommendation of the Treasurer having regard to the views of the Commonwealth Commissioner, appoint an acting member until the vacancy has been filled.

Functions of Retirement Benefits Fund Board

10—(1) It is the duty of the Board to administer and manage the Scheme in accordance with this Act and any other applicable law of the State or the Commonwealth for the purpose of providing benefits on retirement and certain other contingencies as may be specified in the regulations for present and future members of the Scheme and their beneficiaries or representatives.

(2) The Board is responsible for the management and control of the Scheme and is to act as sole trustee of the Fund.

- (3) In the administration of this Act, the Board—
- (a) is to have such functions, powers and duties as may be prescribed by the regulations; and
 - (b) must provide the Treasurer with timely and accurate advice as to the operation of the Scheme; and
 - (c) must protect information, the disclosure of which might adversely affect the financial position or the commercial or other operations of the Board or the Trust; and
 - (d) is not subject to section 5 of the *Trustee Act 1898*; and
 - (e) must exercise a fiduciary responsibility over all the assets, investments and property of the Fund; and
 - (f) must have regard to the superannuation and employment policies of the Government; and
 - (g) must take possession of all money and other property vested in it under this Act.
- (4) The Board may engage on contract or employ any person or organization for the purpose of providing it with such advice as may be necessary in connection with its functions, powers and duties.

Continuation of Retirement Benefits Fund

11—(1) The Fund continued in existence under the repealed Act by the name of “the Retirement Benefits Fund” continues in existence under the same name.

(2) All contributions, payments, amounts, money and income payable under the regulations are to be paid into the Fund.

(3) The Board must pay out of the Fund all amounts prescribed by the regulations or as otherwise required by law.

(4) The Board and the Fund are liable to taxation imposed by or under any law of the State.

Power of delegation of Board

12—(1) The Board may, by an instrument of delegation under its common seal, delegate to the chairperson, a member or officer of the Board, the Trust or a person or organization that, under the regulations, is engaged on contract or employed by the Board any power or duty of the Board under this Act other than this power of delegation.

(2) A duty or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(3) A delegation made under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument.

(4) Notwithstanding any delegation, the Board may continue to perform or exercise all or any of the functions or powers delegated.

(5) Any act or thing done by, or to, a delegate while acting in the exercise of a delegation under this section has the same force and effect as if the act or thing had been done by, or to, the Board and is taken to have been done by, or to, the Board.

(6) An instrument purporting to be signed by a delegate of the Board in his or her capacity as such a delegate is, in all courts and before all persons acting judicially, to be received in evidence as if it were an instrument executed by the Board under seal and, until the contrary is proved, is taken to be an instrument signed by a delegate of the Board under this section.

Appropriation and Treasurer's guarantee

13—(1) In this section, “**Agency**” means—

- (a) an Agency or branch of an Agency within the meaning of the State Service Act; or
- (b) the controlling authority of any industry or undertaking carried on by or on behalf of the State; or

(c) where the services of a State authority are transferred to another person or organization, the person or organization responsible for payment of contributions to the Fund in respect of contributors.

(2) A contribution that is required under the regulations to be paid by the Treasurer is to be paid by the Treasurer out of the Consolidated Fund without further appropriation than this section.

(3) A contribution referred to in subsection (2) is to be paid at such times and in such manner as are prescribed in the regulations.

(4) The regulations may provide for a guarantee to be given by the Treasurer with respect to—

(a) the payment of pensions and lump sum benefits under this Act; and

(b) the payment to the Fund of contributions required to be made by an Agency or State authority.

Actuarial investigation of Fund

14—The Actuary must undertake such investigations into the state and sufficiency of the Fund at such times and on such conditions as are prescribed in the regulations.

Continuation of SAF Board

15—During the winding up period—

(a) the SAF Board continues in existence as a body corporate; and

(b) the persons who hold office as members of the SAF Board immediately before the commencement day continue to hold office; and

(c) the person for the time being holding office as the Secretary of the SAF Board or, during that person's absence or inability to act, the person for the time being holding office as the Acting Secretary of the that Board, continues to act as the Secretary of that Board; and

- (d) Parts 1 and 2 of Schedule 3 to the SAF Agreement continue to have effect; and
- (e) in addition to the powers conferred on it under this Act, the SAF Board may take any action necessary for the purposes of winding up the Accumulation Fund with effect from the commencement day.

Dissolution of SAF Board

16—On the expiration of the winding up period—

- (a) the SAF Board is dissolved; and
- (b) the members of the SAF Board cease to hold office; and
- (c) the person acting as the Secretary of the SAF Board ceases to hold that office.

Savings

17—This Part has effect notwithstanding the repeal of the *Retirement Benefits Act 1982* effected by this Act.

PART 3

INVESTMENT ARRANGEMENTS

Continuation of Retirement Benefits Fund Investment Trust

18—(1) The Trust continued in existence under the repealed Act with the corporate name “the Retirement Benefits Fund Investment Trust” continues in existence as a body corporate with that corporate name.

(2) The Trust—

- (a) has perpetual succession; and
- (b) is to have a common seal; and

- (c) may take proceedings, and be proceeded against, in its corporate name; and
- (d) may acquire, hold and dispose of real and personal property; and
- (e) has the functions imposed, and the powers conferred, on it by or under this or any other Act; and
- (f) may do, and be subject to, all other things that bodies corporate may, by law, do or be subject to, that are necessary for, or conducive, incidental or related to, its powers and duties under this or any other Act.

(3) The common seal of the Trust is not to be attached to a document except by resolution of the Trust and every sealing is to be authenticated by the signature of 2 members of the Trust and an officer of the Trust appointed under section 20 (3).

(4) All courts, judges and persons acting judicially must take judicial notice of the common seal of the Trust affixed to a document and must, unless the contrary is established, presume that the seal was duly affixed.

Constitution, membership and meetings of Trust

19—(1) The Trust is to consist of 5 members appointed by the Governor, of whom—

- (a) one is to be the Secretary of the Department or a person employed in the Department nominated by the Secretary; and
- (b) one is to be a person who is, or has been, a legal practitioner; and
- (c) 2 are to be persons who appear to the Governor to have had experience in the business of investing money or extensive business experience; and
- (d) one is to be a person appointed to represent the members of the Scheme.

(2) The member of the Trust referred to in subsection (1) (d) is to be appointed on the recommendation of the Treasurer from a list of 3 persons who are nominated by the Council to represent the members of the Scheme.

(3) If the Council changes its name to another name or ceases to exist under the name of Tasmanian Trades and Labor Council, the Governor may, by order published in the *Gazette*—

(a) substitute that other name for the name of the Council;
or

(b) substitute for the name of the Council the name of some other association or organization that the Governor is satisfied represents substantially the same interests as those represented by the Council.

(4) If the Council does not provide the Treasurer with a list for the purposes of subsection (2) within 30 days after the date on which the Council is required by the Treasurer to provide the list, the Governor may, on the recommendation of the Treasurer, appoint a person to be a member of the Trust to represent the members of the Scheme.

(5) A person who is a member of a House of Parliament of the Commonwealth or a State or Territory, or a candidate for election as a member of any such House of Parliament, is disqualified from being appointed as a member of the Trust and a person holding office as such a member ceases to hold that office on becoming a candidate for such an election.

(6) The Governor must appoint a member of the Trust other than the person referred to in subsection (1) (a) to be the chairperson of the Trust.

(7) The member of the Trust referred to in subsection (1) (a) is to be the deputy chairperson of the Trust.

(8) Subject to subsection (9), 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.

(9) A person who is appointed under section 20 or employed by the Board or the Trust for the purposes of this Act is not eligible for appointment to the Trust.

(10) A person may not be appointed as a member of the Trust if he or she is a member of the Board or the SAF Board.

(11) A member of the Trust referred to in subsection (1) (b), (c) or (d) is not, by reason only of his or her appointment as such, an employee within the meaning of the *Tasmanian State Service Act 1984*.

(12) Schedule 3 has effect with respect to the membership of the Trust.

(13) Schedule 4 has effect with respect to meetings of the Trust.

Powers and duties of Trust

20—(1) The Trust may do all things that are necessary or convenient to be done for or in connection with, or incidental or related to, the investment under this Act of—

- (a) money paid to it by the Board; or
- (b) money standing to the credit of the PSRB Trust and paid to the Trust for investment under an agreement entered into under section 25.

(2) Without limiting the powers conferred by subsection (1), the Trust may also—

- (a) appoint agents and attorneys; and
- (b) act as agents for other persons; and
- (c) engage consultants; and
- (d) engage, with the approval of the Board, investment managers and custodians.

(3) Subject to this section, the Trust may appoint as officers of the Trust such persons as it considers necessary for the purpose of enabling the functions and powers of the Trust to be carried out properly.

(4) A person who is a member of a House of Parliament of the Commonwealth or a State or Territory, or a candidate for election as a member of any such House of Parliament, is disqualified from being appointed as an officer of the Trust and a person holding office as such an officer ceases to hold that office on becoming a candidate for any such election.

(5) The Trust may appoint a person to be secretary of the Trust.

(6) Schedule 5 has effect with respect to—

- (a) the appointment and terms and conditions of employment of officers appointed under subsection (3); and
- (b) any such officer who is a candidate for election as mentioned in subsection (4).

(7) Subject to Schedule 5, the terms and conditions of employment (including remuneration, allowances and entitlements) of the officers of the Trust are to be such as are determined by the Trust from time to time.

(8) All costs incurred by the Trust under this section are to be a charge against the Trust's revenue.

Duty of Trust to give information and undertakings to Board

21—The Trust must, when so required by the Board, provide the Board with such information and give the Board such undertakings as the Board may require in order that the Board may comply with any law of the Commonwealth as may be applicable to any matter arising under this Act.

Suspension and removal of members of Trust

22—(1) The Governor may suspend a member of the Trust from office for misconduct, incompetence or inefficient administration or on the receipt of a recommendation to that effect from the Commonwealth Commissioner.

(2) Within the first 7 sitting days of each House of Parliament respectively occurring next after a suspension is imposed under subsection (1), the Treasurer must cause to be laid on the table of each House a full statement of the grounds on which the suspension was imposed and of any supporting evidence.

(3) If, within the first 21 sitting days of each House of Parliament respectively occurring next after a statement under subsection (2) is laid on the table of each House, each House by resolution declares that the member should be removed from office, the Governor must remove the member from office accordingly.

(4) If, after a statement under subsection (2) is laid on the table of each House, either House does not make a declaration as provided in subsection (3), the member is to be restored to office.

(5) If the Governor suspends or removes a member or members of the Trust, the Governor must, on the recommendation of the Treasurer having regard to the views of the Commonwealth Commissioner and the Council, as may be appropriate, appoint an acting member until the vacancy has been filled.

Protection for members and officers of Trust

23—(1) Subject to subsection (2), any act or thing done, or omitted to be done, in good faith by a member of the Trust, or by an officer of the Trust appointed under section 20, in the purported performance of his or her functions as a member of the Trust or as such an officer does not subject him or her personally to any action, liability, claim or demand.

(2) Subsection (1) does not preclude the Trust from being subject to any action, liability, claim or demand to which the Trust would, but for that subsection, have been subject.

(3) Any liability incurred by the Trust under this section, so far as it is not recoverable under a contract of insurance, is to be paid out of the Consolidated Fund without further appropriation than this subsection.

Power of delegation of Trust

24—(1) The Trust may, by an instrument of delegation under its common seal, delegate to the chairperson, a member of the Trust or a person or officer to whom section 20 refers, any power or duty of the Trust under this Act other than this power of delegation.

(2) A duty or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(3) A delegation made under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument.

(4) Notwithstanding any delegation, the Trust may continue to perform or exercise all or any of the functions or powers delegated.

(5) Any act or thing done by, or to, a delegate while acting in the exercise of a delegation under this section has the same force and effect as if the act or thing had been done by or to the Trust and is taken to have been done by, or to, the Trust.

(6) An instrument purporting to be signed by a delegate of the Trust in his or her capacity as such a delegate is, in all courts and before all persons acting judicially, to be received in evidence as if it were an instrument executed by the Trust under seal and, until the contrary is proved, is taken to be an instrument signed by a delegate of the Trust under this section.

Investment management services for Parliamentary Superannuation and Retiring Benefits Trust

25—(1) The Trust—

- (a) may, either alone or in conjunction with other persons, enter into an agreement with the PSRB Trust for the purposes of the investment of money standing to the credit of any fund maintained by the PSRB Trust for the purposes of the *Parliamentary Superannuation Act 1973* or the *Parliamentary Retiring Benefits Act 1985*; and
- (b) is entitled to be paid out of any such fund, as may be appropriate, such management fees as are specified in that agreement.

(2) The Trust must, in relation to money standing to the credit of any fund referred to in subsection (1) that is placed with it for investment, maintain separate records from those maintained for the purposes of section 26.

(3) The Trust must, at intervals of not greater than 6 months and on demand being made by the PSRB Trust, provide the PSRB Trust with a report on its operations under an agreement under subsection (1) during the period of 6 months immediately preceding the date of the report or, where the report is provided earlier than 6 months after the date of another such report, the period since the date of that other report.

(4) A report provided under subsection (3) is to include, in particular—

- (a) the status of all investments and money that at the date of the report are subject to the control of the Trust under the agreement; and
- (b) the income earned by the Trust on that money during the period to which the report relates; and
- (c) the total amount of any management fees deducted by the Trust from that money during the period.

(5) The Trust must, within 14 days after the termination of an agreement under this section or within such further period as may be agreed, pay all money (including income), and transfer all investments held by it under the agreement, to the PSRB Trust.

Investment of Fund

26—(1) In this section—

“provident fund” means so much of the Fund as represents the total of the amounts which in accordance with the regulations stand to the credit of the basic contributions accounts of provident fund contributors;

“provident fund contributor” means a person who has made an election in accordance with section 61BA of the repealed Act or who is taken, under subsection (2) of that section, to have made an election in accordance with that section.

(2) The regulations may provide for the investment of any money held by the Board on the commencement day and any money subsequently received by the Board for the purposes of this Act.

(3) The Trust must, so far as is practicable, invest all money that is paid to it under this Act after deducting from that money all costs incurred by the Trust under section 20 and all costs incurred by it for remuneration, allowances and entitlements paid under Schedule 3 or 5.

(4) The Board may invest money standing to the credit of the provident fund with—

- (a) the Tasmanian Public Finance Corporation; or
- (b) the Trust or another investment manager approved by the Board after consultation with the Police Association of Tasmania.

(5) Subject to any directions given by the Board relating to the investment of money paid by it to the Trust, the Trust may—

- (a) invest any money paid to it under this Act; or
 - (b) vary or dispose of any such investment—
- in any manner in which it thinks fit.

(6) The powers of the Trust under this section extend to any amount comprised in the provident fund.

PART 4

MISCELLANEOUS AND SUPPLEMENTAL

Audit

27—The Board and the Trust are subject to Part 3 of the *Financial Management and Audit Act 1990*.

Power of Treasurer to approve transfer arrangements

28—The Treasurer may make or approve arrangements, to take effect on or after the commencement day, under which money, investments, any estate or interest in land or other property is to be transferred to the Fund and vested in the Board consequent on the winding up of a superannuation scheme established by—

- (a) a State authority; or
- (b) a controlling authority of any industry or undertaking carried on by, or on behalf of, the State.

Regulations

29—(1) The Governor may make regulations for the purposes of this Act.

(2) The regulations do not have effect until publication of a notice in the *Gazette* by the Treasurer that they have been approved by both Houses of Parliament but, if so approved—

(a) the regulations are not subject to disallowance as provided by section 47 of the *Acts Interpretation Act 1931*; and

(b) the regulations may take effect on and from 1 July 1993 or a later day.

(3) For the purposes of subsection (2), a House of Parliament is taken to have approved the regulations if a copy of them has been laid on the table of that House and—

(a) the regulations are approved by that House; or

(b) at the expiration of 21 sitting days of that House after the copy was laid on the table of that House, no motion to disallow the regulations has been passed.

(4) For the purposes of this section, where a motion to disallow a regulation or a section, division or part of a regulation is passed by a House of Parliament—

(a) the motion has the effect of annulling only that regulation or that section, division or part, as the case may be; and

(b) the remainder of the regulations is taken to be approved by that House.

(5) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act and, without limitation, may provide that any functions, powers, rights, duties and authorities conferred by, or arising from—

(a) the repealed Act or any other Act amended or repealed by this Act; or

- (b) an arrangement or agreement under which services formerly or currently provided by the State are transferred to another person, where the arrangement or agreement is declared by the Treasurer by notice in the *Gazette* to be a transfer arrangement for the purposes of the regulations—

are to continue in force with such modifications as may be provided by the regulations.

(6) Before proposed regulations are submitted to the Governor, the Board must, if appropriate to do so, provide the Treasurer with a statement as to the likely cost to the State arising from the proposed regulations.

(7) The regulations may, in such cases as may be specified in them, require any document, information or particulars required by or under the regulations to be furnished or given to the Treasurer or to the Board to be verified by a statutory declaration.

(8) The regulations may be made subject to such conditions, or be made so as to apply differentially to any class of members according to such factors as may be specified in them or according to such limitations or restrictions, whether as to time or circumstances or otherwise, as may be so specified.

(9) The regulations may provide that it is an offence, punishable on summary conviction, for a person to contravene any of them and may provide in respect of any such offence for the imposition of a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.

(10) The regulations may authorize any matter or thing to be from time to time determined, applied or regulated by any person or body specified in the regulations.

Amendment of Acts

30—(1) Each Act that is specified in Schedule 6 is amended in the manner specified in that Schedule.

(2) The *Retirement Benefits Act 1982** is amended in the manner specified in Schedule 7.

* 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, Nos. 10 and 48 of 1991 and Nos. 27, 38, 39 and 40 of 1993 and by S.R. 1988, No. 174, S.R. 1989, No. 147 and S.R. 1991, Nos. 56 and 211.

Transitional and savings provisions

31—The transitional and savings provisions specified in Schedule 8 have effect.

Repeals

32—The Acts that are specified in Schedule 9 are repealed.

Administration of Act

33—Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990*—

- (a) the administration of this Act is assigned to the Treasurer; and
 - (b) the Department responsible to the Treasurer in relation to the administration of this Act is the Department of Treasury and Finance.
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SCHEDULE 1

Section 8 (4)

MEMBERSHIP OF BOARD

Term of office

1—Subject to this Schedule, a member of the Board is to be appointed for such term, not exceeding 3 years, as is specified in the instrument of his or her appointment and is, if qualified, eligible for reappointment from time to time for such term, not exceeding 3 years, as is specified in the instrument of his or her reappointment.

Provisions relating to members

2—Where, by or under any Act, provision is made requiring the holder of an office to devote the whole of his or her time to the duties of his or her office, that provision does not operate to disqualify him or her from holding that office and also the office of a member of the Board or from accepting and retaining any remuneration payable to a member of the Board under clause 4.

Office of member not an office or place of profit

3—The office of a member of the Board is not, for the purposes of any Act, to be taken to be an office or place of profit under the Crown.

Remuneration of members

4—(1) Each member of the Board is entitled to be paid such remuneration (including travelling and sustenance allowances) as the Governor may from time to time determine in respect of him or her.

(2) The remuneration paid under subclause (1) to a member of the Board is to be a charge against the Board's revenue.

Tasmanian State Service Act 1984 not to apply

5—The provisions of the *Tasmanian State Service Act 1984* do not apply to or in respect of the appointment or election of a member of the Board and a member of the Board is not, in his or her capacity as such a member, subject to the provisions of that Act during his or her term of office.

Appointment of substitute to act during absence of member of Board

6—(1) The Governor may appoint any person to act in the office of a member of the Board while that member is absent from his or her office through illness or any other cause.

(2) A member of the Board is, for the purposes of subclause (1), to be taken to be absent from his or her office if there is a vacancy in that office which has not been filled in accordance with clause 8.

(3) A person is not concerned to inquire whether or not any occasion has arisen requiring or authorizing a person to act in the office of a member of the Board, and all things done, or omitted to be done, by that person while so acting are to be as valid, and are to have the same consequences, as if they had been done, or omitted to be done, by that member.

Vacation of office

7—(1) A member of the Board is taken to have vacated his or her office—

- (a) when he or she dies; or
- (b) if he or she becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors, or makes an assignment of his or her remuneration or estate for their benefit; or
- (c) if he or she is absent from 3 consecutive ordinary meetings of the Board of which reasonable notice has been given to him or her, either personally or in the ordinary course of post, unless on leave granted by the Treasurer; or

- (d) if he or she becomes liable to be detained under the *Mental Health Act 1963* in a hospital within the meaning of section 3 (1) of that Act; or
- (e) if he or she is convicted in the State of a crime or an offence which is punishable by imprisonment for 12 months or upwards, or if he or she is convicted elsewhere than in the State of an offence which, if committed in the State, would be a crime or an offence so punishable or if he or she has been convicted, whether in the State or elsewhere, of a crime or an offence for which he or she has been sentenced to imprisonment; or
- (f) if he or she resigns his or her office by writing under his or her hand addressed to the Governor and the Governor accepts the resignation; or
- (g) if, having been appointed by virtue of his or her holding a particular office, the member ceases to hold that office; or
- (h) if he or she is removed from office under subclause (2).

(2) Where a member of the Board has been elected or chosen in accordance with the regulations, the Governor may remove that member from office if satisfied that he or she is no longer qualified to be so elected or chosen.

Filling of casual vacancies

8—On the occurrence of a vacancy in the office of a member of the Board, the Governor must appoint a person to the vacant office for the balance of his or her predecessor's term of office.

Validity of proceedings

9—(1) No act or proceeding of the Board or of a person acting under a direction of the Board is invalidated or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of a member of the Board.

(2) All acts and proceedings of the Board or of a person acting under a direction of the Board are, notwithstanding the subsequent discovery of a defect in the appointment or election of a member of the Board or that a person was disqualified from acting as, or incapable of being, a member of the Board, as valid as if the member had been duly appointed or elected and was qualified to act as, or capable of being, a member of the Board and as if the Board had been fully constituted.

Presumptions

10—In any proceedings by or against the Board, unless evidence is given to the contrary, no proof is required of—

- (a) the constitution of the Board; or
 - (b) any resolution of the Board; or
 - (c) the appointment or election of a member of the Board;
or
 - (d) the presence of a quorum at a meeting of the Board.
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SCHEDULE 2

Section 8 (5)

MEETINGS OF BOARD

Convening of meetings of the Board

1—Meetings of the Board may be convened by the President of the Board or by any 2 members of the Board.

Procedure at meetings

2—(1) Four members of the Board are required for a quorum at a duly convened meeting of the Board.

(2) A duly convened meeting of the Board at which a quorum is present is competent to transact any business of the Board.

(3) Questions arising at a meeting of the Board are to be determined by a majority of votes of the members present and voting.

(4) Where the voting on a question arising at a meeting of the Board is equal, the question is to be postponed until the next meeting of the Board and notice of the question and of the fact that the voting on it was equal is to be given in the notice calling that last-mentioned meeting.

(5) If, at the next meeting of the Board until which a question has been postponed under subclause (4), the voting on the question is again equal, the President of the Board, if present, may exercise a second or casting vote, or, in any other case, the question is to be postponed until a meeting at which the President of the Board is present.

Chairperson

3—(1) The President of the Board must preside at all meetings of the Board at which he or she is present.

(2) If the President of the Board is not present at a meeting of the Board, the Deputy President of the Board, or, if he or she is also absent from the meeting, such other member of the Board as the members present elect, must preside at that meeting.

(3) Except as provided in clause 2 (5), the President of the Board, the Deputy President of the Board or the other member presiding at a meeting of the Board has a deliberative vote only.

Minutes

4—The Board must cause full and accurate minutes to be kept of its proceedings at meetings.

General procedure

5—The procedure for the calling of, and for the conduct of business at, the meetings of the Board is, subject to any procedure that is specified in this Schedule, to be as determined by the Board.

SCHEDULE 3

Section 19 (12)

MEMBERSHIP OF TRUST

Term of office

1—(1) A member of the Trust is to be appointed for such term, not exceeding 3 years, as is specified in the instrument of his or her appointment.

(2) A member of the Trust is, if qualified, eligible for re-appointment from time to time for such term, not exceeding 3 years, as is specified in the instrument of his or her re-appointment.

Provisions relating to members

2—Where, by or under any Act, provision is made requiring the holder of an office to devote the whole of his or her time to the duties of his or her office, that provision does not operate so as to disqualify him or her from holding that office and also the office of a member of the Trust or from accepting and retaining any remuneration payable to a member of the Trust under clause 4.

Office of member not an office or place of profit

3—The office of a member of the Trust is not, for the purposes of any Act, taken to be an office or place of profit under the Crown.

Remuneration of members

4—(1) Each member of the Trust is entitled to be paid such remuneration (including travelling and sustenance allowances) as the Governor may from time to time determine in respect of him or her.

(2) No remuneration is to be paid under subclause (1) to a member of the Trust who is an employee, within the meaning of the *Tasmanian State Service Act 1984*, except with the approval of the Head of the Agency in which the employee is employed.

(3) The remuneration paid under subclause (1) to a member of the Trust is a charge against the Trust's revenue.

Tasmanian State Service Act 1984 not to apply

5—The *Tasmanian State Service Act 1984* does not apply to or in respect of the appointment of a member of the Trust and a member of the Trust is not, in his or her capacity as such a member, subject to that Act.

Appointment of substitute to act during absence of member of Trust

6—(1) The Governor may appoint a person to act in the office of a member of the Trust while that member of the Trust is absent from his or her office by reason of illness or any other cause.

(2) A member of the Trust is taken, for the purposes of subclause (1), to be absent from his or her office if there is a vacancy in that office which has not been filled in accordance with clause 8.

(3) A person is not concerned to inquire whether or not any occasion has arisen requiring or authorizing a person to act in the office of a member of the Trust and all things done or omitted to be done by that person while so acting are to be as valid, and are to have the same consequences, as if they had been done or omitted to be done by that member.

Vacation of office

7—(1) A member of the Trust is taken to have vacated his or her office—

(a) when he or she dies; or

(b) if he or she becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration or estate for their benefit; or

- (c) if he or she is absent from 3 consecutive ordinary meetings of the Trust of which reasonable notice has been given to him or her, either personally or in the ordinary course of post, unless on leave granted by the Treasurer; or
- (d) if he or she becomes liable to be detained under the *Mental Health Act 1963* in a hospital that is a hospital within the meaning of section 3 (1) of that Act; or
- (e) if he or she is convicted in the State of a crime or an offence which is punishable by imprisonment for 12 months or upwards or if he or she is convicted elsewhere than in the State of an offence which, if committed in the State, would be a crime or an offence so punishable or if he or she has been convicted, whether in the State or elsewhere, of a crime or an offence for which he or she has been sentenced to imprisonment; or
- (f) if he or she resigns his or her office by writing under his or her hand addressed to the Governor and the Governor accepts the resignation; or
- (g) if, having been appointed by virtue of his or her holding a particular office, he or she ceases to hold that office; or
- (h) if he or she becomes a candidate for election as mentioned in section 20 (4); or
- (i) if he or she is removed from office under subclause (2).

(2) Where a member of the Trust has been nominated by the Secretary of the Department under section 19 (1) (a), the Governor may remove that member from office if the Governor is satisfied, having regard to the information supplied by the Secretary, that he or she is no longer qualified to be appointed to the Trust.

(3) If the Governor receives notification from the Council that the member of the Trust appointed under section 19 (2) no longer represents the members of the Scheme, that member is taken to have vacated his or her office on the expiration of 14 days after the Governor receives the notification.

Filling of casual vacancies

8—(1) On the occurrence of a vacancy in the office of a member of the Trust, the Governor may appoint a person to the vacant office for the balance of his or her predecessor's term of office, if that person, as the case requires, is—

- (a) qualified and nominated under section 19 (1) (a); or
- (b) qualified under section 19 (1) (b) or (c); or
- (c) qualified under section 19 (1) (d) and appointed on the recommendation of the Treasurer from a list complying with section 19 (2) and furnished to the Treasurer by the Council.

(2) If the Council does not, for the purposes of subclause (1) (c), furnish the Treasurer with a list complying with section 19 (2) within 30 days after the date on which the Council is required by the Treasurer to furnish him or her with that list, section 19 (4) applies in respect of an appointment to fill the vacancy in the same way as it applies to an original appointment.

Validity of proceedings, &c.

9—(1) No act or proceeding of the Trust or of a person acting under a direction of the Trust is invalidated or prejudiced by reason only of the fact that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of a member of the Trust.

(2) All acts and proceedings of the Trust or of a person acting under a direction of the Trust are, notwithstanding the subsequent discovery of a defect in the appointment of a member of the Trust or that a person was disqualified from acting as, or incapable of being, a member of the Trust, as valid as if the member had been duly appointed and was qualified to act as, or capable of being, a member of the Trust and as if the Trust had been fully constituted.

Presumptions

10—In any proceedings by or against the Trust, unless evidence is given to the contrary, no proof is required of—

- (a) the constitution of the Trust; or
 - (b) any resolution of the Trust; or
 - (c) the appointment of a member of the Trust; or
 - (d) the presence of a quorum at a meeting of the Trust.
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SCHEDULE 4

Section 19 (13)

MEETINGS OF TRUST**Convening meetings of the Trust**

1—Meetings of the Trust may be convened by the chairperson of the Trust or by any 2 members of the Trust and notice of each meeting is to be given to all members of the Trust.

Procedure at meetings

2—(1) Three members of the Trust are necessary for a quorum at a duly convened meeting of the Trust.

(2) A duly convened meeting of the Trust at which a quorum is present is competent to transact any business of the Trust.

(3) Questions arising at a meeting of the Trust are to be determined by a majority of votes of the members present and voting.

(4) Where the voting on a question arising at a meeting of the Trust is equal—

(a) the question is to be postponed until the next meeting of the Trust; and

(b) notice of the question and of the fact that the voting on it was equal is to be given in the notice calling that meeting.

(5) If, at the next meeting of the Trust until which a question has been postponed under subclause (4), the voting on the question is again equal—

(a) the chairperson of the Trust, if present, may exercise a second or casting vote; or

(b) if he or she is not present, the question is to be postponed until a meeting at which he or she is present.

Chairperson

3—(1) The chairperson of the Trust must preside at all meetings of the Trust at which he or she is present.

(2) If the chairperson of the Trust is not present at a meeting of the Trust, the deputy chairperson of the Trust, or, if he or she is also absent from the meeting, such other member of the Trust as the members present elect, must preside at that meeting.

(3) Except as provided in clause 2 (5), the chairperson of the Trust, the deputy chairperson of the Trust or the other member presiding at a meeting of the Trust has a deliberative vote only.

Minutes

4—The Trust must cause full and accurate minutes to be kept of its proceedings at meetings.

General procedure

5—The procedure for the calling of, and for the conduct of business at, meetings of the Trust, is, subject to any procedure that is specified in this Schedule, to be as determined by the Trust.

SCHEDULE 5

Section 20 (6) and (7)

**APPOINTMENT AND TERMS AND CONDITIONS OF EMPLOYMENT
OF OFFICERS OF TRUST****Age of officers**

1—(1) Subject to subclause (2), a person who has attained the age of 65 years must not be appointed as an officer of the Trust and an officer of the Trust who attains that age ceases to be so employed.

(2) Subclause (1) does not prevent the employment by the Trust of a person over the age of 65 years in a part-time capacity in any case where the Trust is satisfied that he or she has special qualifications and experience for the functions of his or her office.

Officers to perform functions determined by Trust

2—An officer of the Trust must perform such functions as—

- (a) may be specified in the instrument of his or her appointment; or
- (b) the Trust may from time to time determine.

Certain terms and conditions of employment of officers to be determined by Trust

3—(1) The terms and conditions of employment (including remuneration, allowances and entitlements) of officers of the Trust are, subject to this Schedule and to any award or industrial agreement relating to persons engaged in the work for which they are appointed, to be determined by the Trust.

(2) Without limiting the generality of subclause (1), it may be a term of employment of an officer of the Trust that he or she may be dismissed from that employment if—

- (a) he or she is unfit to discharge, or incapable of discharging, the functions of his or her office efficiently; or
- (b) he or she is not discharging the functions of his or her office efficiently, satisfactorily, with due care or in the best interests of the Trust; or
- (c) he or she is not qualified, either temperamentally or otherwise, for the efficient and satisfactory performance of the functions of his or her office.

Officers not subject to *Tasmanian State Service Act 1984*

4—An officer of the Trust, in his or her capacity as such, is not subject to the *Tasmanian State Service Act 1984*.

Superannuation and long service leave

5—An officer of the Trust—

- (a) is entitled to benefits under this Act; and
- (b) is taken to be an employee within the meaning of the *State Employees (Long-Service Leave) Act 1950*.

Appointment of employees, within the meaning of the *Tasmanian State Service Act 1984*, as officers of Trust

6—(1) Where an employee, within the meaning of the *Tasmanian State Service Act 1984*, is appointed as an officer of the Trust, he or she is entitled to retain all his or her existing and accruing rights as if his or her service as an officer of the Trust were a continuation of his or her service as an employee under this Act.

(2) Where an employee, within the meaning of the *Tasmanian State Service Act 1984*—

(a) is appointed as an officer of the Trust; and

(b) on ceasing to be an officer of the Trust again becomes an employee, within the meaning of that Act—

his or her service as an officer of the Trust is taken as service in the State Service for the purpose of determining his or her rights as an employee, within the meaning of that Act.

Officers of Trust subject to awards under *Industrial Relations Act 1984*

7—An officer of the Trust is entitled to such salary and allowances as are determined by an award under the *Industrial Relations Act 1984*.

Candidature for election as member of Parliament

8—For the purposes of section 20 (4), a person becomes a candidate for election as a member of a House of Parliament when he or she is nominated for that election in accordance with the law regulating the election.

Reinstatement of former officers

9—(1) Where a person who—

(a) was an officer of the Trust; and

(b) ceased to be such an officer on becoming a candidate for election as a member of a House of Parliament as provided by clause 8; and

(c) was a candidate at that election; and

(d) failed to be elected; and

(e) applies for re-appointment within 3 months after the declaration of the result of that election—

the Trust may re-appoint that person to his or her former office without the fulfilment of any conditions otherwise required for making the appointment.

(2) Where a person is so re-appointed, he or she holds that office in all respects but subject to subclause (3) as if he or she had been absent on leave without pay from office for the period from the day when he or she ceased to be an officer to the day before the day on which he or she was re-appointed.

(3) For the purpose of the application of the *State Employees (Long-Service Leave) Act 1950* under clause 5, if a person so re-appointed became entitled, by reason of his or her ceasing to be an officer under section 20 (4) of this Act, to an allowance under section 7 of that Act, he or she is to be treated for the purpose of subclause (2) in respect of the period in respect of which the amount of the allowance is calculated under section 7 (5) of that Act, or so much of that period as had expired before his or her re-appointment took effect, as if absent, not on leave without pay, but on long service leave under that Act.

(4) If a person's re-appointment as mentioned in subclause (3) takes effect before the expiration of the period mentioned in that subclause, the whole period, for the purposes of subclause (2), is taken to have expired on the day before his or her re-appointment took effect.

(5) Subject to this Act, where the rights of a person so re-appointed have been changed on his or her ceasing to be an officer, in respect of pension, pay in lieu of leave or otherwise, all necessary payments, repayments and entries are to be made so as to restore his or her rights as if he or she had been absent on leave as mentioned in subclause (2).

SCHEDULE 6

Section 30 (1)

AMENDMENT OF ACTS***Retirement Benefits Legislation (Miscellaneous Amendments)
Act 1991***

(No. 48 of 1991)

Part 2 is repealed.

Tasmanian Government Insurance Office (Sale) Act 1993

(No. 27 of 1993)

- 1—Section 2 (1) is amended by omitting “and section 33”.
- 2—Section 33 is repealed.
- 3—Schedule 2 is omitted.

TT-Line Arrangements Act 1993

(No. 39 of 1993)

- 1—Section 24 is amended by omitting subsection (3).
 - 2—Schedule 2 is amended by omitting Parts 2 and 3.
 - 3—Schedule 3 is amended as follows:—
 - (a) by omitting from clause 1 the definitions of “contributor”, “RBF Board”, “SAF Agreement” and “SAF Board”;
 - (b) by omitting clauses 4, 5 and 6.
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SCHEDULE 7

Section 30 (2)

AMENDMENT OF RETIREMENT BENEFITS ACT 1982

1—Section 14 (1) is amended as follows:—

(a) by omitting “consultants.” from paragraph (c) and substituting “consultants; and”;

(b) by inserting after paragraph (c) the following paragraph:—

(d) to engage, with the approval of the Board, investment managers and custodians.

2—Section 18 is amended by omitting subsection (7).

3—After section 18 the following section is inserted:—

Power of delegation of Trust

18A—(1) The Trust may, by an instrument of delegation under its common seal, delegate to the chairperson, a member or officer of the Trust or a person to whom section 14 refers, any power or duty of the Trust under this Act other than this power of delegation.

(2) A duty or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(3) A delegation made under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument.

(4) Notwithstanding any delegation, the Trust may continue to perform or exercise all or any of the functions or powers delegated.

(5) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section is to have the same force and effect as if the act or thing had been done by, or to, the Trust and is taken to have been done by, or to, the Trust.

(6) An instrument purporting to be signed by a delegate of the Trust in his or her capacity as such a delegate is, in all courts and before all persons acting judicially, to be received in evidence as if it were an instrument executed by the Trust under seal and, until the contrary is proved, is taken to be an instrument signed by a delegate of the Trust under this section.

4—Section 21 is amended by inserting after subsection (5) the following subsection:—

(5A) The Trust may engage managers for, and in relation to, investments in a place outside Australia.

5—Section 22 is amended by inserting after subsection (4) the following subsection:—

(5) Notwithstanding anything to the contrary in this Act, the Actuary must conduct an investigation into the state and sufficiency of the Fund as at 30 June 1993 and, as soon as practicable to do so, must submit a report to both the Treasurer and the Board.

SCHEDULE 8

Section 31

TRANSITIONAL AND SAVINGS PROVISIONS**Continuation of pensions payable under the repealed Act**

1—(1) Subject to this Act, a pension or lump sum benefit of any kind that is payable under the repealed Act immediately before the commencement day continues, on and after that day, to be payable as a pension or lump sum benefit of that kind under the regulations.

(2) The Board must continue to pay every fortnight in accordance with the regulations an instalment of a pension to which subclause (1) refers that is due on or after the commencement day.

Members of Board and Trust immediately before commencement day

2—(1) A person holding office as a member of the Board under the repealed Act immediately before the commencement day, including the President and Deputy President of the Board, continues, unless he or she is removed from office or vacates that office under this Act, to hold that office—

- (a) for the remainder of the period specified in his or her instrument of appointment; or
- (b) for the remainder of the period up to and including the day on which an election is held as provided by the regulations—

whichever is the earlier.

(3) A person holding office as a member of the Trust under the repealed Act immediately before the commencement day, including the chairperson and deputy chairperson of the Trust, continues to hold that office, unless he or she is removed from office or vacates that office under this Act, for the remainder of the period specified in his or her instrument of appointment.

Officers of Board and Trust

3—A person appointed under section 14 or 16 of the repealed Act as an officer to assist the Board or the Trust and who holds that office immediately before the commencement day becomes, on that day, an officer appointed in accordance with this Act to assist the Board or the Trust on the same terms and conditions as those applicable to his or her office immediately before that day.

Bank accounts

4—(1) An account opened with a bank by the Board that is in existence immediately before the commencement day is taken, on and after that day, to be an account maintained by the Board with a bank approved by the Treasurer.

(2) An account opened with a bank by the Trust that is in existence immediately before the commencement day is taken, on and after that day, to be an account maintained by the Trust with a bank approved by the Treasurer.

Accounts and records

5—(1) The accounts and records kept by the Board under the repealed Act that are in existence immediately before the commencement day are taken, on and after that day, to be accounts and records kept by the Board in a form, and containing such particulars, as are approved by the Treasurer.

(2) The accounts and records kept by the Trust under the repealed Act that are in existence immediately before the commencement day are taken, on and after that day, to be accounts and records kept by the Trust in a form, and containing such particulars, as are approved by the Treasurer.

Questions and appeals under the repealed Act

6—(1) Any question under the repealed Act that has commenced and not been finally determined by the Board before the commencement day may, on and after that day, be finally determined by the Board as if this Act had not been enacted.

(2) An appeal under the repealed Act that has commenced and not been finally disposed of before the commencement day may, on and after that day, be finally disposed of as if this Act had not been enacted.

Effect of repeals on rights of action

7—Without limiting the effect of section 16 (1) of the *Acts Interpretation Act 1931*, the repeals effected by this Act do not revive any right of action that was not existing immediately before the commencement day.

Contributions by existing members

8—(1) Subject to this clause, a person who immediately before the commencement day was contributing to the Fund must, on and after that day, continue to contribute to the Fund as provided in the regulations.

(2) Where a person to whom subclause (1) applies was contributing to the Fund at a rate that is not that applicable to the 40 years' service scheme under the repealed Act, that person is taken to have made an election to continue to contribute at that rate.

(3) In respect of a person to whom subclause (1) applies, contributions are to be deducted from each periodical pay in accordance with the regulations and paid to the Fund.

(4) Where a person to whom subclause (1) relates was, immediately before the commencement day, making supplementary contributions in accordance with the repealed Act, that person is, on and after that day, taken to have made an election to continue to make those supplementary contributions as voluntary contributions.

Savings in respect of elections, directions and delegations

9—(1) The repeals effected by section 32 do not affect—

- (a) the effect of any election, decision, direction, resolution, delegation, certificate, suspension or authorization made or granted by the Board under the repealed Act or of any condition attached to any such election, decision, direction, resolution, delegation, certificate, suspension or authorization; or
- (b) the effect of any decision, resolution or delegation made by the Trust.

(2) A delegation by the Board or the Trust under the repealed Act that is in force immediately before the commencement day continues in force on and after that day as a delegation by the Board or the Trust, as the case may be, under this Act.

(3) A person who is eligible to make an election under the repealed Act within a period which has not expired before the commencement day continues to be so eligible notwithstanding the repeals effected by section 32.

Orders relating to the adjustment of pensions

10—Notwithstanding the repeals effected by this Act, an order made in respect of the half-year that commenced on the commencement day remains in force in respect of that half-year in relation to pensions under this Act.

Persons not obliged to contribute to the Fund

11—Where a person who, immediately before the commencement day, was not obliged to contribute under the repealed Act, that person continues, on and after that day, not to be obliged to contribute to the Fund under the regulations.

Transfer of property of Accumulation Fund

12—(1) On the commencement day—

- (a) all the money in the Accumulation Fund that, immediately before that day, is not invested by the SAF Board is to be paid to the Board and is to become part of the Fund; and
- (b) all the investments of money in the name of the SAF Board or the Accumulation Fund that are subsisting immediately before that day are transferred to and vest in the Board; and
- (c) any estate or interest in land or other property that is not property referred to in subclause (a) or (b) and all rights of the SAF Board that are subsisting before that day are transferred to and vest in the Board; and
- (d) all obligations and liabilities of the SAF Board that are subsisting before that day become obligations and liabilities of the Board.

(2) On the commencement day, all voluntary contributions and interest on those contributions that, immediately before that day, have been made to the Accumulation Fund become contributions to the Retirement Benefits Fund.

(3) Any money, investment, estate or interest in land or other property of the Accumulation Fund transferred to the Board under this clause may be invested by the Board with the Trust or with any investment manager in any manner in which the Board thinks fit.

(4) On and after the commencement day—

- (a) any debt, money or claim, whether liquidated or unliquidated, that, immediately before that day, was payable to the Accumulation Fund or recoverable by the SAF Board becomes a debt, money or a claim payable to the Fund 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 SAF Board immediately before that day becomes a debt due from, money payable by or a claim enforceable against, the Board.

Continuation of proceedings

13—Any legal or other proceedings that might, before the commencement day, have been continued or instituted by, or against, the SAF Board may, on and after that day, be continued or instituted by, or against, the Board.

Powers of the Board in respect of matters arising under clauses 12 and 13

14—On the expiration of the winding up period—

- (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 12 (4) that are payable to, or recoverable by, the Board and for the prosecution of proceedings referred to in clause 13 as the SAF Board might have done but for the enactment of this Act; and
- (b) the Board may enforce and realize any security or charge existing immediately before that day in favour of the SAF Board and may exercise any powers conferred under the security or charge on the SAF Board as if it were a security or charge in favour of the Board.

Contracts and agreements

15—Any contract, agreement, arrangement or undertaking entered into by the SAF Board, if not executed, discharged or otherwise terminated before the commencement day, is taken to be a contract, agreement, arrangement or undertaking entered into with the Board.

Election to the SAF Board

16—Any election made under the SAF Agreement to the SAF Board that has not been finally determined immediately before the commencement day is taken, on that day, to have been made to the Board.

Annual reports

17—(1) If, before the commencement day, the SAF Board has not complied with a requirement made under the SAF Agreement relating to an annual report or a statement of accounts, where the report or statement was required to be made in respect of a period which expired before that day, the Board must comply with the requirement.

(2) The first annual report and statement of accounts of the Board prepared under the regulations is to contain such further matters in respect of the SAF Board, except the matters referred to in subclause (1), as would have been required to be included in an annual report or statement of accounts of the SAF Board if this Act had not been enacted.

SCHEDULE 9

Section 32

ACTS REPEALED

Public Servants' Retiring and Death Allowances Act 1925
Public Servants' Retiring and Death Allowances Act 1969
Retirement Benefits (Transferred Court Officers) Act 1978
Retirement Benefits (Transferred Library Employees) 1978
*Retirement Benefits (Transferred Tasmanian College of
Advanced Education Employees) 1978*
*Retirement Benefits (Transferred Tasmanian College of
Advanced Education Employees) 1980*
Retirement Benefits Act 1982
Retirement Benefits Amendment Act 1987
Retirement Benefits Amendment Act 1988
Retirement Benefits Amendment Act 1989
Retirement Benefits Amendment Act 1991
Retirement Benefits Amendment Act 1993
Retirement Benefits Amendment Act (No. 2) 1993

[Second reading presentation speech made in:—
House of Assembly on 17 November 1993
Legislative Council on 3 December 1993]

