

RETIREMENT BENEFITS AMENDMENT ACT 1987

No. 21 of 1987

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RETIREMENT BENEFITS AMENDMENT ACT 1987

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No. 21 of 1987
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AN ACT to amend the Retirement Benefits Act 1982 and the State Employees (Long-Service Leave) Act 1950.

[Royal Assent 29 April 1987]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Retirement Benefits Amendment Act 1987*. Short title.

2—(1) Except as provided in subsections (2), (3), and (4), Commence- this Act shall commence on 1st April 1987, but if this Act does not ment. receive the Royal assent on or before that day, this Act, except as provided in those subsections, shall be deemed to have commenced on that day.

(2) Section 6 shall be deemed to have commenced on 26th February 1987.

(3) Sections 30 (2), 31 (2), and 32 (2) shall commence on 1st July 1989.

(4) Sections 5, 34, 38 (b), (c), (d), and (e), and 55 (15) shall commence on 1st July 1987.

Principal Act.

3—In this Act, the *Retirement Benefits Act 1982** is referred to as the Principal Act.

Amendment of
section 3 of
Principal Act
(Interpre-
tation).

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

(a) by inserting in subsection (1) the following definition after the definition of “age for retirement”:

“allowances” means any income regularly received by a person, or to which he is entitled, in his capacity as an employee, other than income so received by that person or to which he is so entitled by way of salary, bonuses, overtime payments, payments for special services of an occasional nature, or travelling expenses;

(b) by omitting “21” from paragraph (b) of the definition of “child” in that subsection and substituting “25”;

(c) by inserting in the definition of “contributions” in that subsection “, including supplementary contributions,” before “paid”;

(d) by omitting from that subsection the definition of “contributor for limited benefits” and substituting the following definition:—

“contributor for limited benefits” has the meaning assigned to that expression by section 23 (5), and includes a person who, immediately before 1st April 1987, is a contributor for limited benefits within the meaning of section 23 (6) as in force before that date;

(e) by omitting from that subsection the definition of “salary” and substituting the following definition:—

“salary” means the salary or wages received by a person, or to which he is entitled, in his capacity as an employee, but does not include any allowances, bonuses, overtime payments, payments for special services of an occasional nature, or travelling expenses so received by him or to which he is so entitled;

(f) by omitting “Fund;” from paragraph (a) of the definition of “service” in that subsection and substituting “Fund; and”;

* No. 10 of 1982. Amended by Nos. 12 and 85 of 1983, No. 29 of 1984, and Nos. 22, 51, and 112 of 1985.

(g) by inserting in that subsection the following definition after the definition of “Superannuation Fund Board”:

“supplementary contributions” means supplementary contributions paid or payable under this Act to the Fund by a contributor pursuant to an election under section 29A (1) or pursuant to such an election varied pursuant to section 29c (6);

(b) by omitting from subsection (7) “Fund”, where secondly occurring, and substituting “Fund, together with interest on the amount of the refund as provided in section 90A”;

(i) by omitting from subsection (11) “consisting of a whole month or 2 or more whole months” and substituting “of 365 days”.

5—Section 4 of the Principal Act is amended by inserting the following paragraph after paragraph (c):—

Amendment of section 4 of Principal Act (Non-application of Act).

(ca) a police officer who, being entitled to exercise a right of election under section 61B, does not exercise that right of election;

6—Section 6 of the Principal Act is amended as follows:—

Amendment of section 6 of Principal Act (Application of Act to certain temporary employees and other persons).

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

(2A) A person who is appointed to the office of the Commissioner, or the Acting-Commissioner, of the Hydro-Electric Commission may—

(a) in the case of a person so appointed who is not an employee immediately before he is appointed to that office, elect to become a contributor; or

(b) in the case of a person so appointed who is an employee and a contributor immediately before he is appointed to that office,

elect to continue to be a contributor on and from the date of his appointment to that office.

- (b) by inserting in subsection (3) “ or (2A)” after “ subsection (1)”;
- (c) by inserting the following subsection after subsection (5):—

(5A) On the making of an election under this section by a person—

(a) to whom subsection (2A) (a) applies, he shall be deemed to become an employee within the meaning of this Act and to remain such an employee as long as he holds the office of the Commissioner, or the Acting-Commissioner, of the Hydro-Electric Commission; or

(b) to whom subsection (2A) (b) applies, he shall continue to be a contributor on and from the date of his appointment to the office of the Commissioner, or the Acting-Commissioner, of the Hydro-Electric Commission until he ceases to hold that office.

Repeal of section 7 of Principal Act (Retirement under *State Employees (Long-Service Leave) Act* 1950).

7—Section 7 of the Principal Act is repealed.

Amendment of section 11 of Principal Act (Provisions with respect to constitution, membership, and meetings of the Board).

8—Section 11 of the Principal Act is amended as follows:—

(a) by omitting paragraphs (a) and (b) of subsection (1) and substituting the following paragraphs:—

(a) one shall be a person nominated by the Minister for the time being administering the *Tasmanian State Service Act* 1984;

(b) one shall be the Under Treasurer or a person employed in the Treasury nominated by the Under Treasurer; and

(b) by omitting subsection (3).

9—Section 13 of the Principal Act is amended as follows:—

Amendment of section 13 of Principal Act (Provisions with respect to constitution, membership, and meetings of the Trust).

(a) by omitting paragraph (a) of subsection (1) and substituting the following paragraph:—

(a) one shall be the Under Treasurer or a person employed in the Treasury nominated by the Under Treasurer;

(b) by omitting subsection (3).

10—Section 14 of the Principal Act is amended as follows:—

Amendment of section 14 of Principal Act (Power of Trust to engage persons).

(a) by omitting from subsection (2) “ Governor may, on the recommendation of the Trust,” and substituting “ Trust may ”;

(b) by omitting from that subsection “ he ” and substituting “ it ”;

(c) by omitting subsections (3) to (7) and substituting the following subsections:—

(3) A person who is a member of a House of Parliament of the Commonwealth, or of a State or Territory of the Commonwealth, 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 such an election.

(4) Schedule 2A has effect with respect to—

(a) the appointment and terms and conditions of employment of officers appointed under subsection (2); and

(b) any such officer who is a candidate for election as mentioned in subsection (3).

(5) Subject to Schedule 2A, the terms and conditions of employment (including remuneration, allowances, and entitlements) of the officers of the Trust shall be such as are determined by the Trust from time to time.

(6) All costs incurred by the Trust pursuant to this section shall be a charge against the Trust's revenue.

Substitution of section 17 of Principal Act.

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

Protection of members of the Board and the Trust and other persons.

17—(1) Subject to subsection (2), any matter or thing done or omitted to be done in good faith by a member of the Board or the Trust, by an officer of the Trust appointed pursuant to section 14, or by an employee appointed pursuant to section 16 to assist the Board or the Trust, for the purpose or purported purpose of the performance by him of his functions as a member of the Board or the Trust or as such an officer or employee, shall not subject him personally to any action, liability, claim, or demand.

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

Amendment of section 20 of Principal Act (Continuation of the Fund).

12—Section 20 (5) of the Principal Act is amended by inserting the following paragraphs after paragraph (a):—

- (ab) all amounts payable under sections 35A and 90A;
- (ac) all costs incurred by the Board for remuneration paid pursuant to clause 5 (1) of Part I of Schedule 1;
- (ad) all costs incurred pursuant to section 56 of the *Retirement Benefits Amendment Act 1987*;

Amendment of section 21 of Principal Act (Investment of the Fund).

13—Section 21 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (2) “subsection (1).” and substituting “subsection (1), after deducting from that money all costs incurred by the Trust pursuant to section 14 and all costs incurred by it for remuneration paid pursuant to clause 5 (1) of Part I of Schedule 2.”;

(b) by omitting paragraph (j) of subsection (3) and substituting the following paragraph:—

(j) by lending money on the security of, or by purchasing any of the following:—

(i) a promissory note or any other commercial instrument which confers on the holder a right of recourse against the Government of the Commonwealth or of this or another State for the repayment of the loan and the payment of interest on it;

(ii) a promissory note made by or on behalf of the Government of the Commonwealth or of this or another State and which does not confer on the holder a right of recourse, as mentioned in subparagraph (i), against that Government;

(iii) a promissory note made by or on behalf of a company incorporated within the Commonwealth and having a paid up capital of not less than \$1 000 000;

(iv) a promissory note made by or on behalf of an authority of the Government of the Commonwealth or of this or another State and which does not confer on the holder a right of recourse, as mentioned in subparagraph (i), against that Government;

(c) by omitting from the definition of “share” in subsection (11) “company”, where secondly occurring, and substituting “company, and call option contract, and put option contract, quoted by a stock exchange on the equities option market”;

(d) by adding the following subsection after subsection (11):—

(12) In this section, a reference to—

- (a) a State is a reference to a State or Territory of the Commonwealth; and
- (b) another State is a reference to a State (other than this State) or Territory of the Commonwealth.

Amendment of section 22 of Principal Act (Actuarial investigations of the Fund).

14—Section 22 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (3) (b) “ Part V; or ” and substituting “ Part V;”;
- (b) by omitting from subsection (3) (c) “ paid.” and substituting “ paid; or ”;
- (c) by adding the following paragraph after subsection (3) (c):—
 - (d) in the calculation of the amounts of the contributions referred to in paragraph (c).
- (d) by adding the following subsection after subsection (3):—

(4) The Actuary may, in a report for the purposes of subsection (1), make comments to the Treasurer and to the Board, and provide advice to them, on any matter or thing relating to or arising out of this Act.

Amendment of section 23 of Principal Act (Obligation of employees to contribute to the Fund).

15—Section 23 of the Principal Act is amended as follows:—

- (a) by omitting subsections (1), (2), (3), (4), (5), and (6) and substituting the following subsections:—

(1) A person who, pursuant to this subsection as in force before 1st April 1987, was required to contribute to the Fund—

(a) by reason of—

- (i) being an existing contributor immediately before the first commencement day;

(ii) becoming an employee on or after the first commencement day but before 1st April 1987; or

(iii) being a transferred contributor or an amalgamated contributor; and

(b) by reason of being under the age for retirement,

and who is a contributor immediately before 1st April 1987 shall, on and after that day, continue to contribute to the Fund as provided in this Part and Schedule 3.

(2) Except as provided in section 79 (10), a person who—

(a) becomes an employee on or after 1st April 1987; and

(b) is under the age for retirement,

shall contribute to the Fund as provided in this Part and Schedule 3.

(3) A person to whom subsection (2) applies shall, subject to subsection (4), contribute to the Fund by means of the 40 years' service scheme at the higher rate of contribution.

(4) A person to whom subsection (2) applies may, within one month after becoming an employee or within such extended time, if any, as the Board may in that case allow, elect by notice in writing to the Board to contribute to the Fund by means of the 35 years' service scheme or the 30 years' service scheme.

(5) A person who becomes a contributor to the Fund on or after 1st April 1987 by means of any scheme—

(a) who does not undergo a medical examination by a legally-qualified medical practitioner referred to in section 80 (1);

(b) who, having undergone a medical examination by such a medical practitioner, is not the subject of a certificate by the medical practitioner as mentioned in section 80 (1); or

(c) who, being the subject of such a certificate, is unable to satisfy the Board as to his health and physical condition as mentioned in section 80 (2),

is in this Act referred to as a “ contributor for limited benefits ”.

(b) by omitting subsection (9).

Amendment of section 24 of Principal Act (Provisions relating to contributions by certain transferred employees).

16—Section 24 of the Principal Act is amended as follows:—

(a) by inserting in subsection (1) “ or (2) ” after “ section 23 (1) ”;

(b) by omitting from subsection (5) (f) “ established under a law other than a law of the State ”.

Amendment of section 25 of Principal Act (Commencement and cessation of contributions).

17—Section 25 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsection:—

(1) Subject to section 26 (2), the contributions of an employee commence on the day on which he is appointed to the office or position by virtue of which he is an employee.

Insertion in Principal Act of new sections 29A, 29B, and 29C.

18—After section 29 of the Principal Act, the following sections are inserted in Part IV:—

Election to pay supplementary contributions.

29A—(1) Subject to section 29C, a contributor may, at any time, elect, by notice in writing to the Board, to pay supplementary contributions to the Fund.

(2) A contributor who makes an election under subsection (1) shall specify in the election the factor by reference to which the amount of the supplementary contributions to be paid by

him is to be determined in accordance with this section, being a factor consisting of multiples of half of one per cent up to and including 6 per cent.

(3) Subject to section 29c, where a contributor makes an election under subsection (1), he shall, on each pay-day after the date of the election during the period commencing on the day immediately following the date of the election and ending on the day on which he ceases to be an employee, pay a supplementary contribution to the Fund.

29B—The annual amount of the supplementary contributions payable to the Fund by a contributor is an amount equal to the product of the factor specified in his election under section 29A (1) and the amount of his annual salary for the time being.

Annual amount of supplementary contributions.

29c—(1) In this section, “election to pay supplementary contributions” means an election under section 29A (1).

Revocation or variation of election to pay supplementary contributions.

(2) A contributor who has made an election to pay supplementary contributions may, by notice in writing to the Board, revoke the election.

(3) A contributor may, in a notice under subsection (2), request the Board to refund to him the supplementary contributions that he has paid to the Fund.

(4) The Board shall, on receiving a request under subsection (3) from a contributor, refund to him the supplementary contributions that he has paid to the Fund only if it is satisfied that the contributor would suffer hardship if the refund is not made to him.

(5) Where a contributor revokes an election to pay supplementary contributions—

- (a) he shall cease to pay supplementary contributions on and after the pay-day next following the date of the notice of revocation; and
- (b) he is not entitled, until the expiration of a period of one year after that date, to make a further election to pay supplementary contributions.

(6) A contributor who has made an election to pay supplementary contributions, not being an election that has been revoked, may, by notice in writing to the Board, vary the election by substituting for the factor specified in the election another factor specified in the instrument of variation, being a factor consisting of multiples of half of one per cent up to and including 6 per cent.

(7) A contributor may, in a notice under subsection (6) varying an election to pay supplementary contributions, request the Board to refund to him such part of those supplementary contributions that have been so paid by him before the day on which, as provided by subsection (8) (a), the election as varied, has effect, as is specified in the notice.

(8) Where a contributor varies an election to pay supplementary contributions—

- (a) the election as varied has effect on and from the pay-day next following the date of the instrument of variation; and
- (b) if the factor substituted by the variation is lower than the factor specified in the election—the contributor is not entitled to make a further variation of the election until the expiration of a period of one year after the date of the instrument of variation.

(9) The Board shall, on receiving a request under subsection (7) from a contributor, refund to him the part of the supplementary contributions to which the request relates only if the Board is satisfied that the contributor would suffer hardship if the refund is not made to him.

Amendment of section 32 of Principal Act (Rights of contributors who retire before attaining age of 60 years).

19—Section 32 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (4) “, subject to subsection (4A),” after “shall”;
- (b) by inserting the following subsection after that subsection:—

(4A) A reduction shall not be made under subsection (4) to the amount of a pension payable to a contributor if, at the time when the contributor becomes entitled to the pension, it is equal to two-thirds of his annual average salary in the year immediately preceding his retirement.

20—Section 33 of the Principal Act is amended as follows:—

Amendment of section 33 of Principal Act (Special provisions as to benefits on compulsory retirement).

(a) by omitting from subsection (1) (c) “has been an employee for a continuous period of at least 20 years and”;

(b) by omitting paragraph (d) of subsection (1);

(c) by omitting from subsection (1) (e) (i) and (1) (f) (ii) “subsection (3)”, wherever occurring, and substituting “subsections (3) and (3A)”;

(d) by omitting subsection (2);

(e) by inserting in subsection (3) “, subject to subsection (3A),” after “shall”;

(f) by inserting the following subsection after that subsection:—

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

(g) by omitting from subsection (6) (b) (ii) “calculated at the prescribed rate of interest” and substituting “as provided in section 90A”;

(h) by omitting subsection (7).

21—The heading to Division 2 of Part V to the Principal Act is amended by adding “: *Annuities*” after “*contributions*”.

Amendment of heading to Division 2, Part V, to Principal Act.

22—Section 35 of the Principal Act is amended as follows:—

Amendment of section 35 of Principal Act (Refund of contributions).

(a) by inserting in subsection (4) (a) “, together with interest on that sum as provided in section 90A” after “Fund”;

- (b) by omitting from subsection (4) (b) (ii) “calculated at the prescribed rate of interest” and substituting “as provided in section 90A”;
- (c) by omitting subsection (5);
- (d) by omitting from subsection (7) “section 29.” and substituting “section 29, but not including supplementary contributions paid by him.”.

Insertion in
Principal Act
of new
section 35A.

23—After section 35 of the Principal Act, the following section is inserted in Division 2 of Part V:—

Refund of
supplementary
contributions
or payment of
annuity.

35A—(1) Where a person, being a contributor who pays supplementary contributions to the Fund, ceases, for any reason, to be a contributor, the Board shall, having regard to any wishes of that person or of his personal representative, in the case of that person’s death, with respect to the matter—

- (a) refund to that person or, as the case may be, to his personal representative, a sum equal to the amount of the supplementary contributions paid by him to the Fund, together with interest on that sum as provided in section 90A; or
- (b) convert that sum into an annuity calculated by the Actuary and provide for the payment out of the Fund of that annuity to that person or, in the case of his death, to such person as the Board determines.

(2) In calculating an annuity pursuant to subsection (1) (b), the Actuary shall have regard to such terms and conditions as are determined by the Board in relation to the annuity.

Amendment of
section 36 of
Principal Act
(Widows’
pensions).

24—Section 36 of the Principal Act is amended as follows:—

- (a) by omitting subsection (2) and substituting the following subsection:—
 - (2) Subject to this section and to sections 50(4) (c), 50(4) (d), 50(6A) (b), 50(8) (b), or 51(3A) (b), as the case requires, the widow of—
 - (a) a contributor for limited benefits; or

(b) a pensioner who, immediately before he became eligible for a pension, was a contributor for limited benefits,

is entitled, as from the date of the death of the contributor or pensioner, to a pension calculated at the rate of two-thirds of the pension that would have been payable to him under Schedule 5 if he had retired immediately before the date of his death.

(b) by omitting from subsection (3) (a) “ he had been in receipt of an invalidity pension immediately before his death ” and substituting “, immediately before his death, he had been in receipt of an invalidity pension on the ground of total and permanent incapacity as defined in section 77 (2A)”;

(c) by omitting subsection (9) and substituting the following subsection:—

(9) Where the widow of a contributor or pensioner subsequently remarries or lives continuously for at least 12 months with a male person as if she were his wife, the pension to which she is otherwise entitled under this section as the widow of that contributor or pensioner is not payable during the continuance of that subsequent marriage or while she is so living with that male person.

25—Section 37 of the Principal Act is amended as follows:—

Amendment of section 37 of Principal Act (Widowers' pensions).

(a) by omitting from paragraph (b) “ wife; and ” and substituting “ wife;”;

(b) by omitting from paragraph (c) “ widower's pension.” and substituting “ widower's pension; and ”;

(c) by adding the following paragraph after paragraph (c):—

(d) in subsection (9) of that section the references to a male person were references to a female person and the reference to his wife were a reference to her husband.

26—Section 40 of the Principal Act is amended as follows:—

Amendment of section 40 of Principal Act (Rate of child's pension).

(a) by omitting from subsection (3) (a) “ \$500 ”, where twice occurring, and substituting “ \$1 000 ”;

(b) by omitting from subsection (3) (b) “ \$1 500 ”, where twice occurring, and substituting “ \$3 000 ”;

(c) by adding the following subsection after subsection (3):—

(4) The Governor may, by order made on the recommendation of the Board, amend subsection (3) by omitting an amount specified in that subsection and substituting for it the amount specified in the order.

Amendment of section 41 of Principal Act (Commencement and cessation of children's pensions).

27—Section 41 (2) (a) of the Principal Act is amended by omitting “ 21 ” and substituting “ 25 ”.

Amendment of section 44 of Principal Act (Half-yearly adjustment of pensions).

28—Section 44 (1) of the Principal Act is amended by omitting “ and to section 45 ”.

Repeal of section 45 of Principal Act (Power of Board to determine that person to whom pension payable shall not receive half-yearly increase or shall receive less than half-yearly increase).

29—Section 45 of the Principal Act is repealed.

Amendment of section 50 of Principal Act (Right of contributor to convert whole or part of pension entitlement into lump sum payment).

30—(1) Section 50 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (3) “, subject to subsection (3A),” after “ shall ”;
- (b) by omitting from subsection (3) (c) and (d) “ \$40 ”, wherever occurring, and substituting “ \$60 ”;
- (c) by omitting from subsection (3) (d) “ 30 per cent ”, where twice occurring, and substituting “ 40 per cent ”;
- (d) by inserting the following subsections after subsection (3):—

(3A) The age referred to in subsection (3) (b) (ii) shall be reduced by one each 1st July during the period commencing on 1st July 1988 and ending on 1st July 1992.

(3B) The Governor may, by order made on the recommendation of the Board, amend paragraphs (c) and (d) of subsection (3) by omitting the monetary

amount specified in both of those paragraphs and substituting for it the monetary amount specified in the order.

- (e) by omitting from subsection (4) (a) “ subsection (3)); and ” and substituting “ subsection (3));”;
- (f) by omitting from subsection (4) (b) “ percentage.” and substituting “ percentage;”;
- (g) by adding the following paragraphs after subsection (4) (b):—
 - (c) in the case of an election to convert the whole of the contributor’s pension entitlement, on the death of the contributor—
 - (i) the widow of the contributor, in the case of a male contributor, is not entitled to a widow’s pension;
 - (ii) the widower of the contributor, in the case of a female contributor, is not entitled to a widower’s pension; and
 - (iii) a person who has lived together with the contributor as mentioned in section 38 (1) is not entitled to a pension under Division 3; and
 - (d) in the case of an election to convert a specified percentage of the contributor’s pension entitlement, a widow’s pension, payable as mentioned in section 36 (3), to the widow of the contributor or other pension payable pursuant to section 37 or 38 shall be reduced by that specified percentage.
- (h) by omitting from subsection (6) (b) (ii) “ calculated at the prescribed rate of interest,” and substituting “ as provided in section 90A.”;
- (i) by omitting from subsection (6) “ and the pension to which he would otherwise be entitled shall be reduced by that specified percentage.”;
- (j) by inserting the following subsection after subsection (6):—
 - (6A) When an election of a kind referred to in subsection (6) is made by a contributor—

- (a) the pension to which he would otherwise be entitled shall be reduced by the percentage specified in the election; and
 - (b) a widow's pension payable, as mentioned in section 36 (3), to the widow of the contributor or other pension payable pursuant to section 37 or 38 shall be reduced by that specified percentage.
- (k) by omitting from subsection (7) (b) (ii) "calculated at the prescribed rate of interest," and substituting "as provided in section 90A.";
- (l) by omitting from subsection (7) "and his entitlement to a pension under this Act ceases.";
- (m) by omitting subsection (8) and substituting the following subsection:—
- (8) When an election of a kind referred to in subsection (7) is made by a contributor—
- (a) his entitlement to a pension under this Act ceases; and
 - (b) on his death—
 - (i) the widow of the contributor, in the case of a male contributor, is not entitled to a widow's pension;
 - (ii) the widower of the contributor, in the case of a female contributor, is not entitled to a widower's pension; and
 - (iii) a person who has lived together with the contributor as mentioned in section 38 (1) is not entitled to a pension under Division 3.

(2) Section 50 (3) (d) of the Principal Act is amended by omitting "40 per cent", where twice occurring, and substituting "50 per cent".

31—(1) Section 51 of the Principal Act is amended as follows:—

(a) by omitting from subsection (2) “ 30 per cent ” and substituting “ 40 per cent ”;

(b) by omitting from subsection (3) “ may be), and his pension shall be reduced by the percentage of his pension specified in his election.” and substituting “ may be).”;

(c) by inserting the following subsection after subsection (3):—

(3A) When an election is made under this section by an invalidity pensioner—

(a) his pension shall be reduced by the percentage of his pension specified in the election; and

(b) a widow’s pension payable, as mentioned in section 36 (3), to the widow of the pensioner or other pension payable pursuant to section 37 or 38 shall be reduced by that specified percentage.

(2) Section 51 (2) of the Principal Act is amended by omitting “ 40 per cent ” and substituting “ 50 per cent ”.

Amendment of section 51 of Principal Act (Right of invalidity pensioner to convert part of pension into lump sum payment).

32—(1) Section 52 of the Principal Act is amended as follows:—

(a) by omitting from subsection (3) (a) and (b) “ \$40 ”, wherever occurring, and substituting “ \$60 ”;

(b) by omitting from subsection (3) (b) “ 30 per cent ”, where twice occurring, and substituting “ 40 per cent ”;

(c) by inserting the following subsection after subsection (3):—

(3A) The Governor may, by order made on the recommendation of the Board, amend paragraphs (a) and (b) of subsection (3) by omitting the monetary amount specified in both of those paragraphs and substituting for it the monetary amount specified in the order.

(2) Section 52 (3) (b) of the Principal Act is amended by omitting “ 40 per cent ”, where twice occurring, and substituting “ 50 per cent ”.

Amendment of section 52 of Principal Act (Right of person in receipt of or entitled to widow’s or widower’s pension to convert whole or part of pension or pension entitlement into lump sum payment).

33—Section 53 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 53 of Principal Act.

Time for
payment of
lump sum
payments.

53—A lump sum payment payable under this Division is payable—

(a) on the day immediately following the day on which the election in respect of the payment becomes effective under this Division; or

(b) 28 days after the receipt of that election, whichever is the later.

Insertion in
Principal Act
of new
Part VIA.

34—After section 61 of the Principal Act, the following Part is inserted:—

PART VIA

SPECIAL PROVISIONS IN RELATION TO CERTAIN POLICE OFFICERS

Interpretation:
Part VIA.

61A—In this Part, unless the contrary intention appears—

“commencement day” means 1st July 1987;

“person to whom this Part applies” means a police officer—

(a) from whose salary sums were, immediately before the commencement day, being deducted pursuant to section 43 of the *Police Regulation Act 1898*; and

(b) who exercises the right of election conferred on him by section 61B.

Right of
certain police
officers to
elect to
contribute to
the Fund.

61B—(1) A person who, immediately before the commencement day, is a police officer not contributing to the Fund and who is under the age of 65 years on that day, may, not later than 31st December 1987, by notice in writing given to the Police Provident Fund Board, elect to contribute to the Fund.

(2) As soon as practicable after the receipt of a notice under subsection (1), the Police Provident Fund Board shall—

(a) notify the Board that the person by whom the notice was given has exercised his right of election under this section;

(b) pay to the Board, on behalf of that person—

5.5

(i) an amount equal to $\frac{5.5}{7.5}$ ths of the con-

7.5

tributions to the Police Provident Fund made from his salary pursuant to

section 43 of the *Police Regulation Act* 1898 up to and including 30th June 1987; and

5·5

- (ii) —ths of the accumulated interest on
7·5

that amount calculated up to and including that day; and

- (c) pay to that person the remainder of those contributions to the Police Provident Fund and the remainder of that accumulated interest.

(3) If, on 30th June 1987, the amount standing to the credit in the Police Provident Fund of a person who exercises the right of election conferred on him by this section exceeds the amounts required by subsection (2) to be paid, on behalf of that person, to the Board and to that person, the Police Provident Fund Board shall pay to the Treasurer, to the credit of the Consolidated Fund, a sum equal to that excess.

(4) For the purposes of this Act, the sum paid to the Board pursuant to subsection (2) (b) (i) on behalf of a person to whom this Part applies shall be deemed to be contributions made by that person to the Fund.

61c—(1) A person to whom this Part applies—

- (a) shall be deemed to be an employee;
- (b) shall contribute to the Fund by means of the 40 years' service scheme at the higher rate of contribution on and after his first pay-day after the day on which he exercises the right of election conferred on him by section 61B; and
- (c) shall pay to the Fund such arrears of his contributions to the Fund as have accrued during the period beginning on the commencement day and ending on the day immediately before that on which he exercises that right of election.

Rights and obligations of persons to whom this Part applies.

(2) Where a person exercises the right of election conferred on him by section 61B—

- (a) that person ceases, on and after 1st July 1987, to be entitled to any benefits from, or to be required to make any payments to, the Police Provident Fund;
- (b) if any deductions are made from that person's salary pursuant to section 43 of the *Police Regulation Act* 1898 after that day and before the day on which he exercises that right of election, the Police Provident Fund Board shall refund to that person the sum of all deductions so made; and
- (c) his service for the purposes of this Act includes the period during which he contributed to the Police Provident Fund.

Amendment of section 62A of Principal Act (Amounts payable by the Board towards the expenses incurred in the administration of the Superannuation Branch of the Treasury).

35—Section 62A (3) of the Principal Act is amended as follows:—

- (a) by omitting “ 1983 ” and substituting “ 1986 ”;
- (b) by omitting “ two-sevenths ” and substituting “ the whole ”.

Amendment of section 63 of Principal Act (Contributions to the Fund by the State and by State authorities).

36—Section 63 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “ subsection (3) ” and substituting “ subsections (2A), (2B), and (3) ”;
- (b) by inserting the following subsections after subsection (2):—

(2A) Subject to subsection (2B), where a lump sum payment is made to a person pursuant to section 50 (4), 50 (6), 50 (7), 51 (3), 52 (5), 52 (7), or 52 (8), the Treasurer shall pay to the Fund—

(a) a contribution, if any, towards that lump sum payment calculated in accordance with the following formula:—

(i) if B is equal to or greater than 1 — A:—

$$TC = LS \left[1 - \frac{(1 - A)}{B} \right];$$

(ii) if B is less than $1 - A$:—

TC = nought,

where—

“TC” is the Treasurer’s contribution;

“LS” is the amount of the lump sum payment;

“A” is the proportion payable by the Treasurer under subsection (1) (a); and

“B” is the proportion of basic pension converted into a lump sum payment;

(b) a contribution towards a pension and a contribution towards any half-yearly adjustment to that pension made pursuant to section 44 that become payable in respect of that person calculated in accordance with the following formula:—

(i) if B is equal to or greater than $1 - A$,

$$TC = P + Q \left[1 - \frac{(1-A)}{2(1-B)} \right];$$

(ii) if B is less than $1 - A$,

$$TC = \frac{A}{(1-B)} \left[P + Q \left(1 - \frac{B}{2A} \right) \right],$$

where—

“TC” is the Treasurer’s contribution;

“P” is the pension entitlement payable to that person immediately after his election to convert his pension into a lump sum payment;

“A” is the proportion payable by the Treasurer under subsection (1) (a), (b), (c), or (d), as the case may be;

“ B ” is the percentage of basic pension converted into a lump sum payment; and

“ Q ” is the amount of pension payable in excess of the “ P ”.

(2B) In subsection (2A), “ basic pension ” means the pension payable immediately before an election to convert the whole or, as the case may be, a percentage of the pension entitlement or pension becomes effective as provided in section 50 (4), 50 (6), 50 (7), 51 (3), 52 (5), 52 (7), or 52 (8).

Amendment of section 71 of Principal Act (Right of the Trust to borrow temporarily from the Treasurer).

37—Section 71 (2) (a) of the Principal Act is amended by omitting “ \$100 000 ” and substituting “ \$1 000 000 ”.

Amendment of section 72 of Principal Act (Application of the Public Servants' Retiring and Death Allowances Act 1925).

38—Section 72 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (3) (b) “ section 23 (9); ” and substituting “ section 23 (9), as in force before 1st April 1987; ”;
- (b) by omitting from subsection (3) (c) “ Act; or ” and substituting “ Act; ”;
- (c) by omitting from subsection (3) (d) (ii) “ Fund. ” and substituting “ Fund; or ”;
- (d) by adding the following paragraph after subsection (3) (d):—
 - (e) who exercises the right of election conferred on him by section 61B.
- (e) by inserting in subsection (4) “ or (e) ” after “ subsection (3) (d) ”.

- 39**—Section 76A of the Principal Act is amended as follows:—
- (a) by inserting in subsection (1) (a) and (b) “ or the Act of 1970 ” after “ Act ”, wherever occurring;
 - (b) by omitting from subsection (4) “ contributions.” and substituting “ contributions, without any interest on the amount of the refund.”.
- Amendment of section 76A of Principal Act (Powers of Board in respect of persons who fail to furnish information in relation to medical examinations, &c.).
- 40**—Section 77 of the Principal Act is amended as follows:—
- (a) by omitting from subsection (1) (a) “ remuneration or emolument ” and substituting “ payment ”;
 - (b) by omitting from subsection (1) (b) “ time; or ” and substituting “ time;”;
 - (c) by inserting the following paragraph after subsection (1) (b):—
 - (ba) whether any payment received by an employee is to be regarded as the payment of an allowance to him; or
 - (d) by omitting from subsection (2) (a) “ his duties ” and substituting “ the duties of his office or position or the duties of some other office or position for which he may be suited by training, experience, and aptitude or any of them ”;
 - (e) by inserting the following paragraph after subsection (2) (a):—
 - (ab) any such infirmity or incapacity is due to the total and permanent incapacity or partial and permanent incapacity of the contributor;
 - (f) by inserting the following subsection after subsection (2):—
 - (2A) For the purposes of subsection (2) (ab)—
 - “ partial and permanent incapacity ”, in relation to a contributor, means infirmity or incapacity suffered by a contributor of such a kind that the Board—
 - (a) is satisfied that, by reason of his suffering from that infirmity or capacity, the contributor is unfit to continue to perform the duties of his office or position or the duties of some other office or posi-

Amendment of section 77 of Principal Act (Determination of questions arising under this Act).

tion for which he may be suited by training, experience, and aptitude, or any of them; and

- (b) is not satisfied that, by reason of his so suffering, the contributor is, and until the age for retirement, will continue to be, unfit to continue to perform the duties of his office or position or the duties of some other office or position referred to in paragraph (a);

“ total and permanent incapacity ”, in relation to a contributor, means infirmity or capacity suffered by a contributor of such a kind that the Board is satisfied that the contributor is, and until the age for retirement, will continue to be, unfit to continue in the performance of the duties of his office or position or the duties of some other office or position for which he may be suited by training, experience, and aptitude or any of them.

- (g) by inserting the following subsections after subsection (3):—

(3A) Where, after such inquiry as it thinks necessary following a question arising with respect to a matter referred to in subsection (2) (a) or (c), the Board is satisfied that the health of the contributor or invalidity pensioner concerned is such as to enable him to perform the duties of an office or a position that is available to him and that he may be required to accept, the Board shall report—

- (a) to the Commissioner for Public Employment, in the case of—

- (i) a contributor who, immediately before the holding of the inquiry; or
- (ii) an invalidity pensioner who, immediately before becoming entitled to an invalidity pension,

was employed in an office or a position that is subject to the *Tasmanian State Service Act 1984*; or

- (b) in any other case, to the head or principal officer of the department, or the presiding member or chief executive officer of the corporation, board, or other body, in the service of which—
 - (i) the contributor was employed immediately before the holding of the inquiry; or
 - (ii) the invalidity pensioner was employed immediately before becoming entitled to an invalidity pension.

(3B) Where the Board determines that a contributor who has applied to retire on the ground of invalidity not due to his own fault is likely to recover sufficiently so as to enable him to perform the duties of an office or a position that may be available to him and that he may be required to accept, it may determine that the contributor is entitled to an invalidity pension for such period not exceeding 12 months as the Board approves, notwithstanding that, pursuant to subsection (3C) (a), he is not to be retired or permitted to retire on that ground.

(3C) Where a person is entitled to an invalidity pension pursuant to a determination under subsection (3B)—

- (a) notwithstanding anything to the contrary elsewhere in this Act—
 - (i) the Commissioner for Public Employment, in the case of a person who, immediately before becoming entitled to that pension, is a contributor who is employed in an office or position referred to in subsection (3A) (a); or

- (ii) the head or principal officer of the department, or the presiding member or chief executive officer of the corporation, board, or other body, in the service of which that person is employed immediately before becoming entitled to that pension, in any other case,

shall not retire that person, or permit him to retire on the ground of invalidity during the period that he is entitled to that pension, but in all other respects the provisions of this Act or any other Act relating to invalidity pensioners apply to him; and

- (b) the Board may reduce the amount of that pension to an amount that, in the opinion of the Board, the circumstances of the case warrant.

41—After section 77 of the Principal Act, the following section is inserted:—

77A—(1) A contributor may, by application in writing, apply to the Board for a determination by it that any allowances to which he is from time to time entitled shall be deemed to form part of the salary which he is from time to time entitled to be paid.

(2) On receipt of an application under subsection (1), the Board may, subject to this section, grant the application or refuse to grant the application.

(3) Before refusing to grant an application by a contributor under subsection (1), the Board shall give him an opportunity to be heard, and shall consider any matters which he may then submit to it in support of the application.

(4) The Board may make the grant of an application by a contributor under subsection (1) subject to the compliance by the contributor of such conditions as the Board determines, including, without limiting the generality of the foregoing, conditions with respect to the payment of interest by him and the payment of any arrears of contributions by him.

Insertion in
Principal Act
of new
section 77A.

Determinations
for inclusion
of allowances
in salaries of
contributors.

(5) Where the Board—

- (a) grants an application by a contributor under subsection (1), it shall serve on the contributor the determination made by it, being a determination containing particulars of any conditions to which the grant of the application is subject under subsection (4); or
- (b) refuses to grant an application by a contributor under subsection (1), it shall serve on the contributor the determination made by it, being a determination that contains particulars of the ground on which the refusal is based.

(6) The Board may, subject to subsection (8), make a further determination revoking or varying a determination under this section if it is satisfied that grounds have arisen that make it necessary or desirable for it to revoke or vary that last-mentioned determination.

(7) Without limiting the powers conferred on the Board by subsection (6) to revoke or vary a determination, a contravention of, or a failure to comply with, a condition to which the determination is subject constitutes a ground on which the determination may be revoked or varied under that subsection.

(8) Before making a further determination under subsection (6) with respect to a contributor, the Board shall give the contributor an opportunity to be heard, and shall consider any matters which he may then submit to it against the determination being made.

(9) Where the Board makes a further determination under subsection (6), it shall serve that determination on the contributor to whom it relates.

42—Section 79 of the Principal Act is amended by omitting subsections (8) and (9).

Amendment of section 79 of Principal Act (Re-employment of employees who have retired on pensions).

43—Section 83 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 83 of Principal Act.

Manner of paying pensions and other benefits under this Act.

83—A pension or other benefit that is payable under this Act shall—

(a) in the case of a child's pension—

(i) in respect of which the Board has not made a determination under section 42 (1)—be paid to a parent or guardian of the child in such manner as the Board, having regard to any wishes of that parent or guardian with respect to the payment, determines; or

(ii) in respect of which the Board has made a determination under section 42 (1)—be paid to the person specified in that determination in such manner as the Board, having regard to any wishes of that person with respect to the payment, determines; or

(b) in the case of any other pension or other benefit, be paid to the person entitled to it in such manner as the Board, having regard to any wishes of that person with respect to the payment, determines.

Amendment of section 88 of Principal Act (Provisions in respect of employees accidentally excluded from contributing).

44—Section 88 of the Principal Act is amended as follows:—

(a) by omitting from subsection (3) “A pension” and substituting “Subject to subsection (5A), a pension”;

(b) by omitting from subsection (5) “Where” and substituting “Subject to subsection (5A), where”;

(c) by inserting the following subsection after subsection (5):—

(5A) Interest, at such rate as is determined by the Board, is payable on contributions payable under subsection (3) or (5).

Insertion in Principal Act of new section 90A.

45—After section 90 of the Principal Act, the following section is inserted:—

90A—(1) Where, under a provision of this Act, a contributor or other person is entitled to a refund of—

(a) the contributions paid by him to the Fund; or

Payment of interest on contributions, &c., refunded.

(b) other sums paid by him to the Fund or to the Board, that person is, except as may otherwise be provided, also entitled to the payment of interest on the amount of that refund as provided in this section.

(2) A payment under subsection (1)—

(a) shall be at such rate and subject to such conditions as are determined by the Board on the advice of the Actuary; and

(b) is payable out of the Fund.

(3) Interest payable under this section in respect of—

(a) any contributions or other sums paid before 1st April 1987 accrues on and after that day; and

(b) any contributions or other sums paid on or after 1st April 1987 accrues on and after the day on which those contributions or other sums are paid.

46—Section 93 of the Principal Act is amended by inserting “ or other document ” after “ notice ”, wherever occurring.

Amendment of section 93 of Principal Act (Service of notices and other documents by the Board).

47—Part I of Schedule 1 to the Principal Act is amended as follows:—

Amendment of Schedule 1 to Principal Act (THE BOARD).

(a) by omitting from clause 2 (1) “ 7 ”, where twice occurring, and substituting “ 3 ”;

(b) by adding the following subclause after clause 5 (2):—

(3) The remuneration paid pursuant to subclause (1) to a member of the Board shall be a charge against the Board’s revenue.

(c) by inserting “(1)” before “A member ” in clause 8;

(d) by omitting paragraph (g) of that clause and substituting the following paragraph:—

(g) if, having been appointed by virtue of his holding a particular office, the member ceases to hold that office;

(e) by omitting “ that class.” from paragraph (b) of that clause and substituting “ that class; or ”;

(f) by adding the following paragraph after that paragraph:—

(i) if he is removed from office under subclause (2).

(g) by adding the following subclause as subclause (2) of that clause:—

(2) Where a member of the Board has been nominated by a person referred to in section 11 (1) (a) or (b), the Governor may remove that member from office if he is satisfied, having regard to the information supplied by the person so nominating that member, that he is no longer qualified to be appointed to the Board.

Amendment of
Amendment of
Schedule 2 to
Principal Act
(THE TRUST).

48—Part I of Schedule 2 to the Principal Act is amended as follows:—

(a) by omitting clause 1 and substituting the following clause:—

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

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

(b) by adding the following subclause after clause 5 (2):—

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

(c) by inserting “(1)” before “A member ” in clause 8;

(d) by omitting paragraph (g) of that clause and substituting the following paragraph:—

(g) if, having been appointed by virtue of his holding a particular office, the member ceases to hold that office;

(e) by omitting “them.” from paragraph (b) of that clause and substituting “them; or”.

(f) by adding the following paragraph after that paragraph:—

(i) if he is removed from office under subclause (2).

Term of
office.
1970, s. 12.

(g) by adding the following subclause as subclause (2) of that clause:—

(2) Where a member of the Trust has been nominated by a person referred to in section 13 (1) (a), the Governor may remove that member from office if he is satisfied, having regard to the information supplied by the person so nominating that member, that he is no longer qualified to be appointed to the Trust.

49—After Schedule 2 to the Principal Act, the following Schedule is inserted:—

Insertion in
Principal Act
of new
Schedule 2A.

SCHEDULE 2A

Section 14

PROVISIONS WITH RESPECT TO APPOINTMENT AND TERMS AND CONDITIONS OF EMPLOYMENT OF OFFICERS OF THE TRUST

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

(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 has special qualifications and experience for the functions of his office.

2—An officer of the Trust shall perform such functions as may be specified in the instrument of his appointment and such other functions as the Trust may from time to time determine. Officers to perform functions determined by the Trust.

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

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

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

Officers not
subject to
*Tasmanian
State Service
Act 1984*.

Superannuation and long service leave.

Provisions applicable where employees, within the meaning of the *Tasmanian State Service Act 1984*, are appointed as officers of the Trust.

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

Candidature for election as Member of Parliament.

Reinstatement of former officers.

5—An officer of the Trust shall be deemed to be an employee within the meaning of this Act and the *State Employees (Long-Service Leave) Act 1950*.

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

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

(a) is appointed 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 service as an officer of the Trust shall be regarded as service in the State Service for the purpose of determining his rights as an employee, within the meaning of that Act.

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*.

8—For the purposes of section 14 (3), a person becomes a candidate for election as a member of a House of Parliament when he is nominated for that election in accordance with the law regulating the election.

9—(1) Where a person who—

(a) was an officer of the Trust;

(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;

(c) was a candidate at that election;

(d) failed to be elected; and

(e) applies, within 2 months after the declaration of the result of that election,

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

(2) Where a person is so re-appointed, he shall, subject to subclause (3), hold that office in all respects as if he had been absent on leave without pay from his office for the period from the day he ceased to be an officer to the day before the day on which he 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 ceasing to be an officer under section 14 (3) of this Act, to an allowance under section 7 of that Act, he shall for the purpose of subclause (2) be treated, in respect of the period in

respect of which the amount of the allowance is calculated under subsection (5) of the last-mentioned section, or so much of that period as had expired before his 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 shall for the purposes of subclause (2) be deemed to have expired on the day before his re-appointment took effect.

(5) Where the rights of a person so re-appointed have been changed on his ceasing to be an officer, in respect of pension, pay in lieu of leave or otherwise, all necessary payments, repayments, and entries shall be made to put him in the same position as if he had been absent on leave as mentioned in subclause (2).

(6) Subclause (5) has effect subject to the provisions of this Act and, in a case where the *Public Servants' Retiring and Death Allowances Act 1925* applies to an officer of the Trust, the provisions of that Act.

50—Schedule 3 to the Principal Act is amended as follows:—

Amendment of
Schedule 3 to
Principal Act
(RATES OF
CONTRIBUTIONS
AND RELATED
MATTERS).

- (a) by omitting from clause 1 (1) “, on and after the first commencement day—” and substituting “, on and after 1st April 1987—”;
- (b) by inserting in clause 1 (1) (a) and (b) “ continue to ” before “ comprise ”, wherever occurring;
- (c) by omitting from clause 1 (1) (a) (ii) “ that day,” and substituting “ the first commencement day,”;
- (d) by omitting from clause 1 (2) “, on and after the first commencement day,” and substituting “, on and after 1st April 1987, continue to ”;
- (e) by omitting from clause 1 (2) (b) “ that day,” and substituting “ the first commencement day,”;
- (f) by omitting from clause 2 (1) “ who becomes an employee on or after the first commencement day (other than a person to whom section 24 or subclause (2) relates) and who ” and substituting “ (other than a person to whom section 24 or subclause (2) relates) who, becoming an employee on or after the first commencement day but before 1st April 1987,”;
- (g) by inserting in clause 2 (1) (a), (b), (c), and (d) “ continue to ” before “ comprise ”, wherever occurring;
- (h) by omitting from clause 2 (2) (a) “ day;” and substituting “ day but before 1st April 1987;”;

(i) by inserting in clause 2 (2) “continue to” before “comprise”;

(j) by adding the following subclauses after clause 2 (3):—

(4) The contributions of a person who becomes an employee on or after 1st April 1987 (other than a person to whom section 24 or subclause (5) relates)—

(a) shall, except in the case of a person who makes an election under section 23 (4), comprise an annual sum calculated at the rate of 5·5 per cent of the amount of his annual salary for the time being;

(b) shall, in the case of a person who makes an election under section 23 (4) to contribute to the Fund by means of the 35 years' service scheme, comprise an annual sum calculated at the rate of 8 per cent of the amount of his annual salary for the time being; or

(c) shall, in the case of a person who makes an election under section 23 (4) to contribute to the Fund by means of the 30 years' service scheme, comprise an annual sum calculated at the rate of 11 per cent of the amount of his annual salary for the time being.

(5) The contributions of a person who—

(a) becomes an employee on or after 1st April 1987; and

(b) immediately before becoming an employee, is in receipt of, or eligible to receive, an invalidity pension under this Act,

shall comprise an annual sum that—

(c) is equal to the amount of his annual contributions to the Fund immediately before he became eligible for that pension; or

(d) is calculated at the prescribed rate of the amount of his annual salary for the time being,

whichever is the greater sum.

(6) For the purposes of subclause (5) (d), “the prescribed rate” means—

(a) except in the case of a person who makes an election under section 23 (4)—5·5 per cent of the amount of that person's annual salary for the time being;

(b) in the case of a person who makes an election under section 23 (4) to contribute to the Fund by means of the 35 years' service scheme—8 per cent of the amount of that person's annual salary for the time being; or

- (c) in the case of a person who makes an election under section 23 (4) to contribute to the Fund by means of the 30 years' service scheme—11 per cent of the amount of that person's annual salary for the time being.
- (k) by omitting from clause 3 “ contributor—” and substituting “ contributor who is a contributor on and after 1st April 1987—”;
- (l) by inserting in clause 3 (a) and (b) “ continue to ” before “ comprise ”, wherever occurring;
- (m) by omitting from clause 4 (1) “, on and after the first commencement day,” and substituting “, on and after 1st April 1987, continue to ”;
- (n) by omitting from clause 4 (1) (a) and (b) “ that day ”, wherever occurring, and substituting “ the first commencement day ”;
- (o) by inserting in clause 5 (1) “, before 1st April 1987,” after “ and who ”;
- (p) by inserting in clause 5 (1) (a), (b), (c), and (d) “ continue to ” before “ comprise ”, wherever occurring;
- (q) by inserting the following subclause after clause 5 (1):—
- (1A) The contributions of a person who becomes an employee on or after 1st April 1987 and who is an employee to whom section 24 applies—
- (a) shall comprise, except in the case of an employee who makes an election under section 23 (4)—
- (i) an annual sum equal to the annual contributions payable by him, immediately before he became an employee, to the prescribed superannuation fund to which he was then contributing; or
- (ii) an annual sum calculated at the rate of 5.5 per cent of the amount of his annual salary for the time being,
- whichever is the greater sum;
- (b) shall, in the case of an employee who makes an election under section 23 (4) to contribute to the Fund by means of the 35 years' service scheme, comprise—

- (i) an annual sum equal to the annual contributions payable by him, immediately before he became an employee, to the prescribed superannuation fund to which he was then contributing, together with an annual sum calculated at the rate of 2·5 per cent of the amount of his annual salary for the time being; or
 - (ii) an annual sum calculated at the rate of 8 per cent of the amount of his annual salary for the time being,
- whichever is the greater sum; or
- (c) shall, in the case of an employee who makes an election under section 23 (4) to contribute to the Fund by means of the 30 years' service scheme, comprise—
- (i) an annual sum equal to the annual contributions payable by him, immediately before he became an employee, to the prescribed superannuation fund to which he was then contributing, together with an annual sum calculated at the rate of 5·5 per cent of the amount of his annual salary for the time being; or
 - (ii) an annual sum calculated at the rate of 11 per cent of the amount of his annual salary for the time being,
- whichever is the greater sum.
- (r) by inserting in clause 5 (2) (a) (i) “ or (1A) (a)” after “ subclause (1) (a)”;
- (s) by inserting in clause 5 (2) (a) (iii) “ or (1A) (b)” after “ subclause (1) (c)”;
- (t) by inserting in clause 5 (2) (a) (iv) “ or (1A) (c)” after “ subclause (1) (d)”;
- (u) by adding the following subclause after clause 6 (4):—
- (5) In this clause, “ employee ” does not include a person who becomes an employee on or after 1st April 1987.
- (v) by inserting the following subclause after clause 9 (1):—
- (1A) An election under subclause (1) to change to the 40 years' service scheme by a person who becomes an employee on or after 1st April 1987 shall be an election to change to that scheme at the higher rate of contribution.

51—Schedule 4 to the Principal Act is amended as follows:—

(a) by omitting from clause 3 the paragraph beginning with “ E ” and substituting the following paragraph:—

“ E ” represents the contributor’s prospective service (expressed in years) as determined by clause 10; and

(b) by omitting from clause 5 the paragraph beginning with “ E ” and substituting the following paragraph:—

“ E ” represents the contributor’s prospective service (expressed in years) as determined by clause 10 and multiplied by—

(a) in the case of a contributor who has always contributed to the Fund as a permanent part-time employee, the ratio that his permanent part-time employment bears to full-time employment in the office or position held by him; or

(b) in the case of any other contributor, the ratio determined by the Board; and

(c) by omitting from clause 7 (2) the paragraph beginning with “ E ” and substituting the following paragraph:—

“ E ” represents the contributor’s prospective service (expressed in years) as determined by clause 10; and

(d) by omitting from clause 9 (2) the paragraph beginning with “ E ” and substituting the following paragraph:—

“ E ” represents the contributor’s prospective service (expressed in years) as determined by clause 10 and multiplied by—

(a) in the case of a contributor who has always contributed to the Fund as a permanent part-time employee, the ratio that his permanent part-time employment bears to full-time employment in the office or position held by him; or

(b) in the case of any other contributor, the ratio determined by the Board; and

Amendment of
Schedule 4 to
Principal Act
(CALCULA-
TION OF
PENSIONS
PAYABLE
TO CON-
TRIBUTORS
FOR FULL
BENEFITS,
OTHER THAN
AMALGA-
MATED CON-
TRIBUTORS).

(e) by omitting clause 10 and substituting the following clause:—

Determination of prospective service for purpose of calculation of invalidity pension.

10—(1) Where the Board determines under section 77 that a contributor is suffering from total and permanent incapacity, his prospective service (expressed in years) for the purposes of clause 3, 5, 7 (2), or 9 (2) shall commence on the day immediately following his actual date of retirement and end on the day on which he attains—

(a) in the case of a contributor to the Fund as at 1st April 1987, the age for retirement;
or

(b) in the case of any other contributor, the age of 55 years.

(2) Where the Board determines under section 77 that a contributor is suffering from partial and permanent incapacity, his prospective service (expressed in years) for the purposes of clause 3, 5, 7 (2), or 9 (2) shall commence on the day immediately following his actual date of retirement and end on the day he attains—

(a) the age for retirement, in the case of—

(i) a police officer who was contributing to the Fund on 1st April 1987; or

(ii) a female who was an employee within the meaning of the *Superannuation Act 1938* or the Act of 1970 and who was aged 55 years or more on 1st April 1987;

(b) the age of 63 years, in the case of an employee, other than one referred to in paragraph (a), who was contributing to the Fund on 1st April 1987 and who was aged 55 years or more on 1st April 1987;

(c) the age of 60 years, in the case of an employee, other than one referred to in paragraph (a), who was contributing to

the Fund on 1st April 1987 and who was aged less than 55 years on 1st April 1987; and

(d) the age of 55 years, in any other case.

52—Schedule 5 to the Principal Act is amended as follows:—

- (a) by omitting from clause 2 (1) (c) and (d) (ii) “calculated at the prescribed rate of interest” and substituting “as provided in section 90A”;
- (b) by omitting subclause (2) of clause 2;
- (c) by omitting clauses 3 and 4;
- (d) by omitting from clause 5 “20” and substituting “10”;
- (e) by omitting from clause 6 “20” and substituting “10”;
- (f) by omitting clause 9;
- (g) by omitting paragraphs (b) and (c) of clause 10.

Amendment of Schedule 5 to Principal Act (BENEFITS OF CONTRIBUTORS FOR LIMITED BENEFITS, OTHER THAN AMALGAMATED CONTRIBUTORS).

53—Schedule 6 to the Principal Act is amended as follows:—

- (a) by omitting subclause (4) of clause 3 and substituting the following subclause:—
 - (4) An amount calculated for the purposes of subclause (1) (e) shall, in the case of an amount forming part of a pension payable to a contributor, be reduced by one per cent for each 3 months or part of 3 months by which his or her age at the time of his or her retirement is less than—
 - (a) the age of 60 years, in the case of a male contributor, other than a police officer; or
 - (b) the age of 55 years, in the case of a female contributor or a police officer.
- (b) by omitting subclause (5) of clause 3;
- (c) by omitting from clause 4 (1) “attaining the appropriate age” and substituting “completing 10 years’ service as an employee”;
- (d) by omitting from clause 4 (1) (c) “calculated at the prescribed rate of interest” and substituting “as provided in section 90A”;
- (e) by omitting subclause (2) of clause 4.

Amendment of Schedule 6 to Principal Act (BENEFITS OF AMALGAMATED CONTRIBUTORS).

Amendment of
Schedule 7 to
Principal Act
(TRANSITIONAL
AND SAVINGS
PROVISIONS).

54—Part I of Schedule 7 to the Principal Act is amended by omitting clause 15.

Savings and
transitional
provisions.

55—(1) Notwithstanding the repeal of section 7 of the Principal Act by this Act, that section continues to apply, on and after 1st April 1987, to an employee to whom it applied before that day and who, immediately before that day, is on long service leave under the *State Employees (Long-Service Leave) Act 1950*.

(2) The amendments made by sections 30 (1) (g), (i), and (j) and 31 (1) (c) of this Act and the repeal by this Act of section 53 of the Principal Act, as in force immediately before 1st April 1987—

(a) do not apply to or in relation to a widow's or widower's pension, or to a pension payable pursuant to section 38 of that Act, that is payable following the death of a pensioner who died or retired before that day; and

(b) apply to a contributor to the Fund on 1st April 1987 who retires on or after that day.

(3) A person who became an employee before 1st April 1987 but who had not, before that day, been accepted by the Board as a contributor for full benefits or limited benefits under the Principal Act shall be deemed, on that day, to be a contributor for limited benefits under that Act.

(4) A person who, immediately before 1st April 1987, is, pursuant to section 23 (9) of the Principal Act, excluded from contributing to the Fund, continues on and after that day to be so excluded, unless he elects, by notice in writing to the Board, to contribute to the Fund.

(5) A person who, immediately before 1st April 1987, holds office as an officer of the Trust appointed by the Governor under section 14 (2) of the Principal Act shall, on and after that day, continue to hold that office as if he had been appointed by the Trust pursuant to section 14 of the Principal Act, as amended, and Schedule 2A to that Act, as inserted, by this Act, and as if the terms and conditions of his employment had complied with that section as so amended and that Schedule as so inserted.

(6) A person appointed as a member of the Board pursuant to section 11 (1) (a) or (b) of the Principal Act, as in force before 1st April 1987, who holds office as such a member immediately before that day shall, subject to subsection (7), be deemed to hold office under the Principal Act, as amended by this Act.

(7) The term of office of a member of the Board that would, apart from this subsection and subject to clause 8 of Part I of Schedule 1 to the Principal Act, expire later than 31st March 1990, shall, notwithstanding the term for which he was appointed to that office by the instrument of his appointment, expire on that day.

(8) A person appointed as a member of the Trust pursuant to section 13 (1) (a) of the Principal Act, as in force before 1st April 1987, who holds office as such a member immediately before that day shall, subject to subsection (9), be deemed to hold office under the Principal Act, as amended by this Act.

(9) The term of office of a member of the Trust that would, apart from this subsection and subject to clause 8 of Part I of Schedule 2 to the Principal Act, expire later than 31st March 1990, shall, notwithstanding the term for which he was appointed to that office by the instrument of his appointment, expire on that day.

(10) Where, under a provision of the Principal Act, a contributor is, on or after 1st April 1987, entitled to a refund of the contributions paid by him to the Fund, the interest payable under that Act on the amount of the refund shall, with respect to any contributions paid by him before that day, be at the rate of interest (if any) payable under that Act in relation to refunds of contributions when he made the payments of those contributions.

(11) Where, pursuant to a determination by the Board under section 77 (1) (a) of the Principal Act, as in force before 1st April 1987, an employee is, immediately before that day, paying contributions to the Fund in respect of any remuneration or emolument periodically received by him—

(a) that employee is required, within the period of 6 months beginning on the day on which this Act receives the Royal assent, to elect by notice in writing to the Board to continue to pay contributions to the Fund in respect of that remuneration or emolument;

(b) if that employee made an election in accordance with paragraph (a), the remuneration or emolument to which the election relates shall continue to be regarded as part of the employee's salary for the purposes of the Principal Act; and

(c) if that employee does not make an election in accordance with paragraph (a), the remuneration or emolument so periodically received by him shall, on 1st October 1987, cease to be regarded as part of the employee's salary for the purposes of the Principal Act and contributions in respect of that remuneration or emolument shall, on that day, cease to be payable under that Act.

(12) Where a person has, before 1st April 1987, requested the Board to determine a question referred to in section 77 (2) of the Principal Act and that question has not been determined by the Board before that day, that Act applies, on and after that day, to and in relation to that person as if this Act had not been enacted.

(13) A person who, immediately before 1st April 1987, is entitled to a pension under clause 3 of Schedule 5 to the Principal Act continues, on and after that day, to be entitled to that pension as if this Act had not been enacted.

(14) Where the age of a contributor to whom section 50 (3) (b) of the Principal Act applies is, on 1st July in a year during the period commencing on 1st July 1988 and ending on 1st July 1992, the same as that which, pursuant to the reduction made by virtue of section 50 (3A) of that Act, as inserted by this Act, is the age for the purposes of section 50 (3) (b) (ii) of that Act during that year, an election made by that contributor under section 50 of that Act shall be made within 3 months after 1st July in that year.

(15) Where a contributor who has exercised the right of election conferred on him by section 61B of the Principal Act, as inserted by this Act, becomes entitled to the payment of an invalidity pension calculated in accordance with the provisions of Schedule 4 to the Principal Act, as amended by this Act, that contributor shall, for the purposes of the calculation of the amount of that pension, be deemed to have been contributing to the Fund on 31st March 1987.

(16) The spouse of a deceased contributor who, immediately before 1st April 1987, is entitled to a pension under clause 4 of Schedule 5 to the Principal Act continues, on and after that day, to be entitled to that pension as if this Act had not been enacted.

(17) A person who has not attained the age of 25 years on 1st April 1987 and who, pursuant to section 41 (2) (a) of the Principal Act as in force before that day, has ceased to be entitled to

a child's pension by reason of attaining the age of 21 years before that day may apply to the Board to have the pension reinstated in respect of the period beginning on that day and ending on the day on which he attains the age of 25 years.

(18) The Board shall grant an application under subsection (15) and, on the grant of such an application, the child's pension to which the application relates shall be reinstated in respect of the period beginning on 1st April 1987 and ending on the day on which the applicant attains the age of 25 years.

(19) The person who was, on 26th February 1987, appointed to the office of the Acting-Commissioner of the Hydro-Electric Commission may, within one month after this Act receives the Royal assent, make an election under section 6 (2A) (b) of the Principal Act, as inserted by this Act.

(20) If this Act receives the Royal assent on a day after 1st April 1987, subsection (4) of section 23 of the Principal Act, as substituted by this Act, applies to a person referred to in that subsection who has become an employee before that first-mentioned day as if, for "becoming an employee", there were substituted "the day on which the *Retirement Benefits Amendment Act 1987* receives the Royal assent".

56—(1) The Under Treasurer may appoint such number of staff as may be approved by the Treasurer for the purposes of the implementation of this Act.

Appointment of staff for purposes of implementation of this Act.

(2) The period of employment, and terms and conditions of employment, of a person pursuant to subsection (1) shall be such as are approved by the Treasurer.

(3) All costs incurred under this section shall be a charge against the Fund.

57—Section 8 (3B) of the *State Employees (Long-Service Leave) Act 1950** is amended by omitting "to section 7 of the *Retirement Benefits Act 1982* and".

Amendment of *State Employees (Long-Service Leave) Act 1950*.

* No. 81 of 1950. For this Act, as amended to 1st August 1979, see the continuing Reprint of Statutes. Subsequently amended by No. 66 of 1979, Nos. 42 and 99 of 1980, No. 25 of 1981, No. 10 of 1982, and Nos. 20 and 29 of 1984.

