
RETIREMENT BENEFITS ACT (No. 2) 1974

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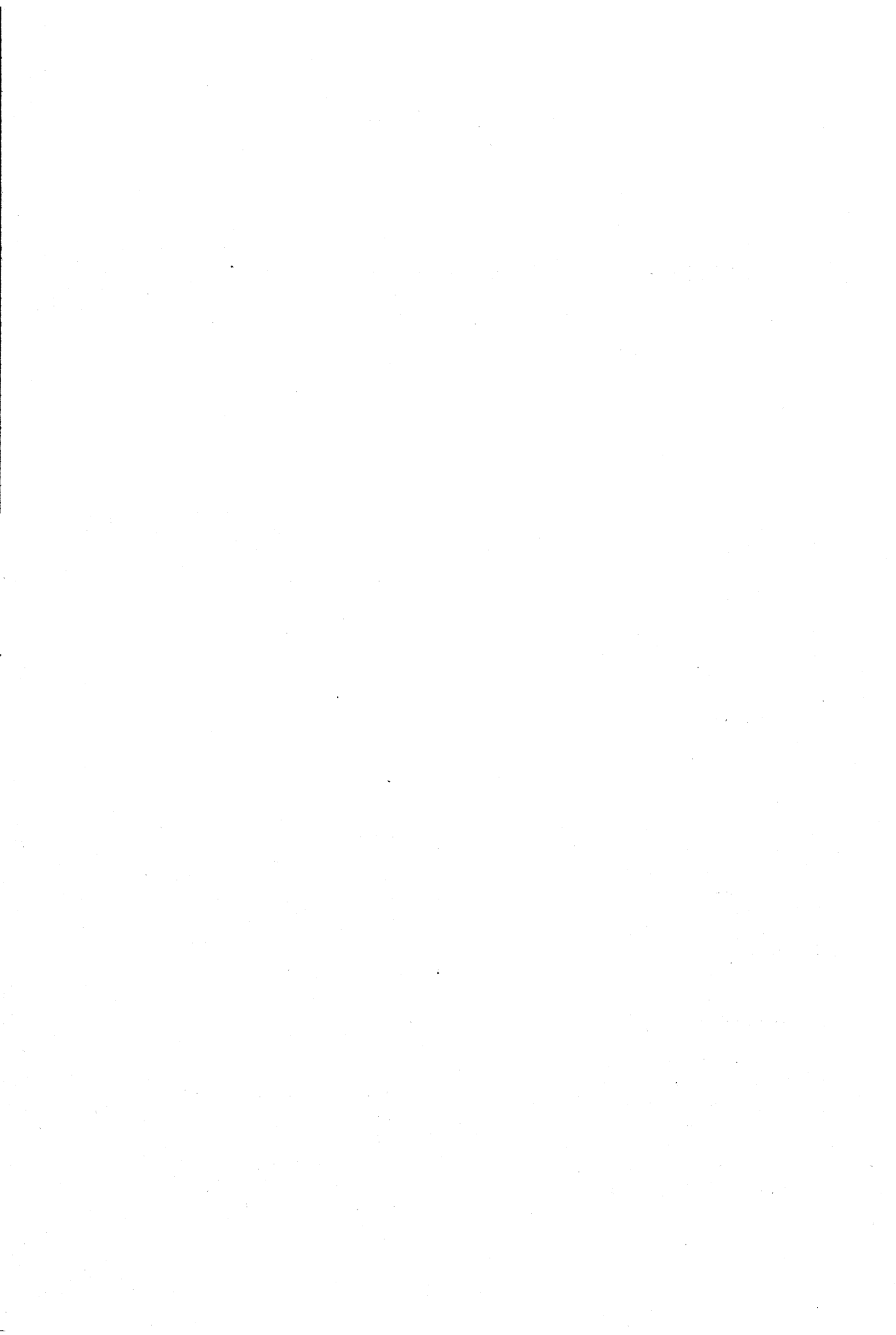
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**RETIREMENT BENEFITS (No. 2)**

No. 113 of 1974

AN ACT to amend the Retirement Benefits Act 1970 and the Retirement Benefits Act 1974.

[19 December 1974]

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 I

PRELIMINARY

1—(1) This Act may be cited as the *Retirement Benefits Act* Short title and citation. (No. 2) 1974.

(2) The *Retirement Benefits Act* 1970, as subsequently amended, is in this Act referred to as the Principal Act.

PART II

PROVISIONS NOT HAVING RETROSPECTIVE EFFECT

Interpretation.

2 Section 2 of the Principal Act is amended—

(a) by omitting from subsection (1) the definition of “child” and substituting therefor the following definition:—

“ ‘child’ means a person who—

(a) has not attained the age of 16 years; or

(b) not having attained the age of 21 years, is receiving full-time education at a school, college, or university,

and, when used in relation to any person, includes an adopted child of that person, but does not include a child of that person who has been adopted by some other person.”;

(b) by omitting from paragraph (e) (ii) of the definition of “employee” in that subsection the word “(geriatric)”;

(c) by omitting from that subsection the definition of “widow’s pension” and substituting therefor the following definitions:—

“ ‘widower’s pension’ means a pension payable to a man under Division II of Part V;

“ ‘widow’s pension’ mean a pension payable to a woman under Division II of Part V.”;

(d) by omitting from subsection (7) the words “the period of three years” and substituting therefor the words “a specified period ending”; and

(e) by omitting from that subsection the words “three years” (last occurring) and substituting therefor the words “that period”.

3 After section 2 of the Principal Act the following section is inserted:—

Application of Act to temporary employees.

“ 2AA—(1) A person who is not an employee, but is employed in a temporary capacity, may elect to become a contributor if during the past 12 months he has been continuously employed (whether before or after the commencement of this section) in a temporary capacity and a certificate is issued by the appropriate authority, in accordance with this section, stating that he is likely to remain in employment for at least 3 years.

“(2) A certificate shall be issued for the purposes of subsection (1) if, and only if, it appears that the person to whom it relates will be continuously employed in a temporary capacity for the 3 years next ensuing or until he becomes an employee otherwise than by virtue of this section.

“(3) An election under subsection (1) shall be by notice in writing to the Board accompanied by the certificate referred to therein.

“(4) On the making by a person of an election under this section he shall be deemed to become an employee within the meaning of this Act and to remain such an employee so long as he is employed in a temporary capacity or as an employee.

“(5) For the purposes of this section a person shall be deemed to be employed in a temporary capacity if he is employed in such circumstances that had he been so employed in a permanent capacity he would have been an employee within the meaning of this Act and, in relation to a person so employed, the appropriate authority means—

- (a) if he is employed in the Public Service, the Public Service Board;
- (b) if he is a police officer, or is employed under the *Police Regulation Act 1898*, the Commissioner of Police;
- (c) if he is a member of the Teaching Service, the Director-General of Education;
- (d) if (not being a person referred to in any of the foregoing paragraphs of this section) he is so employed by any authority or body, that authority or body; or
- (e) in any other case, such authority as may be prescribed in his case.

“(6) A certificate signed by a person authorized in that behalf by an appropriate authority shall be deemed for the purposes of this section to be a certificate issued by that authority.”

4 Section 4 of the Principal Act is amended by inserting in subsection (4), after the word “contributions”, the words “or other sums” Establishment of the Fund.

5 After section 25 of the Principal Act the following section is inserted:—

“25A—(1) In accordance with this section a contributor for full benefits may, by notice in writing to the Board, request that the length of his service be increased by a period specified in the notice, being a period containing a whole number of months. Addition of years of service.

“(2) Subject to this section, a request may be made under this section by a contributor within 3 months—

- (a) of the commencement of this section; or
- (b) of his becoming a contributor for full benefits,

whichever last occurs.

“(3) A request shall not be made by a person who becomes a contributor after the commencement of this section unless he had attained the age of 30 years when he became a contributor.

“(4) A request may not be made under this section by a contributor who, for the time being, is an employee by virtue only of the operation of section 2AA, but where such a contributor, being a contributor for full benefits, becomes an employee otherwise than by virtue of the operation of that section, he may, subject to subsection (3), make a request under this section within 3 months of becoming such an employee.

“(5) A request made by any person is of no effect under this section unless—

- (a) a legally-qualified medical practitioner employed or approved by the Board has examined that person and has signed a certificate stating that, in his opinion, that person is not affected by any physical or mental defect likely to render him incapable, before attaining the age for retirement, of performing his duties; and
- (b) the Board is satisfied, after considering that certificate, that the health and physical condition of the person are such as would justify his being accepted, at the time the request was made, as a contributor for full benefits if he had not then been such a contributor.

“(6) On the receipt of a request under this section the Board shall obtain from the Actuary a determination of the amount of the sum that, in his opinion, having regard to the age of the person by whom the request was made and all other relevant factors, is the actuarial equivalent of the additional total pension benefit that will be derived under this Act if the length of service is so increased, and shall notify the contributor of the determination.

“(7) On payment to the Board by a contributor by whom a request is made under this section, either in a lump sum or in such other manner as the Board may approve, of a sum of an amount determined under subsection (6) in relation to that request, the

length of service of the contributor shall, for the purposes of this Act, be deemed to be increased by a period of the length by reference to which that sum was so determined.

“(8) Where a request is made under this section by a contributor within 5 years of his age of retirement the payment referred to in subsection (7) shall be made by way of a single lump sum.

“(9) Where a request has been made under this section by a contributor he may notify the Board in writing that he no longer desires his service to be increased as specified in the request and, thereupon, the length of his service shall not be deemed to be increased in pursuance of the request and the Board shall repay to him any sums paid by him into the Fund under subsection (7) consequent on that request.

“(10) References in this Act to the contributions of any person to the Fund shall, except as is otherwise expressly provided, be deemed not to include references to payments made by him to the Board under this section.”.

6 Section 27 of the Principal Act is amended—

(a) by omitting from subsection (2) the words “in the case of the death of a male contributor, his widow” and substituting therefor the words “the surviving spouse of the contributor”; and

(b) by omitting subsection (8).

Rights of contributors for limited benefits.

7 Section 28 is amended by adding at the end thereof the following subsection:—

“(3) Where a contributor who has made any payments to the Board under section 25A becomes entitled to payment under subsection (1) (e), there shall also be refunded to him the payments made by him under that section.”.

Special provisions as to benefits on compulsory retirement.

8 After section 28 of the Principal Act the following section is inserted:—

“28A—(1) This section applies to a contributor who immediately before his retirement would not have been an employee but for the operation of section 2AA.

Special provision as to temporary employees.

“(2) A contributor to whom this section applies is not entitled to any benefits under the foregoing provisions of this Division on his retirement (other than those the entitlement to which arises on his retiring or being permitted to retire on the ground of invalidity not due to his own fault) unless he has completed at least 3 years' service.

“(3) Where, on his retirement, a contributor to whom this section applies is not entitled by virtue of subsection (2) to any benefits under the foregoing provisions of this Division he is entitled to be paid from the Fund a sum of money equal to the total amount of his contributions to the Fund.”.

Refund of contributions.

9 Section 29 of the Principal Act is amended by omitting subsections (2) and (3) and substituting therefor the following subsections:—

“(2) Subject to subsection (3), in the event of the death, before attaining the age of retirement, of a contributor in respect of whose death no pension becomes payable under Division II, the Board shall pay to the personal representative of the contributor, or, if it considers it desirable so to do, to such other person as the Board determines, a sum equal to the total amount of the contributor’s contributions to the Fund.

“(3) Where in a case to which subsection (2) applies a child’s pension becomes payable consequent upon the death of the contributor, the amount necessary to provide that pension shall be calculated by the Actuary and deducted from the amount of the contributions referred to therein, and the balance, if any, shall be paid as provided in that subsection.

“(4) References in this section to the contributions of any person to the Fund shall be construed as including also references to payments made by him to the Board under section 25A.”.

Widows’ and widowers’ pensions.

10 The heading to Division II of Part V of the Principal Act is amended by inserting therein, after the word “*Widows’*”, the words “*and widowers’*”.

Widows’ pensions.

11 Section 30 of the Principal Act is amended by omitting subsections (7) and (8) and substituting therefor the following subsections:—

“(7) A pension is payable under this section to the widow of a pensioner notwithstanding that she married that pensioner after his retirement.

“(8) Where a widow of a contributor or pensioner subsequently remarries the pension to which she is otherwise entitled under this section as the widow of that contributor or pensioner is not payable during the subsistence of that subsequent marriage.”.

12 After section 30 the following sections are inserted in Division II of Part V of the Principal Act:—

“ 30A Section 30 applies in respect of a female contributor or a female pensioner in like manner as it applies in respect of a male contributor or a male pensioner as if—

Widowers' pensions.

- (a) references therein to the widow of a contributor or pensioner included references to the widower of a female contributor or pensioner;
- (b) references therein to a husband included references to a wife; and
- (c) references therein to a widow's pension included references to a widower's pension.

“ 30B—(1) Where continuously during the 12 months immediately preceding the death of a contributor or pensioner he or she and some other person of the opposite sex have been living together as man and wife that other person has, subject to this section, the like rights under this Division as if she or he had been married to that contributor or pensioner at the time of the death.

Recognition of de facto relationships.

“(2) Where a pensioner or contributor dies leaving a surviving spouse no pension is payable under this section if a pension is payable to that spouse under any of the foregoing provisions of this Division; and, in a case to which subsection (4) of section 30 applies, the Board is not required to make any payment of pension under this section until the time for the making of a complaint under subsection (5) of that section has expired or, if such a complaint is made, until the proceedings thereon have terminated.

“(3) Any person who is aggrieved by a refusal of the Board to make any payment of pension under this section consequent upon the death of a contributor or pensioner may take proceedings against the Board by complaint under the *Justices Act 1959*, and on the hearing of the complaint a magistrate, on being satisfied that the complainant is entitled to a pension under this section and that no other person is entitled to or in receipt of a pension under this Division consequent upon the death, may make an order directing the pension to be paid to the complainant, and the Board shall comply with the order accordingly.”.

13 Section 31 of the Principal Act is amended—

Entitlement to child's pension.

- (a) by omitting from paragraph (a) the word “ on ” and substituting therefor the words “ consequent upon ”;
- (b) by omitting from paragraph (a) (i) the word “ male ”;

- (c) by omitting sub-paragraph (ii) of paragraph (a) and substituting therefor the following sub-paragraph:—
 “(ii) a pensioner to whom a pension was payable under Division I of this Part;”;
- (d) by omitting from paragraph (b) the word “male” and adding at the end thereof the word “and”;
- (e) by omitting from paragraph (c) the word “male” and the word “and” (occurring at the end thereof);
- (f) by omitting paragraph (d); and
- (g) by omitting all the words following the words “each child” and substituting therefor the words “of the contributor or pensioner, or the spouse of that contributor or pensioner, who is wholly or partly dependent on the contributor or pensioner, or would have been so dependent if the contributor or pensioner had continued to live, not being a child born or adopted after the death of the contributor or pensioner who is not a child of the contributor or pensioner.”.

14 Section 32 of the Principal Act is repealed and the following section is substituted therefor:—

Rate of
child's pension.

“32—(1) In the case of a child's pension that becomes payable consequent upon the death of a contributor the pension is payable—

- (a) while the child has a parent surviving to whom a pension is payable under Division II of this Part, or would have been so payable if that parent had not remarried, at the rate of 5 per cent of the pension that would have been payable to the contributor had he retired on an invalidity pension immediately before the date of his death; and
- (b) during any other period at the rate of 20 per cent of that pension.

“(2) In the case of a child's pension that becomes payable consequent upon the death of a pensioner the pension is payable—

- (a) while the child has a parent surviving to whom a pension is payable under Division II of this Part, or would have been so payable if that parent had not remarried, at the rate of 5 per cent of the pension that was payable to the pensioner at the date of his death; and
- (b) during any other period, at the rate of 20 per cent of that pension.

“(3) Notwithstanding anything in the foregoing provisions of this section—

- (a) where under any of those provisions the rate of a child's pension is required to be determined at a rate of 5 per cent of any pension and the rate of that child's pension as so determined would be less than \$200 per annum, the rate of that child's pension shall be \$200 per annum; and
- (b) where under any of those provisions the rate of a child's pension is required to be determined at a rate of 20 per cent of any pension and the rate of that child's pension as so determined would be less than \$600 per annum, the rate of that child's pension shall be \$600 per annum.”.

15 Section 34 of the Principal Act is amended by omitting subsection (1) and substituting therefor the following subsection:—

“(1) A child's pension shall be paid to a parent or guardian of the child, unless the Board, in any case, otherwise determines.”.

Persons to whom a child's pension is payable.

16 Section 35 of the Principal Act is amended—

- (a) by inserting, after the definition of “basic rate”, the following definition:—

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

- (b) by adding at the end thereof the following definition:—

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

Interpretation of Division IV of Part V.

17 Section 36 of the Principal Act is repealed and the following section is substituted therefor:—

“36—(1) Subject to this section, a pension under this Act shall be adjusted by the Board in each half-year in accordance with this section.

“(2) The Government Statistician shall, 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.

Annual adjustment of pensions.

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

- (a) declare the percentage by which pensions shall 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 shall not be adjusted in respect of that half-year.

“(4) A percentage declared under subsection (3) (a) in respect of any half-year shall 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 shall 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 the commencement of Part II of the *Retirement Benefits Act (No. 2)* 1974, namely:—

- (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 shall 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 shall be made so as to operate from the first pay-day after the end of that half-year; and
- (c) The annual amount by which such a pension is to be increased or decreased shall be calculated in accordance with the prescribed formula.

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

$$P = A \times \frac{B}{6},$$

where—

P represents the annual amount referred to in that paragraph;

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 whole months 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 on 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 any half-year is less than one per cent no adjustment of pensions shall 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 two 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 increase or decrease), pensions shall 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 shall, until it is next increased to a rate exceeding the basic rate by reason of the making of such an adjustment, be deemed 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 shall 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.”.

Imprisonment
of pensioners.

18 Section 39 of the Principal Act is amended—

- (a) by omitting from subsection (1) the word “ him ” and substituting therefor the words “ the pensioner ”;
- (b) by omitting from subsection (2) the word “ wife ” and substituting therefor the word “ spouse ”;
- (c) by omitting from that subsection the word “ her ” (first occurring) and substituting therefor the word “ the spouse ”;
- (d) by omitting from that subsection the words “ to her ” and substituting therefor the words “ of that pension ”; and
- (e) by adding at the end thereof the following subsection:—

“(3) Where if the pensioner had died a pension could become payable under section 30B as a consequence of his death the foregoing provisions of this section have effect, unless the Board makes payment of pension thereunder to the spouse of the pensioner, as if the references therein to the spouse of the pensioner were references to the person who could become so entitled under section 30B.”.

19 Section 40 of the Principal Act is repealed and the following section is substituted therefor:—

Desertion of
spouse or
child by
pensioner.

“ 40—(1) For the purposes of this section, ‘ pensioner ’ means a person to whom a pension is payable under Division I or Division II of this Part, and, in relation to such a pensioner, ‘ pensionable dependant ’ means—

- (a) if the pensioner is entitled to a pension under Division I of this Part the spouse of that pensioner, or any child who would be entitled to a pension under Division III of this Part if the pensioner died; or
- (b) if the pensioner is entitled to a pension under Division II of this Part, any child who would be entitled to a pension under Division III of this Part at an increased rate if the pensioner died.

“(2) Where a pensioner deserts a pensionable dependant a magistrate may, on an application made by, or on behalf of, that pensionable dependant, make an order directing the Board to pay pension to that pensionable dependant as provided in this section.

“(3) An order made under this section in respect of a pensioner may be varied or revoked by a magistrate on the application of the pensioner or a pensionable dependant.

“(4) Where a complaint or an application may be made under this section by a child that complaint or application may be made by any person on behalf of the child whether or not he has been duly authorized in that behalf.

“(5) The amount of a pension that may be ordered to be paid to a pensionable dependant under this section shall not exceed—

(a) in the case of a pensionable dependant referred to in subsection (1) (a), the amount of the pension that would, if the pensioner had died, be payable under Division II or Division III of this Part to that dependant;

(b) in the case of a pensionable dependant referred to in subsection (1) (b), the amount by which the pension payable to that dependant under Division III of this Part would be increased if the pensioner died,

and the total amounts of the pensions that may be ordered to be paid under this section to the pensionable dependants of a pensioner shall not exceed the amount of the pension otherwise payable to that pensioner.

“(6) The Board shall give effect to an order under this section and shall deduct all moneys paid thereunder from the pension payable to the deserting pensioner during the period specified in the order.

“(7) Where a pension is payable under this section to the child of the pensioner section 34 applies in relation to that pension as if it were a child's pension.”.

20 Sections 41, 42, 43, and 44 of the Principal Act are repealed and the following sections are substituted therefor:—

“41—(1) In accordance with this section a contributor may elect to convert the whole or any part of his pension entitlement under this Act into a lump sum payment.

Right of contributor to convert pension into lump sum.

“(2) A contributor may not make an election under this section in relation to an invalidity pension.

“(3) An election under this section shall be made, within the period of 3 months immediately preceding the contributor’s retirement, by notice in writing given to the Board stating, as the case may be, that the whole of the pension entitlement of the contributor is to be converted into a lump sum payment or that a percentage thereof specified in the notice is to be so converted.

“(4) When an election is made under this section by a contributor to convert the whole of his pension entitlement he shall be paid out of the Fund a sum equal to two and one-half times the total amount of his contributions to the Fund and his entitlement to a pension under this Act in respect of his service ceases.

“(5) When an election is made under this section by a contributor to convert a specified percentage of his pension entitlement—

- (a) he shall be paid from the Fund two and one-half times that specified percentage of his contributions to the Fund; and
- (b) the pension to which he would otherwise be entitled shall be reduced by that specified percentage.

“(6) Where an election is made under this section by a contributor who, since attaining the age of 50 years, has made an election under section 25 (9), his contributions to the Fund shall, for the purposes of subsections (4) and (5), be deemed to be the sum of the following, namely:—

- (a) The amount of the contributions that he would have paid into the Fund if he had not made the election under section 25 (9); and
- (b) Two-fifths of the difference between that amount and the total amount of his contributions to the Fund.

“(7) Where a contributor has made payments to the Board under section 25A that have not been refunded there shall be refunded to him out of the Fund—

- (a) if he elects under this section to convert the whole of his pension entitlement, the whole of those payments; or
- (b) if he elects under this section to convert a specified percentage of his pension entitlement, that percentage of those payments.

“42—(1) A person who is entitled to a pension under Division II of this Part may elect to convert the whole or any part of that pension into a lump sum payment.

Conversion of widow's pension or widower's pension into a lump sum.

“(2) References in this section to ‘the deceased’ shall be construed as references to the contributor or pensioner as a consequence of whose death the pension under Division II of this Part became or becomes payable, and references therein to ‘the pensioner’ shall be construed as references to the person entitled to the pension.

“(3) An election under this section shall be made by notice in writing to the Board within—

(a) the period of 6 months following the death of the deceased;
or

(b) the period of 3 months immediately preceding the day on which the pensioner will attain the age of 60 years,

whichever period is last to expire.

“(4) Notwithstanding anything in subsection (3) an election shall not be made under this section by a pensioner—

(a) who has attained the age of 75 years; or

(b) who has been in receipt of the pension for more than 10 years.

“(5) A notice under subsection (3) shall state, as the case may be, that the whole of the pension is to be converted into a lump sum payment or that a percentage thereof specified in the notice is to be so converted.

“(6) On a pensioner making an election under this section to convert the whole of a pension that pensioner shall be paid out of the Fund a sum equal to two-thirds of the sum (including any sum required to be refunded under section 41 (7)) that the deceased would have received if, pursuant to section 41, he had converted the whole of his pension entitlement into a lump sum, and the entitlement of the pensioner to a widow's pension or a widower's pension ceases.

“(7) On a pensioner making an election under this section to convert a percentage of a pension into a lump sum payment that pensioner shall be paid out of the Fund a sum equal to that percentage of the sum to which she or he would have been entitled to be paid under subsection (6) if she or he had so elected to convert the whole of the pension, and the widow's pension or widower's pension to which she or he would otherwise be entitled shall be reduced by the like percentage.

Saving for subsequent rights on conversion of pension.

“ 43 The conversion under this Division of a whole or a portion of a pension to which a person is entitled does not prejudice or affect the right of any other person to a pension, and that pension is payable to that person, and he or she has the like right to convert the whole or a portion of that pension into a lump sum payment, as if the conversion first-mentioned had not been made.”.

Interpretation of Division IA of Part VI.

21 Section 48A of the Principal Act is amended—

- (a) by omitting from paragraph (a) the words “ *Retirement Benefits Act 1974* ” and substituting therefor the words “ *Retirement Benefits Act (No. 2) 1974* ”; and
- (b) by omitting from paragraph (b) (i) the words “ 1st October 1974 ” and substituting therefor the words “ 1st April 1975 ”.

Further right to elect to contribute to Fund.

22 Section 48B of the Principal Act is amended by omitting subsections (1), (2), and (3) and substituting therefor the following subsections:—

“(1) A person to whom this Division applies may, in accordance with this section, notify the Board in writing that he elects to contribute to the fund.

“(2) A notification referred to in subsection (1) shall be given not later than 31st March 1975, except that where the person giving the notification is a person referred to in section 48A (b) the notification may be given after the 31st March 1975, so long as it is given within the period of 3 months beginning on the day his reappointment takes effect.

“(3) An election notified to the Board under this section shall be deemed to have been made and to have effect on 1st January 1975, unless it is made by a person referred to in section 48A (b), and, in the case of an election notified by such a person, the election shall be deemed to have been made and to have effect on that day or at the expiration of a period of 3 months beginning on the day the election is notified to the Board, whichever is the later.”.

Rights of employees of M.T.T.

23 Section 51 of the Principal Act is amended by omitting from subsection (11) the words “ to a person who has made an election under this section, or to the widow of such a person ” and substituting therefor the words “ to or in respect of a person who has made an election under this section ”.

24 Section 54 of the Principal Act is amended by inserting after subsection (1) the following subsection:—

Contributions to the Fund by the State and by State authorities.

“(1A) Where by virtue of the operation of section 25A a pension or other benefit becomes payable to any person that pension or other benefit shall be disregarded for the purposes of this section; and, for the purposes of this subsection, the amount by which any pension or other benefit is increased by virtue of the operation of section 25A shall be treated as a pension or other benefit that becomes payable by virtue of that operation.”.

25 Section 61A of the Principal Act is amended—

Transfer of assets from the Superannuation Fund to the Fund as a consequence of further elections.

- (a) by omitting from subsection (1) the words “ 30th September 1974 ” and substituting therefor the words “ 31st March 1975 ”;
- (b) by omitting from that subsection the words “ on 1st January 1975 ”;
- (c) by omitting from that subsection the words “ the former ” and substituting therefor the word “ that ”; and
- (d) by omitting subsection (6) and substituting therefor the following subsection:—

“(6) The Superannuation Board shall pay to the Board compound interest, calculated from 1st January 1975 with monthly rests, at such rate as the Treasurer may determine on all sums required to be paid by the Superannuation Board to the Board under this section that are not so paid before that date.”.

26 Section 11 of the *Retirement Benefits Act* 1974 is amended by omitting from subsection (1) the words “ 30th September 1974 ” and substituting therefor the words “ 31st March 1975 ”.

Revocation of elections to come under Principal Act.

27—(1) Where by virtue of any provision of this Part a person becomes, on the passing of this Act, entitled to any pension to which he would not have been entitled if this Part had not been enacted or to a pension at a different rate from that to which he would otherwise be entitled that pension shall be deemed to become payable, or payable at that different rate, from the passing of this Act.

Transitional provisions.

(2) An order made under section 36 (3) of the Principal Act, as that Act had effect before the commencement of this Act, in respect of the year commencing on 1st January 1975, has effect as an order made under section 36 (3) of the Principal Act, as amended by this Act, in respect of the half-year commencing on that day.

PART III

PROVISIONS HAVING RETROSPECTIVE EFFECT

Commencement
of Part III.

28—(1) The following sections of this Part (other than section 33) shall be deemed to have commenced on 1st July 1971, and section 33 shall be deemed to have commenced on the commencement of the *Retirement Benefits Act 1974*.

(2) Where a payment of any amount to a person has not been made by the Board before the passing of this Act that by virtue of the enactment of this Part would have been required to be made, the Board shall, as soon as practicable after the passing of this Act, make that payment to that person, or, if he has died, to his legal personal representative; but nothing in this Part shall be construed as requiring the repayment to the Board in whole or in part of any sum paid by the Board before the passing of this Act, that but for the enactment of this Part would lawfully have been paid.

29 After section 3 of the Principal Act the following section is inserted in Part I thereof:—

Position of
certain persons
not
contributing
under *Super-
annuation Act*
1938.

“3A—(1) Where at the appointed day an employee was, by virtue of section 21 (2), section 21 (2A), or section 22 of the *Superannuation Act 1938*, wholly exempt from making contributions under that Act, that employee shall, for the purposes of this Act, be deemed to have become an employee on the appointed day, but shall not be obliged to contribute to the Fund.

“(2) Where before the commencement of the *Retirement Benefits Act (No. 2) 1974* a person who was an employee immediately before the appointed day has made no contributions under the *Superannuation Act 1938* that person shall be deemed to have become an employee on such date, not being a date before the appointed day, as the Board may determine.”

Rights of
contributors
for full
benefits.

30 Section 26 of the Principal Act is amended—

- (a) by omitting from subsection (2) the words “three years” and substituting therefor “12 months”;
- (b) by omitting from subsection (3) the words “three years” and substituting therefor the words “12 months”;
- (c) by omitting from subsection (8) the words “three years” and substituting therefor the words “12 months”;
- (d) by inserting after subsection (9) the following subsection:—

“(9A) Where a contributor has made an election under section 25 (7) to contribute to the Fund at the lower rate

of contribution and having, in respect of that election, received a refund of her contributions, is, at the time of her retirement, contributing to the Fund at that rate the pension to which she is entitled is a pension calculated at the rate of one-half of the pension to which, but for this subsection, she would have been entitled.”;

- (e) by omitting from subsection (13) the words “ three years ” and substituting therefor the words “ 12 months ”;
- (f) by omitting from subsection (14) the words “ three years ” and substituting therefor the words “ 12 months ”; and
- (g) by adding at the end thereof the following subsection:—

“(15) Notwithstanding anything in the foregoing provisions of this section this section has effect as if—

- (a) in relation to the retirement of a contributor before 1st January 1974, the references therein to a period of 12 months were references to a period of 3 years; and
- (b) in relation to the retirement of a contributor on or after that date but before 1st January 1975, the references therein to a period of 12 months were references to a period of 2 years.”.

31 Section 28 of the Principal Act is amended—

Benefits on
compulsory
retirement.

- (a) by omitting from subsection (2) the words “ three years ” and substituting therefor the words “ 12 months ”;
- (b) by adding at the end thereof the following subsection:—

“(3) Notwithstanding anything in the foregoing provisions of this section this section has effect as if—

- (a) in relation to the retirement of a contributor before 1st January 1974, the references therein to a period of 12 months were references to a period of 3 years; and
- (b) in relation to the retirement of a contributor on or after that date but before 1st January 1975, the references therein to a period of 12 months were references to a period of 2 years.”.

Annual
adjustment
of pensions.

32 Section 36 of the Principal Act is amended by inserting after subsection (7) the following subsection:—

“(7A) In their application to a pension payable under Division II or Division III of this Part 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.”.

33 After section 47 of the Principal Act the following section is inserted:—

Addition of
service with
other
authorities
of transferred
officers
electing in
first period.

“47A—(1) This section applies to an employee who makes an election under section 46 and has, under section 61A of the *Superannuation Act* 1938, paid to the credit of the Superannuation Fund the whole or part of the moneys received by him from a prescribed superannuation fund within the meaning of that section.

“(2) Where an employee to whom this section applies was contributing to the prescribed superannuation fund referred to in subsection (1) for the maximum benefits available to him from that fund, the whole of the time during which he contributed to that fund shall be regarded as service for the purposes of this Act, but if, at any time, he was contributing to that fund for less than those maximum benefits such proportion only of the time during which he contributed to that fund as the Actuary may determine shall be regarded as service for the purposes of this Act.”.

34 After section 48D of the Principal Act the following section is inserted:—

Addition of
service with
other
authorities of
transferred
officers
electing in
second period.

“48DA Section 47A applies to an employee who makes an election under section 48B as it applies to an employee who has made an election under section 46.”.