



RETIREMENT BENEFITS AMENDMENT ACT (No. 2) 1983

No. 85 of 1983

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AN ACT to amend the Retirement Benefits Act 1982.

[Royal Assent 11 January 1984]

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 (No. 2) 1983*. Short title.

Commence-
ment.

2—(1) Except as provided by subsection (2), this Act shall commence on the day on which it receives the royal assent.

(2) Sections 4, 7 and 8 shall commence on such day as may be fixed by proclamation.

Principal Act.

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

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

4—(1) Section 13 of the Principal Act is amended by omitting subsections (1) and (2) and substituting the following subsection:—

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

(a) one shall be an officer of the Treasury nominated by the Under Treasurer;

(b) one shall be a person who is or has been a barrister or a practitioner within the meaning of the *Legal Practitioners Act 1959*;

(c) two shall be persons who appear to the Governor to have had experience in the business of investing money or extensive business experience; and

(d) one shall be a person appointed to represent the contributors.

(2) Section 13 (3) of the Principal Act is amended by omitting “(2)” and substituting “(1)”.

(3) Section 13 (4) of the Principal Act is amended by omitting “(2) (c)” and substituting “(1) (d)”.

(4) Section 13 of the Principal Act is further amended by omitting subsection (7) and substituting the following subsections:—

(7) Subject to subsection (7A), the Governor shall appoint a member of the Trust to be the Chairman of the Trust.

(7A) The member of the Trust referred to in subsection (1) (a) shall be the Deputy Chairman of the Trust.

(5) Section 13 (10) of the Principal Act is amended by omitting “paragraph (b) or (c) of subsection (2)” and substituting “subsection (1) (b), (c), or (d)”.

* No. 10 of 1982. Subsequently amended by No. 12 of 1983.

5—(1) Section 51 (2) of the Principal Act is amended by omitting “An ” and substituting “ Subject to subsection (2A), an ”.

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

(2) Section 51 of the Principal Act is amended by inserting the following subsection after subsection (2):—

(2A) Where a person who, having attained the age of 63 years but not having attained the age of 65 years, becomes an invalidity pensioner, that person is entitled to make an election under this section within the period of 3 months after the date of his becoming an invalidity pensioner as if he were an invalidity pensioner who had attained the age of 63 years on the date of his retirement.

(3) Section 51 (3) of the Principal Act is amended by inserting “ or the period referred to in subsection (2A), as the case may be ” after “(2)”.

6—(1) Section 78 of the Principal Act is amended by inserting the following subsection after subsection (1):—

Amendment of section 78 of Principal Act (Broken service).

(1A) Where, in the opinion of the Board—

- (a) the period of service of an employee or permanent part-time employee has been broken by his appointment to, and employment in, a position in Tasmania (not being a position in the service of the State or in the service of an authority of the State) for a period not exceeding 5 years;
- (b) the type of work performed by him in the course of that employment is the same or substantially the same as that which he was performing as an employee or permanent part-time employee immediately before he was appointed to that position; and
- (c) that appointment was made within the period of 20 years after the employee or permanent part-time employee first became an employee or permanent part-time employee, as the case may be,

the Board may certify that the break shall not affect the continuity of the employee's service.

(2) Section 78 (2) of the Principal Act is amended by inserting “ or (1A)” after “(1)”.

(3) Section 78 (3) of the Principal Act is amended as follows:—

- (a) by inserting “for the purposes of subsection (1)” after “assessment”;
- (b) by omitting “that subsection” and substituting “subsection (2)”.

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

7—(1) Part I of Schedule 2 to the Principal Act is amended as follows:—

- (a) by omitting clauses 1 and 2 and substituting the following clause:—

1—(1) A member of the Trust shall—

- (a) in the case of a member referred to in section 13 (1) (a), (b), or (c), be appointed for such term, not exceeding 7 years; or
- (b) in the case of a member referred to in section 13 (1) (d), 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—

- (a) in the case of a member referred to in section 13 (1) (a), (b), or (c), for such term, not exceeding 7 years; or
- (b) in the case of a member referred to in section 13 (1) (d), for such term, not exceeding 3 years,

as is specified in the instrument of his re-appointment.

(b) by omitting from clause 8 “An appointed” and substituting “A”;

(c) by omitting from clause 9 (1) “an appointed” and substituting “a”;

(d) by omitting from clause 9 (1) (a) “(2)” and substituting “(1)”;

(e) by omitting paragraph (b) of clause 9 (1) and substituting the following paragraph:—

(b) qualified under section 13 (1) (b) or (c);
or

(f) by omitting from clause 9 (1) (c) “(2) (c)” and substituting “(1) (d)”.

Term of office.
1970, s. 12.

(2) Part II of Schedule 2 to the Principal Act is amended by omitting from clause 2 (1) “Two” and substituting “Three”.

8—A person appointed as a member of the Trust under section 13 (1) (b) of the Principal Act, as in force before the day fixed by proclamation under section 2 (2) of this Act, who holds office as such a member immediately before that day shall be deemed to hold office under the Principal Act, as amended by this Act, and he shall, unless he sooner vacates his office pursuant to clause 8 of Part I of Schedule 2 to the Principal Act, hold office for the remainder of the period specified in his instrument of appointment under that Act. Savings provision.

9—(1) In this section, “prescribed day” means the day on which this Act receives the royal assent. Application of amendments made by section 5 of this Act.

(2) Where—

- (a) on or after 1st July 1982 but before the prescribed day, a person who, having attained the age of 63 years but not having attained the age of 65 years, became an invalidity pensioner under the Principal Act or the *Superannuation Act 1938*, that person; or
- (b) on 1st July 1982, an invalidity pensioner under the Principal Act or the *Superannuation Act 1938* had attained the age of 63 years but had not attained the age of 65 years, that invalidity pensioner,

is entitled to make an election pursuant to section 51 (2A) of the Principal Act, as inserted by section 5 of this Act, as if he had become an invalidity pensioner under the Principal Act on the prescribed day.

(3) An election to which subsection (2) applies—

- (a) shall be made within the period of 3 months after the prescribed day; and
- (b) shall, for the purposes of section 51 (3) of the Principal Act, be deemed to become effective on the day immediately following the day on which the election is received by the Board.

