



RETIREMENT BENEFITS (TRANSFERRED COURT OFFICERS)

No. 57 of 1978

ANALYSIS

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AN ACT to make provision for the retirement benefits of certain persons employed in courts of petty sessions who are transferred to the employment of the Public Service.

[20 December 1978]

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 (Transferred Court Officers) Act 1978*. Short title.

Interpretation.

2 In this Act, unless the contrary intention appears—

- “ Actuary ” has the same meaning as in the Principal Act;
- “ administering authority ”, in relation to a local government scheme, means the person or body having power to pay benefits under the scheme;
- “ Board ” means the Retirement Benefits Fund Board;
- “ Fund ” means the Retirement Benefits Fund established under the Principal Act;
- “ local government scheme ” means a scheme under Division IV of Part VI of the *Local Government Act 1962*;
- “ Principal Act ” means the *Retirement Benefits Act 1970*;
- “ public service employment ”, in relation to any person, means any employment by virtue of which that person would, apart from this Act, be an employee within the meaning of the Principal Act;
- “ transferred court officer ” means a person appointed an officer of the Public Service under section 16A (2) of the *Justices Act 1959* and who, immediately before his appointment, contributed or was eligible to contribute to a local government scheme.

Right of transferred court officers to elect to contribute to Fund.

3—(1) Notwithstanding anything in the Principal Act, a person shall not, by reason of his becoming a transferred court officer, be treated as having become an employee within the meaning of that Act unless he has been admitted as a contributor to the Fund under this Act.

(2) A transferred court officer who is in public service employment may by notice in writing served on the Board within 6 months of his becoming a transferred court officer apply to be admitted as a contributor to the Fund.

(3) Where a transferred court officer has made an application under this section he may contribute to the Fund on and subject to the following conditions:—

- (a) He may not contribute to the Fund unless he has first produced to the Board such medical certificates as the Board may require or as may be prescribed and the Board, after considering those certificates, admits him either as a contributor for full benefits or as a contributor for limited benefits; and

(b) If he is so admitted, all sums required under this Act to be paid, in relation to him, to the Board by the administering authority shall be made within one month after he is so admitted or within such extended time as the Board may allow.

(4) Where the Board admits a transferred court officer as a contributor to the Fund it shall notify the administering authority accordingly and upon being so notified the administering authority shall pay to the Board, on behalf of that person, an amount equal to the total amount of that person's contributions to any local government scheme up to the day on which the administering authority pays that amount, together with the accumulations of interest thereon (if any) calculated up to that day at a rate determined by the Actuary.

(5) Where—

(a) the Board admits a transferred court officer as a contributor to the Fund; and

(b) the local government scheme to which that person was last contributing is based on the purchase of a policy of endowment life assurance,

the administering authority shall pay to the Board a sum certified by the insurer to bear the same proportion to the surrender value (as at the relevant date) of the policy effected on that person's life for the purposes of the scheme or, if the policy is converted to a paid-up policy, to the value (as at that date) of the paid-up policy, as that person's contributions to the scheme bear to the total amount of the premiums paid in respect of that policy (as at that date).

(6) The relevant date, for the purposes of subsection (5), is the date on which the person made an application under this section.

(7) Where a transferred court officer is admitted as a contributor to the Fund—

(a) his contributions to the Fund shall comprise—

(i) an annual sum equal to the annual contribution payable by him immediately before he was admitted as a contributor, by way of contributions to the local government scheme to which he was last contributing; or

(ii) an annual sum calculated at the rate of 5½ per cent of the amount of his annual salary for the time being,

whichever is the greater sum; and

(b) he ceases to be entitled to any right or benefit under that scheme.

(8) All sums paid, in relation to a transferred court officer, to the Board by the administering authority shall, for the purposes of the Principal Act, be deemed to be contributions by that person to the Fund.

(9) For the purpose of calculating any pension or other benefit that is payable under the Principal Act to or in respect of a person who has been admitted as a contributor to the Fund under this section the period throughout which that person was a contributor to a local government scheme and in respect of which that person's contributions have been paid to the Board pursuant to subsection (4) shall be regarded as service within the meaning of the Principal Act.

Transferred officers not becoming contributors to the Fund.

4 Where a transferred court officer does not elect to contribute to the Fund or is not admitted as a contributor to the Fund under this Act then, so long as he remains in public service employment, the provisions of Division IV of Part VI of the *Local Government Act* 1962 and any scheme made under that Division continue to apply to him as if he had continued to remain in a permanent position in the service of a municipality, and, in relation to him, there shall be vested in the Treasurer all rights, liabilities, and obligations of that municipality under those provisions in respect of the period after which he becomes a transferred court officer.

Officers transferred before commencement of Act.

5—(1) Except as provided in this section, this Act does not apply to persons who became transferred court officers before the commencement of this Act.

(2) Where a person became a transferred court officer on or after 1st January 1978 but before the commencement of this Act and was admitted as a contributor to the Fund under the provisions of the Principal Act, he may, within one month of the commencement of this Act, notify the Board that he—

(a) elects to remain a contributor to the Fund; or

(b) elects not to remain a contributor to the Fund.

(3) A person who notifies the Board that he elects to remain a contributor to the Fund pursuant to subsection (2) (a) shall be deemed to have been admitted as a contributor to the Fund under this Act on the date he was admitted as a contributor to the Fund under the Principal Act.

(4) The administering authority shall pay to the Board, within one month after the commencement of this Act or within such extended time as the Board may allow, on behalf of a person referred to in subsection (3), an amount equal to the total amount of that person's contributions to any local government scheme up to (but not including) the day on which he became a transferred court officer together with the accumulations of interest thereon (if any) calculated up to that day at a rate determined by the Actuary.

(5) All sums paid, in relation to a person referred to in subsection (3), to the Board by the administering authority shall, for the purposes of the Principal Act, be deemed to be contributions by that person to the Fund.

(6) For the purpose of calculating any pension or other benefit that is payable under the Principal Act to or in respect of a person referred to in subsection (3), the period throughout which that person was a contributor to a local government scheme shall be regarded as service within the meaning of the Principal Act.

(7) A person who notifies the Board that he elects not to remain a contributor to the Fund pursuant to subsection (2) (b) shall be deemed to have remained a contributor to the local government scheme to which he was contributing immediately before he became a transferred court officer and, so long as he remains in public service employment, the provisions of Division IV of Part VI of the *Local Government Act 1962* and any scheme made under that Division continue to apply to him as if he had continued to remain in a permanent position in the service of a municipality, and in relation to him there shall be vested in the Treasurer, from the date on which he became a transferred court officer, all rights, liabilities, and obligations of that municipality under those provisions in respect of the period after which he became a transferred court officer.

(8) Where a person notifies the Board that he elects not to remain a contributor to the Fund pursuant to subsection (2) (b)—

(a) the Board shall refund to him the amount which he has contributed to the Fund; and

- (b) he shall pay to the local government scheme to which he was contributing immediately before he became a transferred court officer the amount which he would have been required to contribute to that scheme for the period commencing on the date on which he became a transferred court officer and ending on the date on which he so notified the Board, and for the purposes of the local government scheme that person shall be deemed to have continued in the employment of a municipality from the date on which he became a transferred court officer.