



Tasmania

VOLUNTARY TARGETED

EMPLOYMENT SEPARATION

ARRANGEMENTS

VOLUNTARY TARGETED EMPLOYMENT SEPARATION ARRANGEMENTS

<u>CATEGORIES OF SEPARATIONS AND ENTITLEMENT SUMMARY</u>	<u>5</u>
ENTITLEMENTS	5
CATEGORY 1 - FIXED TERM EMPLOYEES	6
CATEGORY 2 - EMPLOYEES AGED LESS THAN 55 YEARS OF AGE CONTRIBUTING TO A RBF DEFINED BENEFITS CONTRIBUTORY SCHEME	7
CATEGORY 3 - EMPLOYEE AGED LESS THAN 55 WHO ARE MEMBERS OF THE RBF TASMANIAN ACCUMULATION SCHEME OR OTHER APPROVED SUPERANNUATION SCHEME	9
CATEGORY 4 - EMPLOYEES AGED 55 YEARS AND OVER WHO ARE CONTRIBUTORY MEMBERS OF A RBF DEFINED BENEFITS CONTRIBUTORY SCHEME	10
CATEGORY 5 EMPLOYEES AGED 55 YEARS AND OVER WHO ARE MEMBERS OF THE RBF TASMANIAN ACCUMULATION SCHEME OR OTHER APPROVED SUPERANNUATION SCHEME	12
CATEGORY 6 - OFFICERS (SENIOR EXECUTIVES AND EQUIVALENT SPECIALISTS) CONTRIBUTING TO A RBF DEFINED BENEFITS CONTRIBUTORY SCHEME	13
CATEGORY 7 OFFICERS (SENIOR EXECUTIVES AND EQUIVALENT SPECIALISTS), WHO ARE MEMBERS OF THE RBF TASMANIAN ACCUMULATION SCHEME OR OTHER APPROVED SUPERANNUATION SCHEME	15
<u>CALCULATION OF ENTITLEMENTS</u>	<u>16</u>
YEARS OF SERVICE - CALCULATION	16
DEFINITION OF SALARY - YEARS OF SERVICE	17
PART-TIME SERVICE	18
<u>PROCEDURAL ISSUES</u>	<u>19</u>
HEAD OF AGENCY DELEGATION	19
PAY BACK PERIOD	19
PROCESSING OF PAYMENTS	20
ACCESS TO INFORMATION AND ADVICE	20
<hr/>	<hr/>
	2

VOLUNTARY TARGETED EMPLOYMENT SEPARATION ARRANGEMENTS

MANAGEMENT OF WORKERS COMPENSATION	21
DEED OF RELEASE	22
FUTURE EMPLOYMENT WITH THE STATE GOVERNMENT	23
DISPUTE RESOLUTION	24
ROLES AND RESPONSIBILITIES	25
MONITORING OF SEPARATIONS - REPORTING	26
DEFINITIONS	26
<u>FORMS AND PROFORMA</u>	<u>26</u>

VOLUNTARY TARGETED EMPLOYMENT SEPARATION ARRANGEMENTS
(VTESA)

DOCUMENTATION

BACKGROUND:

The Government has indicated that as the priorities and needs of the Community change particularly in the present economic circumstances, some State Service functions or activities may need to be re-prioritised or reduced. To support these changes, it has been determined that voluntary targeted separations arrangements may be required in some areas.

The VTESA supports the Government's requirement to achieve budgetary savings and to effect reductions in public sector expenditure. Heads of Agency may use it in conjunction with:

- natural attrition (abolition of funded vacancies);
- reallocation of duties (within the Agency);
- increased approval of leave without pay requests;
- transfer or redeployment to another Agency (permanent employees only); and
- the use of flexible working arrangements (e.g. part time employment).

While the above processes already exist under the provisions of the *State Service Act 2000*, it is recognised that in some circumstances voluntary separations under the VTESA may be necessary to augment those processes.

Heads of Agencies will be responsible for identifying the areas or services to be targeted. This may include circumstances where:

- significant and ongoing changes within an Agency results in targeted functions or activities no longer required to be performed.
- the functions being performed by an employee or Officer are no longer required to be performed and are excess to Agency requirements.
- greater efficiency and effectiveness in the delivery of government services can be obtained.
- the needs of the community have changed.

Heads of Agency are to notify employees and Officers if they are in a targeted area and outline the options available to them under the *State Service Act 2000* and/or VTESA or, in the case of Officers, their contract arrangements.

CATEGORIES OF SEPARATIONS AND ENTITLEMENT SUMMARY

ENTITLEMENTS

This section sets out the various categories and benefits which may be payable to employees accepting separation under the VTESA.

State Service officers (senior executive officers and equivalent specialists) may also be considered for separation under VTESA provided that the proposed separation is a 'bona fide' redundancy and that any officer that has a right to re-appointment as an employee to the State Service has waived that right in writing before being formally offered separation.

The provisions in this document establish the limits and associated formula for calculation of Years of Service payments under the VTESA that can be offered by Heads of Agency. Heads of Agency may negotiate Years of Service payments between the minimum limit (i.e 16 weeks for full time employees) and a Years of Service payment calculated in accordance with the formula applicable to an individual employee or officer under their relevant VTESA category.

For all categories of separation under the VTESA, superannuation benefits will be as prescribed under the provisions of the *Retirement Benefits Act 1993*, the *Public Sector Superannuation Reform Act 1999* and the Retirement Benefits Fund Tasmanian Accumulation Scheme Trust Deed. The inclusion of superannuation entitlement benefit information **is indicative and has been included for guidance purposes only**. Prior to making a decision on a voluntary separation offer, individuals should be advised to obtain details and advice about their superannuation benefits from the advisory section of the Retirement Benefits Fund Board or their relevant superannuation fund.

CATEGORY I - Fixed term Employees

Coverage

Fixed term employees with less than one year of continuous service, or for a specified term or the duration of a specified task in excess of one year of continuous service.

Summary

Two (2) weeks salary as notice of separation or as provided for in the relevant award or instrument of appointment - and where applicable, a superannuation separation benefit as prescribed under the *Retirement Benefits Act 1993* and the *Public Sector Superannuation Reform Act 1999*.

Fixed term employees working through until the end of their contract will not be entitled to a payment under the VTESA. Fixed term employees required to complete their employment before their contract expiry date will be entitled to provisions referred to in their contract of employment.

Fixed term employees engaged for periods in excess of twelve months without finite contract completion dates with an expectation of continuing employment may or may not be entitled to separation in accordance with another category under the VTESA depending on the particular circumstances of each case under the provisions of the VTESA. The Public Sector Management Office (PSMO) in the Department of Premier and Cabinet will assist in determining the appropriate category.

Superannuation (benefits as prescribed) – Guide only

Under Commonwealth preservation rules, a person who is a member of the RBF Tasmanian Accumulation Scheme (TAS) or other complying superannuation scheme cannot, other than in exceptional circumstances, access their accrued superannuation benefit until the person reaches preservation age.

CATEGORY 2 - Employees aged less than 55 years of age contributing to a RBF defined benefits Contributory Scheme

Summary

Years of Service

- (i) 4 weeks salary (in lieu of notice) plus 2 weeks salary/year of service (pro-rata for final year).
- Minimum 16 weeks for full-time employees
 - Maximum 48 weeks;

Where an employee's Years of Service payment is calculated in accordance with the above formula resulting in a payment above the minimum of 16 weeks, the Head of Agency on a 'case by case' basis may negotiate with the employee, to determine an alternate Years of Service payment less than the calculated payment provided it continues to exceed the minimum.

Superannuation (benefits as prescribed) – Guide only

A **lump sum** benefit calculated with reference to salary, service and contribution rate is payable on redundancy. The employee may elect to take part of the benefit in cash or preserve the full amount until reaching preservation age. At preservation age the benefit may be taken as a lump sum or converted to a pension. If the employee elects to take part of the benefit before preservation age, he or she is entitled to take the lesser of the **lump sum benefit** (referred to above) or the total of 3.5 times the aggregate of the employee's contribution at the basic rate plus any excess contributions plus interest as at 30 June 1999. The difference between the two amounts is to be preserved.

Under anti-detriment provisions employees may be entitled to receive a greater benefit and therefore should be encouraged to obtain advice from the RBF Board.

Leave Entitlements

Long Service Leave

For employees with more than 7 years service, a pro-rata entitlement

Recreation Leave

Accrued recreation leave and (where applicable) leave loading entitlements including the payment of a pro rata leave loading for the final year of service

Superannuation Accumulation Fund

Benefits payable to Contributory Scheme members under the Superannuation Accumulation Fund ceased to accrue after 30 June 1994 and are only payable where the member elects to take their benefits under the anti-detriment provisions.

**CATEGORY 3 - Employee aged less than 55 who are members of the RBF
Tasmanian Accumulation Scheme or other approved superannuation scheme**

Summary

Years of Service

- (i) 4 weeks salary (in lieu of notice) plus 2 weeks salary/year of service (pro-rata for final year).
- Minimum 16 weeks for full-time employees
 - Maximum 48 weeks;

Where an employee's Years of Service payment is calculated in accordance with the above formula resulting in a payment above the minimum of 16 weeks, the Head of Agency on a 'case by case' basis may negotiate with the employee, to determine an alternate Years of Service payment less than the calculated payment provided it continues to exceed the minimum.

Superannuation (benefits as prescribed) – Guide only

Under Commonwealth preservation rules, a person who is a member of the RBF Tasmanian Accumulation Scheme (TAS) or other complying superannuation scheme cannot, other than in exceptional circumstances, access their accrued superannuation benefit until the person reaches preservation age.

Leave Entitlements

Long Service Leave

For employees with more than 7 years service, a pro-rata entitlement

Recreation Leave

Accrued recreation leave and (where applicable) leave loading entitlements including the payment of a pro rata leave loading for the final year of service

CATEGORY 4 - Employees aged 55 years and over who are contributory members of a RBF defined benefits Contributory Scheme

Summary

Years of Service

(i) 4 weeks salary (in lieu of notice) plus 2 weeks salary/year of service (pro rata for final year)

- Minimum 16 weeks for full time employees

- Maximum 48 weeks;

Where an employee's Years of Service payment is calculated in accordance with above formula resulting in a payment above the minimum 16 weeks, the Head of Agency may negotiate with the employee on a 'case by case' basis to determine an alternate Years of Service payment less than the calculated payment provided it continues to exceed the minimum.

Superannuation (Benefits as prescribed) – Guide only

A RBF Contributory Scheme member aged 55 years or over who accepts a voluntary separation package is entitled:

- to a prescribed lump payment calculate with reference to salary, service and contribution rate. For members aged 60 but under age 65, the calculation benefit includes a prospective service component to age 65; or

- the lump sum may be converted to a pension determined pursuant to the provisions of the *Retirement Benefits Regulations 2005*.

Under the anti detriment provisions of the contributory scheme for members who were contributors immediately before 1 July 1994 and have continued at all times to be contributors, rights are protected where the current scheme provides a lesser benefit than that which would have been payable under the *Retirement Benefits Act 1982*.

Superannuation Accumulation Fund

Benefits payable to Contributory scheme members under the former Superannuation Accumulation Fund ceased to accrue after 30 June 1994 and are only payable where the member elects to take their benefits under the anti detriment provisions.

Leave Entitlements

Long Service Leave

For employees with more than 7 years service, a pro-rata entitlement.

Recreation Leave

Accrued recreation leave and (where applicable) leave loading entitlements including the payment of a pro rata leave loading for the final year of service.

**CATEGORY 5 Employees aged 55 years and over who are members of the RBF
Tasmanian Accumulation Scheme or other approved superannuation scheme**

Summary

Years of Service

- (i) 4 weeks salary (in lieu of notice) plus 2 weeks salary/year of service (pro-rata for final year).
- Minimum 16 weeks for full-time employees
 - Maximum 48 weeks;

Where an employee's Years of Service payment is calculated in accordance with the above formula resulting in a payment above the minimum of 16 weeks, the Head of Agency on a 'case by case' basis, may negotiate with the employee to determine an alternate Years of Service payment less than the calculated payment provided it continues to exceed the minimum.

Superannuation Benefits (as prescribed) – Guide only

An employee who is a member of TAS or other complying superannuation scheme, and who has reached preservation age is entitled to access the balance of their superannuation account. Depending on the rules of the fund, the person may be able to draw their superannuation benefit without retiring from the workforce (Transition to Retirement). Under Commonwealth rules, persons accessing their superannuation benefit under Transition to Retirement must take their benefit in the form of a non commutable income stream.

Leave Entitlements

Long Service Leave

For employees with more than 7 years service, a pro-rata entitlement

Recreation Leave

Accrued recreation leave and (where applicable) leave loading entitlements including the payment of a pro rata leave loading for the final year of service

CATEGORY 6 - Officers (senior executives and equivalent specialists) contributing to a RBF defined benefits Contributory Scheme

Summary

The greater of:

- a. A Years of Service payment based on 4 weeks salary (in lieu of notice) plus 2 weeks salary/year of service (pro-rata for final year).
 - Minimum 16 weeks salary for full-time officers
 - Maximum of 48 weeks;

or

- b. the termination payment/s specified in the officer's Instrument of Appointment.

N.B. Where an officer's Years of Service payment is calculated in accordance with the above formula resulting in a payment above the minimum of 16 weeks, the Head of Agency on a 'case by case' basis, may negotiate with the officer to determine an alternate Years of Service payment less than the calculated payment provided it continues to exceed the minimum.

Superannuation (benefits as prescribed) – Guide only

A **lump sum** benefit calculated with reference to salary, service and contribution rate is payable on redundancy. The officer may elect to take part of the benefit in cash or preserve the full amount until reaching preservation age. At preservation age the benefit may be taken as a lump sum or converted to a pension. If the officer elects to take part of the benefit before preservation age, he or she is entitled to take the lesser of the **lump sum benefit** (referred to above) or the total of 3.5 times the aggregate of the officer's contribution at the basic rate plus any excess contributions plus interest as at 30 June 1999. The difference between the two amounts is to be preserved.

Under anti-detriment provisions officers may be entitled to receive a greater benefit and therefore should be encouraged to obtain advice from the RBF Board.

Leave Entitlements

Long Service Leave

For officers with more that 7 years service, a pro-rata entitlement

Recreation Leave

Accrued recreation leave and (where applicable) leave loading entitlements including the payment of a pro rata leave loading for the final year of service

CATEGORY 7 Officers (senior executives and equivalent specialists), who are members of the RBF Tasmanian Accumulation Scheme or other approved superannuation scheme

Summary

The greater of:

- a. A Years of Service payment based on 4 weeks salary (in lieu of notice) plus 2 weeks salary/year of service (pro-rata for final year).
 - Minimum 16 weeks salary for full-time officers
 - Maximum of 48 weeks;

or

- b. the termination payment/s specified in the officer's Instrument of Appointment.

N.B. Where an officer's Years of Service payment is calculated in accordance with the above formula resulting in a payment above the minimum of 16 weeks, the Head of Agency on a 'case by case' basis, may negotiate with the officer to determine an alternate Years of Service payment less than the calculated payment provided it continues to exceed the minimum.

Superannuation (benefits as prescribed)

Under Commonwealth preservation rules, a person who is a member of the RBF Tasmanian Accumulation Scheme (TAS) or other complying superannuation scheme cannot, other than in exceptional circumstances, access their accrued superannuation benefit until the person reaches preservation age.

Leave Entitlements

Long Service Leave

For officers with more than 7 years service, a pro-rata entitlement

Recreation Leave

Accrued recreation leave and (where applicable) leave loading entitlements including the payment of a pro rata leave loading for the final year of service

CALCULATION OF ENTITLEMENTS

YEARS OF SERVICE - CALCULATION

Service for the purpose of calculating the Years of Service component under the VTESA means service with any of the following employing authorities:

- Minister administering the *State Service Act 2000*;
- His Excellency the Governor;
- Speaker of the House of Assembly;
- President of the Legislative Council;
- Commissioner of Police;
- General Government Sector entities;
- Government Business Enterprises; and
- State Owned Companies.

A break in service of not more than **3 months (as defined in the *Long Service Leave (State Employees) Act 1994*)** is not deemed to effect this continuity. Employment with another Government authority or the Commonwealth Government greater than 3 months disrupts this continuity and does not count towards completed years of service.

In addition, secondments outside the State Service greater than 3 months in duration are not to count towards net full time service for the years of service calculation but do not effect continuity of service.

A period of leave without pay in excess of 20 working days (as defined in the *Long Service Leave (State Employees) Act 1994*) during the period of service is not to count towards net full time service for the years of service calculation.

In the case of women who, as a requirement under the existing State legislation at that time, were obliged to resign their employment with the Employing Authority because of marriage or childbirth may have this previous continuous service considered for net full time service. It is the responsibility of the employee to provide evidence of their previous service. A suggested method of proof would be taxation records.

DEFINITION OF SALARY - YEARS OF SERVICE

For the purpose of calculating the Years of Service payment under this component:

- where an employee has been acting in a higher position or undertaking more responsible duties for a continuous period of twelve months or more immediately preceding the date on which he or she is to be voluntarily separated the salary level shall reflect those higher or more responsible duties at that date;
- where an employee has, during 50% or more of pay periods in the twelve months immediately preceding the date on which he or she is to be voluntarily separated, been paid an allowance for shiftwork or a mixed function allowance, the weekly average amount of shift or mixed function allowances received during the twelve month period shall be counted as part of salary; and
- salary shall include any wage-related allowances to which an employee is entitled at the time of accepting an offer.

Allowances to be **included** are;

- skills allowances (eg proficiency allowance)
- trades allowances (eg tool allowance)
- disability allowances (eg isolation allowance)
 - sea going allowance
 - site allowances
 - district allowances)
- studentship allowances
- graduate allowances
- diving allowance
- first aid allowance
- market allowance
- performance incentive payments (SES officers only)

Allowances to be **excluded** are those allowances that are essentially irregular in nature or expense related. These include;

- hourly loadings in lieu of accrued leave and public holidays
- overtime
- kilometreage allowance
- travelling allowances
- expenses of office allowance
- availability allowance
- standby allowance
- camping allowance

The above list is not exhaustive and where any doubt exists regarding the inclusion or exclusion of particular allowances, the matter should be referred to the PSMO for advice.

PART-TIME SERVICE

Part time employees will have pro rata entitlements on all elements of the package based on the ratio between their part time hours and full time hours. Provided that any employee made an offer is eligible for a maximum of only one full time package.

In calculating the ratio between part time and full time hours for the calculation of the 4 weeks in lieu of notice component of the Years of Service payment, the current part time hours of the employee should be used. However, if the average of part time hours over the previous 12 months is greater than the current part time hours then the payment should be based on the average hours calculation.

Where the employee's service has consisted of a combination of full time and part time employment, and the full time component is greater than 12 months, the full 4 weeks in lieu of notice will apply.

When calculating the entitlement for each year of service, it will be necessary to convert all part time service to equivalent full time service and use the equivalent full time pay rate for the employee's classification to calculate the entitlement. For example, an employee who worked 20 years full time and four years part time (50%) would have a net full time service of 22 years.

PROCEDURAL ISSUES

HEAD OF AGENCY DELEGATION

Heads of Agency are responsible for implementing and managing the VTESA in accordance with the parameters set by these arrangements.

In implementing VTESA, Heads of Agency should have regard for the Change Management provisions in the Tasmanian State Service Award and other awards and agreements covering State Service employees.

PAY BACK PERIOD

Heads of Agency are required to fund all separation costs under the VTESA. In making an offer under VTESA, Heads of Agency are required to have regard to the longer-term savings that will be achieved. Accordingly, Heads of Agency are required to make decisions in regard to the extent to which employment separations will be pursued within an Agency by comparing the short term cost of making separation payments with the period of time taken in years for the Agency to achieve ongoing savings arising from the separation. This is referred to as the Pay Back Period.

There are no firm rules in regard what constitutes an appropriate length of time for the Pay Back Period and this should be determined in accordance with Agency's capacity to manage the cost within its existing Budget and Forward Estimates. However, as a guide, three years (over the period of the Agency's Forward Estimates) is considered to be a maximum Pay Back Period.

PROCESSING OF PAYMENTS

Payment of years of service and leave entitlements will normally occur at the termination date. Retirement Benefit's Fund scheme entitlements (both Contributory Scheme and Tasmanian Accumulation Scheme) are to be made as soon as practically possible but not later than 6 weeks after the day that the benefits became eligible to be paid or the day on which the Board receives the completed application for the benefit, whichever is the latter.

All payments for Years of Service payments, accrued and pro rata recreation leave, accrued recreation leave allowance and any pro rata annual leave loading and long service leave will be made, and funded, by Agencies.

Superannuation benefit payments will be made by the Retirement Benefits Fund or other superannuation fund where applicable.

ACCESS TO INFORMATION AND ADVICE

Agencies may, at the request of an employee or group of employees who are to be separated, facilitate access to social, career, and financial counselling, and investment and taxation advice. In doing so, Agencies must not recommend or warrant any service provider.

Agencies must not offer legal financial or taxation information or advice to employees or comment on the suitability or tax effectiveness of any arrangement or scheme.

Agencies may not release any information to any outside body in relation to employees affected by the VTESA other than as required by law without the written consent of the employee concerned. This includes the provision of lists of employees who are or may be affected by the VTESA. Heads of Agency are to ensure that all employees who have access to such information are fully aware of their obligations in this regard.

It should be noted that whilst these guidelines provide an indication of the superannuation benefits available to employees under the various categories these are not be regarded as the basis for advising employees of their superannuation entitlements. Employees should be advised to seek advice directly from their superannuation fund.

MANAGEMENT OF WORKERS COMPENSATION

Where there is no possibility or it is highly unlikely for an employee on workers compensation to return to work then that employee is not entitled to a voluntary separation payment under the VTESA. Such employees should be managed under the provisions of the *State Service Act 2000* and where applicable, the RBF Act.

Accordingly, an offer of voluntary separation to any employee on workers compensation can only be made where it is likely the employee will recover to resume normal duties and after specific approval is provided by the Office of the Director of Public Prosecutions. It is anticipated that an employee will be required to redeem any outstanding workers compensation entitlements before being able to accept a separation offer. As mentioned previously it is anticipated that this will only relate to persons with a short-term incapacity.

If an Agency is considering offering an employee on workers' compensation a voluntary separation offer, it is essential that they consider the common law potential of each case by contacting the Office of the Director of Public Prosecutions. If an employee on workers compensation accepts a redundancy offer, but does not redeem their claim to common law they then have three years from the date of injury or accident to make a claim, with the right to extend their claim to common law damages for a further three years.

If an employee on workers compensation accepts a redundancy offer it is possible for the employer, **but only through consultation with the fund manager**, to negotiate with that employee to redeem their entitlements to weekly payments, associated medical costs and any claim to common law. However the process of redemption will be different for each case based on their individual merits.

Also, if an employee who accepts a voluntary separation offer has prior to the voluntary separation placed a notice of accident or injury with their employer/Agency they are able to claim for workers' compensation, for up to six months after the notice of accident or injury, if they can demonstrate that as a result of that previous incident they are now incapacitated, and as such are unable to work.

DEED OF RELEASE

This is the legal document which binds both employee and employer and confirms that employment is terminated in return for a separation payment.

The Deed includes the exact amount of gross entitlements at the date of separation which are in addition to normal separation entitlements.

Separation Payments included and not included in the Deed are;

INCLUDED

- Years of Service
- Pro rata leave loading (on final year of service- where applicable)

NOT INCLUDED

- Superannuation entitlements
- Accrued Recreation leave
- Leave loading accrued - where applicable
- Long service leave

The finalised Deed, signed by the separating employee and a witness, must be forwarded to the Director, PSMO to arrange countersigning on behalf of the Crown. Deeds forwarded for countersigning must be accompanied by certification from the Head of Agency that they are in accordance with the requirements of the VTESA.

The Forms and Proforma section of this package contains copies of the Deeds and the pro forma for Head of Agency certification.

FUTURE EMPLOYMENT WITH THE STATE GOVERNMENT

Employees who accept voluntary separation will enter into an agreement not to seek or obtain employment either as an employee or officer of, or as a consultant, without limitation, to the Tasmanian Government (including “the Crown in right of the State of Tasmania”), or any Controlling Authority listed below for a period not exceeding 5 years calculated to the nearest half year in accordance with the following formula:

$$\text{Period} = \frac{\text{Amount of Pay out}}{\$25000}$$

Note: The “Amount of Pay out” is the total of the separation payments included in the Deed of Release.

In exceptional cases and with the approval of the Secretary Department of Premier and Cabinet, the Head of Agency may, on an individual's behalf, seek exemption from the re-employment provision or the application of a reduced exclusion from re-employment period.

The engagement of a company or organisation from the private sector to undertake consultancy or contract work for a State Service Agency is not prohibited, even though that company or organisation might employ former State Service employees who have separated under the VTESA. This arrangement is considered to be within the bounds of the agreement as it does not entail a direct contractual relationship between the former employee and the State Service Agency.

However, unless specifically exempted by the Secretary, Department of Premier and Cabinet the engagement would be prohibited where the former State Service employee or officer is the owner, either solely or jointly, of the company or organisation or where it is considered that the former employee has entered into a business arrangement in order to circumvent the agreement (eg by placing company ownership in another family member).

The Secretary, Department of Premier and Cabinet may waive the penalty and approve re-employment or consultancy or contract for service engagements within the exclusion period where it is considered that special or extraordinary circumstances exist. While each case will be treated on its merits, it should **involve special circumstances and be limited to work of a short-term nature**. Generally speaking, the case would need to involve work of a **specialist nature where there is no cost effective alternative** to the employment or engagement of the former employee.

A person who undertakes employment with the Tasmanian Government or the Controlling Authorities detailed below prior to the expiration of the exclusion period shall incur a penalty as provided in the Deed of Release. This penalty may be varied by application to Secretary Department of Premier and Cabinet.

The Crown in the right of the State of Tasmania shall be taken as including *without limitation* the following persons or bodies:-

- Minister administering the *State Service Act 2000*;

- His Excellency the Governor;
- Speaker of the House of Assembly;
- President of the Legislative Council;
- Commissioner of Police;
- General Government Sector entities;
- Government Business Enterprises; and
- State Owned Companies.

DISPUTE RESOLUTION

Disputes involving the impact on an individual or group in relation to the interpretation or application of the terms and conditions of VTESA will be initially considered by the relevant Agency using internal grievance procedures established under the *State Services Act 2000*. Disputes that remain unresolved shall be referred to the Secretary, Department of Premier and Cabinet unless they arise as a result of a determination by Secretary, Department of Premier and Cabinet in which case they will be referred to the Secretary, Department of Justice. The decision of these parties shall be considered final.

ROLES AND RESPONSIBILITIES

Public Sector Management Office (PSMO), Department of Premier and Cabinet

PSMO develops policy and procedural recommendations in relation to the management and operations of the VTESA and is responsible for providing advice on strategic policy issues.

Responsible for overall central quality assurance, monitoring and reporting. Provides policy and planning advice and co-ordinates the VTESA. Consults with and provides advice to Agencies on the management and application of the VTESA. Liaises with other stakeholders as required to ensure effective management, implementation and co-ordination of the VTESA.

Arranges for Deeds of Release to be signed on behalf of the Crown.

Agencies

Responsible for VTESA operations and separations within their Agency.

Specific responsibilities include:

- Making separation offers in accordance with VTESA;
- Calculation of separation payments (excluding RBF entitlements);
- Liaison with the RBF on entitlements;
- Processing VTESA payments;
- Arranging pre-separation counselling and financial advisory services in liaison with the Retirement Benefits Fund Board;
- Provision of information to Secretary, Department of Premier and Cabinet.
- Maintaining quality assurance on all aspects of Agency responsibility in ensuring cost effectiveness in the administration of the VTESA and applying mechanisms and strategies that maintain the integrity and correct application of the VTESA.

Agencies will be responsible for funding the full cost of employment separations under the VTESA and other entitlement payments.

Retirement Benefits Fund (RBF)

Responsible for providing RBF entitlement advice. Provision of general advisory service on RBF related matters to potential applicants. Interprets relevant superannuation and applies taxation legislation to benefit payments. Calculates and makes payment of superannuation benefits and the produces associated documentation.

MONITORING OF SEPARATIONS - REPORTING

Agencies will be required to provide statistical returns on a regular basis to the PSMO.

Other reports and statistical information may be required from time to time, and in these cases the PSMO will contact Agencies as required.

DEFINITIONS

“Contributor” means an employee who contributes to a RBF defined benefits Contributory Scheme or any other approved employer funded superannuation scheme.

“Deed of Release” is the legal document which binds both the employee and employer and confirms that employment is terminated in return for a separation payment.

“Employee” means a permanent employee or fixed-term employee, but does not include a person appointed to an office under section 25 or 31 of the *State Service Act 2000*, or a person in respect of whom an arrangement under section 46(1)(a) is in force.

“Officer” means a person appointed as a senior executive or equivalent specialist under section 31 of the *State Service Act 2000*.

“Head of Agency” has the same meaning as defined in the *State Service Act 2000*.

“Minister” means the Minister administering the *State Service Act 2000*.

“Pay back Period” is the length of time (in years) which it takes to achieve ongoing savings in salary compared to the additional cost of VTESA separation payments (excluding all normal entitlements).

“Salary” for the purpose of leave is as defined in relevant legislation and payable on normal separation.

“Service” for the purpose of calculation of years of service payment is defined under that section.

“Service” for the purpose of calculation of leave is as defined in the relevant legislation and as payable on normal separation.

FORMS AND PROFORMA
Attached are forms and proforma which should be used by Agencies for the purposes of the VTESA.