

Queensland



STATE SERVICE SUPERANNUATION ACT 1972

**Reprinted as in force on 22 December 1995
(includes amendments up to Act No. 57 of 1995)**

Warning—see last endnote for uncommenced amendments

Reprint No. 1

This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy

Information about this reprint

This Act is reprinted as at 22 December 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- use gender neutral office names (s 25)
- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use expressions consistent with current drafting practice (s 29)
- reorder definitions and other provisions consistent with current drafting practice (ss 30 and 30A)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 37 and 39)
- omit unnecessary referential words (s 41)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43)
- correct minor errors (s 44)
- make all necessary consequential amendments (s 7(1)(k)).

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in the reprint, including—**
 - **table of changed names and titles**
 - **table of changed citations and remade laws**
 - **table of obsolete and redundant provisions**
 - **table of corrected minor errors**
 - **table of renumbered provisions.**

Queensland



**STATE SERVICE SUPERANNUATION
ACT 1972**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	7
3	Application of Act	7
3A	Act not to apply to certain officers	9
3B	Contributors may elect	9
3C	Transfer of functions or duties	9
4	Interpretation	10
4A	Ascertainment of certain final average salaries	18
PART 2—ADMINISTRATION		
6	State Service Superannuation Board	19
12	Remuneration	20
13	Manager of the fund	20
14	Proceedings of the board	21
15	Delegation by board	21
16	Reports by board	22
17	Appointment of officers	22
18	The fund	22
18A	Investment of fund	23
19	Triennial investigation by actuary	24
PART 3—CONTRIBUTIONS		
20	Obligation of officers to contribute to the fund	25
21	Commencement and cessation of contributions	28
22	Time and manner of paying contributions	29

State Service Superannuation Act 1972

23	Suspension of contribution	32
24	Rates of contribution	33
24A	Provision for female contributors to contribute for benefits under pt 4, divs 2 and 3	38
25	Further provisions re contributions	39
PART 4—BENEFITS AND PAYMENTS		
<i>Division 1—Contributors’ pensions and other benefits</i>		
26	Calculation of service	40
27	Rights of contributors for category A benefits	41
28	Rights of continuing contributors for category A benefits	45
29	Rights of contributors for category B benefits	46
30	Rights of continuing contributors who are contributors for category B benefits	48
30A	Benefits upon retirement before age 60	49
30B	Benefits upon retrenchment, involuntary termination etc.	52
30C	Construction of pension benefit formula in certain cases and transfer of funds	53
30D	Recoupment of contributions	54
30E	Minimum benefit payable	54
<i>Division 2—Benefits upon contributor’s death</i>		
31	Entitlement to benefit	55
31A	Relicts’ right to substitute pension for entitlement	60
31B	Entitlement of relict of person on staff of Agent-General for Queensland	64
<i>Division 3—Children’s pensions</i>		
32	Child’s pension—when payable	64
33	Commencement and cessation of children’s pensions	70
34	Persons to whom a child’s pension is payable	71
<i>Division 4—Refund of contributions</i>		
35	Refund of contributions	71
<i>Division 5—Adjustment of pensions</i>		
36	Increases in rates of benefits	76
36A	Adjustment of pensions	78

State Service Superannuation Act 1972

36B	Further adjustment of pensions	80
36C	Variation of entitlement to adjustment	80

Division 6—General provisions as to pensions

37	Duration of pensions	81
38	Time and manner of payment of pensions	81
39	Payment to person other than the beneficiary	82
40	Commencement of benefits	82
40A	Provision for incapacity entitlement of contributor reduced in salary by redeployment	83
41	Entitlement to receive incapacity pension	83
42	Proof of continued incapacity	84
43	Failure of incapacity pensioner restored to health to resume employment affects entitlement	84
44	Incapacity pension may be suspended	85
45	Contribution by retired incapacity pensioners upon re-employment	86
46	Right to prepay contributions	86
46A	Recovery of overpayments	86

Division 7—Conversion of pension entitlement into a lump sum payment

47	Right of contributor to convert pension into a lump sum	88
48	Endowment benefit in lieu of relict's pension	100

Division 7A—Elections to surrender potential relicts' entitlements of pre-1984 members and married relicts' entitlements

48A	Definitions for div 7A	101
48B	Election to surrender potential relict's entitlement	102
48C	Election to surrender married relict's entitlement	103
48D	Making of election to surrender	103
48E	Effect of surrender	103
48F	Application of Acts Interpretation Act 1954, s 20A, to division	104
48G	Expiry of division	104

Division 8—Miscellaneous

49	Benefits payable to certain members	104
----	---	-----

PART 5—FINANCIAL PROVISIONS

50	Cost of administration	105
----	----------------------------------	-----

State Service Superannuation Act 1972

51 Contributions to the fund by the State and by State authorities 105
52 Employers' contributions 107
53 Accounts to be kept by the board 108

PART 6—MISCELLANEOUS

54 Assignment of pensions 109
55 When fund charged with defalcations by contributors 109
56 When officer may continue to contribute after resignation 109
57 Determination of questions arising under this Act 110
58 Settlement of disputes 111
59 Unclaimed moneys 112
60 Barring of claims for compensation 112
61 Fund to be exempt from taxation 113
62 Returns 113
63 Entitlements in respect of beneficiary who becomes an officer 114
64 Medical examinations 115
64A Conversion from category B to category A benefits in certain cases 116
64B Rectification of contributor's status falsely induced 116
65 Calculation of benefits based on contributions of officers 119
66 Discretionary powers of the board 119
67 Provisions in respect of officer accidentally excluded from contributing . . 120
68 Rates or amounts of pensions etc. to be rounded off 121
69 No interest on certain payments 121
70 False declarations 121
70A Information to contributors 122
71 Regulation making power 123
72 Board may approve forms 123

**PART 7—APPLICATION OF PUBLIC SERVICE
SUPERANNUATION ACT 1958**

73 Application of Public Service Superannuation Act 1958 124

PART 8—SAVINGS AND TRANSITIONAL

74 Saving of existing orders in council 126

SCHEDULE 1A 127

PART 1—COMMUTATION FACTORS

PART 2—COMMUTATION FACTORS

SCHEDULE 3	132
-------------------------	-----

**FACTORS FOR BENEFITS UPON DEATH OF CONTRIBUTORS
WHO DIE BEFORE AGE 60**

SCHEDULE 3A	133
--------------------------	-----

**FACTORS FOR BENEFITS UPON DEATH OF CONTRIBUTORS
WHO DIE AT AGE 60 OR BETWEEN AGES 60 AND 65**

SCHEDULE 3B	135
--------------------------	-----

FACTORS FOR RELICTS OF PENSIONERS

SCHEDULE 4	136
-------------------------	-----

**FACTORS FOR LUMP SUM BENEFITS OF CONTRIBUTORS
WHO RETIRE BETWEEN AGES 55 AND 60**

SCHEDULE 5	138
-------------------------	-----

**PART 1—MALE CONTRIBUTORS; AND FEMALE
CONTRIBUTORS WHO COMMENCED ON OR AFTER 27.2.1984**

**PART 2—FEMALE CONTRIBUTORS WHO COMMENCED
BEFORE 27.2.1984**

ENDNOTES

1	Index to endnotes	143
2	Date to which amendments incorporated	143
3	Key	144
4	List of legislation	144
5	List of annotations	146
6	Table of changed names and titles	155
7	Table of changed citations and remade laws	155
8	Table of obsolete and redundant provisions	156
9	Table of corrected minor errors	156
10	Table of renumbered provisions	156
11	Transitional and savings provisions	159
12	Provisions that have not commenced and are not incorporated into reprint	161

STATE SERVICE SUPERANNUATION ACT 1972

[as amended by all amendments that commenced on or before 22 December 1995]

An Act relating to the provision of superannuation benefits for officers of the State service, to make provision for the families of those officers, and for other purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *State Service Superannuation Act 1972*.

Application of Act

3.(1) Subject to any provision of this Act that prescribes for the application of any provision of this Act, this Act applies to and in relation to—

- (a) a person who becomes an officer on or after the commencement of this Act; and
- (b) a person—
 - (i) who was an officer within the meaning of the 1958 Act immediately before the commencement of this Act; and
 - (ii) who continues on the said commencement to be an officer; and
 - (iii) who is not a continuing contributor; and
- (c) a continuing contributor; and
- (d) a person to whom the 1958 Act, section 46 relates who again

State Service Superannuation Act 1972

becomes an officer after the commencement of this Act; and

- (e) a relict of any person referred to in paragraph (a), (b), (c) or (d); and
- (f) a child of any person referred to in paragraph (a), (b), (c), (d) or (e) or of a deceased or divorced spouse of any such person other than—
 - (i) in the case of a child of a relict—a child born on or after the passing of the *Superannuation Acts Amendment Act 1984* and the death of the contributor or pensioner that is not the issue of the contributor or pensioner; and
 - (ii) in the case of a child of a divorced spouse—a child that is not the issue of the contributor or pensioner;

but unless an officer being a person to whom paragraph (b) relates—

- (g) who, not being bound to contribute under the 1958 Act unless the officer elected so to do, did not so elect before the commencement of this Act; or
- (h) who was not a contributor under the 1958 Act immediately before the said commencement by reason that the officer had been wholly exempted by the board from the requirement to contribute under that Act or that the officer's liability to so contribute had been deferred without limit of time;

elects to contribute under this Act within a period of 6 months after the commencement of the *Superannuation Acts Amendment Act 1974*, this Act shall be deemed not to apply, or to have at any time applied, to and in relation to that officer.

(2) An officer being a person who was eligible to become a contributor under this Act before the commencement of the *Superannuation Acts Amendment Act 1978* but not bound to contribute under this Act unless the officer elected so to do may, notwithstanding that the officer did not elect to contribute under this Act within the time prescribed and the provisions of subsection (1) with respect to the non-application of this Act to an officer upon the officer's failure to so elect, elect to contribute under this Act on or before 31 December 1978 but unless the officer does so elect this Act shall be deemed not to apply or to have at any time applied to or in relation to that officer.

Act not to apply to certain officers

3A. Notwithstanding section 3, on and after the date of commencement of section 3.2 of the *Superannuation (Miscellaneous Acts) Amendment Act 1991*, no officer may become a contributor other than a person who on becoming an officer—

- (a) is permitted to contribute to the fund in accordance with section 4(9); or
- (b) makes an election under section 35(2B).

Contributors may elect

3B.(1) The Governor in Council may, by regulation, declare that a contributor may elect to become a member of a scheme for the provision of superannuation, retirement, provident or other benefits comparable to the class of benefits available to the contributor under this Act.

(2) The regulation is to declare the conditions on which a contributor may elect to become a member of a scheme referred to in subsection (1).

(3) This Act and the 1958 Act cease to apply to a contributor who becomes a member of a scheme referred to in subsection (1) pursuant to an election made under this section.

(4) In respect of a contributor who makes an election under this section, the actuary is to determine an amount that represents the contributor's entitlement under this Act and the 1958 Act.

(5) The amount determined under subsection (4) is to be paid on behalf of the contributor in such manner as is prescribed by regulation.

Transfer of functions or duties

3C.(1) Where a contributor is transferred from the Crown to any other person or body as a result of the transfer from the Crown to that person or body of any function or duty, the Governor in Council may, by regulation, declare that the contributor may elect to continue to be an officer for the purposes of this Act.

(2) The regulation is to declare—

- (a) the conditions on which a contributor may elect to continue to be

State Service Superannuation Act 1972

an officer for the purposes of this Act; and

- (b) the manner in which the entitlement under this Act and the 1958 Act of a contributor who does not elect to continue as an officer for the purposes of this Act may be dealt with.

Interpretation

4.(1) In this Act—

“actuary” means a fellow or associate of the Institute of Actuaries (London), a fellow or associate of the Faculty of Actuaries (Edinburgh), or any other person whose actuarial knowledge and experience the Governor in Council deems sufficient, appointed under this Act.

“age for retirement” means the age of 65 years.

“board” means the State Service Superannuation Board constituted under section 6.

“child’s pension” means a pension payable under part 4, division 3.

“continuing contributor” means a contributor who immediately before the commencement of this Act was a contributor under the 1958 Act and who on the said commencement continued to be a contributor under the said Act and includes—

- (a) a person to whom section 24(3) relates who having been a contributor under the 1958 Act or an Act repealed by that Act again becomes an officer after the commencement of this Act;
- (b) a person who became an officer before the said commencement and who had elected, or was required, to contribute to the fund under the 1958 Act but who had not commenced his or her contributions before that commencement.

“contributor” means an officer who contributes under this Act to the fund and includes—

- (a) an officer who is required to contribute thereto but has not commenced his or her contributions;
- (b) an officer who has ceased to contribute thereto by reason of his or her age or incapacity.

State Service Superannuation Act 1972

“contributor for category A benefits” means a contributor whose contributions to the fund entitle the contributor, in addition to any other benefits to which the contributor may be entitled under this Act, to an incapacity pension irrespective of the contributor’s length of service.

“contributor for category B benefits” has the meaning assigned to that expression by section 20(3) and includes a contributor deemed to be such under section 20(4).

“contributor’s pension” means a pension that is payable under this Act to a contributor other than an incapacity pension.

“Crown” means the Crown in the right of the State of Queensland and without limiting the generality of the meaning thereof includes any commission, commissioner, corporation, board, instrumentality or person representing the Crown in the right of the State of Queensland.

“final average increase in salary”, in relation to a continuing contributor, means the amount by which—

(a) the contributor’s final average salary

exceeds—

(b) the fortnightly salary that the member would have received during the year immediately preceding the contributor’s attaining the age for retirement or the contributor’s earlier retirement from or death in service had the contributor’s salary remained constant at the rate in force at the date immediately before the commencement of this Act or, where the contributor is a person to whom section 24(3) relates, the rate in force at the date when the contributor was retired on the grounds of incapacity as mentioned in that subsection.

“final average salary” means—

(a) in relation to a contributor who, on or after the passing of the *Superannuation Acts Amendment Act 1984*, attains the age for retirement or earlier retires from employment as an officer otherwise than by retiring or being retired on grounds of incapacity and who, after the passing of that Act and during the 2 years immediately preceding the contributor’s attaining the age for retirement or the contributor’s earlier retirement, has received 1 or more increases in salary other than an increase in salary that,

State Service Superannuation Act 1972

in the board's opinion, is due to a variation in or a general ruling affecting an industrial award or industrial agreement, within the meaning of those expressions in the *Industrial Conciliation and Arbitration Act 1961*, or is a flow-on from such a variation or general ruling, or is a regular increment to which the contributor is entitled under the terms and conditions of the contributor's employment the final average salary ascertained in accordance with section 4A;

- (b) in relation to any other contributor—the average fortnightly salary received by the contributor during the year immediately preceding the contributor's attaining the age for retirement or the contributor's earlier retirement from or death in employment as an officer.

“fund” means the State Service Superannuation Fund preserved, continued in existence and established under this Act.

“incapacity” means any mental or bodily infirmity by reason whereof an officer is unfit to discharge or incapable of discharging the duties of office efficiently.

“incapacity pension” means a pension that is payable under this Act to a contributor who before attaining the age for retirement is retired or permitted to retire on the grounds of incapacity not due to wilful action on the part of such person for the obtaining of such pension or that is payable under this Act to a contributor in respect of any period of leave of absence without salary for longer than 2 weeks, by reason of incapacity, from the contributor's employment as an officer and who, in either case, has satisfied the board as required by section 41.

“involuntary termination of employment” means the termination of a contract of employment by the Crown or other authority (howsoever described) which employs a contributor without the consent of the contributor other than termination by dismissal on the ground of misconduct or incapacity or retrenchment in accordance with arrangements approved by the Governor in Council.

“manager” means the manager of the fund and the chief executive officer of the board and includes the person who for the time being occupies that office or performs the duties of the office.

“medical practitioner” means a medical practitioner or a specialist within

State Service Superannuation Act 1972

the meaning of the *Medical Act 1939*, section 4.

“net earning rate of the fund” means the rate of interest as determined by the board, from time to time, on the advice of the actuary which rate, at the time it is determined, reasonably reflects the after tax earnings of the fund (on a long-term basis) derived from the investment of contributors’ contributions to the fund, having regard to administrative costs of the fund, the costs of death and incapacity benefits and the charges incurred in the investment of those contributions.

“officer” means any person employed full-time by or under the Crown, in the opinion of the board, in a permanent capacity, and includes—

- (a) any person employed full-time in a permanent capacity by a university established under an Act of this State and who is employed full-time in an office prescribed by regulation for the purposes of section 20(10) and who, being eligible so to do, makes an election to contribute under section 20(11) and who has not made an election under section 20(12) to cease contributing;
- (b) any person employed full-time in a permanent capacity by the Board of Advanced Education, the Board of Teacher Education or a council of a college of advanced education constituted under the *Education Act 1964*;
- (ba) any person employed full-time in a permanent capacity by an agricultural college board under the *Agricultural Colleges Act 1994*;
- (bb) any person employed full-time in a permanent capacity by the Port of Brisbane Corporation;
- (bc) any person employed full-time in a permanent capacity by the Metropolitan Transit Authority constituted under the *Metropolitan Transit Authority Act 1976*;
- (c) subject to section 20(8), any temporary employee employed full-time in the public service as defined by the *Public Service 1922* who has been so employed for not less than 1 year and, in relation to such employment, has been exempted by the Governor in Council upon the recommendation of the Public Service Board from the operation of section 18(3)(v) of that Act and whose employment is not for a specified period of less than 5 years;

State Service Superannuation Act 1972

- (d) any person permanently employed full-time—
 - (i) in the Railway Department under and within the meaning of the *Railways Act 1914*;
 - (ii) by a Regional Health Authority established under the *Health Services Act 1991*;
 - (iv) by the Manager of the Golden Casket Art Union in the conduct and administration thereof;
- (da) any contributor who elects to continue to be an officer for the purposes of this Act under a regulation made for the purposes of section 3C(1);
- (db) a person approved by regulation for the purposes of this paragraph;

but does not include—

- (e) a judge of the Supreme Court, or of a District Court;
- (f) a police officer;
- (g) a person excepted from this Act by regulation.

For the purposes of this definition, a person who is employed in service governed by an industrial award or industrial agreement shall be taken not to be employed full-time unless the award or industrial agreement specifies a working week of 30 hours at the least.

“pensioner” means a person who is entitled to a pension under this Act and includes a person who, but for an election under section 47, would be entitled to such a pension.

“relict” means, in relation to a person who has died and was at the date of death a contributor or pensioner—

- (a) a person who was legally married to the deceased person at the date of death and, in the case of a deceased pensioner, at the date of the deceased pensioner’s attaining the age for retirement or the deceased person’s earlier final retirement from employment as an officer; and
- (b) a person who, for a continuous period of 3 years at the least immediately preceding the date of death of the deceased person or, in the case of a deceased pensioner, for a continuous period of

State Service Superannuation Act 1972

3 years at the least immediately preceding the date of the deceased pensioner's attaining the age for retirement or of the deceased pensioner's earlier final retirement, had ordinarily lived in a connubial relationship with the deceased person, and who in the board's opinion was wholly or substantially dependent on the deceased person at the date of death.

“relict's pension” means a pension payable under part 4, division 2.

“retired”, in relation to employment as an officer, means retired or required to retire from that employment by the Public Service Board or by the person or authority other than the board thereunto authorised by law.

“salary” means—

- (a) in relation to an officer appointed as a member of the Land Court or a commissioner of the Industrial Conciliation and Arbitration Commission on or after the passing of the *Superannuation Acts Amendment Act 1984* and who is to be deemed to be an officer, the rate of payment that would have been made to the officer by way of fixed remuneration for the officer's services had the officer remained in the position held by the officer as an officer immediately before the officer's appointment as such a member or commissioner; and
- (b) in relation to any other officer, the rate of payment made to the officer by way of fixed remuneration for the officer's services, unless otherwise determined by the Governor in Council,

and does not include any sum paid by way of fees or allowances except, in the case of an officer employed as a teacher, a sum paid to the officer as an allowance based on the number of pupils attending the school in which the officer is employed.

“service” means any period during which a person contributes, whether before or after the commencement of this Act, to the fund under this Act, the 1958 Act or any Act repealed by the 1958 Act and includes—

- (a) any period in respect of which the person is or was required to contribute thereto and before the first of the person's contribution is or was paid to the fund; and
- (b) any period during which contribution to the fund is or was suspended under this Act, section 23 or the 1958 Act, section 26;

State Service Superannuation Act 1972

and

- (c) in the case of a continuing contributor—any unbroken period during which the person was employed by or under the Crown or a person or authority referred to in the 1958 Act, section 4, definition “officer” immediately before becoming a contributor under that Act.

“spouse” means, in relation to any person, the male or female upon whose death the person has become or would become a relict of that male or female.

“the 1958 Act” means the *Public Service Superannuation Act 1958*.

(2) For the purposes of subsection (1), definition “service”—

- (a) where a person having been retired or permitted to retire from the person’s employment as an officer and having been in receipt of an incapacity pension under this Act or incapacity benefit under the 1958 Act or incapacity allowance preserved and continued by that Act, again becomes an officer—the period during which the person was so absent shall be deemed to comprise part of the person’s service; and
- (b) where a person has received a refund of the person’s contribution to the fund whether under this Act or, in relation to annuity benefit, under the 1958 Act or any Act repealed by that Act and has subsequently recommenced contributing to the fund—the person’s employment before the date on which the person recommenced shall be deemed not to comprise part of the person’s service except where the person has received the refund in connection with having made an election under section 35(2); and
- (c) in the case of a continuing contributor whose employment as specified in paragraph (c) of the definition was in the opinion of the board, broken only by the continuing contributor’s employment with a public authority prescribed by the Minister for the purposes of this paragraph—the period of employment as firstmentioned in this paragraph shall be deemed not to have been broken by the employment with the public authority but shall not include any period during which the continuing contributor was employed with the public authority.

State Service Superannuation Act 1972

(3) For the purpose of ascertaining the final average salary of a person who is a pensioner or has died in service as an officer the salary received by that person during the period of 1 year immediately preceding the person's attaining the age for retirement or the person's earlier retirement from or death in service shall include any increase in salary of a position held by the person at any time during that period or, in the case of a member of the Land Court or a commissioner of the Industrial Conciliation and Arbitration Commission who is deemed to be an officer, in the salary that by definition is the person's salary for the purposes of this Act, being an increase that takes effect from a date within that period.

(4) For the purposes of subsection (1), definition "final average salary", a reference to the period of 1 year immediately preceding attaining the age for retirement or earlier retirement from or death in service shall, in the case of a contributor whose length of service at the time of retirement or death is less than 1 year be read as a reference to the contributor's actual period of service.

(5) For the purposes of subsection (1), definition "final average increase in salary", a reference to the period of 1 year immediately preceding attaining the age for retirement or earlier retirement from or death in service shall be a reference to a period after the commencement of this Act and shall in the case of a continuing contributor whose length of service after the commencement of this Act at the time of retirement or death is less than 1 year, be read as a reference to the contributor's actual period of service after the said commencement.

(6) A reference in this Act to a period expressed in years shall, where appropriate, be read as including a reference to a period expressed in years together with a fraction of a year being a fraction consisting of a completed whole month or 2 or more such months.

(7) Where at any time during the period of 1 year immediately preceding the time of attaining the age for retirement or earlier retirement from or death in service a contributor has been absent on leave of absence on less than full pay the contributor's final average salary or the contributor's final average increase in salary shall be calculated as if the contributor continued to receive full pay during the whole of that period.

(8) For the purposes of this Act where a person is appointed on probation to a permanent position as an officer within the meaning of this Act that person shall, during the period of probation, be deemed to be an officer and

State Service Superannuation Act 1972

be required to contribute to the fund and if that person's probationary appointment is not confirmed the person is entitled to a refund of the person's contribution to the fund.

(9) Where a person ceases to be an officer within the meaning of subsection (1) but before the expiration of 1 month after ceasing again becomes such an officer, the person may, where the board so approves (whether subject to conditions or unconditionally) on the written application of that person, be permitted to contribute to the fund in respect of the period between the person so ceasing to be an officer and the person again becoming an officer and where with the approval of the board a person is permitted to contribute to the fund under this subsection that person shall, for the purposes of this Act be deemed to be and to have been an "officer" within the meaning of subsection (1) during the period in respect of which the person so contributes and this Act shall apply in relation to the person accordingly.

(9AA) An application under this subsection shall be made within 3 months after the person again becomes an officer.

(9A) Notwithstanding any other provision of this Act, where the employment of a contributor as an officer ceases at any time after the contributor has attained the age of 55 years otherwise than by reason of the contributor's death or having been retired or permitted to retire on the ground of incapacity then, for the purposes of this Act, the contributor shall be deemed to have elected to retire at the time when the employment ceased.

(11) Without prejudice to the operation of the *Acts Interpretation Act 1954*, except where a contrary intention appears, a reference 'he', 'him' or 'his' in this Act includes a reference 'she', 'her' or 'her' and every word of the masculine gender shall be construed as including the feminine gender.

Ascertainment of certain final average salaries

4A.(1) Where a contributor, on or after the passing of the *Superannuation Acts Amendment Act 1984*, retires from employment as an officer otherwise than by retiring or being retired on the ground of incapacity and has received t increase(s) in salary (where t is a positive whole number) being any prescribed increase or increases in salary received by the contributor on or after the passing of that Act and during the 2 years immediately preceding attaining the age for retirement or earlier retirement,

State Service Superannuation Act 1972

the contributor's final average salary shall be ascertained in accordance with the formula—

$$\text{if } t = 1 \quad \text{FAS}_t = A + [(B_t - A) \frac{n_t}{24}]$$

$$\text{if } t \text{ is greater than } 1 \quad \text{FAS}_t = \text{FAS}_{t-1} + [(B_t - B_{t-1}) \frac{n_t}{24}]$$

where—

“A” means the contributor's final average salary had the contributor not received any prescribed increases in salary.

“B_t” means the contributor's final average salary had the contributor received the tth prescribed increase in salary for the period of 1 year immediately preceding attaining the age for retirement or earlier retirement from employment as an officer.

“FAS_t” means the final average salary after t prescribed increase(s) in salary to be ascertained.

“n_t” represents the number of whole months from the date on which the contributor received the tth prescribed increase in salary until the day immediately preceding the day the contributor attained the age for retirement or earlier retirement from employment as an officer.

(2) For the purposes of subsection (1) an increase in salary is a prescribed increase in salary if it is one such that pursuant section 4, definition “final average salary”, paragraph (a) a final average salary is to be ascertained in accordance with this section.

PART 2—ADMINISTRATION

State Service Superannuation Board

6.(1) There shall be constituted and maintained for the purposes of this Act and the 1958 Act a board to be known as the ‘State Service Superannuation Board’.

(2) The board shall be a body corporate and shall have perpetual

succession and a common seal and shall be capable in law of—

- (a) suing and being sued in its corporate name; and
- (b) acquiring, holding, leasing, letting and disposing of property, real and personal; and
- (c) doing and suffering all such other acts and things as bodies corporate may in law do and suffer.

(3) The members of the board constituted for the purposes of the *Superannuation (Government and Other Employees) Act 1988* are also the members of the State Service Superannuation Board.

(4) The board shall have the powers, authorities, duties and functions conferred or imposed upon it by this Act or the 1958 Act.

Remuneration

12. A member of the board is entitled to be paid the fees and allowances decided by the Governor in Council.

Manager of the fund

13.(1) The Governor in Council may from time to time appoint a manager of the fund.

(1A) A member of the board may in addition to that office hold the appointment of manager of the fund.

(2) The manager of the fund shall be the executive officer of the board.

(3) The manager of the fund shall have, exercise and perform such powers, authorities, duties and functions as may be prescribed by this Act or the 1958 Act or, in so far as not prescribed, as the board may authorise or direct.

(4) The manager of the fund shall have custody of the official seal of the board and, subject to the board, shall have power to execute documents and other writings whatsoever on behalf of the board and affix the seal of the board thereto or to any of them.

Proceedings of the board

14.(1) The board shall meet at such times and places and conduct its business in such manner as may be prescribed or, in so far as not prescribed, as it may from time to time determine.

(2) Not less than 5 members of the board shall form a quorum at any meeting of the board, and any duly convened meeting at which a quorum is present shall be competent to transact any business of the board and shall have and may exercise and perform all the powers, authorities, duties and functions of the board.

(3) The chairperson shall preside at all meetings of the board at which the chairperson is present.

(4) If the chairperson is not present at a meeting of the board the chairperson's nominee (referred to in section 6(6)) shall preside at the meeting and act in the place of the chairperson and, while so acting, shall have all the powers and authority of the chairperson.

(5) If neither the chairperson nor the chairperson's nominee is present at a meeting of the board, the members present shall elect 1 of their number who shall preside at the meeting.

(6) The person presiding at any meeting of the board shall have a vote and when there is an equal division of votes upon any question shall have a second or casting vote.

(7) No act or proceeding of the board shall be invalid or illegal in consequence only of the number of the members of the board not being complete at the time of such act or proceeding.

(8) All acts and proceedings of the board shall, notwithstanding any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if every such member had been duly appointed and was qualified and entitled to act and had acted as a member of the board, and as if the board had been properly and fully constituted.

Delegation by board

15. The board may delegate its powers under this Act to—

- (a) a board member or officer of the board; or
- (b) an officer of the public service.

Reports by board

16.(1) The board shall in each year make to the Minister a report upon the administration of this Act and the 1958 Act, and the Minister shall lay a copy of that report before the Legislative Assembly.

(2) When and so often as the Minister may require, the board shall make to the Minister such report as the Minister requires concerning the administration of this Act and the 1958 Act.

Appointment of officers

17.(1) The Governor in Council may from time to time appoint officers including an actuary as the Governor in Council deems necessary for the effectual administration of this Act and the 1958 Act.

(2) Every appointee, save the actuary, shall be appointed and hold office under, subject to and in accordance with the *Public Service Management and Employment Act 1988*.

(3) The actuary may be appointed under the *Public Service Management and Employment Act 1988* but if not appointed thereunder, the actuary shall be appointed for such term, at such remuneration, and upon such conditions, as the Governor in Council determines.

(4) Any person may be appointed to hold any such office in conjunction with any other office held by the person under the *Public Service Management and Employment Act 1988*.

The fund

18.(1) For the purposes of this Act and the 1958 Act, the Public Service Superannuation Fund as established in the Treasury immediately before the passing of this Act is hereby preserved, continued in existence and established in the Treasury under this Act under the name 'State Service Superannuation Fund'.

(2) All contributions and payments by officers provided for in this Act or

in the 1958 Act shall be paid into the fund.

(3) Save the costs of administering this Act and the 1958 Act, all benefits and other payments provided for in this Act and in the 1958 Act shall be paid from the fund.

(4) Moneys for the time being standing to the credit of the fund shall be invested on account of the fund and earnings from investment of those moneys shall be credited to the fund.

(5) Subject to this Act the provisions relating to trust and special funds of the *Financial Administration and Audit Act 1977* shall apply to the fund.

Investment of fund

18A.(1) Queensland Investment Corporation (“**QIC**”) is appointed investment manager of the fund.

(2) The board must establish investment policies and objectives for the fund.

(3) The investment manager must operate under the investment policies and objectives.

(4) The investment manager must give the board or its agent all necessary information to enable them to monitor the investment manager’s performance.

(5) If the Governor in Council is satisfied it is appropriate for another investment manager to be appointed for the fund or a stated part of the fund in the interests of the board’s fiduciary responsibilities or the members of the fund generally, the Governor in Council may, by regulation—

- (a) revoke QIC’s appointment as investment manager in whole or in part from a stated date; and
- (b) make provision for anything necessary to secure the fund.

(6) If QIC’s appointment is revoked, the board may appoint a new investment manager of the fund, or a stated part of the fund, with the Governor in Council’s approval.

Triennial investigation by actuary

19.(1) An investigation as to the state and sufficiency of the fund as at the 30 June 1973 shall be undertaken and completed as soon as practicable after that date and thereafter shall be undertaken and completed periodically as to the state and sufficiency of the fund for the time being so that there shall not be a period longer than 5 years between successive such investigations provided that as from 30 June 1990 the period between each successive investigation is to be 3 years.

(2) The investigation shall be made by the actuary.

(3) The actuary shall report to the board the result of the actuary's investigation including with respect to—

- (a)** the sufficiency of the contributions to and the actuarial soundness of the fund either generally or in respect to any particular benefit whether under this Act or the 1958 Act; and
- (b)** whether the state of the fund requires any adjustments to be made in the prescribed amounts of contributions or of the benefits under this Act; and
- (c)** whether the state of the fund requires any adjustments to be made in the prescribed amounts of the units respectively of annuity benefit, incapacity benefit, assurance benefit (including additional assurance benefit) under the 1958 Act and any benefit preserved and continued by that Act or in the rates of contributions for units respectively for those benefits or any of them; and
- (d)** if a surplus is shown the manner in which such surplus may be dealt with; and
- (e)** whether any change should be made in the basis on which, or the extent to which, pensions and benefits may be converted into lump sum payments pursuant to this Act, part 4, division 7 or the 1958 Act, part 4, division 5A; and
- (f)** whether any change should be made in the proportion in which contributions required to be paid to the fund by the Crown shall be paid; and
- (g)** any other actuarial matter affecting the fund as may be required by the board;

and shall make in the actuary's report such recommendations as the actuary deems necessary or desirable having regard to the purpose and result of the investigation.

(4) The board may act as it deems advisable with respect to any recommendation made by the actuary in such a report.

(5) The board shall forward a copy of the report of the actuary to the Treasurer within 1 month after the receipt thereof.

PART 3—CONTRIBUTIONS

Obligation of officers to contribute to the fund

20.(1) Except as otherwise expressly provided in this Act, a person—

(a) who—

(i) becomes an officer on or after the commencement of this Act; or

(ii) is a person to whom section 3(1)(b) relates; or

(iii) is a continuing contributor; and

(b) who is under the age for retirement;

shall contribute to the fund as provided in this part.

(2) Where a person—

(a) becomes an officer on or after the commencement of this Act or is an officer to whom section 3(1)(b) relates; and

(b) by reason of the operation of section 64 is ineligible to become a contributor for category A benefits under this Act;

that person shall contribute to the fund, as provided in this part, for such benefits as are referred to in section 29.

(3) A person to whom subsection (2) relates is in this Act referred to as a **“contributor for category B benefits”**.

(4) A continuing contributor who is a contributor to the fund under the

State Service Superannuation Act 1972

1958 Act pursuant to part 5A only shall be deemed to be a contributor for category B benefits under this Act and shall contribute under this Act to the fund for such benefits as are referred to in section 30.

(5) If, at any time after a person becomes a contributor the person furnishes evidence to the satisfaction of the board that the person's health and physical condition are such as to justify the person being accepted as a contributor for category A benefits, the person is entitled to become such a contributor—

- (a) where the person furnishes the evidence within 6 months after becoming an officer who is required under this Act to contribute to the fund—on the date on which the person became such an officer; and
- (b) where the person furnishes the evidence after the expiration of 6 months after becoming an officer who is required under this Act to contribute to the fund—on the date on which the board accepts the evidence furnished to it or such earlier date as the board in a particular case determines, being a date not earlier than the date on which the person became such an officer.

(7) Except where it is otherwise expressly provided by this Act, where a contributor is absent from duty for any period without salary or on a salary less than full salary the contributor shall continue to contribute to the fund during that period at the rate at which the contributor would have been required to contribute to it if the contributor had continued to receive full salary in respect of that period.

(7A) Where absence from duty referred to in subsection (7), other than with leave of absence without salary by reason of incapacity, is for a continuous period of 14 days or more (whether or not working days) the contributor shall, unless the contributor elects pursuant to subsection (7B), in addition to continuing to contribute to the fund as provided by subsection (7) pay to the consolidated fund, in respect of the period of absence, contribution at the rate prescribed by section 52 in relation to contributions payable by prescribed persons or entities pursuant to that section.

(7B) A contributor who would be required to pay contribution to the consolidated fund pursuant to subsection (7A) or a contributor for category B benefits who is absent from duty with leave of absence without

State Service Superannuation Act 1972

salary by reason of incapacity and who has not completed 10 years service at the commencement of such absence may elect in writing furnished to the board not to pay contributions to the fund in respect of the period of absence whereupon—

- (a) contribution to the fund in respect of the contributor shall cease to be payable in respect of the period of absence; and
- (b) the board shall waive the payments to the consolidated fund (if any) that would be required by that subsection to be made by the contributor; and
- (c) the benefits to which the contributor or the contributor's dependants may become entitled under this Act shall be reduced by such amounts as are determined by the actuary and approved by the board.

(7C) The Governor in Council may waive the requirement under subsection (7A) to make payments to the consolidated fund either unconditionally or upon such terms and conditions as the Governor in Council determines, either in a particular case or in respect of a class of case, and such waiver shall be given effect.

(8) Any officer whose payment for the services rendered by the officer in the officer's employment is not based upon an annual or fortnightly rate of salary determined in respect of such employment shall not be eligible to contribute to the fund unless the officer has been continuously employed for a period of not less than 1 year immediately preceding the date when the officer makes the election hereinafter mentioned in this subsection but notwithstanding that the officer is eligible to contribute to the fund such an officer shall not be bound to contribute to the fund unless the officer elects so to do.

(8A) The Governor in Council may, by regulation, exempt a person from the operation of subsection (8).

(9) Subject to the express provision of this Act, any election to contribute or further contribute under this Act shall be made before the expiration of 6 months after the officer becomes so eligible and where an officer being thereunto entitled does not elect within the prescribed time in which the officer may so elect, to contribute or further contribute under this Act to the fund the officer is not obliged and shall not be permitted to so contribute or further contribute under this Act to the fund.

State Service Superannuation Act 1972

(10) The Governor in Council may, by regulation, declare that persons employed full-time in a permanent capacity by a university established under an Act, in the offices specified in the regulation, may contribute in accordance with this Act for and be paid benefits hereunder and all of the provisions with respect to contribution for and payment of benefits to contributors shall, subject to this section, apply and extend accordingly.

(11) Every person employed full-time in a permanent capacity by a university constituted under an Act of this State to whom a regulation made for the purposes of subsection (10) applies, may within 3 months from the day of commencement of the regulation or, if the person became so employed after the day of commencement, the date upon which the person becomes so employed elect to contribute for benefits under this Act and, if the person so elects, the person shall become a contributor on and from a date to be determined by the board and accordingly shall contribute for and be paid benefits under this Act but for the purpose of calculating benefits under this Act any service by a person making an election under this subsection before the person so elects shall be disregarded.

(12) A person who becomes a contributor pursuant to an election under subsection (11) shall, subject to this Act, remain a contributor so long as the person is employed full-time in a permanent capacity by a university to which that subsection refers although in an office having a higher status than that of the office specified in a regulation made for the purposes of subsection (10) unless the person elects otherwise in writing within 1 month of becoming the holder of the office having such higher status.

Commencement and cessation of contributions

21.(1) The contributions under this Act of an officer commence—

- (a) in the case of an officer who is a continuing contributor—from the day on which the officer's salary is first increased after the commencement of this Act; or
- (aa) in the case of an officer who is liable to contribute under this Act by reason of an election made under this Act—from the day on which the election is made or such later day as the board in a particular case determines; or
- (b) in any other case—from the day on which the officer's salary commences by reason of the officer's appointment to the position

State Service Superannuation Act 1972

by virtue of which he or she is an officer or from the day on which this Act commences, whichever is the later day.

(2) An officer's contributions cease to be payable on the last day of the fortnightly pay-period last preceding the day on which—

- (a) the officer ceases to be an officer; or
- (b) the officer attains the age for retirement; or
- (c) the officer's service as an officer, ascertained as prescribed by section 26, equals 42 years and 6 months;

whichever first occurs.

Time and manner of paying contributions

22.(1) Except as otherwise expressly provided in this Act, the contributions of an officer shall be payable periodically from the officer's salary at such intervals and in such manner as may be prescribed and shall be deducted from salary payable to the officer accordingly, and, until otherwise prescribed, shall be payable by the officer and deducted fortnightly from the officer's salary.

(1A) Deductions pursuant to this section shall be made by the person or authority by whom the officer is employed or having by law supervision or control in relation to the officer's employment and forwarded to the board fortnightly for payment into the fund.

(2) The deductions shall be made for the first time in each case on the first payday occurring after the contributions in respect of which they are to be made commence, as provided by section 21(1), and the full amount of all deductions so made shall be credited to the fund.

(2A) A contributor who, pursuant to section 20(7) or (7A), is required to pay contributions to the fund and to make payment to the consolidated fund in respect of a period of absence from duty—

- (a) shall, before commencing the period of absence, pay to the fund and to the consolidated fund the total amount of contributions and payments that the contributor is so required to pay; or
- (b) shall, before commencing the period of absence, make arrangements satisfactory to the board for payment of the total

State Service Superannuation Act 1972

amount of contributions and payments that the contributor is so required to pay.

(2B) Where a contributor to whom subsection (2A) applies does not comply with subsection (2A)(a) or (b) the benefits to which the contributor or the contributor's dependants may become entitled under this Act may be reduced by such amounts as are determined by the actuary and approved by the board.

(3) Where a contributor—

- (a) is on leave of absence without pay; or
- (b) is on sick leave on less than full pay; or
- (c) for any reason (other than any misconduct or default on the contributor's part) is receiving remuneration at a rate less than the rate of pay for the time being applicable to the contributor's position;

the board, on the application of the contributor, may permit the contributor to defer the contributor's contributions and other payments required by section 20(7) and (7A) to be made by the contributor for such period as the board may approve, subject to such conditions as to the future payment of the contributor's contributions and such other payments as the board may impose (including conditions as to the payment of interest, at such rate (if any) as is determined by the board, on the contributions and such other payments so deferred) and, failing such an application, the contributor shall contribute to the fund at the times and in the manner prescribed.

(4) Any amount of the contributions and additional payments prescribed by this Act or the 1958 Act to be made by a contributor not paid by deduction from the contributor's salary as prescribed by subsections (1) to (2) shall, subject to subsection (3), be paid in such manner as the manager directs and, if directed by the manager, may be deducted from the contributor's salary in addition to the deductions from salary as prescribed by subsections (1) to (2) but—

- (a) the board may waive payment thereof wholly or in part; or
- (b) the board may determine that any such amount not so deducted and not otherwise recovered by the board be recovered by reduction of the amount of benefit payable upon a claim made by or derived from the contributor, whereupon any such amount of

State Service Superannuation Act 1972

contribution shall be deemed not to be due and unpaid.

(4AA) Where the board has exercised the power conferred by subsection (4)(b) the benefits from the fund to which the contributor concerned or any person deriving a benefit through the contributor is entitled shall be reduced by the amount in respect of which the power is exercised and the amount of interest that would have accrued to the fund and the consolidated fund (at the rate at which earnings would have accrued to the fund) had the contributions and additional payments been duly paid.

(4A) The board may, where any amount of the contributions prescribed by this Act or the 1958 Act to be made by a contributor is not paid by deduction from the contributor's salary as prescribed by subsections (1) to (2), reduce the benefits to which the contributor or the contributor's dependants may become entitled under this Act by such amounts as are determined by the actuary and approved by the board.

(4B) Before reducing benefits in accordance with subsection (4A), the board is to—

- (a) supply in writing to the contributor a statement containing details of the amount of the contributions that is due and unpaid and the reduction in benefits that will result if the amount is not paid;
- (b) give the contributor a reasonable time after receipt of the statement in which to pay, or arrange payment of, the amount due and unpaid.

(5) Notwithstanding subsections (1) to (4B), the board may recover by action as for a debt any amount of the contributions and additional payments to be made by a contributor which is due and unpaid.

(6) For the purposes of subsections (4), (4AA), (4A) and (5), the amount of any unpaid contributions and additional payments shall be the aggregate of the amount thereof due and unpaid and of interest thereon which would have accrued to the fund and the consolidated fund (at the rate at which earnings would have accrued to the fund) had the same been duly paid unless the board waives such interest wholly or in part.

(7) Where the contributions and additional payments to be made by a contributor are in arrears to the extent prescribed as respects amount or time, or both, the board may determine all rights of the contributor to benefits under this Act, and thereupon shall pay to the contributor a sum of money

State Service Superannuation Act 1972

equal to the amount of the contributions and additional payments, whether paid or in arrears, payable by the contributor under this Act to the fund or the consolidated fund to the date of such determination accumulated on and after the passing of the *Superannuation Acts Amendment Act 1984* at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound reduced by the aggregate of the amount of the arrears of contributions and additional payments and of the interest thereon which would have accrued to the fund or the consolidated fund (at the rate at which earnings would have accrued to the fund) had the same been duly paid unless the board waives such interest wholly or in part.

- (8) Except where it is otherwise provided by this Act, a contributor—
- (a) shall continue to contribute as prescribed to the fund until the contributor attains the age for retirement or the contributor's employment as an officer is sooner terminated by earlier retirement, death, resignation or otherwise howsoever;
 - (b) shall, in respect of a period of leave or absence, with or without salary, pay contribution, as for a period of service, without reduction.

Suspension of contribution

23.(1) Where an officer has been absent from duty with leave of absence without salary by reason of incapacity for a continuous period of 14 days (whether or not working days) the officer's liability to pay contributions to the fund under this Act shall be suspended for the whole of the period that the officer has been or continues to be so absent but if the officer resumes employment as an officer contributions shall again become payable.

- (2) Subsection (1) does not apply to a contributor—
- (a) who has not satisfied the board as required by section 41; or
 - (b) in respect of whom the board has made a determination under section 43(2); or
 - (c) who, being a contributor for category B benefits, has not completed 10 years service at the commencement of the period of absence in question unless the board has made a determination in respect of the contributor under section 64A.

Rates of contribution

24.(1) The amount of the contributions of a continuing contributor (not being an officer to whom subsection (3) relates) which shall be paid by the contributor periodically in addition to the amount of contributions payable by the contributor to the fund in accordance with the provisions of the 1958 Act shall be a sum calculated at the prescribed rate per centum of the amount by which the amount of the contributor's salary as at 30 June 1978 varied, in the first fortnightly pay period occurring wholly in the November of each year, to the prescribed rate per centum of the amount by which the amount of the contributor's salary as at 1 October last preceding exceeds the amount of the contributor's salary on the commencement of this Act.

(2) The amount of the contributions of an officer (not being an officer to whom subsection (3) relates) who became an officer on or after the commencement of this Act or who is an officer to whom section 3(1)(b) relates, which shall be paid by the officer periodically, shall be a sum calculated at the prescribed rate per centum of the amount of the officer's salary as at 30 June 1978 (or in the case of an officer who commences to contribute after that date as at the date on and from which that officer commences to contribute) varied, in the first fortnightly pay period occurring wholly in the November of each year, to the prescribed rate per centum of the amount of the officer's salary as at 1 October last preceding if the officer was at that date a contributor.

(3) The contributions of an officer who—

- (a) becomes an officer on or after the commencement of this Act; and
- (b) immediately before becoming an officer is in receipt of or eligible to receive an incapacity pension under this Act or incapacity benefit under the 1958 Act or incapacity allowance preserved and continued by that Act;

that shall be paid by the officer periodically shall be, in addition to the contributions (if any) to the fund payable by the officer under the 1958 Act, the sum calculated at the prescribed rate per centum—

- (c) where the officer was an officer to whom subsection (2) applied before the officer was retired on the ground of incapacity—of the amount of the officer's salary as at the date he or she again becomes an officer varied, in the first fortnightly pay period

State Service Superannuation Act 1972

occurring wholly in the November of each year, to the prescribed rate per centum of the amount of the officer's salary as at 1 October last preceding if he or she was at that date an officer;

- (d) in any other case—of the amount by which the amount of the officer's salary as at the date he or she again becomes an officer varied, in the first fortnightly pay period occurring wholly in the November of each year, to the prescribed rate per centum of the amount by which the amount of the officer's salary as at 1 October last preceding (if he or she was at that date an officer) exceeds the amount of the officer's salary at the time when the officer was so retired or at 31 December 1972 whichever is the earlier.

(4) Where by reason that an officer becomes a contributor on or after the commencement of this Act and before the commencement of the *Superannuation Acts Amendment Act 1976* and after the officer has attained the age of 20 years, the length of the officer's service, ascertained for the purposes of calculating the pension to be paid to the officer under this Act if the officer attains the age for retirement will not amount to 45 years, the officer may elect, within a period of 2 months after he or she becomes an officer, or after the commencement of the *Superannuation Acts Amendment Act (No. 2) 1974*, whichever last occurs, to increase the rate of the officer's contribution and the board may determine that the additional rate of the contributions that, but for this subsection, would have been payable by the officer shall be a sum calculated at such rate as the board, after consultation with the actuary, may determine, being a rate that, having regard to the fact that payments by the Crown in relation to payments that become payable by reason of an election under this subsection will be only 65% thereof, will enable the length of service for the purpose of calculating the pension to be paid to the officer under this Act, to be regarded as the length of service ascertained in accordance with the board's determination under subsection (6) but not exceeding a maximum of 45 years, and thereupon the officer shall be deemed to be required to contribute to the fund at the rate so determined in addition to the rate prescribed by this Act (other than this subsection).

(4A) Where by reason that an officer becomes a contributor on or after the commencement of the *Superannuation Acts Amendment Act 1976* and before the passing of the *Superannuation Acts Amendment Act 1987* and after the officer has attained the age of 20 years, the length of the officer's

State Service Superannuation Act 1972

service, ascertained for the purposes of calculating the pension to be paid to the officer under this Act if the officer attains the age for retirement will not amount to 45 years, the officer may elect, within a period of 2 months after he or she becomes an officer to increase the rate of the officer's contribution and the board may determine that the additional rate of the contributions that, but for this subsection, would have been payable by the officer shall be a sum calculated at such rate as the board, after consultation with the actuary, may determine, being a rate that, having regard to the fact that payments by the Crown will be in relation only to contributions by the officer that would be payable but for this subsection, will enable the length of service for the purpose of calculating the pension to be paid to the officer under this Act, to be regarded as the length of service ascertained in accordance with the board's determination under subsection (6) but not exceeding a maximum of 45 years, and thereupon the officer shall be deemed to be required to contribute to the fund at the rate so determined in addition to the rate prescribed by this Act (other than this subsection).

(4B) Where, by reason that an officer becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1987* and after the officer has attained the age of 22 years and 6 months, the length of the officer's service, ascertained for the purpose of calculating the pension to be paid to the officer under this Act, if the officer attains the age for retirement, will not amount to 42 years and 6 months, the officer may elect, within a period of 2 months after he or she becomes an officer to increase the rate of the officer's contribution and the board may determine that the additional rate of the contributions that, but for this subsection, would have been payable by the officer shall be a sum calculated at such rate as the board, after consultation with the actuary, may determine, being a rate which, having regard to the fact that payments by the Crown will be in relation only to contributions by the officer that would be payable but for this subsection, will enable the length of service for the purpose of calculating the pension to be paid to the officer under this Act to be regarded as the length of service ascertained in accordance with the board's determination under subsection (6) but not exceeding a maximum of 42 years and 6 months, and thereupon the officer shall be deemed to be required to contribute to the fund at the rate so determined in addition to the rate prescribed by this Act (other than this subsection).

(5) Where by reason that an officer became a contributor under the 1958 Act or any Act repealed by the 1958 Act after the officer had attained

State Service Superannuation Act 1972

the age of 20 years the length of service of the officer for the purpose of calculating the pension to be paid to the officer under this Act will not amount to 45 years, the officer may elect within a period of 6 months after commencement of this Act to increase the rate of the officer's contributions under this Act and the board may determine that the additional rate of contribution that, but for this subsection, would have been payable by the officer under this Act, shall be a sum calculated at such rate as the board, after consultation with the actuary, may determine, being a rate that will enable the length of service of the officer for the purpose of calculating the pension to be paid to the officer under this Act to be regarded as the length of service ascertained in accordance with the determination of the board under subsection (6) but not exceeding a maximum of 45 years, and thereupon the officer shall be deemed to be required to contribute under this Act to the fund at the rate so determined in addition to the rate prescribed by this Act (other than this subsection).

(6) Where the board makes a determination under subsection (4), (4A), (4B) or (5) in relation to an officer, the board may determine that, for the purpose of calculating the pension to be paid to the officer under part 4, the officer's length of service as an officer shall be regarded as being equal to the officer's actual length of service ascertained in accordance with this Act plus such additional length of service as the board, after consultation with the actuary, may determine and thereupon this Act shall apply to the officer accordingly.

(6A) Where the board has made a determination under subsection (4), (4A), (4B) or (5) upon the election of an officer and the contributor satisfies the board that payment of such additional rate of the contribution by the officer is causing the officer undue hardship, the board may cancel its determination or vary the same by reducing, with the approval of the actuary, the additional rate of contributions to be paid by the contributor.

(6B) Where in respect of a contributor the board, pursuant to subsection (6A), cancels a determination under subsection (4), (4A), (4B) or (5), any determination under subsection (6) in respect of additional length of service of the contributor shall likewise be cancelled and cease to apply to or in respect of the contributor and the board shall make to the contributor a refund of such part of the contributor's contributions to the fund pursuant to subsection (4), (4A), (4B) or (5) as the actuary determines is justified having regard to the reduced liability of the fund.

State Service Superannuation Act 1972

(6C) Where in respect of a contributor the board pursuant to subsection (6A) varies a determination under subsection (4), (4A), (4B) or (5), it shall make an appropriate variation of its consequential determination under subsection (6) of additional length of service in respect of the contributor and this Act shall apply as if the determinations as so varied were at all relevant times the determinations originally made on the election of the contributor and the board shall make to the contributor a refund of such part of the contributor's contributions pursuant to subsection (4), (4A), (4B) or (5) as the actuary determines is justified having regard to the reduced liability of the fund.

(7) Except in the case of a contributor referred to in section 40A, where the salary of a contributor is reduced to a rate less than the rate upon which contributions are, for the time being, calculated, the contributor shall thereupon, except as aforesaid, contribute to the fund in relation to the reduced rate of the contributor's salary and the board shall make to the contributor a refund of such part of the contributor's contributions to the fund as the actuary determines is justified having regard to the reduced liability of the fund, by reason of the reduction in salary, in respect of the prospective entitlement of the officer to benefits under this Act and thereupon for the purpose of calculating the contributor's entitlement to benefits under this Act the contributor's rate of salary in respect of any period before the time the contributor's salary was reduced shall be deemed not to have been in excess of the rate to which the contributor's salary was so reduced.

(8) Where a contributor has paid to the fund contributions in excess of those prescribed by this Act, the board shall refund to the contributor such sum of money in respect of those contributions as is determined by the actuary and approved by the board.

(9) If an officer made an election under subsection (4) before the commencement of the *Superannuation Acts Amendment Act (No. 2) 1974* and was a contributor at that commencement, the additional contribution under the election must be adjusted by the board as if that subsection as amended by that Act was in force at the date of the election.

Provision for female contributors to contribute for benefits under pt 4, divs 2 and 3

24A.(1) A female officer who is a contributor immediately before the passing of the *Superannuation Acts Amendment Act 1984* may elect, in writing furnished to the board, within 6 months after the passing of the *Superannuation Acts Amendment Act 1987* to increase the rate of her contribution to the fund sufficient to secure for her the benefits provided for by part 4, divisions 2 and 3.

(2) If in connection with her election referred to in subsection (1) the contributor furnishes to the board evidence satisfactory to the board that her health and physical condition are such as to justify her being accepted as a contributor for the benefits provided for by part 4, divisions 2 and 3 she is entitled to become such a contributor.

(3) The additional rate of contribution payable by a contributor who elects under subsection (1) and is entitled to become a contributor for the benefits aforesaid shall be such rate as the board, after consultation with the actuary, may determine and shall be payable by the contributor on and from a date determined by the board.

(4) The additional rate of contribution referred to in subsection (3) shall be determined in relation to each elector having regard to whether she is a contributor by whom an additional rate of contribution pursuant to section 24(4), (4A) or (5) is payable and, if she is such a contributor, shall be determined at an amount such as will enable the length of service for the purpose of calculating the benefits aforesaid payable in respect of her to be regarded as the length of service ascertained in the manner prescribed by section 24(6) and determined by the board.

(5) If in relation to a contributor by whom an additional rate of contribution is payable pursuant to this section the board makes a determination under section 24(6A) that cancels or varies a board's determination made under section 24(4), (4A) or (5) in relation to that contributor, the additional rate of contribution payable by the contributor pursuant to this section shall be adjusted, having regard to that cancellation or variation, the ascertainment of the contributor's length of service for the purposes of this section shall be adjusted accordingly and the board shall make to the contributor a refund of such part of her contributions to the fund pursuant to this section as the actuary determines is justified, having regard to the reduced liability of the fund.

Further provisions re contributions

25.(1) In this part—

“**salary**”, in relation to an officer, means—

- (a) the fortnightly salary of the officer; or
- (b) where the periodic interval at which the officer’s contribution to the fund is deducted from the officer’s salary is based upon a period other than a fortnight the salary of the officer for that period.

(2) The fortnightly, or other periodic salary, of an officer who is paid salary at a rate other than a fortnightly rate or, as the case may be, other periodic rate shall be ascertained as prescribed and different such prescriptions may be made in respect of the officers included in different classes of officers.

(3) Where the salary of a contributor is varied and the variation takes effect on or from a date earlier than the date prescribed under section 24(1), (2) or (3) as the date at which the salary is determined for the purpose of calculating the amount of contribution payable, the salary as so varied shall be the salary applicable for such purpose.

(4) For the purposes of section 24 the prescribed rate shall be—

- (a) in the case of a male contributor or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—
 - (i) who has not attained the age of 20 years at the time when the contribution is determined in accordance with that section—2%; and
 - (ii) who has attained the age of 20 years but has not attained the age of 25 years at the said time—4%; and
 - (iii) who has attained the age of 25 years but has not attained the age of 35 years at the said time—4.5%; and
 - (iv) who has attained the age of 35 years at the said time—5%; and
- (b) in the case of a female contributor who was a contributor immediately before the passing of the *Superannuation Acts*

State Service Superannuation Act 1972

Amendment Act 1984—

- (i) who has not attained the age of 20 years at the time when the contribution is determined in accordance with that section—2%;
- (ii) who has attained the age of 20 years but has not attained the age of 25 years at the said time—3.25%;
- (iii) who has attained the age of 25 years but has not attained the age of 35 years at the said time—3.75%;
- (iv) who has attained the age of 35 years at the said time—4.25%.

(5) Where the amount of any contribution payable periodically or by way of lump sum when expressed in dollars and cents includes an amount less than 1c then, where the lastmentioned amount is less than .5 of a cent, the amount shall be disregarded and, where the amount is .5 of a cent or greater than .5 of a cent the amount shall be deemed to be 1c and the contribution shall be payable accordingly.

PART 4—BENEFITS AND PAYMENTS

Division 1—Contributors' pensions and other benefits

Calculation of service

26. For the purpose of calculating the pension to be paid to a contributor under this division—

- (a) any service as an officer, before attaining the age of 20 years shall be disregarded in ascertaining the contributor's length of service;
- (b) where the contributor's length of service as an officer after having due regard to the provisions of paragraph (a), exceeds 42 years and 6 months—the contributor's length of service shall be deemed to be 42 years and 6 months;
- (c) where the contributor is a person in relation to whom a

State Service Superannuation Act 1972

determination has been made by the board under section 24(6)—the contributor’s length of service shall, unless otherwise expressly provided by this Act, be deemed to be the length of service ascertained in accordance with the board’s determination;

- (d) any reduction in benefits determined by the actuary and approved by the board in respect of contributors to whom sections 20(7B) and 22(2A) and (2B) apply shall be taken into account.

Rights of contributors for category A benefits

27.(1) Where a contributor for category A benefits (other than a continuing contributor)—

- (a) retires on attaining the age for retirement; or
- (b) elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement; or
- (c) before attaining the age for retirement, is retired or permitted to retire on the ground of incapacity not due to wilful action on the contributor’s part for the obtaining of any benefit under this Act and satisfies the board as required by section 41;

the contributor is entitled to a pension calculated in accordance with the provisions of this section.

(2) Except as otherwise expressly provided in this section the pension to be paid to a contributor to whom subsection (1) relates is a fortnightly sum calculated in accordance with the formula—

$$P = \frac{A \times 3B}{170} + \frac{A \times 3F}{200}$$

where—

“**A**” means the final average salary of the contributor.

“**B**” means the contributor’s length of service, expressed in years, accumulated before 1 July 1988.

“**F**” means the contributor’s length of service, expressed in years, accumulated on and from 1 July 1988 or, in the case of a contributor

State Service Superannuation Act 1972

who becomes entitled to an incapacity pension, that would have been accumulated on and from that date had the contributor continued to be an officer until the contributor attained the age for retirement.

“**P**” means the fortnightly amount of that pension.

(3) For the purpose of calculating the pension to be paid to a contributor to whom subsection (1)(c) relates, the contributor’s length of service shall be calculated as if the contributor had continued to be an officer until the day on which the contributor would have attained the age of retirement.

(4) Where a contributor (not being a contributor who has made an election under section 24(4)), after attaining the age of retirement, continues to be an officer the contributor is entitled—

- (a) on attaining the age for retirement to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement; and
- (b) on retiring or being retired from employment as an officer to an increase in the pension payable under paragraph (a), which shall then become payable at the rate of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement.

(5) Where a contributor who, before the commencement of the *Superannuation Acts Amendment Act 1976*, has made an election under section 24(4), after attaining the age for retirement, continues to be an officer the contributor is entitled—

- (a) on attaining the age for retirement—
 - (i) to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have been entitled under this section if subsection (4) had not been enacted and the contributor had retired on attaining the age for retirement; and
 - (ii) to a pension determined by the board upon the advice of the actuary being a pension based upon the additional contributions made by the officer under subsection (4); and
- (b) on retiring or being retired from employment as an officer to an increase in the pension payable under paragraph (a), which shall

State Service Superannuation Act 1972

then become payable at the rate of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement.

(5A) Where a contributor who makes an election under section 24(4A) or (4B), after attaining the age for retirement, continues to be an officer, the contributor is entitled—

- (a) on attaining the age for retirement—
 - (i) to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have been entitled under this section if subsection (4A) or (4B) had not been enacted and the contributor had retired on attaining the age for retirement; and
 - (ii) to a pension determined by the board upon the advice of the actuary being a pension based upon the additional contributions made by the officer under subsection (4A) or (4B); and
- (b) on retiring or being retired from employment as an officer to an increase in the pension payable under paragraph (a)(i), which shall then become payable at the rate of pension to which the contributor would have been entitled under this section if subsection (4A) or (4B) had not been enacted and the contributor had retired on attaining the age for retirement.

(6) An officer who—

- (a) becomes a contributor after the passing of the *Superannuation Acts Amendment Act 1978*; and
- (b) makes an election under section 24(4A) or (4B); and
- (c) elects to retire before his or her service, ascertained as prescribed by section 26, amounts to 42 years and 6 months;

is entitled to a pension in respect of the additional service determined under section 24(6), calculated in accordance with the formula—

$$P = A \frac{(3N \times M)}{(170 - C)}$$

if the officer became a contributor before 1 July 1988 or in accordance with the formula—

State Service Superannuation Act 1972

$$P = A \left(\frac{3N}{200} \times \frac{M}{C} \right)$$

if the officer became a contributor on or after 1 July 1988;

where—

“**A**” means the final average salary of the contributor.

“**C**” means the length of service, expressed in years, which the contributor would have had if the contributor had continued as an officer until the contributor attained the age for retirement, not exceeding 42 years and 6 months.

“**M**” means the contributor’s length of service, expressed in years, as at the time of retirement, not exceeding 42 years and 6 months.

“**N**” means the additional length of service determined by the board under section 24(6).

“**P**” means the fortnightly amount of the pension payable to the contributor; in addition to the pension to which the contributor would have been entitled if the contributor had not made the election.

(7) In respect of any period of sick leave of absence without salary for longer than 2 weeks, by reason of incapacity, from employment as an officer, not being in respect of incapacity due to wilful action on the part of the contributor for the obtaining of such benefit, and being such leave of absence approved by the person or authority authorised by law to approve such leave, a contributor for category A benefits (other than a continuing contributor) who satisfies the board as required by section 41 is entitled after the expiration of the first 2 weeks of such leave of absence to a pension at the rate of the pension to which he or she would have been entitled under this section if he or she had been retired, or permitted to retire, at the commencement of such period of leave on the ground of incapacity not due to wilful action on his or her part for the obtaining of such benefit.

(8) The rate of the pension to which a contributor is entitled under this section shall not, in any case, exceed a rate equal to three-quarters of the final average salary of the contributor.

Rights of continuing contributors for category A benefits

28.(1) Where a continuing contributor for category A benefits—

- (a) retires on attaining the age of retirement; or
- (b) elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement; or
- (c) before attaining the age for retirement, is retired or permitted to retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this Act and satisfies the board as required by section 41;

the contributor is entitled to a pension calculated in accordance with the provisions of this section.

(2) Except as otherwise expressly provided in this section, the pension to be paid to a contributor to whom subsection (1) relates, in addition to the benefits to which the contributor may be entitled under the 1958 Act, is a fortnightly sum calculated in accordance with the formula—

$$P = \frac{A \times 3B}{170} + \frac{A \times 3F}{200}$$

where—

“**A**” means the final average increase in salary of the contributor.

“**B**” means the contributor’s length of service, expressed in years, accumulated before 1 July 1988.

“**F**” means the contributor’s length of service, expressed in years, accumulated on and from 1 July 1988 or, in the case of a contributor who becomes entitled to an incapacity pension, that would have been accumulated on and from that date had the contributor continued to be an officer until he or she attained the age for retirement.

“**P**” means the fortnightly amount of that pension.

(3) For the purpose of calculating the pension to be paid to a continuing contributor for category A benefits to whom subsection (1)(c) relates, the contributor’s length of service shall be calculated as if the contributor had continued to be an officer until the day on which the contributor would have attained the age for retirement.

State Service Superannuation Act 1972

(4) Where a continuing contributor for category A benefits, after attaining the age for retirement, continues in employment as an officer, the contributor is entitled, in addition to any benefits to which the contributor may be entitled under the 1958 Act—

- (a) on attaining the age for retirement—to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement; and
- (b) on retiring or being retired from employment as an officer—to an increase in the pension payable under paragraph (a), which shall then become payable at the rate of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement.

(6) In respect of any period of sick leave of absence without salary for longer than 2 weeks, by reason of incapacity, from employment as an officer, not being in respect of incapacity due to wilful action on the part of the contributor for the obtaining of such benefit, and being such leave of absence approved by the person or authority authorised by law to approve such leave, a continuing contributor for category A benefits who satisfies the board as required by section 41 is, in addition to the benefits to which the contributor may be entitled under the 1958 Act, entitled after the expiration of the first 2 weeks of such leave of absence to a pension at the rate of the pension to which the contributor would have been entitled under this section if the contributor had been retired, or permitted to retire, at the commencement of such period of leave on the ground of incapacity not due to wilful action on his or her part for the obtaining of such benefit.

(7) The rate of the pension to which a contributor is entitled under this section shall not, in any case, exceed a rate equal to three-quarters of the final average increase in salary of the contributor.

Rights of contributors for category B benefits

29.(1) This section does not apply to or in relation to a contributor for category B benefits who is a continuing contributor.

(2) Where a contributor for category B benefits—

- (a) before attaining the age for retirement is retired or permitted to

State Service Superannuation Act 1972

retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this Act and satisfies the board as required by section 41; and

(b) has completed less than 10 years service at the time of retirement;

the contributor is entitled to be paid out of the fund a sum equal to $3\frac{1}{2}$ times the total amount of the contributor's contributions (other than any additional contributions payable under section 24(4), (4A) or (4B) or under section 24A) to the fund under this Act and—

(c) in the case of additional contributions payable under section 24(4)—a sum equal to $2\frac{6}{7}$ times the total amount of any such additional contributions;

(d) in the case of additional contributions payable under section 24(4A) or (4B)—a sum equal to the total amount of any such additional contributions;

(e) in the case of additional contributions payable under section 24A—such sum as is determined by the actuary and approved by the board.

(4) Where a contributor for category B benefits—

(a) retires on attaining the age for retirement; or

(b) elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement; or

(c) before attaining the age for retirement, is retired or permitted to retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this Act, satisfies the board as required by section 41 and has completed at least 10 years service; or

(d) continues to be an officer after attaining the age for retirement; or

(e) retires or is retired from employment as such after continuing employment as an officer after attaining the age for retirement;

the contributor is entitled to the same pension as the pension that would have been payable to the contributor if the contributor had been a contributor for category A benefits.

(4A) In respect of any period of sick leave of absence without salary for longer than 2 weeks, by reason of incapacity, from employment as an officer, not being in respect of incapacity due to wilful action on the part of the contributor for the obtaining of such benefit and being leave of absence approved by the person or authority authorised by law to approve such leave, a contributor for category B benefits who satisfies the board as required by section 41 and who has completed at least 10 years service before the commencement of such leave of absence is entitled after the expiration of the first 2 weeks of such leave of absence to the pension that would be payable to the contributor if the contributor had been a contributor for category A benefits.

(5) For the purposes of this section, additional service determined by the board under section 24(6) shall be disregarded.

Rights of continuing contributors who are contributors for category B benefits

30.(1) This section does not apply to or in relation to a contributor for category B benefits who is not a continuing contributor.

(2) Where a contributor for category B benefits—

(a) before attaining the age for retirement is retired or permitted to retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this Act and satisfies the board as required by section 41; and

(b) has completed less than 10 years service at the time of retirement;

the contributor is entitled, in addition to the benefits to which the contributor may be entitled under the 1958 Act, to be paid out of the fund a sum equal to 3½ times the total amount of the contributor's contributions to the fund under this Act.

(4) Where a contributor for category B benefits—

(a) retires on attaining the age for retirement; or

(b) elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement; or

(c) before attaining the age for retirement from service, is retired or

State Service Superannuation Act 1972

permitted to retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this Act, satisfies the board as required by section 41 and has completed at least 10 years service; or

- (d) continues to be an officer after attaining the age for retirement; or
- (e) retires or is retired from employment as such after continuing employment as an officer after attaining the age for retirement;

the contributor is entitled in addition to any benefits to which the contributor may be entitled under the 1958 Act to the same pension as the pension that would have been payable to the contributor if the contributor had been a continuing contributor for category A benefits.

(4A) In respect of any period of sick leave of absence without salary for longer than 2 weeks, by reason of incapacity, from his or her employment as an officer, not being in respect of incapacity due to wilful action on the part of the contributor for the obtaining of such benefit and being leave of absence approved by the person or authority authorised by law to approve such leave, a contributor for category B benefits who satisfies the board as required by section 41 and who has completed at least 10 years service before the commencement of such leave of absence is, in addition to the benefits to which the contributor may be entitled under the 1958 Act, entitled after the expiration of the first 2 weeks of such leave of absence to the pension that would be payable to the contributor if the contributor had been a contributor for category A benefits.

(5) For the purposes of this section, additional service determined by the board under section 24(6) and service before becoming a contributor shall be disregarded.

Benefits upon retirement before age 60

30A.(1) Notwithstanding any other provision of this Act, where a contributor elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age of 60 years, the contributor is entitled to the payment of an amount calculated in accordance with the formula—

$$A = B \times C \times E \quad (\underline{3D} + \underline{3F}) \\ (170 \quad 200)$$

State Service Superannuation Act 1972

where—

“A” means the amount payable.

“B” means—

- (a) in the case of a continuing contributor—the final average increase in salary of the contributor; or
- (b) in the case of any other contributor—the final average salary of the contributor.

“C” means—

- (a) in the case of a male contributor or a female contributor who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—the factor 313; or
- (b) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—the factor 339.

“D” means the length of service of the contributor, expressed in years and ascertained as prescribed by section 26, accumulated before 1 July 1988.

“E” means the factor set forth in schedule 4 opposite the age in years and completed months as at the date of retirement set forth in that schedule.

“F” means the contributor’s length of service, expressed in years and ascertained as prescribed by section 26, accumulated on and from 1 July 1988.

(2) Where a contributor to whom subsection (1) applies has acquired an additional length of service pursuant to section 24(6), then, for the purpose of calculating the contributor’s benefits in accordance with the formula expressed in subsection (1), such additional length of service shall be multiplied by the factor $\frac{M}{C}$ where—

C

“C” means—

- (a) in the case of a contributor who became a contributor after the passing of the *Superannuation Acts Amendment Act 1978*—the length of service, expressed in years, which the contributor would have had if the contributor had continued as an officer until the contributor attained the age for retirement, not exceeding 42 years

State Service Superannuation Act 1972

and 6 months; or

- (b) in the case of a contributor who became a contributor before the passing of the Superannuation Acts Amendment Act 1978—the length of service, expressed in years, which the contributor would have had if the contributor had continued as an officer until the contributor attained the age of 60 years.

“**M**” means the contributor’s length of service, expressed in years, as at the time of retirement.

(3) A contributor entitled to the payment of an amount pursuant to subsection (1) may elect not to receive that amount or a part of that amount and to receive in lieu a pension on and from the date following the day of the contributor’s retirement calculated in accordance with the formula—

$$P = \frac{A \times C}{B}$$

where—

“**A**” means the amount to which the contributor is entitled pursuant to subsection (1) or pursuant to that subsection and subsection (2).

“**B**” means—

- (a) in the case of a male contributor, or a female contributor who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—the factor set forth in schedule 5, part 1 opposite the age in years and completed months as at the date of retirement set forth in that part of that schedule;
- (b) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—the factor set forth in schedule 5, part 2 opposite the age in years and completed months as at the date of retirement set forth in that part of that schedule.

“**C**” means a fraction that is the equivalent of the percentage of the amount of entitlement that the contributor elects to convert to a pension.

“**P**” means the fortnightly amount of pension.

(4) An election under subsection (3)—

- (a) shall be in writing; and

State Service Superannuation Act 1972

- (b) shall be made within 1 month after the date of the contributor's retirement; and
- (c) shall specify the percentage of the amount of entitlement in respect of which the elector desires to substitute a pension.

(5) A male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and who is a contributor to whom subsection (1) applies, other than a contributor for category B benefits who has not completed 10 years service at the time of the contributor's retirement, is entitled, to the extent that the contributor does not elect pursuant to subsection (3), in addition to the benefits prescribed by subsection (1) to an amount determined by the actuary and approved by the board having regard to the period for which the contributor contributed to the fund before the passing of that Act.

Benefits upon retrenchment, involuntary termination etc.

30B. Where a contributor ceases to be an officer—

- (a) by way of retrenchment duly effected in accordance with arrangements approved by the Governor in Council in relation to contributors of the class of that contributor; or
- (b) by way of involuntary termination of employment other than by way of dismissal for misconduct or on the ground of incapacity;

the contributor is entitled to the payment of an amount calculated in accordance with the formula—

$$A = \frac{B \times C}{D} [1 - .02 (55 - E)]$$

where—

“A” means the amount payable.

“B” means the benefit to which the contributor would have been entitled under section 30A had the contributor accumulated as a contributor length of service, ascertained as described by section 26, to the age of 55 years and had retired upon attaining that age.

“C” means the contributor's length of service, expressed in years, after attaining the age of 20 years or becoming a contributor, whichever is later, as at the time of retrenchment or involuntary termination other

than by way of dismissal for misconduct or on the grounds of incapacity.

“**D**” means the length of service expressed in years which the contributor would have had after attaining the age of 20 years or becoming a contributor, whichever is later, had the contributor continued as a contributor until attaining the age of 55 years.

“**E**” means the contributor’s age expressed in years and completed months at the date on which the contributor ceases to be an officer;

or to elect not to take that amount from the fund as if the contributor were a contributor referred to in section 35(2).

Construction of pension benefit formula in certain cases and transfer of funds

30C.(1) Sections 27, 28, 29, 30 and 30A apply subject to this section.

(2) In the case of—

- (a) a contributor who retires on attaining the age for retirement or retires by way of the contributor’s election to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement or the age of 60 years, in any case before 1 July 1993; or
- (b) a contributor who, before attaining the age for retirement is retired or permitted to retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this Act and satisfies the board as required by section 41;

the formula prescribed by any provision of section 27(2), 27(6), 28(2) or 30A(1) shall be read and construed as if the expression ‘ $\frac{3}{200}$ ’ therein were

the expression ‘ $\frac{3}{170}$ ’.

(3) Where a benefit is paid to a contributor referred to in subsection (2) or a benefit is paid under section 31 in respect of a contributor, the amount standing to the credit of the fund established under the *Superannuation (Government and Other Employees) Act 1988* on account of such sums as are required to be paid under section 15 of that Act as at the date of commencement of section 3.12 of the *Superannuation (Miscellaneous Acts)*

Amendment Act 1991 in respect of the contributor shall be transferred to the fund and to the consolidated fund in the proportion of 2:5.

Recoupment of contributions

30D. Where—

- (a) between 1 July 1989 and the commencement of this section a contributor, who was employed under a contract of employment in accordance with the *Public Service Management and Employment Act 1988*, has received a sum of money which, in the opinion of the board, is equivalent to a refund of contributions payable to the contributor under section 35; and
- (b) the Minister issues a direction under this section;

the board—

- (c) is to calculate the sum of money to which the contributor would have been entitled under section 30B(b); and
- (b) is to pay from the fund to the consolidated fund a sum of money equivalent to the sum of money calculated in accordance with paragraph (c) less a sum of money representing a refund of contributions in respect of that contributor payable under section 35.

Minimum benefit payable

30E.(1) A person who ceases to be a contributor is entitled to the minimum benefit (if any) determined by the actuary.

(2) If the person is also entitled to benefits under the *Superannuation (Government and Other Employees) Act 1988*, the minimum benefit is to be determined taking into account the person's benefits under that Act.

(3) The minimum benefit must be paid to the Government Officers' Superannuation Fund in the person's name.

(4) Subsection (1) applies despite any other provision of this Act.

(5) In this section—

“minimum benefit” means the amount of payment, pension or preserved

benefit entitlement that is determined to avoid payment of the superannuation guarantee charge.

“superannuation guarantee charge” means the charge imposed by the *Superannuation Guarantee Charge Act 1992* (Cwlth).

Division 2—Benefits upon contributor’s death

Entitlement to benefit

31.(1) Subject to subsections (3) and (5), in respect of—

- (a) a male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and who when he died was—
 - (i) a contributor for category A benefits; or
 - (ii) a contributor for category B benefits and had completed at least 10 years service; or
- (b) a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 24A and who when she died was—
 - (i) a contributor for category A benefits; or
 - (ii) a contributor for category B benefits and had completed at least 10 years service; or
- (c) a contributor who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984* and who when he or she died was—
 - (i) a contributor for category A benefits; or
 - (ii) a contributor for category B benefits and had completed at least 10 years service;

a relict of the contributor or, except in a case to which section 32(3)(b) applies, if there be no relict, the legal personal representative of the contributor or other person approved by the board is entitled to the payment of an amount calculated—

State Service Superannuation Act 1972

- (d) where the contributor had not attained the age of 60 years—in accordance with the formula—

$$A = \frac{B \times C \times 3D}{170}$$

where—

“A” means the amount payable.

“B” means—

- (i) in the case of a continuing contributor—the final average increase in salary of the contributor; or
- (ii) in the case of any other contributor—the final average salary of the contributor.

“C” means the factor set forth in schedule 3 opposite the age in years of the contributor as at the date of his or her death.

“D” means the length of service, expressed in years and ascertained as prescribed by section 26, which the contributor would have had if he or she had continued as an officer until the age of 60 years and had thereupon died;

- (e) where the contributor had attained the age of 60 years—in accordance with the formula—

$$A = \frac{B \times C \times 3D}{170}$$

where—

“A” means the amount payable.

“B” means—

- (i) in the case of a continuing contributor—the final average increase in salary of the contributor; or
- (ii) in the case of any other contributor—the final average salary of the contributor.

“C” means the factor set forth in schedule 3A opposite the age in years and completed months of the contributor as at the date of his or her death.

“D” means the length of service, expressed in years and ascertained as prescribed by section 26, of the contributor as at the date of his or her

State Service Superannuation Act 1972

death, not exceeding 42 years and 6 months.

(2) Subject to subsections (3) and (5) a relict of—

(a) a male pensioner who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* and who immediately before becoming eligible for a pension was—

(i) a contributor for category A benefits; or

(ii) a contributor for category B benefits and had completed at least 10 years service; or

(b) a male pensioner who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of his death was entitled or, but for the operation of section 44, would have been entitled to a pension from the fund and who immediately before becoming eligible for a pension was—

(i) a contributor for category A benefits; or

(ii) a contributor for category B benefits and had completed at least 10 years service; or

(c) a female pensioner who—

(i) became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*; or

(ii) became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 24A;

and who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of her death was entitled or, but for the operation of section 44, would have been entitled to a pension from the fund and who immediately before becoming eligible for a pension was—

(iii) a contributor for category A benefits; or

(iv) a contributor for category B benefits and had completed at least 10 years service;

State Service Superannuation Act 1972

is entitled to the payment of an amount calculated in accordance with the formula—

$$A = B \times C$$

where—

“A” means the amount payable.

“B” means the fortnightly amount of pension to which his or her spouse was entitled or, but for the operation of section 44, would have been entitled immediately before his or her death or, in the case of a spouse who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* whose entitlement to a contributor’s pension had ceased or had been reduced by reason of an election under section 47, would have been entitled immediately before his or her death if he or she had not made the election and, where the spouse was an officer who had not retired, as if he or she had retired.

“C” means the factor set forth in schedule 3B opposite the age at nearest birthday of the relict as at the date of the spouse’s death.

(3) A relict—

- (a) of a male contributor for category B benefits who attained the age for retirement before the passing of the *Superannuation Acts Amendment Act 1984* and who died in service; or
- (b) of a male former contributor for category B benefits who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984*;

being a contributor or former contributor who at the time of his retirement or attaining the age for retirement (whichever event first occurred) had completed at least 10 years service but less than 20 years service and who immediately before his death was entitled to a pension under section 29(4) or 30(4) is entitled to payment of an amount calculated in accordance with the formula—

$$A = B \times C \times \frac{D}{20}$$

where—

“A” means the amount payable.

“B” means the fortnightly amount of pension that the contributor would

State Service Superannuation Act 1972

have been receiving or for which the contributor would have been eligible immediately before the contributor's death if the contributor had retired upon attaining the age for retirement and had not made an election under section 47 or, in the case of a former contributor, the fortnightly amount of pension that—

- (a) where the former contributor's entitlement to a contributor's pension had ceased or been reduced by reason of an election under section 47—he or she would have been entitled to receive immediately before his or her death if he or she had not made the election; or
- (b) in any other case—the former contributor was receiving or for which he or she was eligible immediately before his or her death.

“C” means the factor set forth in schedule 3B opposite the age at nearest birthday of the relict as at the date of her spouse's death.

“D” means the length of service, expressed in years, of the contributor or former contributor as at the date of his attaining the age for retirement or his retirement, whichever event first occurred.

(4) Where the contributor or pensioner through whom entitlement to an amount is derived under this section is or was a male continuing contributor immediately before he finally ceased to contribute to the fund the entitlement to an amount under this section is in addition to the benefits (if any) derived through the contributor or pensioner under the 1958 Act.

(5) Where the contributor or pensioner through whom entitlement to an amount is derived under this section is or was a female continuing contributor who had increased the rate of her contribution to the fund pursuant to section 24A an amount shall be payable to the relict or other person entitled to an amount under this section (other than this subsection) determined by the actuary and approved by the board in lieu of the amount prescribed by subsection (1) or (2).

(6) For the purposes of subsection (1), (2) or (3), other than for the purpose of subsection (1), definition “d”, additional service determined by the board under section 24(6) shall be disregarded.

(7) Where a contributor or pensioner dies and is survived by more than 1 relict—

- (a) the amount payable under this section is that which would be

State Service Superannuation Act 1972

payable if there were but 1 relict; or

- (b) in the case where the deceased contributor was a person who contributed for category B benefits and had less than 10 years service—the benefit provided for by section 35 shall be in such amount as would be payable if there were but 1 relict;

and the amount or benefit is payable to those relicts in such proportions as the board determines having regard to their respective needs and to such other matters as it considers relevant.

(8) In this section—

“relict” means a relict of a contributor or pensioner who dies on or after the commencement of the *Superannuation (Public Employees Portability and Acts Amendment) Act 1985*, section 20.

(9) The benefit prescribed by subsection (1) to accrue in the absence of a relict of a contributor shall be taken to accrue only in respect of a contributor who dies on or after the passing of the *Superannuation Acts Amendment Act 1987*.

(10) In this section—

“pensioner”, in subsection (2)(a), does not include a person who was retired or permitted to retire on the grounds of incapacity and has made an election under section 47.

Relicts’ right to substitute pension for entitlement

31A.(1) Subject to this section, a relict entitled to the payment of an amount pursuant to section 31 may elect not to receive that amount or a part of that amount and to receive in lieu a relict’s pension on and from the date following the day of his or her spouse’s death calculated in accordance with the formula—

(a) in the case of the relict—

- (i) of a male contributor for Category B benefits who attained the age for retirement before the passing of the *Superannuation Acts Amendment Act 1984* and who died in service; or
- (ii) of a male former contributor for Category B benefits who

State Service Superannuation Act 1972

attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984*;

being a contributor or former contributor who at the time of his retirement or attaining the age for retirement (whichever event first occurred) had completed at least 10 years service but less than 20 years service and who immediately before his death was entitled to a pension under section 29(4) or 30(4)—

$$P = B \times C \times \frac{D}{20} \times .667$$

where—

“**B**” means the fortnightly amount of pension that the contributor would have been receiving or for which the contributor would have been eligible immediately before the contributor’s death if the contributor had retired upon attaining the age for retirement and had not made an election under section 47 or, in the case of a former contributor, the fortnightly amount of pension that—

(A) where the former contributor’s entitlement to a contributor’s pension had ceased or been reduced by reason of an election under section 47—the former contributor would have been entitled to receive immediately before his or her death if the former contributor had not made the election; or

(B) in any other case—the former contributor was receiving or for which the former contributor was eligible immediately before his or her death.

“**C**” means a fraction that is the equivalent of the percentage of the amount of entitlement in respect of which the relict desires to substitute a relict’s pension.

“**D**” means the length of service, expressed in years, of the contributor or former contributor as at the time of attaining the age for retirement or retirement whichever first occurred.

“**P**” means the fortnightly amount of relict’s pension;

(b) in any other case—

$$P = B \times C \times .667$$

State Service Superannuation Act 1972

where—

“**B**” means—

- (i) in the case of a relict of a contributor—the fortnightly amount of pension that would have been payable to the contributor if he or she had retired and become eligible for an incapacity pension immediately before his or her death; or
- (ii) in the case of a relict of a pensioner—the fortnightly amount of pension to which his or her spouse was entitled or, but for the operation of section 44, would have been entitled immediately before his or her death or, in the case of a spouse who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* and whose entitlement to a contributor’s pension had ceased or had been reduced by reason of an election under section 47, would have been entitled immediately before his or her death if he or she had not made the election and, where the spouse was an officer who had not retired, as if the spouse had retired.

“**C**” means a fraction that is the equivalent of the percentage of the amount of entitlement in respect of which the relict desires to substitute a relict’s pension.

“**P**” means the fortnightly amount of relict’s pension.

(2) An election under subsection (1)—

- (a) shall be in writing;
- (b) shall be made within 6 months after the date on which the entitlement to payment of the amount to the relict arises;
- (c) shall specify the percentage of the amount of entitlement in respect of which the elector desires to substitute a relict’s pension.

(3) This section does not apply to the relict of—

- (a) a person who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*;
- (b) a female who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 24A;

State Service Superannuation Act 1972

unless in the board's opinion the relict was wholly financially dependent upon the deceased person immediately before his or her death.

(4) For the purposes of subsection (3) a relict shall be taken to be wholly financially dependent notwithstanding that he or she is in receipt of an income that in the board's opinion is insufficient to maintain for the relict a reasonable standard of living.

(5) A relict's pension ceases to be payable if the relict remarries or marries.

(6) Where a person who as a relict is entitled to a relict's pension remarries or marries and—

- (a) again becomes widowed; or
- (b) a decree of dissolution made in respect of the marriage has become absolute or a decree of nullity is made in respect of the marriage and that person is in the board's opinion likely to suffer hardship if the benefit prescribed by this subsection is not granted to him or her;

that person shall, subject to subsections (5) and (7), be entitled to a pension on and from the occurrence of the event referred to in paragraph (a) or (b), whichever is relevant to the case, as if he or she had not remarried or, as the case may be, married.

(7) A relict who having remarried or married again becomes widowed shall not be entitled to a pension pursuant to subsection (6) if an amount becomes payable to the relict under section 31 in the event of his or her so becoming widowed unless the relict elects as prescribed to forgo entitlement to that amount and, in the case of a widowed female, to any benefit to which she is entitled pursuant to the 1958 Act, section 33 in the event of her so becoming widowed.

(7A) An election under subsection (7)—

- (a) shall be in writing; and
- (b) shall be made within 6 months after the date on which the relict so becomes widowed.

(8) For the purposes of subsection (1), other than definition "D", additional service determined by the board under section 24(6) shall be disregarded.

(9) Where the contributor or pensioner through whom entitlement to an amount is derived under section 31 is or was a female continuing contributor who had increased the rate of her contribution to the fund pursuant to section 24A, a relict's pension shall be payable to the relict, where the relict elects as prescribed by subsection (2), at a rate determined by the actuary and approved by the board in lieu of the rate prescribed by subsection (1).

Entitlement of relict of person on staff of Agent-General for Queensland

31B.(1) Notwithstanding the provisions of this Act a relict of a person who was employed on the staff of the Agent-General for Queensland and who was liable—

- (a) to pay tax under the law of the United Kingdom relating to tax on incomes; or
- (b) to contribute for national insurance including graduated pensions under the law of the United Kingdom relating to national insurance;

shall not be entitled to the payment of an amount pursuant to section 31 but shall be entitled to the payment of a relict's pension as if he or she were a relict entitled to the payment of an amount pursuant to that section and had duly elected under section 31A not to receive any part of that amount but to receive a relict's pension in lieu thereof in accordance with section 31A.

(2) This section shall not apply to a relict of a person who, at the date of commencement of section 3.13 of the *Superannuation (Miscellaneous Acts) Amendment Act 1991* was employed on the staff of the Agent-General for Queensland and was a contributor.

Division 3—Children's pensions

Child's pension—when payable

32.(1) A pension is payable under this Act in respect of every child to whom this section applies until he or she ceases to be a child.

(2) This section applies to—

State Service Superannuation Act 1972

- (a) every child of a male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and who when the contributor died was—
 - (i) a contributor for category A benefits; or
 - (ii) a contributor for category B benefits and had completed at least 10 years service;
- (b) every child of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had not increased the rate of her contribution to the fund pursuant to section 24A and who when she died was—
 - (i) a contributor for category A benefits; or
 - (ii) a contributor for category B benefits and had completed at least 10 years service;

where in the opinion of the board the child was wholly dependent on the contributor when she died;
- (c) every child of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 24A and who when she died was—
 - (i) a contributor for category A benefits; or
 - (ii) a contributor for category B benefits and had completed at least 10 years service;
- (d) every child of a contributor who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984* and who when the contributor died was—
 - (i) a contributor for category A benefits; or
 - (ii) a contributor for category B benefits and had completed at least 10 years service;
- (e) every child of a deceased male pensioner who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984*, other than a pensioner retired on account of incapacity who has made an election under section 47, and who, immediately before becoming eligible for a pension,

State Service Superannuation Act 1972

was—

- (i) a contributor for category A benefits; or
 - (ii) a contributor for category B benefits and had completed at least 10 years service;
- (f) every child of a deceased male pensioner who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of his death was entitled to or, but for the operation of section 44, would have been entitled to a pension from the fund and who, immediately before becoming eligible for a pension, was—
- (i) a contributor for category A benefits; or
 - (ii) a contributor for category B benefits and had completed at least 10 years service;
- (g) every child of a deceased female pensioner who—
- (i) became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*; or
 - (ii) became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 24A;
- and who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of her death was entitled to or, but for the operation of section 44, would have been entitled to a pension from the fund and who, immediately before becoming eligible for a pension was—
- (iii) a contributor for category A benefits; or
 - (iv) a contributor for category B benefits and had completed at least 10 years service;
- (h) every child of a deceased female pensioner who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had not increased the rate of her contribution to the fund pursuant to section 24A and who when she attained the age for retirement or retired was—

State Service Superannuation Act 1972

- (i) a contributor for category A benefits; or
 - (ii) a contributor for category B benefits and had completed at least 10 years service;
- and who—
- (iii) being other than a person retired on account of incapacity who has made an election under section 47, retired before the passing of the *Superannuation Acts Amendment Act 1984*; or
 - (iv) retired after the passing of the *Superannuation Acts Amendment Act 1984* and at the date of her death was entitled to or, but for the operation of section 44, would have been entitled to a pension from the fund;

where in the opinion of the board the child was wholly dependent on the pensioner when she died;

- (i) every child of a deceased or divorced spouse of a person who when he or she died was a contributor or a pensioner referred to in paragraph (a), (c), (d), (e), (f) or (g), other than a child referred to in section 3(1)(f)(i) or (ii);
- (j) every child of the relict of a person who when he or she died was a contributor or a pensioner referred to in paragraph (a), (c), (d), (e), (f) or (g), other than a child referred to in section 3(1)(f)(i) or (ii).

(3) Subject to subsections (4) and (5), a child's pension that is payable under subsection (1) is payable—

- (a) where the relict of the person through whom the child's pension is derived under subsection (2) is living—at the rate of \$50 per fortnight adjusted in accordance with the cost of living adjustment provided for in section 36A from and including the first pay-period that occurs wholly in August 1987; and
- (b) in any case other than a case to which paragraph (a) applies—at a rate equal to a percentage in accordance with the following table of—
 - (i) in the case of a child of a contributor who dies before attaining the age for retirement—the pension that would have been payable to the contributor if the contributor had retired

State Service Superannuation Act 1972

and become eligible for an incapacity pension immediately before the contributor’s death;

- (ii) in the case of a child of a contributor who has continued in employment as an officer after attaining the age for retirement—the pension that would have been payable to the contributor immediately before the contributor’s death if the contributor had retired on attaining the age for retirement;
- (iii) in the case of a child of a person who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* whose entitlement to a contributor’s pension had ceased or had been reduced by reason of an election under section 47—the pension that would have been payable to that person immediately before the person’s death if the person had not made the election and, in the case of an officer who had not retired, as if the person had retired;
- (iv) in any other case—the pension payable to the person through whom the entitlement to the child’s pension is derived immediately before his or her death—

Table

1 child	66.7%
2 or more children	100% divided by the number of children in respect of each child.

(3A) However, each child who is entitled to a pension under subsection (3)(b) shall be paid a fortnightly rate of pension so that, when that rate is added to any rate of benefit to which he or she is entitled under the 1958 Act, the total rate payable shall be at least equal to twice the fortnightly rate of pension that he or she would have been paid had he or she been a case to which subsection (3)(a) applies.

(3B) The cases to which subsections (3) and (3B) apply includes the case of a child’s pension payable immediately before the passing of the *Superannuation Acts Amendment Act 1987*.

(4) Where a contributor or former contributor for category B benefits who had completed at least 10 years service but less than 20 years service

State Service Superannuation Act 1972

attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984*, the child's pension payable to a child who derives his or her entitlement through that contributor or former contributor shall, in lieu of the pension to which but for this subsection he or she would have been entitled, be a pension calculated in accordance with the formula—

$$P = A \times \frac{B}{20}$$

where—

“**A**” means the fortnightly amount of the pension that would have been payable to the child but for this subsection.

“**B**” means the length of service (expressed in years) of the contributor or former contributor as at the time of attaining the age for retirement or retirement, whichever first occurred.

“**P**” means the fortnightly amount of the pension payable to the child.

(5) Where a contributor for category B benefits retires before attaining the age for retirement and at the time of retirement has completed at least 10 years service, a child who derives his or her entitlement to pension through that contributor is entitled to the same pension as the pension that would have been payable to him or her if the contributor had been a contributor for category A benefits.

(6) Where by reason of the death of a contributor or a pensioner the only entitlement derived through him or her is an entitlement to a child's pension arising on or after the passing of the *Superannuation Acts Amendment Act 1984* and before the passing of the *Superannuation Acts Amendment Act 1987* the amount of pension payable in respect of the child or, if there are 2 or more children who derive the entitlement, in respect of all of them shall equal at the least the amount that would be payable in respect of 1 child (being a child deriving his or her entitlement through that contributor or pensioner) under this section for a period of 5 years calculated at the rate at which a pension was payable in respect of 1 child (being a child deriving his or her entitlement through that contributor or pensioner) at the date when the entitlement to the pension in question commenced.

(6A) Where by reason of the death of a contributor or a pensioner the only entitlement derived through him or her is an entitlement to a child's

pension arising on or after the passing of the *Superannuation Acts Amendment Act 1987* and the amount of pension payable in respect of the child or, if there are 2 or more children who derive the entitlement, in respect of all of them (disregarding for the purpose of calculating that amount any increase in the rate of pension payable since the time when the entitlement arose) is less than the amount that would have been payable under section 31 to the relict of the person through whom the entitlement is derived, had he or she left a relict upon his or her death, there shall be paid to such persons as are approved by the board, in equal shares if more than 1, the difference between the 2 amounts hereinbefore referred to in this subsection.

(7) For the purposes subsections (2)(a) to (g), (4) and (5), additional service determined by the board under section 24(6) shall be disregarded.

(8) A child who is entitled under subsection (3)(a) to payment of a child's pension in respect of him or her shall not be entitled to additional assurance benefit under the 1958 Act.

Commencement and cessation of children's pensions

33.(1) A child's pension commences on the date of the day following the event by virtue of which it becomes payable as provided in section 32 and ceases to be payable on—

- (a) the child (not being a child to whom subsection (2) relates) attaining the age of 16 years; or
- (b) the death of the child;

whichever first happens.

(2) In the case of a child who is receiving, in the opinion of the board, full-time education at a school, college, or university, the child's pension ceases to be payable—

- (a) when the child attains the age of 25 years; or
- (b) when the child ceases to receive, in the opinion of the board, full-time education at a school, college, or university;

whichever first happens.

(3) Where—

State Service Superannuation Act 1972

- (a) a child's pension has ceased pursuant to subsection (1) or (2); and
- (b) no amount has been paid in accordance with section 32(6) or (6A); and
- (c) the board is satisfied that the child concerned is receiving full-time education at a school, college or university at any time before the child has attained the age of 25 years;

the board may reinstate the child's pension at the rate at which it would have been payable if it had not ceased, whereupon the pension shall be payable subject to subsection (2).

Persons to whom a child's pension is payable

34.(1) A child's pension shall be paid to the relict (if any) of the contributor or pensioner in relation to whom it is payable, or, if there is no relict, to the guardian of the child, unless the board in any case otherwise determines.

(2) The board may at any time pay to the guardian of a child or to such other person as the board determines, or expend for a child's benefit, any pension or sum of money payable in respect of that child under this Act.

Division 4—Refund of contributions**Refund of contributions**

35.(1) Where a contributor, before attaining the age for retirement, ceases to be an officer by reason of—

- (a) resignation prior to attaining the age of 55 years;
- (aa) becoming a person excepted from the Act pursuant to section 4, definition "officer", paragraph (g);
- (b) dismissal;
- (c) being retired or permitted to retire on the ground of incapacity that is due to wilful action on his or her part for the obtaining of benefits under this Act;
- (d) being retired or permitted to retire on the ground of incapacity

State Service Superannuation Act 1972

where the contributor has not satisfied the board as required by section 41;

the contributor is entitled to be paid from the fund a sum of money equal to the total amount of the contributor's contributions to the fund under this Act and any payments made by the contributor to the consolidated fund, such contributions or payments being accumulated on and after the passing of the *Superannuation Acts Amendment Act 1984* at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound, and, subject to subsections (2) to (2A) is not entitled to any other benefit under this Act.

(2) Where a contributor, before attaining the age for retirement, ceases to be an officer by reason of—

- (a) resignation before attaining the age of 55 years; or
- (b) termination of employment as an officer before attaining the age of 55 years, otherwise than on account of misconduct; or
- (c) becoming a person excepted from the Act pursuant to section 4, definition "officer", paragraph (g); or
- (d) being retired or permitted to retire on the ground of incapacity, where the contributor has not satisfied the board as required by section 41;

and the contributor has been a contributor for a period of 12 months at the least, the contributor may elect as prescribed not to take from the fund that part of the benefit prescribed by subsection (1) that is attributable to the contributor's contributions to the fund.

(2AA) An election under subsection (2)—

- (a) shall be in writing furnished to the board; and
- (b) shall be made within 3 months after the date on which the contributor so ceases to be an officer.

(2A) Where an election is duly made under subsection (2), there shall be credited in the fund on account of the elector an amount equal to the amount to which the contributor would have been entitled had the contributor ceased to be an officer by way of retrenchment duly effected in accordance with relevant arrangements approved by the Governor in Council, until, subject to subsections (2B) and (2BAA)—

State Service Superannuation Act 1972

- (a) the contributor attains the age of 55 years; or
- (b) the contributor satisfies the board that the contributor suffers a permanent incapacity by reason whereof the contributor is unfit to discharge or incapable of discharging duties as an officer efficiently; or
- (c) the contributor informs the board in writing that the contributor no longer desires his or her election to operate; or
- (d) the contributor dies;

whereupon the prescribed amount shall be paid to the contributor or to the contributor's legal personal representative, as the case requires.

(2B) If a person who has made an election under subsection (2) again becomes an officer and elects under this subsection to again become a contributor within 3 months of again becoming an officer, the prescribed amounts shall be applied to the purchase by that person of benefit entitlements—

- (a) in respect of a period of service equal to the period during which the person had contributed to the fund after the person's 20th birthday and before the person made the election; and
- (b) in respect of any additional period of service as determined by the actuary having regard to any of the prescribed amount credited on the person's account that is attributable to contributions paid in excess of those prescribed by section 25;

as approved by the board, having regard to the rates at which benefits would have accrued to that person had the person not ceased to be an officer.

(2BAA) Where a person to whom subsection (2B)(b) applies again ceases to be an officer in any circumstance prescribed by subsection (2) and does not make an election under that subsection the benefit to which the person shall on that occasion be entitled under subsection (1) in respect of the prescribed amount applied pursuant to subsection (2B)(b) shall be in such amount as is determined by the actuary and approved by the board, notwithstanding the provisions of subsection (1).

(2BA) The *Superannuation (State Public Sector) Act 1990* does not apply to a person who makes an election under subsection (2B).

(2BB) If a person who has made an election under subsection (2)—

State Service Superannuation Act 1972

- (a) again becomes an officer; and
- (b) does not make an election under subsection (2B);

the prescribed amount is to be applied in obtaining benefits for the person under the scheme established under the *Superannuation (State Public Sector) Act 1990*.

(2C) In subsections (2A), (2B), (2BAA) and (2BB)—

“prescribed amount” means—

- (a) where the elector has informed the board in writing that the elector no longer desires his or her election to operate—the sum which the elector would have been entitled to be paid pursuant to subsection (1) had the elector not made the election under subsection (2), less the amount already paid on the elector’s account as benefit under subsection (1), together with interest that has accrued since the date on which the elector ceased to be an officer and that is properly attributable to that sum less that amount; and
- (b) in any other case—the amount credited on account of the elector pursuant to subsection (2A), together with interest for the period since the date on which the elector ceased to be an officer.

(2CA) For the purposes of subsection (2C), interest shall be calculated at such rate as is determined by the board, from time to time, on the advice of the actuary which rate, at the time it is determined, is to reasonably reflect the after tax earnings of the fund (on a long term basis) derived from the investment of contributors’ contributions, having regard to costs incurred in investing and administering the fund.

(2D) In the event of the death, before attaining the age for retirement, of a contributor whose death does not give rise to an entitlement under division 2 or 3 or under subsection (3) the board shall pay a sum equal to the total amount of the contributor’s contributions to the fund under this Act and any payments made by the contributor to the consolidated fund, such contributions or payments being accumulated on and after the passing of the *Superannuation Acts Amendment Act 1984* at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound, to the personal representative of the contributor or, if the board considers it desirable to do so, to such person as the board may

State Service Superannuation Act 1972

determine.

(2E) For the purposes of subsections (1) and (2D) a contributor who, before the passing of the *Superannuation Acts Amendment Act 1989*, had made payments to the State Service Superannuation Additional Benefits Fund, which fund was abolished by that Act, shall be deemed to have made those payments to the consolidated fund.

(3) Where a contributor for category B benefits dies before attaining the age for retirement and at the time of death has completed less than 10 years service and, in the case of a female who became such a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had not increased the rate of her contributions pursuant to section 24A, leaves children who in the board's opinion were wholly dependent on the contributor when she died, then the relict of the contributor or, if there be no relict, the legal personal representative of the contributor or other person approved by the board is entitled to be paid out of the fund a sum equal to 3½ times the total amount of the contributor's contributions to the fund under this Act, other than any additional contributions under section 24(4), (4A) or (4B) or 24A, and—

- (f) in the case of additional contributions paid under section 24(4)—a sum equal to $2\frac{6}{7}$ times the total amount of such additional contributions;
- (g) in the case of additional contributions paid under section 24(4A) or (4B)—a sum equal to the total amount of such additional contributions accumulated from 1 July 1990 at the net earning rate of the fund compound;
- (h) in the case of additional contributions paid under section 24A—such sum as is determined by the actuary and approved by the board.

(4) Where the contributor is a continuing contributor entitlements under this section are in addition to entitlements (if any) of or in relation to the contributor under the 1958 Act.

(5) For the purposes of subsection (3) additional service determined by the board under section 24(6) shall be disregarded.

(6) In this section—

“child” means a child—

- (a) who is under the age of 16 years;
- (b) who has attained the age of 16 years but is under the age of 25 years and who is receiving, in the opinion of the board, full-time education at a school, college or university.

Division 5—Adjustment of pensions

Increases in rates of benefits

36.(1) A person who is entitled to receive contributor's pension, incapacity pension, relict's pension or child's pension, as the case may be, under this Act is entitled to an increase in the rate of that benefit in accordance with this section.

(2) The increased rate of contributor's pension, incapacity pension, relict's pension or child's pension, as the case may be, payable to the person in question at any time shall be the rate ascertained in accordance with the formula—

$$P (1 + .03T)$$

where—

“**P**” means the rate of pension prescribed in relation to that person at that time and in the circumstances then obtaining by the provisions of this Act (other than this section).

“**T**” means the number of periods each of 1 year that have elapsed between—

- (a) the date on which occurred—
 - (i) in the case of a pension other than a relict's pension—the earliest of such of the following events as have occurred prior to the time at which the increased rate is to be ascertained—
 - (A) the expiration of a period of 2 months after grant of sick leave without salary to the contributor to whom the pension in question is payable or through whom the benefit is derived so long as the contributor does not resume employment as an officer after such grant; and

State Service Superannuation Act 1972

- (B) the retirement of the contributor to whom the pension in question is payable or through whom the pension is derived from the contributor's employment by reason of incapacity; and
 - (C) the retirement of the contributor to whom the pension in question is payable or through whom the pension is derived who elects to retire from employment as an officer within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement; and
 - (D) the death of the contributor or pensioner through whom the pension in question is derived; and
 - (E) the attainment of the age for retirement by the contributor to whom the pension in question is payable or through whom the pension is derived; or
- (ii) in the case of a relict's pension—the death of the contributor or pensioner through whom the pension is derived; and
- (b) the date at which the increased rate is to be ascertained;
- increased, where in the instant case the pension in question became payable to the person concerned before 1 July 1973 by 1.

(3) A person entitled to receive contributor's pension, incapacity pension, relict's pension, or child's pension, as the case may be, under the provisions of this Act other than this section is entitled to receive that pension at the increased rate as ascertained in accordance with this section in lieu of that pension at the rate at which but for this section, it would have been payable under this Act.

(4) This section shall not apply in relation to contributor's pension, incapacity pension, relict's pension or child's pension entitlement to which arises on or after 1 July 1974 or so as to increase in respect of any period, or part of a period, occurring on or after 1 July 1974, the rate of any pension payable under this Act.

Adjustment of pensions

36A.(1) In this section—

State Service Superannuation Act 1972

“**basic rate**”, in relation to a pension, means the rate at which the pension was payable under division 1 or 2 or 3 when it came into force.

“**index**” means the table described as the ‘Consumer Price Index Numbers—All Groups, Brisbane’ that is published by the Commonwealth Statistician under the authority of the *Census and Statistics Act 1905* (Cwlth).

“**pay-period**” means the period with respect to which the fortnightly or other periodic instalment of pension is payable in pursuance of section 38.

(2) Subject to this section, a pension under this Act shall be adjusted by the board in each year in accordance with this section.

(3) The Government Statistician shall, as soon as practicable after 30 June 1974 and in each year thereafter, give to the Minister a notice specifying the percentage (expressed to a degree of accuracy of not more than 1 decimal place) by which the index for the quarter ended on that day is greater or less than the index for the same quarter in the immediately preceding year.

(4) On receipt of a notice under subsection (3), the Minister shall, by order—

- (a) declare the percentage by which pensions shall be adjusted (whether by way of increase or decrease) in the year commencing on 1 August next after the quarter firstmentioned in that subsection; or
- (b) if, by reason of the operation of subsection (9), no adjustment is to be made in respect of that year—declare that pensions shall not be adjusted in respect of that year.

(5) A percentage declared under subsection (4)(a) in respect of any year shall be the same as the percentage specified in the notice given to the Minister under subsection (3).

(6) An adjustment of a pension in respect of any year made under this section shall be made—

- (a) by increasing, or as the case may require by decreasing, the rate at which immediately before the making of the adjustment, the pension was payable by the percentage declared in respect of that year under subsection (4); and

State Service Superannuation Act 1972

- (b) so as to operate from and including the commencement of the first pay period occurring wholly in the month of August in that year.

(7) The following provisions apply to and in relation to the first adjustment of a pension pursuant to this section if at the time when the adjustment is to be made the pension has been in force for less than 12 months, namely—

- (a) in the case of a pension that comes into force after 1 July in any year—the first adjustment of that pension shall be made so as to operate from and including the commencement of the first pay-period occurring wholly in the month of August in the second year after the year in which the pension comes into force; and
- (b) in the case of a pension that comes into force on or before 1 July in any year—the first adjustment of that pension shall be made so as to operate from and including the commencement of the first pay-period occurring wholly in the month of August immediately following that day; and
- (c) the fortnightly amount by which a pension to which paragraph (b) applies is to be increased or decreased shall be calculated in accordance with the prescribed formula.

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

$$V = A \times \frac{M}{12}$$

where—

“A” means the amount by which, but for the operation of that subsection, the pension would have been increased or decreased.

“M” means the number of whole months from the day on which the pension came into force until the following 31 July (both days inclusive).

“V” means the fortnightly amount referred to in that paragraph.

(9) Except as provided in subsection (10), where the percentage specified in a notice under subsection (3) in respect of any year is less than 1 no adjustment of pensions shall be made in respect of that year.

(10) Where each of the percentages specified in a notice under subsection (3) in respect of any 2 or more successive years is less than 1 but those percentages are in the aggregate, equal to, or greater than 1 (whether by way of increase or decrease), pensions shall be adjusted in respect of the latest of those years as if the percentage declared in respect of that year were a percentage equal to that aggregate.

(11) Nothing in this section requires the rate of a pension to be decreased below the basic rate and if, by reason of the making of an adjustment under this section, the rate of a pension would be so decreased, that pension shall, until it is next increased to a rate exceeding the basic rate by reason of the making of such an adjustment, be deemed to be payable at the basic rate.

(12) Where—

- (a) by reason solely of the operation of subsection (11) a pension is being paid at the basic rate; and
- (b) an adjustment, by way of increase, is required to be made to the rate of that pension in respect of any year;

that adjustment shall be made as if, immediately before the making of the adjustment, the pension were payable at the rate at which, but for the operation of that subsection, it would have been payable.

Further adjustment of pensions

36B. A person who, immediately before the passing of the *Superannuation Acts Amendment Act 1987*, is entitled to receive contributor's pension, incapacity pension or relict's pension under this Act is entitled to an increase in the rate of the pension of 6% of the rate of the pension payable immediately before the passing of that Act.

Variation of entitlement to adjustment

36C.(1) Where in the opinion of the board a pensioner would be prejudicially affected by an increase in his or her pension under section 36A or 36B the board may determine—

- (a) that the pensioner receive no increase in pension under that section; or
- (b) that the pensioner receive an increase in pension less than that

provided for by that section;

and the determination shall be given effect according to its terms notwithstanding that section.

(2) The board may revoke or vary a determination under subsection (1).

(2A) In the event of a revocation of a determination the amount of the pension to which the determination related shall, as from the date of the revocation, be the same as if the determination had not been made.

(2B) In the event of a variation of a determination the amount of the pension to which the determination relates shall, as from the date of the variation, be in accordance with the determination as so varied.

(3) Unless it is otherwise determined by the board, for the purpose of determining the rate of pension payable under section 31 or 32 all determinations made under subsection (1) and variations made under subsection (2) shall be disregarded and the pensioner shall be deemed to have been receiving, immediately before the pensioner's death, the amount of pension that would have been payable to the pensioner had no such determination been made.

Division 6—General provisions as to pensions

Duration of pensions

37. Except as otherwise expressly provided, a pension under this Act is payable during the life of the pensioner, and is payable as from the date of the death or retirement by virtue of which it becomes payable.

Time and manner of payment of pensions

38. Pensions shall be paid in fortnightly instalments or if so determined by the board, periodically at other intervals.

Payment to person other than the beneficiary

39.(1) Where in the opinion of the board payment of any pension, refund of contributions or other payment under this Act should be made to a person other than the person to whom the same is prescribed to be payable,

the board may authorise payment to such firstmentioned person accordingly and the receipt of that person is a complete discharge to the board for the amount so paid.

(2) Where a person has received a payment under this Act or the 1958 Act and it is subsequently discovered that, owing either to some miscalculation or mistake of fact for which the person is not responsible, the payment was in excess of the amount properly payable, the board may—

- (a) waive repayment; or
- (b) allow repayment to be made on such terms as the board thinks just;

of the whole or any part of that excess payment or may write off the whole or any part thereof, if, in the opinion of the board, its repayment would cause undue hardship or the enforcement of the repayment thereof would be inequitable.

(3) Where a person has received a payment under this Act or the 1958 Act and it is subsequently discovered that, by reason of a mistake, the amount of the payment is in excess of the amount properly payable to that person, the board may write off the whole or any part of the excess amount so paid if it is satisfied that the excess amount or that part is irrecoverable or that the enforcement of the repayment by that person of the excess amount or that part would impose undue hardship on that person or would, in all the circumstances of the case, be inequitable.

Commencement of benefits

40. Subject to this Act, where in pursuance of this Act any officer becomes liable or elects to contribute for any pension benefits or additional such benefits the officer shall be a contributor in respect of those benefits or additional benefits as from the date as from which the contribution or additional contribution therefor is payable and not earlier, but if any benefit becomes payable to or in respect of that contributor before he or she has actually commenced to make contributions or additional contributions there shall, as determined by the board, be deducted from payments of benefits such contributions as are due by him or her in respect of those benefits or additional benefits.

Provision for incapacity entitlement of contributor reduced in salary by redeployment

40A.(1) Where a contributor's salary is reduced as a consequence of action taken by the contributor's employer for redeployment of the contributor, which, in the board's opinion, is due to the incapacity of the contributor, then, if the board so approves and subject to such conditions as the board in its absolute discretion may determine, the contributor shall be deemed to be in receipt of salary at the rate that would be payable to the contributor had the contributor remained in the position held by the contributor as an officer immediately before the contributor's redeployment.

(2) The board may determine that a contributor, such as is deemed to be in receipt of salary as prescribed by subsection (1), is entitled to payment of incapacity pension at a rate and for a period determined by the board but not exceeding the rate of incapacity pension to which the contributor would have been entitled had the contributor retired on the ground of incapacity immediately before the date of the contributor's redeployment.

Entitlement to receive incapacity pension

41. Before a person—

- (a) who is retired or permitted to retire as an officer by reason of incapacity; or
- (b) who has been absent from duty with leave of absence without salary by reason of incapacity for a continuous period of 14 days (whether or not working days);

is entitled to payment of an incapacity pension or to payment from the fund of a sum on account of incapacity the person shall satisfy the board that the incapacity is such as to render the person unfit to discharge or incapable of discharging the duties of office efficiently and, in the case referred to in paragraph (a), that the incapacity is likely to be permanent.

Proof of continued incapacity

42.(1) Any person who is in receipt of incapacity pension, shall whilst the person continues to be in receipt of incapacity pension, give as prescribed such notifications and certificates relating to the person's

continued incapacity as shall be prescribed and submit himself or herself for medical examination when and so often as the board requires to any medical practitioner or medical practitioners approved by the board.

(2) If at any time a person defaults in complying with any requirement of this section, the board may discontinue the payment to the person of incapacity pension until the person remedies the default to its satisfaction.

Failure of incapacity pensioner restored to health to resume employment affects entitlement

43.(1) If in the opinion of the board the health of any person who is in receipt of incapacity pension and who has not attained the age for retirement has been restored to such an extent as to enable the person to perform duties as an officer efficiently, the board shall so inform the person, body or authority by whom that person is or was employed as an officer, to the intent that the person, body or authority so informed shall—

- (a) in the case of the person in receipt of incapacity pension being absent from duty with leave of absence without salary—instruct that person to resume employment with the person, body or authority forthwith; or
- (b) in the case of the person in receipt of incapacity pension having had the person's employment terminated by reason of the incapacity—take all practicable steps to find employment for that person as an officer in the person's, body's or authority's employment.

(2) If—

- (a) in the case of a person in receipt of incapacity pension being absent from duty with leave of absence without salary—the board has pursuant to subsection (1) informed the person, body or authority by whom that person is employed as an officer as prescribed by that subsection and that person has not resumed such duty;
- (b) in a case referred to in subsection (1)(b)—employment referred to in that paragraph is offered to the person in receipt of incapacity pension at a rate of salary at least equal to the rate of salary then payable in respect of the office held by the person at the time the

State Service Superannuation Act 1972

person became eligible for the incapacity pension and the person fails to accept that employment;

the board may cancel that person's incapacity pension and thereupon it shall cease to be payable.

(2A) Where the board cancels a person's incapacity pension it shall forthwith inform the person in writing of the cancellation.

(3) Where a person's incapacity pension is cancelled under subsection (2) neither that person nor any other person claiming through the person, either immediately or at any future time, shall be entitled to any payment or further payment from the fund by way of any benefit for which that person was contributing to the fund but that person shall be paid from the fund a sum equal to the total amount of the person's contributions accumulated from 1 July 1990 at the net earning rate of the fund compound to the fund less an amount certified by the actuary to be attributable to the provision of incapacity pension.

(4) Subsection (3) shall not be construed to prevent a person whose incapacity pension has been cancelled under subsection (2) or any other person claiming through the person from becoming entitled to any benefits for which that person contributes to the fund after the person has again become an officer and a contributor.

Incapacity pension may be suspended

44.(1) If at any time it appears to the board that any person who is in receipt of incapacity pension—

- (a) engages in—
 - (i) any business or occupation on the person's own account; or
 - (ii) employment, not being employment by virtue whereof the person is an officer receiving salary at least equal to the rate referred to in section 43(2); or
- (b) is in receipt of compensation under the *Workers' Compensation Act 1990*;

the board may suspend payment of the incapacity pension.

(2) For the period for which payment of an incapacity pension is

suspended under subsection (1) the person concerned shall not be entitled to or receive any incapacity pension from the fund unless the board directs that the person be paid for that period or such part thereof as the board determines, the whole of the incapacity pension or such part thereof as the board considers reasonable.

Contribution by retired incapacity pensioners upon re-employment

45. If a person who has been retired, by reason of incapacity, from employment as an officer and who is in receipt of incapacity pension again becomes an officer, the period during which the person was retired shall not, for the purposes of this Act, be deemed to be a break in the continuity of the person's service, and accordingly the officer shall be deemed to be a contributor and contributions to the fund shall again become payable by the person in accordance with this Act.

Right to prepay contributions

46.(1) The board may permit a contributor to commute wholly or in part any existing contribution under this Act, payable by the contributor in respect of any future period, by payment of a lump sum of such amount as shall be determined by the actuary and approved by the board.

(2) Where a contributor who elects to retire at any time within the period of 10 years immediately preceding the day on which the contributor would attain the age for retirement, has commuted wholly or in part any contributions under the Act attributable to any period after the date of the contributor's retirement the contributor is, in addition to any entitlement under this Act, entitled to be paid from the fund such sum of money in respect of such contribution as is determined by the actuary and approved by the board.

Recovery of overpayments

46A.(1) Where a person has received a payment by way of pension, refund of contributions or a lump sum in any case in excess of the payment to which the person was entitled under this Act, the board—

- (a) may recover from that person in a court of competent jurisdiction as a debt due to the board the difference between the payment

State Service Superannuation Act 1972

received by the person and the payment to which the person was entitled under this Act;

- (b) may deduct from money that may become payable under this Act to or in relation to that person the difference between the payment received by or in relation to the person and the payment to which the person or any person in relation to the person was entitled under this Act.

(2) The board may also deduct interest on the overpayment from an amount that may become payable to the person under this Act if the overpayment has been made—

- (a) because the contributor or person receiving the payment gave false or misleading information to the board; or
- (b) in circumstances prescribed under a regulation.

(3) However, the board may deduct interest on the overpayment only if the board gives written notice to the person—

- (a) stating the amount of the overpayment; and
- (b) requiring the person to pay the amount before a stated date (at least 30 days after receiving the notice); and
- (c) stating that if the person does not pay the amount before the stated date, the board may deduct the amount together with interest at a stated rate from an amount that may become payable to the person under this Act.

(4) The rate of interest is to be decided by the board but must not be more than the rate prescribed under a regulation.

(5) Interest on the amount is payable from the stated date.

(6) In subsection (2)—

“false or misleading information” means information that the person giving it—

- (a) knows is false or misleading in a material particular; or
- (b) has omitted something from it, knowing the omission makes the information misleading in a material particular.

Division 7—Conversion of pension entitlement into a lump sum payment

Right of contributor to convert pension into a lump sum

47.(1) A person who is or was prior to his or her retirement a contributor may, subject to this section elect to convert into a lump sum payment his or her pension entitlement under this Act, other than an entitlement to an incapacity pension on account of absence from duty with leave of absence without salary by reason of incapacity—

- (a) as to the whole thereof—in the case of an entitlement to an incapacity pension; or
- (b) as to the whole or any part thereof—in the case of an entitlement to a contributor's pension.

(2) A person who is or was prior to his or her retirement a continuing contributor is not entitled to elect under subsection (1) to convert into a lump sum payment his or her entitlement to an incapacity pension under this Act unless he or she also elects to convert into a lump sum payment the whole of his or her entitlement to incapacity benefit under the 1958 Act.

(2A) A contributor who, after the commencement of this Act, makes an election under section 24(4) that has not been cancelled may not make an election under this section in relation to any part of the contributor's pension entitlement under this Act unless the contributor has contributed in accordance with that subsection for not less than 5 years before such pension entitlement arises or would have been so contributing but for a commutation of contributions pursuant to section 46.

(2AB) Subsection (2A) does not apply in relation to a contributor of a description referred to in the subsection who before the passing of the *Superannuation Acts Amendment Act 1984* was retired or permitted to retire on the ground of incapacity.

(3) An election under this section—

- (a) shall, in the case of a contributor who elects to retire from employment as an officer within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement, be made before the expiration of the period of 1 month after the contributor's retirement; and

State Service Superannuation Act 1972

- (b) shall, in the case of a contributor who retires on or after attaining the age for retirement, be made before the expiration of a period of 1 month after the contributor attains the age for retirement; and
- (c) shall, in the case of a person who is entitled to payment of an incapacity pension, subject to subsection (11), be made before the expiration of a period of 6 months after the date on which the entitlement to the pension arises or arose or after the passing of the *Superannuation Acts Amendment Act 1984*, whichever period is the later to expire and shall be effective only if, in the board's opinion, the elector is medically competent to make the election; and
- (d) shall, in any case, be made by notice in writing given to the board (the **“contributor's notice of election”**).

(4) In the case of an election under this section made in respect of a pension entitlement, other than an entitlement to an incapacity pension, the notice of election shall specify the percentage of the elector's pension entitlement that the elector desires to convert into a lump sum.

(5) Where a contributor retires from employment as an officer on attaining the age for retirement or within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement and duly elects to convert a specified percentage (other than 100%) of the contributor's entitlement to a contributor's pension—

- (a) the contributor shall be paid from the fund—
 - (i) in the case of a male contributor or of a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*, (other than a contributor for category B benefits who has had less than 10 years service,)—a sum equal to that specified percentage of the amount of the contributor's fortnightly pension entitlement under this Act multiplied by the factor set forth in schedule 1A, part 1, column 2 opposite the age in years and complete months as at the date of retirement set forth in column 1;
 - (ii) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*, (other than a contributor for category B benefits

State Service Superannuation Act 1972

who has had less than 10 years service,)—a sum equal to that specified percentage of the amount of her fortnightly pension entitlement under this Act multiplied by the factor set forth in schedule 1A, part 2, column 2 opposite the age in years and complete months as at the date of retirement set forth in column 1; and

- (b) the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage.

(6) Where a contributor retires from employment as an officer on attaining the age for retirement or within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement and duly elects to convert the whole of the contributor's entitlement to a contributor's pension—

- (a) the contributor shall be paid from the fund—

- (i) in the case of a male contributor or of a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*, (other than a contributor for category B benefits who has had less than 10 years service,)—a sum equal to the amount of his or her fortnightly pension entitlement under this Act multiplied by the factor set forth in schedule 1A, part 1, column 2 opposite the age in years and complete months as at the date of retirement set forth in column 1;
- (ii) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*, (other than a contributor for category B benefits who has had less than 10 years service,)—a sum equal to the amount of her fortnightly pension entitlement under this Act multiplied by the factor set forth in schedule 1A, part 2, column 2 opposite the age in years and complete months as at the date of retirement set forth in column 1; and

- (b) his or her entitlement to a contributor's pension under this Act ceases.

(7) Where a contributor (other than one who has made an election under section 24(4) or (4A)) who has attained the age for retirement, has duly

State Service Superannuation Act 1972

elected under this section and has continued in employment as an officer, the contributor shall, in lieu of the lump sum payment from the fund to which the contributor would have been entitled under subsection (5) or (6), be entitled to be paid from the fund—

- (a) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert a specified percentage (other than 100%) of the contributor's entitlement to a contributor's pension—
 - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times that specified percentage of two-sevenths of the amount of his or her fortnightly pension entitlement under this Act if he or she had retired on attaining the age for retirement; or
 - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times that specified percentage of two-sevenths of the amount of her fortnightly pension entitlement under this Act if she had retired on attaining the age for retirement; and
 - (iii) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of his or her fortnightly pension entitlement under this Act if he or she had retired on attaining the age for retirement multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
 - (iv) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of her fortnightly pension entitlement under this Act if she had retired on attaining the age for retirement multiplied by such factor not exceeding 287 as the actuary determines having regard to her

State Service Superannuation Act 1972

age at the time she retires or is retired;

and the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage;

- (b) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert the whole of his or her entitlement to a contributor's pension—
- (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times the amount of two-sevenths of his or her fortnightly pension entitlement under this Act if he or she had retired on attaining the age for retirement; or
 - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times the amount of two-sevenths of the amount of her fortnightly pension entitlement under this Act if she had retired on attaining the age for retirement; and
 - (iii) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to five-sevenths of his or her fortnightly pension entitlement under this Act if he or she had retired on attaining the age for retirement multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
 - (iv) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to five-sevenths of the amount of her fortnightly pension entitlement under this Act if she had retired on attaining the age for retirement multiplied by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;

State Service Superannuation Act 1972

and his or her entitlement to a contributor's pension under this Act ceases.

(8) Where a contributor (being a contributor who has made an election under section 24(4)) who has attained the age for retirement, has duly elected under this section and has continued in employment as an officer, the contributor shall, in lieu of the lump sum payment from the fund to which the contributor would have been entitled under subsection (5) or (6), be entitled to be paid from the fund—

- (a) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert a specified percentage (other than 100%) of the contributor's entitlement to a contributor's pension—
 - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 27(5)(a)(i); or
 - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 27(5)(a)(i); or
 - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 261 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 27(5)(a)(ii); or
 - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 287 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 27(5)(a)(ii); and
 - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of his or her fortnightly pension entitlement under this Act if he or she

State Service Superannuation Act 1972

had retired on attaining the age for retirement and section 24(4) had not been enacted and that specified percentage of 65% of the pension attributable to section 24(4) that would have been payable if he or she had retired on attaining the age for retirement, multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or

- (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of her fortnightly pension entitlement under this Act if she had retired on attaining the age for retirement and section 24(4) had not been enacted and that specified percentage of 65% of the pension attributable to section 24(4) that would have been payable if she had retired on attaining the age for retirement multiplied by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;

and the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage;

- (b) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert the whole of his or her entitlement to a contributor's pension—
 - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times the amount of his or her fortnightly pension entitlement referred to in section 27(5)(a)(i); or
 - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times the amount of her fortnightly pension entitlement referred to in section 27(5)(a)(i); or

State Service Superannuation Act 1972

- (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 261 times the amount of his or her fortnightly pension entitlement referred to in section 27(5)(a)(ii); or
- (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 287 times the amount of her fortnightly pension entitlement referred to in section 27(5)(a)(ii); and
- (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to five-sevenths of his or her fortnightly pension entitlement under this Act if he or she had retired on attaining the age for retirement and section 24(4) had not been enacted and 65% of the pension attributable to section 24(4) that would have been payable if he or she had retired on attaining the age for retirement, multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
- (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to five-sevenths of the amount of her fortnightly pension entitlement under this Act if she had retired on attaining the age for retirement and section 24(4) had not been enacted and 65% of the pension attributable to section 24(4) that would have been payable if she had retired on attaining the age for retirement, multiplied by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;

and his or her entitlement to a contributor's pension under this Act ceases.

(8A) Where a contributor (being a contributor who has made an election under section 24(4A)) who has attained the age for retirement, has duly elected under this section and has continued in employment as an officer, the contributor shall, in lieu of the lump sum payment from the fund to which the contributor would have been entitled under subsection (5) or (6), be entitled to be paid from the fund—

State Service Superannuation Act 1972

- (a) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert a specified percentage (other than 100%) of the contributor's entitlement to a contributor's pension—
- (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 27(5A)(a)(i); or
 - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 27(5A)(a)(i); or
 - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 261 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 27(5A)(a)(ii); or
 - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 287 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 27(5A)(a)(ii); and
 - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of his or her fortnightly pension entitlement under this Act if he or she had retired on attaining the age for retirement and section 24(4A) had not been enacted multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
 - (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to that specified

State Service Superannuation Act 1972

percentage of five-sevenths of the amount of her fortnightly pension entitlement under this Act if she had retired on attaining the age for retirement and section 24(4A) had not been enacted, multiplied by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;

and the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage;

- (b) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert the whole of his or her entitlement to a contributor's pension—
- (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times the amount of his or her fortnightly pension entitlement referred to in section 27(5A)(a)(i); or
 - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times the amount of her fortnightly pension entitlement referred to in section 27(5A)(a)(i); or
 - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 261 times the amount of his or her fortnightly pension entitlement referred to in section 27(5A)(a)(ii); or
 - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 287 times the amount of her fortnightly pension entitlement referred to in section 27(5A)(a)(ii); and
 - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to five-sevenths of his or her fortnightly pension entitlement under this Act if he or she had retired on attaining the age for retirement and section 24(4A) had not been enacted multiplied by such

State Service Superannuation Act 1972

factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or

- (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to five-sevenths of the amount of her fortnightly pension entitlement under this Act if she had retired on attaining the age for retirement and section 24(4A) had not been enacted, multiplied by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;

and his or her entitlement to a contributor's pension under this Act ceases.

(8AA) Notwithstanding subsections (1) to (8A), where any of those subsections is to be applied in respect of a contributor whose length of service, expressed in years and ascertained as prescribed by section 26, is 42 years and 6 months at the least—

- (a) any factor prescribed by that subsection to be used as a multiplier for the purposes of the subsection (not being a factor to which paragraph (b) refers) shall be not less than the factor set forth in column 2 of the part of the schedule prescribed by the subsection opposite the age, in years and complete months, that was the contributor's age, in years and complete months, when the contributor's length of service (so ascertained) amounted to 42 years and 6 months;
- (b) any multiplier being 261 or 287 or a factor to be determined by the actuary not exceeding 261 or 287 prescribed by that subsection to be used for the purposes of that subsection shall not be that so prescribed but shall be—
 - (i) where the multiplier is 261 or the factor is not to exceed 261—that factor set forth in schedule 1A, part 1; or
 - (ii) where the multiplier is 287 or the factor is not to exceed 287—that factor set forth in schedule 1A, part 2;

opposite the age, in years and complete months, that was the contributor's age, in years and complete months, when the

State Service Superannuation Act 1972

contributor's length of service (so ascertained) amounted to 42 years and 6 months.

(8B) A person who is or was a contributor for category B benefits and has had less than 10 years service and who duly elects to convert the whole or a part of the person's entitlement to a contributor's pension shall be entitled to the same payment from the fund as the person would be entitled to under subsection (5), (6), (7), (8) or (8A), according to the person's circumstances, had the person been a contributor for category A benefits except that the factor by which the amount of the person's fortnightly pension entitlement is to be multiplied for the purpose of the relevant subsection shall be such factor as the actuary determines on the basis of evidence as to the person's state of health produced under subsection (12), not exceeding the factor that under the relevant subsection would have been applicable in the person's case had the person been a contributor for category A benefits.

(9) Where a contributor becomes entitled to an incapacity pension (other than a pension payable under this Act in respect of any period of leave of absence from employment as an officer without salary for longer than 2 weeks by reason of incapacity) after the passing of the *Superannuation Acts Amendment Act 1984* and while entitled to receive payment thereof duly elects under this section he or she shall be paid from the fund a sum equal to the amount that would have been payable from the fund—

- (a) had the contributor died on the date of his or her retirement from employment as an officer on the grounds of incapacity; and
- (b) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had not increased the rate of her contribution to the fund pursuant to section 24A—had the contributor increased the rate of her contribution to the fund pursuant to that section;

less the amount of pension that he or she has been paid in respect of the period subsequent to the date of his or her retirement or the date of approval of his or her retirement, whichever date is the later, to the exclusion of any other entitlement he or she might otherwise have had under this section and his or her entitlement to an incapacity pension under this Act thereupon ceases.

(9A) Subsection (9) applies whether the date from which the retirement

State Service Superannuation Act 1972

of a contributor who is retired or permitted to retire after the passing of the *Superannuation Acts Amendment Act 1987* takes effect is before or after the passing of that Act.

(10) Where a contributor became entitled to an incapacity pension (other than a pension payable under this Act in respect of any period of leave of absence from employment as an officer without salary for longer than 2 weeks by reason of incapacity) before the passing of the *Superannuation Acts Amendment Act 1984* and while entitled to receive payment thereof duly elects under this section the contributor shall be paid from the fund a sum determined by the actuary and approved by the board and the contributor's entitlement to an incapacity pension under this Act ceases.

(11) Where at the passing of the *Superannuation Acts Amendment Act 1984* a contributor who has been retired or permitted to retire from employment as an officer by reason of incapacity is not entitled to payment of an incapacity pension but subsequently becomes so entitled he or she may make an election under this section before the expiration of 3 months after he or she subsequently becomes so entitled and thereupon subsection (10) shall apply in respect of him or her.

(12) A person who is or was a contributor for category B benefits and has less than 10 years service and who duly elects to convert the whole or a part of the person's entitlement to a contributor's pension shall produce to the board evidence of his or her state of health at the time of the election satisfactory to the board and in determining the lump sum payable from the fund under this section to the person due weight shall be given to that evidence.

Endowment benefit in lieu of relict's pension

48. A male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and who on or after the passing of that Act attains the age for retirement or retires within the period of 5 years immediately preceding the day on which the contributor would attain that age and duly elects under section 47 otherwise than in respect of an incapacity pension, other than a contributor for category B benefits who has not completed 10 years service at the time of retirement or of attaining the age for retirement whichever is the earlier, is entitled, in addition to the benefits prescribed by that section, to an amount determined by the actuary

and approved by the board having regard to the period for which the contributor contributed to the fund before the passing of that Act.

Division 7A—Elections to surrender potential relicts' entitlements of pre-1984 members and married relicts' entitlements

Definitions for div 7A

48A. In this division—

“1984 Act” means the *Superannuation Acts Amendment Act 1984*.

“election day”, for a pre-1984 member or married relict, means the day the member or relict makes an election to surrender.

“election to surrender” means an election to surrender—

- (a) a potential relict's entitlement under section 48B;¹ or
- (b) a married relict's entitlement under section 48C.²

“lump sum percentage”, for a pre-1984 member, means the percentage of the member's entitlement the member received as a lump sum.

“married relict” means a person—

- (a) who—
 - (i) is the relict of a contributor who died before the passing of the 1984 Act; or
 - (ii) became the relict of a pre-1984 member before the passing of the 1984 Act; and
- (b) whose pension under this Act had ceased before the passing of the 1984 Act because the relict married or remarried after becoming the member's relict; and
- (c) who, before the commencement of this section, had not again become entitled to a pension under section 31A(6).³

¹ Section 48B (Election to surrender potential relict's entitlement)

² Section 48C (Election to surrender married relict's entitlement)

³ Section 31A (Relicts' right to substitute pension for entitlement)

“married relict’s entitlement”, for a married relict, means the fortnightly pension the relict would be entitled to under section 31A(6) if that subsection were to apply to the relict on the election day.

“potential relict”, of a pre-1984 member, means the person who, as the member’s relict, would become entitled to a benefit under this Act on the member’s death.

“potential relict’s entitlement”, for a pre-1984 member’s potential relict, means the member’s lump sum percentage of the fortnightly pension the potential relict would be entitled to under this Act if the member were to die on the election day.

“pre-1984 member” means a male former contributor or pensioner—

- (a) who attained the age for retirement or retired before the passing of the 1984 Act; and
- (b) whose pension entitlement under this Act, or part of it, was converted into a lump sum payment on an election made by the member under section 47.⁴

Election to surrender potential relict’s entitlement

48B.(1) A pre-1984 member may elect to surrender the potential relict’s entitlement of the member’s potential relict.

(2) To remove doubt, it is declared that the election may be made only if the pre-1984 member and the member’s potential relict are alive on the member’s election day.

Election to surrender married relict’s entitlement

48C. A married relict may elect to surrender the relict’s married relict’s entitlement.

Making of election to surrender

48D.(1) An election to surrender must—

⁴ Section 47 (Right of contributor to convert his pension into a lump sum)

- (a) be made in writing to the board within 6 months after the commencement of this section; and
- (b) be accompanied by the documents (including documents verified by statutory declaration) the board reasonably requires; and
- (c) if it is an election to surrender a potential relict's entitlement—be accompanied by the potential relict's written agreement to the surrender.

(2) An election to surrender is made when the documents mentioned in subsection (1) are received by the board.

Effect of surrender

48E.(1) On the making of an election to surrender a potential relict's entitlement—

- (a) the pre-1984 member making the election is entitled to be paid an amount equal to 78 times the potential relict's entitlement that would have been payable to the member's potential relict had the member's potential relict made an election under section 31A(1)⁵ for the whole of the potential relict's entitlement; and
- (b) sections 31⁶ and 31A cease to apply to the member's potential relict for the potential relict's entitlement that is surrendered.

(2) On the making of an election to surrender a married relict's entitlement, the relict—

- (a) is entitled to be paid an amount equal to 78 times the married relict's entitlement for the relict; and
- (b) is not entitled to be paid any other amount under this Act.

(3) Despite subsection (2)(b), compound interest is payable on the amount paid under subsection (1) or (2) from the election day to the day of payment at the net earning rate of the fund.

⁵ Section 31A (Relicts' right to substitute pension for entitlement)

⁶ Section 31 (Entitlement to benefit)

Application of Acts Interpretation Act 1954, s 20A, to division

48F. The *Acts Interpretation Act 1954*, section 20A,⁷ applies to this division.

Expiry of division

48G. This division expires 1 year after it commences.

Division 8—Miscellaneous**Benefits payable to certain members**

49.(1) Despite divisions 1 to 7, benefits payable from the fund for a contributor who is a relevant officer are—

- (a) for employment before 12 November 1993—the benefits calculated as at 12 November 1993; and
- (b) for employment on and after 12 November 1993—the benefits payable under divisions 1 to 7.

(2) The actuary must calculate the benefits under subsection (1)(a).

(3) However, the benefits under subsection (1)(a) must not be less than the benefits to which the member was entitled under the scheme on 11 November 1993.

(4) In this section—

“relevant officer” means a person who—

- (a) was employed by the State on 11 November 1993 under the *Miscellaneous Workers Award—State Government* at a rate of pay for not more than 30 hours a week; and
- (b) continued to be employed by the State after 11 November 1993 under the *Employees of Queensland Government Departments (Other than Public Servants) Award*.

⁷ Section 20A (Repeal does not end saving, transitional or validating effect etc.)

PART 5—FINANCIAL PROVISIONS

Cost of administration

50. Subject to appropriation by Parliament the expenses incurred in the administration of this Act and the 1958 Act shall be defrayed out of the consolidated fund until a date appointed by proclamation and thereafter out of the fund and the consolidated fund in the proportion 2:5.

Contributions to the fund by the State and by State authorities

51.(1) Subject to this section, the Treasurer on behalf of the Crown shall pay to the fund a contribution comprising an amount equal to—

- (a) five-sevenths; or
- (b) such other proportion as the Treasurer, having regard to any recommendation of the actuary under section 19(3)(f), may determine;

of each payment by way of pension or other benefit under this Act made out of the fund (not being a payment made by way of a refund of contributions, a payment under section 56 unless the Governor in Council specifically approves payment in full, a payment under section 70, and not including any payment of contributor's pension to a contributor whilst the contributor remains an officer after attaining the age for retirement).

(1AA) For the purposes of this section a payment pursuant to—

- (a) section 29(2); or
- (b) section 30(2); or
- (c) section 35(2A), being a payment of a prescribed amount as defined in section 35(2C), definition “prescribed amount”, paragraph (b); or
- (d) section 35(3), except the part thereof attributable to any additional contributions under section 24(4);

shall not be treated as a payment made by way of refund of contributions.

(1A) Subject to subsection (2) the Treasurer on behalf of the Crown shall pay to the fund a contribution comprising an amount certified by the actuary

State Service Superannuation Act 1972

as the amount of each payment by way of pension or other benefit under this Act made out of the fund that is attributable to the portion to be borne by the fund of any additional benefit arising by reason of the provisions of section 4(1), definition “service”, paragraph (c) as inserted by the *Superannuation Acts Amendment Act (No. 2) 1974*, section 4.

(1B) Notwithstanding the provisions of subsection (1), the contribution payable by the Treasurer under this section in respect of such part of any payment that would not have been payable but for section 24(4) shall be 65% of such part.

(1C) Notwithstanding the provisions of subsection (1), the contribution payable by the Treasurer under this section shall not include such part of any payment that would not have been payable but for section 24(4A) or (4B).

(1D) Notwithstanding subsection (1) and subject to subsection (2), the Treasurer on behalf of the Crown shall pay to the fund a contribution being the amount of each payment under this Act, sections 22(7), 35(1) or 35(2D) and the 1958 Act, section 20(4) made out of the fund that represents a refund of payments made by a contributor to the consolidated fund and payments under section 62B.

(1E) Notwithstanding subsection (1), the contribution of the Treasurer under this section in respect of a payment pursuant to section 35(2A), being a payment of a prescribed amount as defined in section 35(2C), definition “prescribed amount”, paragraph (b), shall be an amount equal to the additional sum referred to in section 35(2A) together with that part of the payment being interest calculated in accordance with that paragraph in respect of that additional sum.

(1F) For the purposes of subsection (1D) a contributor who, before the passing of the *Superannuation Acts Amendment Act 1989*, had made payments to the State Service Superannuation Additional Benefits Fund, which fund was abolished by that Act, shall be deemed to have made those payments to the consolidated fund.

(2) A contribution that is required by this Act to be paid to the fund by the Treasurer or that is required by the 1958 Act to be paid by the Crown—

- (a) is payable out of the consolidated fund or such other fund as the Treasurer may determine (which, to the necessary extent, is appropriated accordingly); and

- (b) shall be paid at such times and in such manner as may be prescribed.

Employers' contributions

52.(1) Upon the commencement of section 11 of the *Superannuation Acts Amendment Act 1989*—

- (a) the State Service Superannuation Additional Benefits Fund established in the Treasury is abolished;
- (b) all moneys standing to the credit of that fund shall form part of the consolidated fund, and may be dealt with accordingly, and all investments of moneys from the State Service Superannuation Additional Benefits Fund shall be deemed to be investments on account of the consolidated fund;
- (c) all earnings that thereafter accrue from time to time, or that have theretofore accrued and have not been paid, on investments referred to in paragraph (b), and, on maturity or redemption thereof, the capital moneys of such investments shall be paid into and form part of the consolidated fund, and may be dealt with accordingly.

(2) In respect of any contribution to the fund required, by this Act or the 1958 Act, to be paid by a contributor—

- (a) being one whose salary is or, where the contributor is absent from duty without salary, was immediately before the commencement of the absence payable from the loan fund or any of the trust and special funds; or
- (b) being one whose salary is or, where the contributor is absent from duty without salary, was immediately before the commencement of the absence payable from moneys other than the consolidated fund, the loan fund, or any of the trust and special funds and whose employment is with or is under the supervision or control of a person or entity prescribed by regulation;

in the case of a contributor referred to in paragraph (a), the Treasurer shall cause to be paid to the consolidated fund from the loan fund or, as the case requires, the appropriate trust and special fund, and, in the case of a contributor referred to in paragraph (b), the relevant person or entity shall

cause to be paid to the consolidated fund an amount assessed at a rate certified for the time being by the actuary to be necessary to make proper provision for payment, out of the consolidated fund of all sums payable by or on behalf of the Crown under this part or under the 1958, section 28, 69 or 85 Act in respect of every such contributor.

(3) Subsection (2) does not require payment to be made to the consolidated fund in any case where a contributor is required by this Act, section 20(7A) or 22(2A) or the 1958 Act, section 26(1A) or 26(3) and (4) to make such payment.

Accounts to be kept by the board

53.(1) The board shall keep such accounts, and prepare such annual financial statements in relation thereto, in such form and containing such particulars, as the Treasurer may direct or approve.

(2) The accounts of the board are subject to audit by the auditor-general who has, in relation thereto, all the powers conferred on the auditor-general by the *Financial Administration and Audit Act 1977* in relation to the audit of the public accounts.

PART 6—MISCELLANEOUS

Assignment of pensions

54. Subject to sections 46A and 55 pensions, benefits and payments under this Act shall not be in any way assigned, charged, taken in execution, attached, or passed by operation of law or otherwise howsoever to any person other than the beneficiary or payee, nor shall any claim be set-off against the same, and any moneys payable out of the fund on the death of an officer, beneficiary or payee shall not be assets for the payment of his or her debts or liabilities.

When fund charged with defalcations by contributors

55. If any contributor ceases employment as an officer by reason of the

contributor's dismissal for misappropriation of moneys or other property, the amount of the moneys or value of the property so misappropriated shall be a first charge upon any moneys payable under this Act from the fund by reason of such cessation of employment and may be deducted therefrom.

When officer may continue to contribute after resignation

56.(1) Where any officer or the officers included in any class of officers voluntarily resigns or resign from employment as such, the Governor in Council may approve of such officer or officers continuing to contribute after such resignation for all benefits, save (unless otherwise expressly specified by the Governor in Council) incapacity pension under this Act for which that officer or those officers respectively was or were contributing before such resignation.

(2) Subject to and in terms of the approval by the Governor in Council, an officer or every officer included in any class of officers, as the case may be, may continue to contribute for any benefit (other than incapacity pension unless otherwise expressly specified by the Governor in Council) under this Act under, subject to, and in accordance with the provisions of this Act applicable to contribution by him or her immediately prior to his or her resignation, for the benefit in question and any benefit in respect whereof he or she so continues to contribute shall, subject to subsection (4) become payable and be paid as prescribed by this Act subject to such modifications as may be specified in the approval.

(2A) However, the final average salary or the final average increase in salary of a person who continues to contribute under this section after resignation, shall be ascertained in relation to a period immediately preceding the person's resignation.

(3) In the case of an approval under subsection (1) in relation to a class of officers that class may be specified in any manner whereby it is sufficiently identified and without naming any of the officers included therein.

(4) In respect of benefits under this Act for which an officer to whom subsection (1) applies continues, pursuant to this section, to contribute under this Act (unless the Governor in Council specifically approves payment in full as prescribed by this Act of all benefits for which the officer has continued to contribute) the amount of the benefits (not including any refund of contributions or any benefit attributable to the additional rate of

contribution made under section 24(4)) payable pursuant to part 4 shall be reduced to two-sevenths of the amount which, save for this subsection, would be payable in respect thereof under this Act.

Determination of questions arising under this Act

57.(1) If a question arises as to—

- (a) whether any remuneration or emolument periodically received by an officer is to be regarded as part of the officer's salary for the purposes of this Act; or
- (b) the rate of an officer's salary as at any particular time; or
- (c) the nature or length of an officer's service;

the question shall be determined by the board.

(2) Whenever any question arises under this Act as to the incapacity of a contributor or other person who is in receipt of incapacity pension, or as to whether in any case incapacity is due to wilful action on the part of the contributor or other person concerned for the purpose of obtaining incapacity pension or other benefit, the question shall be determined by the board (whether before or after the retirement of the contributor) upon consideration of a report from a medical practitioner or medical practitioners appointed by the board.

(3) Before determining such a question as is referred to in subsection (2) adversely to the contributor or pensioner the board shall give the contributor or pensioner an opportunity to be heard, and shall consider any medical report or other evidence he or she may then submit to it.

Settlement of disputes

58.(1) Any dispute under this Act shall be determined in the first place by the board.

(1A) But any person aggrieved by a decision of the board may appeal to the Supreme Court constituted by a single judge of that court.

(2) An appeal under this section shall not lie unless it is instituted within 30 days after the giving to the person aggrieved notice of the decision appealed against, and such a notice sent by post shall, unless the contrary be

proved, be deemed to have been so given when it would have been delivered in the ordinary course of post.

(3) An appeal under this section shall be instituted by filing in the Supreme Court registry a notice of appeal.

(4) The power to make rules of the Supreme Court includes power to make rules providing and regulating practice and procedure in respect of appeals to a judge of that court under this section.

(5) Until such rules are made, or so far as such rules do not extend, the judge hearing any appeal under this section may, in the particular case, give such directions as the judge deems fit, and the directions shall, according to their tenor, have the force and effect of rules made under this section for the purposes hereof.

(6) An appeal under this section shall be by way of rehearing, and the judge hearing the same may confirm the decision of the board or uphold the appeal and make such order or orders with respect to the subject matter of the appeal as the judge deems necessary or expedient to give effect to the judge's decision upon appeal.

(7) The decision of the court shall be final and conclusive and without appeal.

(8) The judge may make such order as to costs to be paid by either party to the appeal as the judge thinks just.

(9) Any order made as to costs under subsection (8) may be enforced in the same manner as a judgment of the Supreme Court.

Unclaimed moneys

59.(1) The unclaimed moneys account continued in existence and established under the 1958 Act shall continue in existence as, and under the same name be, the unclaimed moneys account established under and for the purposes of this Act.

(2) Any moneys payable under this Act or the 1958 Act which have not been claimed within 6 months from the date on which such moneys have or may become payable, shall be placed to the credit of the unclaimed moneys account.

(3) At any time within 6 years after any moneys have (whether under this

Act or the 1958 Act) been placed to the credit of such account the board may, on proof to its satisfaction that any contributor or other person is entitled to any such moneys, direct payment thereof to that person.

(4) All moneys placed to the credit of the unclaimed moneys account in respect of which a claim is not established within 6 years after having been placed to the credit of such account shall form part of the fund, and the contributor or other person concerned shall cease to have any right or title to such moneys.

(4A) But the board may allow and pay any claim after such period of 6 years has expired upon being satisfied that special reasons exist for the allowance of the claim.

(5) If any of such moneys paid to a claimant under this section are afterwards claimed by any other person, the board shall not be responsible for the payment of the same, but such person may have recourse against the claimant to whom the board has paid moneys.

Barring of claims for compensation

60. No person shall be deemed to be entitled to any compensation by reason of any alteration in any prescribed amount of pension or other payment or of any contribution under this Act, which may lawfully be made in consequence of any actuarial investigation or otherwise.

Fund to be exempt from taxation

61.(1) The income of the fund shall not be subject to any tax imposed by any law of this State.

(2) All contributions and moneys paid to the fund under this Act and all payments out of the fund on any account whatsoever shall be exempt from any charge or duty whatsoever for or in respect of any income tax, stamp duty, probate or succession duty, or other tax or duty imposed by any law of this State.

Returns

62.(1) The Public Service Board or other person or authority by whom officers are employed or having by law supervision or control in relation to

State Service Superannuation Act 1972

officers' employment shall furnish to the board such returns and other information with respect to officers as the board at any time may require.

(2) The board may require an officer or a pensioner or a person who has made an election under section 35(2) at any time to furnish such evidence of age as the board may consider sufficient, and all other information as the board may require for the purposes of this Act.

(3) Where a person upon whom a requisition has been duly made under subsection (2) fails to comply with the requisition without excuse that in the board's opinion is reasonable, the board may—

- (a) in the case of a pensioner—suspend payment of the pensioner's pension until the requisition is complied with to the board's satisfaction; or
- (b) in any other case—withhold payment of benefits to which the person is entitled pursuant to this Act until the requisition is complied with to the board's satisfaction.

(4) Where the board has exercised a power conferred on it by subsection (3) and has given to the person concerned notice of the board's decision that the case is one to which this subsection applies, which notice, if sent by post, shall, unless the contrary be proved, be deemed to have been so given when it would have been delivered in the ordinary course of post, then—

- (a) in the case of a suspension of pension—the pensioner shall not be entitled to pension in respect of the period of suspension; or
- (b) in the case of a withholding of payment of benefits—the person concerned shall not be entitled to any benefit pursuant to this Act until the person complies with the board's requisition to the board's satisfaction.

Entitlements in respect of beneficiary who becomes an officer

63.(1) A person who—

- (a) being a contributor under this Act or the 1958 Act;
 - (i) has retired within a period of 10 years immediately preceding the day on which the person would attain the age for retirement and has thereby become entitled to any

State Service Superannuation Act 1972

payment on account of any entitlement under this Act or any benefit under the 1958 Act, other than the person's entitlement to an incapacity pension under this Act or the person's incapacity benefit under the 1958 Act; or

- (ii) has retired or has been permitted to retire on the ground of incapacity and has converted the person's entitlement to an incapacity pension under this Act or the person's incapacity benefit under the 1958 Act into a lump sum payment;

again becomes an officer; or

- (b) being a contributor under the *Police Superannuation Act 1974* (the "**1974 Act**") or the *Police Superannuation Act 1968* (the "**1968 Act**"), has retired or been retired and has thereby become entitled to any payment on account of any entitlement under the 1974 Act or any benefit under the 1968 Act, and becomes an officer; or

- (c) being a member of the Legislative Assembly, has ceased to be such a member and has thereby become entitled to any payment on account of any entitlement under the *Parliamentary Contributory Superannuation Act 1970* other than an entitlement under that Act, section 17(2), and becomes an officer;

is not obliged and shall not be permitted to contribute to the fund unless, in a case referred to in paragraph (b) or (c), within a period of 3 months after becoming an officer the person elects, by notice in writing given to the board, to become a contributor whereupon the person shall become and be a contributor in accordance with this Act on and from the date of becoming an officer but, notwithstanding any other provision of this Act, the amount of the person's entitlement under this Act or of the entitlement under this Act of any other person arising by reason of being a contributor shall be reduced by an amount determined by the actuary, having regard to the amount of the subsidy component of the payment on account of any entitlement or benefit referred to in paragraph (b) or (c).

(2) In this section—

"subsidy component", in relation to a payment, means that part of the payment that is not financed by the contributions of the contributor or, in the case of a payment under the *Parliamentary Contributory Superannuation Act 1970*, by the deductions from the salary of the

member.

Medical examinations

64.(1) Every person who on or after the commencement of this Act becomes an officer and every officer to whom section 3(b) relates shall, before being accepted as a contributor for category A benefits, furnish to the board evidence satisfactory to the board as to his or her health and physical condition.

(2) A person referred to in subsection (1) shall not contribute to the fund as a contributor for category A benefits if the board is not satisfied that the health and physical condition of that person are such as to justify being accepted as such a contributor.

(3) Notwithstanding anything to the contrary contained in this Act and subject to sections 41 and 42, where any person, officer or contributor is required by or under this Act—

- (a) to be medically examined by a medical practitioner; or
- (b) to produce any medical evidence;

then the medical examination is to be made by, or, as the case requires, medical evidence is to be obtained from such medical practitioner as the board may appoint in that behalf (whether by naming the medical practitioner or by reference to the holder for the time being of any office), and a report of the medical examination or, as the case may be, the medical evidence is to be furnished by the medical practitioner or holder of the office to the board or, if the board so specifies, then to the person or authority specified.

(4) However, where permitted by this Act and without derogating from the board's discretion to accept or to refuse to accept the result of that further medical examination or that further medical evidence, the person, officer or contributor may have a further medical examination made or, as the case requires, further medical evidence obtained from some other medical practitioner.

Conversion from category B to category A benefits in certain cases

64A. Where the death, retirement by reason of incapacity or absence on

State Service Superannuation Act 1972

sick leave without salary of a contributor for category B benefits or the reason for the lump sum payable under section 47 to a contributor for category B benefits being less than that which would have been payable to the contributor had the contributor been a contributor for category A benefits, being a contributor—

- (a) who has had less than 10 years service; and
- (b) in respect of whom medical evidence has been submitted to and accepted by the board that warrants the contributor being such a contributor;

is not, in the board's opinion, related to the reason that warrants the contributor being a contributor for category B benefits, the board may determine that benefits payable by it on account of the contributor's death, retirement or, as the case may be, absence shall be such as if the contributor had been a contributor for category A benefits, whereupon the benefits shall be payable accordingly.

Rectification of contributor's status falsely induced

64B.(1) Where a person has been accepted as a contributor for category A benefits and it subsequently appears to the board that the contributor has suppressed or failed to fully disclose information concerning the contributor's health or physical condition, the board may determine—

- (a) where the person is still a contributor—that the contributor cease to be a contributor for category A benefits and that the contributor be a contributor for category B benefits and be deemed to have been a contributor for category B benefits on and from the date of his or her acceptance as a contributor; or
- (b) where the person is no longer a contributor—that the contributor be deemed never to have been a contributor for category A benefits but to have been a contributor for category B benefits on and from the date of his or her acceptance as a contributor.

(2) Where a contributor has made an election under section 24A that has been accepted by the board and it subsequently appears to the board that she has suppressed or failed to fully disclose information concerning her health or physical condition the board may determine—

- (a) where she is still a contributor—that she cease to contribute for

State Service Superannuation Act 1972

benefits provided by additional contributions payable under section 24A and that she contribute for the benefit for which she was contributing at the time she made the election; or

- (b) where she is no longer a contributor—that she be deemed never to have made additional contributions payable under section 24A but to have always been a contributor for the benefits for which she was contributing at the time she made the election.

(3) A person in respect of whom the board's determination is made under subsection (1) shall become and be or, as the case may be, shall be deemed to have been a contributor for category B benefits according to the tenor of the board's determination.

(3A) A person in respect of whom the board's determination is made under subsection (2) shall become and be or, as the case may be, shall be deemed to have been a contributor for benefits according to the tenor of the board's determination.

(4) Where payment under this Act, by way of pension or a lump sum, has been made or, by way of pension, is being made to or on account of a person in respect of whom the board has made a determination under subsection (1) or (2) in any case in an amount to which he or she is not entitled under this Act, having regard to such determination, the board may—

- (a) recover from him or her by action in a court of competent jurisdiction as a debt due and owing to the board the difference between the payment made and the amount to which he or she would have been entitled under this Act as a contributor according to the tenor of the board's determination; and
- (b) deduct from moneys that may at any time become payable under this Act to or on account of him or her the difference between the payment made and the amount to which he or she would have been entitled under this Act as a contributor according to the tenor of the board's determination; and
- (c) in the case of a pensioner—
 - (i) order that his or her pension be cancelled forthwith (whereupon his or her entitlement to a pension under this Act shall cease) and, if he or she is no longer a contributor,

may further order—

- (A) that no other payment, to which he or she would be entitled under this Act if the further order had not been made, be made to him or her or on his or her account;
- (B) that any other such payment be made to him or her or on his or her account only to an extent determined by the board;

(whereupon his or her entitlement under this Act to any other such payment shall cease or, as the case may be, be reduced accordingly); or

- (ii) order that his or her pension be reduced forthwith to a rate determined by the board (whereupon his or her entitlement under this Act to a pension shall be reduced accordingly);

and any such order shall be given effect and complied with.

(4B) The board may also deduct interest on the amount to which the contributor was not entitled from an amount that becomes payable under this Act to or on account of the contributor at a rate decided by the board that is not more than the rate prescribed under a regulation.

(5) The provisions of this section apply in respect of a person who at the passing of the *Superannuation Acts Amendment Act 1984* has ceased to be a contributor as well as in respect of a person who at such passing is or thereafter becomes a contributor.

(6) Where a determination referred to in subsection (2)(a) has been made the contributor or, if she has died, her personal representative shall be entitled to a refund of additional contributions paid by her under section 24A accumulated at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.

Calculation of benefits based on contributions of officers

65.(1) Where in this Act provision is made for the refund of, or for benefits based wholly or in part on, an officer's contributions, those contributions include all contributions paid by the officer up to the date of attaining the age for retirement or earlier retirement or death, as the case may be, together with any contributions that the officer may be required or

permitted to pay and that are paid by the officer or on the officer's behalf, after that date, but subject to the deduction of any contributions previously refunded to the officer.

(2) Where such a provision relates to a contributor who has retired and has been re-employed, the contribution shall, subject to the express provisions of this Act, be calculated only from the date of the last re-employment of the contributor.

Discretionary powers of the board

66.(1) Where the board is satisfied, after such inquiry as it thinks necessary, that a person has lost or ceased to be entitled to a right, privilege, or benefit under this Act to which the person was otherwise entitled or might have obtained, by reason of the person being unaware of the availability of the right, privilege or benefit or of circumstances substantially beyond the person's control that prevented the person being entitled to the right, privilege or benefit, and that it is just and equitable that the person should be allowed to have the enjoyment of the right, privilege, or benefit, the board may, permit the person to exercise the right or grant to the person the privilege or benefit notwithstanding that the time prescribed for doing any action in relation thereto may have expired.

(2) The board may, in the exercise of its powers under subsection (1) impose such conditions and requirements as it may think just.

Provisions in respect of officer accidentally excluded from contributing

67.(1) Where, by reason of a mistake or an omission of an officer of a department or by reason of an accident, the name of an officer has not been communicated to the board and the officer has reached the age for retirement, or has died while still an officer without having contributed to the fund, pension is payable to or in respect of that officer in accordance with this section.

(2) Where an officer, if the officer had been allowed to contribute to the fund in accordance with this Act, would have had any right of election under this Act the Minister, on the recommendation of the board, may direct that the officer shall be deemed to have exercised the right of election to the greatest advantage of himself or herself and the officer's dependants and

pension is thereupon payable accordingly as from the date of the officer's retirement or death, as the case may be.

(3) A pension that is payable under this section is subject to the payment by the officer to the board of the contributions that would have been payable by the officer while he or she was an officer if no mistake, omission, or accident had occurred and the officer had made the election (if any) that the officer is deemed in accordance with this section to have made and of interest thereon that would have accrued to the fund had the contributions been duly paid; and the board may deduct the amount of those contributions and interest from any moneys payable to the pensioner in such manner and at such times as it may think fit.

(4) Where any mistake, omission, or accident referred to in subsection (1) is discovered before the retirement or death of the officer in respect of whom it occurred the officer is entitled to exercise, within such time not exceeding 6 months after the discovery thereof as the board may allow, any right of election to which the officer would have been entitled if the mistake, omission, or accident had not occurred, but subject to the payment by the officer to the board of the contributions that the officer would have made in that event up to the date of the officer's entry to the fund and of interest thereon that would have accrued to the fund had the contributions been duly paid.

Rates or amounts of pensions etc. to be rounded off

68. Where the rate or amount of pension under this Act, when expressed in dollars and cents, leaves a number of cents remaining, the board shall round off that rate or amount to the nearest cent and the pension is payable in terms of that rate or amount as so rounded off.

No interest on certain payments

69.(1) Interest is payable on a lump sum payment made out of the fund only if—

- (a) the payment of interest on the payment is authorised by this Act; or
- (b) the board determines that interest is payable on the payment.

(2) If the board makes a determination under subsection (1)(b), the board must also determine the rate of interest.

False declarations

70.(1) No person shall—

- (a) in a certificate, return, declaration, or other document given or sent to, or lodged with, the board by or on behalf of that person for any of the purposes of this Act—knowingly furnish information as to the person's age or the state of the person's health that is false or misleading; or
- (b) for the purposes of a medical examination required to be undergone by the person under this Act—knowingly furnish the medical practitioner by whom the examination is made with information as to the state of the person's health or the person's medical history that is false or misleading.

Maximum penalty—2 penalty units.

(2) If a person is convicted of an offence against this section the board may—

- (a) in the case of a contributor, order—
 - (i) that the contributor shall forthwith cease to be a contributor and that the contributor shall be ineligible, either permanently or for such time as the board may determine, to contribute to the fund; or
 - (ii) if the contributor's contributions have not commenced, that the contributor be ineligible to commence to contribute to the fund either permanently or for such time as the board may determine; or
- (b) in the case of a pensioner—order that his or her pension be cancelled forthwith and that no refund of the pensioner's contributions be made to the pensioner; or
- (c) in the case of a person other than a contributor or pensioner—order that that person be ineligible to commence to contribute to the fund either permanently or for such time as the board may determine.

(3) Where pursuant to this section the board orders that a contributor shall cease to be a contributor, it shall make to him or her a refund of his or her contributions accumulated from 1 July 1990 at the net earning rate of the fund compound.

(4) Where the board makes a determination under this section in respect of an officer whereby the officer is precluded from contributing to the fund for a time only, any service by the officer during that time shall be disregarded in the calculation of the officer's service for the purpose of determining the officer's entitlement, or that of a person deriving an entitlement through the officer, to pension or other benefits under this Act.

Information to contributors

70A. The board is to supply in writing to each contributor—

- (a) on becoming a contributor; and
- (b) after the close of each financial year; and
- (c) upon ceasing to be a contributor;

a statement containing such information as the board considers necessary or desirable to give that contributor reasonable knowledge of that contributor's entitlements from the fund.

Regulation making power

71.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about any of the following matters—

- (a) for contributors or persons who have retired because of incapacity—
 - (i) the cancellation or suspension of incapacity pension or other payments; and
 - (ii) conditions about the resumption of payments of contribution and additional benefits on re-employment;
- (b) if an officer may make an election and this Act does not state the time within which it may be made—the time within which it may be made and the conditions on which it may be made;

State Service Superannuation Act 1972

- (c) how benefits are paid;
- (d) how accounts are kept;
- (e) the duties of the manager and other officers appointed under this Act;
- (f) payments by contributors absent on leave without salary.

(3) A regulation may create offences and prescribe penalties of not more than 2 penalty units for each offence.

(4) To ensure the fund is, or continues to be, a complying superannuation fund under the *Superannuation Industry (Supervision) Act 1993* (Cwlth), a regulation may change the application of this Act to the fund.

(5) For subsection (4), a regulation may be given retrospective operation.

(6) A regulation made under subsection (4) expires 1 year after it is made.

Board may approve forms

72. The board may approve forms for use under this Act.

PART 7—APPLICATION OF PUBLIC SERVICE SUPERANNUATION ACT 1958

Application of Public Service Superannuation Act 1958

73.(1) The *Public Service Superannuation Act 1958* (the “said Act”) shall apply subject to this section.

(2) The said Act does not apply to or in relation to—

- (a) a person who becomes an officer on or after the commencement of this Act; or
- (b) a person who became an officer before the said commencement and who had not become a contributor to the fund under the said Act before that commencement (not being an officer who had

State Service Superannuation Act 1972

elected, or was required, to contribute to the fund but had not commenced his or her contribution before that commencement); or

- (c) the widow or any child of any person referred to in paragraph (a) or (b).

(3) Subject to subsection (5), no person shall be entitled or required or permitted to contribute for units of benefits under the said Act other than—

- (a) the units of benefits for which the person was contributing immediately before the commencement of this Act; and
- (b) units of benefits for which the person was before the commencement of this Act required to contribute to the fund by reason of an increase of the person's salary but for which on the said commencement the person had not commenced to contribute; and
- (c) units of benefits in respect of which, being thereunto authorised or entitled under the said Act before the commencement of this Act, the person makes or has made an election (whether before or after the commencement of this Act) within the time prescribed therefor by the said Act or, where no time is so prescribed, before the said commencement but for which on the said commencement he had not commenced to contribute; and
- (d) where an officer who is a contributor to the fund under the 1958 Act pursuant to part 5A, produces to the board evidence of good health satisfactory to the board, units of incapacity benefit and, in the case of a male officer, units of assurance benefit (being units for which but for this section he would have been eligible or required to contribute under the said Act, section 73D) for which the officer elects to contribute within 6 months after becoming entitled so to do but not so that the number of units of incapacity benefit, and, in the case of a male officer, units of assurance benefit respectively for which as a result of the election he will be a contributor will exceed the number of units of annuity benefit for which he was a contributor immediately before the election.

(3A) With respect to units of benefits for which an officer is entitled to elect to contribute pursuant to subsection (3)(d), the board may waive compliance with the said Act, section 25 to such extent as it deems fit in the

State Service Superannuation Act 1972

circumstances of the case and the rate of salary of the officer shall be deemed to be the rate of the officer's salary in force immediately before the commencement of this Act.

(4) Nothing in this section precludes the board from exercising its powers and functions under the said Act in relation to contribution by an officer for units of benefits under the said Act to which subsection (3)(b), (c) or (d) or (5) relates.

(5) At any time before the expiration of a period of 6 months commencing on the commencement of this Act, a continuing contributor may make any election under and in accordance with the said Act, section 22A that the continuing contributor was eligible to make immediately before the commencement of this Act and subject to the said section the continuing contributor may increase his or her contribution to the fund accordingly.

(6) Where the time prescribed by the said Act not later than which an officer may make an election under the said Act, section 22 in respect of units of benefits expired on the day immediately before the commencement of this Act, such units of benefits shall be deemed to be units of benefits in respect whereof a continuing contributor may make an election pursuant to subsection (5).

(7) The obligation to contribute to the fund under the said Act by a continuing contributor shall be in respect of—

- (a) the units of benefits and other benefits for which the continuing contributor was contributing under the said Act immediately before the commencement of this Act; and
- (b) units of benefits referred to in subsection (3)(b), (c) or (d) for which the continuing contributor commences to contribute under the said Act after the commencement of this Act; and
- (c) the units of benefits under the said Act in respect whereof the contributor increases his or her contribution to the fund pursuant to subsection (5);

and shall, subject to the said Act, be at the rates of contribution prescribed therefor by the said Act immediately before the commencement of this Act.

PART 8—SAVINGS AND TRANSITIONAL

Saving of existing orders in council

74. An order in council in force under this Act immediately before the commencement of this section continues to have effect after the commencement and is taken to be a regulation.

SCHEDULE 1A
PART 1—COMMUTATION FACTORS

section 47

Column 1		Column 2
Age in years and complete months at date of retirement		
Years	Months	Commutation factor
60	0	313
60	1	312
60	2	311
60	3	310
60	4	310
60	5	309
60	6	308
60	7	307
60	8	306
60	9	305
60	10	304
60	11	304
61	0	303
61	1	302
61	2	301
61	3	300
61	4	299
61	5	298
61	6	297
61	7	297
61	8	296
61	9	295
61	10	294
61	11	293

SCHEDULE 1A (continued)

62	0	292
62	1	291
62	2	290
62	3	290
62	4	289
62	5	288
62	6	287
62	7	286
62	8	285
62	9	284
62	10	284
62	11	283
63	0	282
63	1	281
63	2	280
63	3	279
63	4	278
63	5	277
63	6	277
63	7	276
63	8	275
63	9	274
63	10	273
63	11	272
64	0	271
64	1	270
64	2	270
64	3	269
64	4	268
64	5	267
64	6	266
64	7	265
64	8	264
64	9	264
64	10	263

SCHEDULE 1A (continued)

64	11	262
65	0	261

PART 2—COMMUTATION FACTORS

Column 1

Column 2

**Age in years and complete months
at date of retirement**

Years	Months	Commutation factor
60	0	339
60	1	338
60	2	337
60	3	337
60	4	336
60	5	335
60	6	334
60	7	333
60	8	332
60	9	331
60	10	330
60	11	330
61	0	329
61	1	328
61	2	327
61	3	326
61	4	325
61	5	324
61	6	324
61	7	323
61	8	322
61	9	321
61	10	320

SCHEDULE 1A (continued)

61	11	319
62	0	318
62	1	317
62	2	317
62	3	316
62	4	315
62	5	314
62	6	313
62	7	312
62	8	311
62	9	310
62	10	310
62	11	309
63	0	308
63	1	307
63	2	306
63	3	305
63	4	304
63	5	304
63	6	303
63	7	302
63	8	301
63	9	300
63	10	299
63	11	298
64	0	297
64	1	297
64	2	296
64	3	295
64	4	294
64	5	293
64	6	292
64	7	291
64	8	290
64	9	290
64	10	289

SCHEDULE 1A (continued)

64	11	288
65	0	287

SCHEDULE 3**FACTORS FOR BENEFITS UPON DEATH OF
CONTRIBUTORS WHO DIE BEFORE AGE 60**

section 31

Contributor's age nearest birthday at date of death	Factor
Up to 25	137
26	141
27	145
28	149
29	153
30	157
31	161
32	164
33	168
34	172
35	176
36	180
37	184
38	188
39	192
40	196
41	200
42	204
43	208
44	211
45	215
46	219
47	223
48	227
49	231
50 to 60	235

SCHEDULE 3A

**FACTORS FOR BENEFITS UPON DEATH OF
CONTRIBUTORS WHO DIE AT AGE 60 OR
BETWEEN AGES 60 AND 65**

section 31

Contributor's age in years and completed months at date of death		Factor	Contributor's age in years and completed months at date of death		Factor
Years	Months		Years	Months	
60	0	235			
	1	234	61	8	222
	2	233		9	221
	3	233		10	220
	4	232		11	220
	5	231			
	6	231			
	7	230			
	8	229	62	0	219
	9	229		1	218
	10	228		2	218
	11	227		3	217
				4	216
61	0	227		5	216
	1	226		6	215
	2	225		7	214
	3	225		8	214
	4	224		9	213
	5	224		10	212
	6	223		11	212
	7	222			

SCHEDULE 3A (continued)

63 0	211	64 0	203
1	210	1	203
2	210	2	202
3	209	3	201
4	208	4	201
5	208	5	200
6	207	6	199
7	207	7	199
8	206	8	198
9	205	9	197
10	205	10	197
11	204	11	196

SCHEDULE 3B**FACTORS FOR RELICTS OF PENSIONERS**

section 31

Relict's age nearest birthday at date of death of spouse	Factor
Up to 24	104
25 to 29	122
30 to 34	139
35 to 39	157
40 to 59	174
60 to 64	157
65 to 69	139
70 to 74	122
75 to 79	104
80 to 82	87
83 to 85	74
86 to 88	65
89 to 91	57
92 to 94	48
95 to 97	39
98 to 100	30

SCHEDULE 4
**FACTORS FOR LUMP SUM BENEFITS OF
CONTRIBUTORS WHO RETIRE BETWEEN AGES 55
AND 60**

section 30A(1)

Contributor's age in years and completed months at date of retirement		Factor	Contributor's age in years and completed months at date of retirement		Factor
Years	Months		Years	Months	
55	0	.9000			
	1	.9017	56	7	.9317
	2	.9033		8	.9333
	3	.9050		9	.9350
	4	.9067		10	.9367
	5	.9083		11	.9383
	6	.9100			
	7	.9117			
	8	.9133	57	0	.9400
	9	.9150		1	.9417
	10	.9167		2	.9433
	11	.9183		3	.9450
				4	.9467
56	0	.9200		5	.9483
	1	.9217		6	.9500
	2	.9233		7	.9517
	3	.9250		8	.9533
	4	.9267		9	.9550
	5	.9283		10	.9567
	6	.9300		11	.9583

SCHEDULE 4 (continued)

58 0 . . . . .	.9600	59 0 . . . . .	.9800
1 . . . . .	.9617	1 . . . . .	.9817
2 . . . . .	.9633	2 . . . . .	.9833
3 . . . . .	.9650	3 . . . . .	.9850
4 . . . . .	.9667	4 . . . . .	.9867
5 . . . . .	.9683	5 . . . . .	.9883
6 . . . . .	.9700	6 . . . . .	.9900
7 . . . . .	.9717	7 . . . . .	.9917
8 . . . . .	.9733	8 . . . . .	.9933
9 . . . . .	.9750	9 . . . . .	.9950
10 . . . . .	.9767	10 . . . . .	.9967
11 . . . . .	.9783	11 . . . . .	.9983

SCHEDULE 5

PART 1—MALE CONTRIBUTORS; AND FEMALE CONTRIBUTORS WHO COMMENCED ON OR AFTER 27.2.1984

section 30A(3)

Factors for converting lump sum benefits to pension benefits of contributors who retire between ages 55 and 60

Contributor's age in years and completed months at date of retirement **Factor**

Years	Months	
55	0	365
	1	364
	2	364
	3	363
	4	362
	5	361
	6	360
	7	359
	8	358
	9	357
	10	357
	11	356
56	0	355
	1	354
	2	353
	3	352
	4	351
	5	351
	6	350
	7	349

SCHEDULE 5 (continued)

	8	348
	9	347
	10	346
	11	345
57	0	344
	1	344
	2	343
	3	342
	4	341
	5	340
	6	339
	7	338
	8	337
	9	337
	10	336
	11	335
58	0	334
	1	333
	2	332
	3	331
	4	331
	5	330
	6	329
	7	328
	8	327
	9	326
	10	325
	11	324
59	0	324
	1	323
	2	322
	3	321
	4	320

SCHEDULE 5 (continued)

5	319
6	318
7	317
8	317
9	316
10	315
11	314

**PART 2—FEMALE CONTRIBUTORS WHO
COMMENCED BEFORE 27.2.1984**

**Factors for converting lump sum benefits to pension benefits of
contributors who retire between ages 55 and 60**

Contributor's age in years and completed months at date of retirement		Factor
Years	Months	
55	0	391
	1	391
	2	390
	3	389
	4	388
	5	387
	6	386
	7	385
	8	384
	9	384
	10	383
	11	382

SCHEDULE 5 (continued)

56	0	381
	1	380
	2	379
	3	378
	4	377
	5	377
	6	376
	7	375
	8	374
	9	373
	10	372
	11	371
57	0	371
	1	370
	2	369
	3	368
	4	367
	5	366
	6	365
	7	364
	8	364
	9	363
	10	362
	11	361
58	0	360
	1	359
	2	358
	3	357
	4	357
	5	356
	6	355
	7	354
	8	353
	9	352

SCHEDULE 5 (continued)

	10	351
	11	351
59	0	350
	1	349
	2	348
	3	347
	4	346
	5	345
	6	344
	7	344
	8	343
	9	342
	10	341
	11	340

ENDNOTES**1 Index to endnotes**

	Page
2 Date to which amendments incorporated	143
3 Key	144
4 List of legislation	144
5 List of annotations	146
6 Table of changed names and titles	155
7 Table of changed citations and remade laws	155
8 Table of obsolete and redundant provisions	156
9 Table of corrected minor errors	156
10 Table of renumbered provisions	156
11 Transitional and savings provisions	159
12 Provisions that have not commenced and are not incorporated into reprint .	161

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 22 December 1995. Future amendments of the State Service Superannuation Act 1972 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[x]	=	Reprint No.[x]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

State Service Superannuation Act 1972 No. 22

date of assent 19 December 1972

commenced 1 January 1973 (see s 1(2))

as amended by—

Superannuation Acts Amendment Act 1974 No. 20 pt 2

date of assent 24 April 1974

s 15 commenced 1 July 1974 (see s 15(2))

remaining provisions commenced on date of assent (see s 1(2))

Superannuation Acts Amendment Act (No. 2) 1974 No. 66 pt 2

date of assent 30 October 1974

commenced on date of assent

Superannuation Acts Amendment Act 1975 No. 26 pt 2

date of assent 15 May 1975

commenced on date of assent

Superannuation Acts Amendment Act 1976 No. 82 pt 2

date of assent 16 December 1976

s 5(a)(ii)(A), (a)(iii)(B), (b), (c), (d), (e) commenced 12 November 1976
(see s 3(2)(a))

ss 15, 16 commenced 4 January 1977 (see s 3(2)(b))

remaining provisions commenced on date of assent (see s 3(1))

Superannuation Acts Amendment Act 1978 No. 20 pt 2

date of assent 2 June 1978

ss 6(b), (c), (g)–(j), 14(a), 15, 20, 26 commenced 1 April 1978 (see s 2(2)(a))

ss 11, 12(a) commenced 1 July 1978 (see s 2(2)(b))

remaining provisions commenced on date of assent

Superannuation Acts Amendment Act 1984 No. 14 pt 2

date of assent 27 February 1984

s 30 commenced 1 September 1981 (see s 2(2))

remaining provisions commenced on date of assent (see s 2(1))

Superannuation (Public Employees Portability and Acts Amendment) Act 1985 No. 35 pt 3

date of assent 17 April 1985

commenced 4 May 1985 (proc pubd gaz 4 May 1985 p 307)

Superannuation Acts Amendment Act 1987 No. 27 pt 2

date of assent 23 April 1987

commenced on date of assent

Superannuation Acts Amendment Act 1987 (No. 2) No. 64 pt 2

date of assent 16 November 1987

ss 5, 6 commenced 27 February 1984 (see s 4(1))

ss 13–17 commenced 1 January 1988 (see s 4(2))

remaining provisions commenced on date of assent

Superannuation Acts Amendment Act 1988 No. 45 pt 2

date of assent 3 May 1988

ss 9–11 commenced 1 July 1988 (see s 5)

remaining provisions commenced on date of assent

Superannuation Acts Amendment Act 1989 No. 54 pt 2

date of assent 5 May 1989

s 11 commenced 1 July 1988 (see s 2(2))

remaining provisions commenced 12 June 1989 (proc pubd gaz 10 June 1989 p 918)

Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 sch

date of assent 25 October 1989

commenced on date of assent

Superannuation Acts (Miscellaneous Amendments) Act 1990 No. 23 pt 3

date of assent 13 June 1990

commenced 14 June 1990 (proc pubd gaz 14 June 1990 p 833)

Superannuation Acts (Miscellaneous Amendments) Act 1991 No. 11 pt 3

date of assent 15 April 1991

s 3.1 commenced on date of assent

ss 3.2–3.6, 3.9–3.13, 3.14(d)–(f), 3.15, 3.18(c), 3.19 commenced 11 May 1991
(proc pubd gaz 4 May 1991 p 73)

remaining provisions not yet proclaimed into force

Health Services Act 1991 No. 24 ss 1.1–1.2, 7.3 sch 3

date of assent 5 June 1991

ss 1.1–1.2 commenced on date of assent

remaining provisions commenced 1 July 1991 (proc pubd gaz 22 June 1991 p 974)

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 2

date of assent 17 December 1991

commenced on date of assent

Superannuation Legislation Amendment Act 1992 No. 31 pts 1, 4

date of assent 23 June 1992

commenced on date of assent

Superannuation Legislation Amendment Act 1993 No. 11 pts 1, 5 s 38 sch 1

date of assent 28 May 1993

ss 34–35 commenced 1 July 1992 (see s 2(1))

s 38 commenced 1 July 1993 (1993 SL No. 207)

remaining provisions commenced on date of assent

Transport Infrastructure Amendment Act (No. 2) 1994 No. 49 ss 1–2, 6 sch 2

date of assent 14 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 18 November 1994 (SL No. 399)

Superannuation Legislation Amendment Act 1995 No. 27 pts 1, 8

date of assent 14 June 1995

ss 1–2 commenced on date of assent

ss 37, 42 commenced 14 June 1995 (see s 2(6))

s 46 commenced 11 November 1993 (see s 2(4))

s 47 not yet proclaimed into force

remaining provisions commenced 18 August 1995 (1995 SL No. 229)

Superannuation Legislation Amendment Act (No. 2) 1995 No. 53 pts 1, 6

date of assent 22 November 1995

commenced on date of assent

Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

5 List of annotations

Note—(1) Act No. 14 of 1984 s 44(1)(a) substitutes the expression “contributor for category A benefits” for the expression “contributor for full benefits” wherever it occurs

(2) Act No. 14 of 1984 s 44(1)(b) substitutes the expression “contributor for category B benefits” for the expression “contributor for limited benefits” wherever it occurs

Short title

s 1 amd R1 (see RA s 37)

Act to comply with prescribed standards

s 2 prev s 2 amd 1984 No. 14 s 5; 1987 No. 27 s 4
om 1991 No. 97 s 3 sch 2
pres s 2 ins 1992 No. 31 s 13
om 1995 No. 27 s 38

Application of Act

s 3 amd 1974 No. 20 s 4; 1978 No. 20 s 5; 1984 No. 14 s 6; 1987 No. 27 s 5

Act not to apply to certain officers

s 3A ins 1990 No. 23 s 3.2
sub 1991 No. 11 s 3.2

Contributors may elect

s 3B ins 1991 No. 11 s 3.3
amd 1993 No. 11 s 38 sch 1

Transfer of functions or duties

s 3C ins 1991 No. 11 s 3.3
amd 1993 No. 11 s 38 sch 1

Interpretation

prov hdg amd 1987 No. 27 s 6(a)

s 4 amd 1974 No. 20 s 5(2); 1974 No. 66 s 4; 1976 No. 82 s 5(b)–(e); 1978 No. 20 s 6(g)–(k); 1984 No. 14 s 7(a)(i)–(ii), (b), (c); 1987 No. 27 s 6(c); 1987 No. 64 s 17; 1989 No. 103 s 3 sch; 1991 No. 11 s 3.4(b); 1991 No. 97 s 3 sch 2

def “**child**” amd 1976 No. 82 s 5(a)(i)
om 1978 No. 20 s 6(a)

def “**final average increase in salary**” amd 1974 No. 20 s 5(1)(a); 1976 No. 82 s 5(a)(ii); 1978 No. 20 s 6(b); 1984 No. 14 s 7(a)(iii)

def “**final average salary**” amd 1976 No. 82 s 5(a)(iii); 1978 No. 20 s 6(c)
sub 1984 No. 14 s 7(a)(iv)
amd 1987 No. 64 s 5

def “**incapacity pension**” amd 1974 No. 20 s 5(1)(b); 1976 No. 82 s 5(a)(iv); 1984 No. 14 s 7(a)(v)

def “**involuntary termination of employment**” ins 1990 No. 23 s 3.3(a)

def “**Minister**” om 1991 No. 97 s 3 sch 2

def “**net earning rate of the fund**” ins 1990 No. 23 s 3.3(b)
sub 1991 No. 11 s 3.4(a)(i)

def “**officer**” amd 1974 No. 20 s 5(1)(c); 1976 No. 82 s 5(a)(v); 1978 No. 20 s 6(d); 1984 No. 14 s 7(a)(vi); 1991 No. 11 s 3.4(a)(ii); 1991 No. 24 s 7.3 sch 3; 1993 No. 11 s 38 sch 1; 1994 No. 49 s 6 sch 2

def “**pensioner**” ins 1978 No. 20 s 6(e)

def “**relict**” ins 1984 No. 14 s 7(a)(vii)

def “**relict’s pension**” ins 1984 No. 14 s 7(a)(vii)

def “**salary**” sub 1984 No. 14 s 7(a)(viii)

def “**service**” amd 1974 No. 20 s 5(1)(d), (e); 1974 No. 66 s 4; 1987

No. 27 s 6(b)

def “**spouse**” ins 1985 No. 35 s 15

def “**the 1958 Act**” sub 1984 No. 14 s 7(a)(ix)

def “**widow**” ins 1978 No. 20 s 6(f)

om 1984 No. 14 s 7(a)(x)

def “**widow’s pension**” om 1984 No. 14 s 7(a)(x)

Ascertainment of certain final average salaries

s 4A ins 1984 No. 14 s 8
amd 1987 No. 64 s 6

Administration

s 5 om 1995 No. 27 s 39

State Service Superannuation Board

s 6 amd 1985 No. 35 s 16; 1987 No. 64 s 7
sub 1991 No. 11 s 3.5

Board to be body corporate

s 7 om 1991 No. 11 s 3.5

Chairman of the Board

s 8 om 1987 No. 64 s 8

Filling of casual vacancies

s 9 amd 1985 No. 35 s 17; 1987 No. 64 s 9
om 1991 No. 11 s 3.5

Temporary appointments

s 10 amd 1987 No. 64 s 10
om 1991 No. 11 s 3.5

Vacation of office

s 11 amd 1987 No. 64 s 11
om 1991 No. 11 s 3.5

Remuneration

s 12 sub 1995 No. 27 s 40

Proceedings of the board

s 14 amd 1987 No. 64 s 12; 1991 No. 11 s 3.6

Delegation by board

s 15 sub 1995 No. 27 s 41

The fund

s 18 amd 1976 No. 82 s 6; 1978 No. 20 s 7; 1984 No. 14 s 9; 1989 No. 54 s 4;
1991 No. 11 s 3.7

Investment of fund

s 18A ins 1995 No. 27 s 42

Triennial investigation by actuary

prov hdg amd 1990 No. 23 s 3.4(a)

s 19 amd 1987 No. 27 s 7; 1990 No. 23 s 3.4(b); 1991 No. 11 s 3.8

Obligation of officers to contribute to the fund

s 20 amd 1974 No. 20 s 6; 1976 No. 82 s 7; 1978 No. 20 s 8; 1984 No. 14 s 10; 1988 No. 45 s 6; 1989 No. 54 s 5; 1991 No. 11 s 3.9; 1993 No. 11 s 38 sch 1

Commencement and cessation of contributions

s 21 amd 1976 No. 82 s 8; 1978 No. 20 s 9; 1987 No. 27 s 8

Time and manner of paying contributions

s 22 amd 1974 No. 20 s 7; 1974 No. 66 s 8 sch 1; 1976 No. 82 s 9; 1978 No. 20 s 10; 1984 No. 14 s 11; 1987 No. 27 s 9; 1989 No. 54 s 6; 1990 No. 23 s 3.5; 1991 No. 11 s 3.10; 1991 No. 11 s 3.18(a)

Suspension of contribution

s 23 sub 1984 No. 14 s 12; 1991 No. 11 s 3.18(c)

Rates of contribution

s 24 amd 1974 No. 20 s 8; 1974 No. 66 s 5(i); 1976 No. 82 s 10; 1978 No. 20 s 11; 1985 No. 35 s 18; 1987 No. 27 s 10; 1995 No. 57 s 4 sch 1

Provision for female contributors to contribute for benefits under pt 4, divs 2 and 3

s 24A ins 1984 No. 14 s 13
amd 1987 No. 27 s 11

Further provisions re contributions

s 25 amd 1978 No. 20 s 12; 1984 No. 14 s 14; 1985 No. 35 s 19; 1988 No. 45 s 8

Calculation of service

s 26 amd 1978 No. 20 s 13; 1984 No. 14 s 15; 1987 No. 27 s 12

Rights of contributors for category A benefits

prov hdg amd 1984 No. 14 s 16(a)

s 27 amd 1974 No. 66 s 8 sch 1; 1975 No. 26 s 4; 1976 No. 82 s 11; 1978 No. 20 s 14; 1984 No. 14 s 16(b)–(c); 1987 No. 64 s 13; 1988 No. 45 s 9; 1991 No. 11 s 3.18(c)

Rights of continuing contributors for category A benefits

prov hdg amd 1984 No. 14 s 17(a)

s 28 amd 1975 No. 26 s 5; 1976 No. 82 s 12; 1978 No. 20 s 15; 1984 No. 14 s 17(b)–(c); 1987 No. 27 s 14; 1988 No. 45 s 10; 1991 No. 11 s 3.18(c)

Rights of contributors for category B benefits

prov hdg amd 1984 No. 14 s 18(a)

s 29 amd 1974 No. 20 s 9; 1974 No. 66 s 8 sch 1; 1976 No. 82 s 13; 1984 No. 14 s 18(b)–(f); 1987 No. 27 s 15; 1991 No. 11 s 3.18(b); 1991 No. 11 s 3.18(c); 1991 No. 97 s 3 sch 2

Rights of continuing contributors who are contributors for category B benefits

prov hdg amd 1984 No. 14 s 19(a)

s 30 amd 1974 No. 20 s 10; 1974 No. 66 s 8 sch 1; 1976 No. 82 s 14; 1984 No. 14 s 19(b)–(f); 1991 No. 11 s 3.18(b); 1991 No. 11 s 3.18(c)

Benefits upon retirement before age 60

s 30A ins 1987 No. 64 s 14
amd 1988 No. 45 s 11; 1991 No. 11 s 3.11

Benefits upon retrenchment, involuntary termination etc.

s 30B ins 1988 No. 45 s 12
sub 1990 No. 23 s 3.6
amd 1991 No. 11 s 3.18(a)

Construction of pension benefit formula in certain cases and transfer of funds

s 30C ins 1988 No. 45 s 12
amd 1989 No. 54 s 7; 1991 No. 11 s 3.12

Recoupment of contributions

s 30D ins 1990 No. 23 s 3.7
amd 1991 No. 11 s 3.18(a)

Minimum benefit payable

s 30E ins 1993 No. 11 s 35
amd 1995 No. 27 s 43

Division 2—Benefits upon contributor's death

div hdg sub 1984 No. 14 s 20; 1985 No. 35 s 20; 1987 No. 27 s 16

Entitlement to benefit

s 31 amd 1974 No. 20 s 11; 1976 No. 82 s 15; 1978 No. 20 s 16
sub 1984 No. 14 s 20; 1985 No. 35 s 20; 1987 No. 27 s 17; 1991 No. 11 s 3.18(a)

Relicts' right to substitute pension for entitlement

prov hdg amd 1984 No. 14 s 21(a)
s 31A ins 1978 No. 20 s 17
amd 1984 No. 14 s 21(b)–(c)
sub 1985 No. 35 s 20

Entitlement of relict of person on staff of Agent-General for Queensland

s 31B ins 1984 No. 14 s 22
sub 1985 No. 35 s 20
amd 1991 No. 11 s 3.13

Benefit for non-dependent relicts

s 31C ins 1984 No. 14 s 23
om 1985 No. 35 s 20

Child's pension—when payable

s 32 amd 1974 No. 20 s 12; 1974 No. 66 s 8 sch 1; 1976 No. 82 s 16; 1978 No. 20 s 18; 1984 No. 14 s 24; 1985 No. 35 s 22; 1987 No. 27 s 18; 1991 No. 11 s 3.18(a); 1991 No. 97 s 3 sch 2

Commencement and cessation of children's pensions

s 33 amd 1976 No. 82 s 17; 1984 No. 14 s 25; 1987 No. 27 s 19

Persons to whom a child's pension is payable

s 34 amd 1984 No. 14 s 26

Refund of contributions

s 35 amd 1974 No. 20 s 13; 1974 No. 66 s 8 sch 1; 1976 No. 82 s 18; 1978 No. 20 s 19; 1984 No. 14 s 27; 1987 No. 27 s 20; 1987 No. 64 s 17; 1988 No. 45 s 13; 1989 No. 54 s 8; 1989 No. 103 s 3 sch; 1990 No. 23 s 3.8; 1991 No. 11 ss 3.14(d)–(e), 3.18(c); 1991 No. 11 s 3.14(a)–(c), (g); 1993 No. 11 s 36

Increases in rates of benefits

s 36 amd 1974 No. 20 s 14(1); 1984 No. 14 s 28

Adjustment of pensions

s 36A ins 1974 No. 20 s 15(1)
amd 1976 No. 82 s 19; 1984 No. 14 s 29

Further adjustment of pensions

s 36B prev s 36B renum as s 36C 1987 No. 27 s 21(a)
pres s 36B ins 1987 No. 27 s 21(b)

Variation of entitlement to adjustment

s 36C pres s 36C (prev s 36B) ins 1984 No. 14 s 30
renum 1987 No. 27 s 21(a)
amd 1987 No. 27 s 22

Provision for incapacity entitlement of contributor reduced in salary by redeployment

s 40A ins 1985 No. 35 s 23

Entitlement to receive incapacity pension

s 41 prev s 41 sub 1974 No. 20 s 16
om 1974 No. 66 s 8 sch 1
pres s 41 ins 1984 No. 14 s 31
amd 1987 No. 27 s 23; 1988 No. 45 s 14; 1991 No. 11 s 3.18(a)

Proof of continued incapacity

s 42 amd 1984 No. 14 s 32

Failure of incapacity pensioner restored to health to resume employment affects entitlement

s 43 sub 1984 No. 14 s 33
amd 1990 No. 23 s 3.9; 1991 No. 11 s 3.18(a)

Incapacity pension may be suspended

prov hdg amd 1987 No. 27 s 24(a)
s 44 amd 1974 No. 66 s 8 sch 1; 1976 No. 82 s 20; 1987 No. 27 s 24(b); 1991 No. 11 s 3.18(a)

Right to prepay contributions

s 46 amd 1974 No. 20 s 17; 1987 No. 64 s 17; 1991 No. 11 s 3.18(a)

Recovery of overpayments

s 46A ins 1976 No. 82 s 21
amd 1995 No. 27 s 44

Right of contributor to convert pension into a lump sum

s 47 amd 1974 No. 66 ss 6, 8 sch 1; 1976 No. 82 s 22; 1978 No. 20 s 20; 1984 No. 14 s 34; 1987 No. 27 s 25; 1991 No. 11 s 3.11; 1991 No. 11 s 3.18(a)

Mandatory commutation

s 47A ins 1991 No. 11 s 3.15
om 1995 No. 27 s 45

Endowment benefit in lieu of relict's pension

s 48 amd 1978 No. 20 s 21
sub 1984 No. 14 s 35

Division 7A—Elections to surrender potential relicts' entitlements of pre-1984 members and married relicts' entitlements

div 7A (ss 48A–48G) ins 1995 No. 53 s 12
exp 22 November 1996 (see s 48G)
AIA s 20A applies (see s 48F)

Division 8—Miscellaneous

div hdg ins 1995 No. 27 s 46

Benefits payable to certain members

s 49 prev s 49 om 1984 No. 14 s 36
pres s 49 ins 1995 No. 27 s 46

Cost of administration

s 50 amd 1988 No. 45 s 15; 1989 No. 54 s 9

Contributions to the fund by the State and by State authorities

prov hdg amd 1991 No. 11 s 3.16(a)
s 51 amd 1974 No. 20 s 18; 1974 No. 66 s 7; 1976 No. 82 s 23; 1978 No. 20 s 22; 1987 No. 27 s 26; 1989 No. 54 s 10; 1991 No. 11 s 3.16(b)–(g)

Employers' contributions

s 52 amd 1976 No. 82 s 24; 1978 No. 20 s 23; 1984 No. 14 s 37
sub 1989 No. 54 s 11; 1993 No. 11 s 38 sch 1

Assignment of pensions

s 54 amd 1976 No. 82 s 25

When fund charged with defalcations by contributors

s 55 amd 1991 No. 11 s 3.18(a)

Settlement of disputes

s 58 om 1995 No. 27 s 47

Unclaimed moneys

s 59 amd 1991 No. 11 s 3.17
sub 1995 No. 27 s 47

Fund to be exempt from taxation

s 61 amd 1991 No. 11 s 3.18(b)

Returns

s 62 amd 1974 No. 20 s 19; 1987 No. 27 s 27

Preservation of rights of certain officers

s 62A ins 1978 No. 20 s 24
om 1985 No. 35 s 24

Payment by Board to Police Superannuation Fund

s 62B ins 1978 No. 20 s 24
om 1985 No. 35 s 24

Entitlements in respect of beneficiary who becomes an officer

prov hdg amd 1985 No. 35 s 25(a)
s 63 amd 1974 No. 20 s 20
sub 1984 No. 14 s 38
amd 1985 No. 35 s 25(b)–(c); 1987 No. 64 s 17

Medical examinations

s 64 amd 1974 No. 20 s 21; 1984 No. 14 s 39; 1988 No. 45 s 16

Conversion from category B to category A benefits in certain cases

s 64A ins 1984 No. 14 s 40

Rectification of contributor's status falsely induced

s 64B ins 1984 No. 14 s 41
amd 1990 No. 23 s 3.10; 1995 No. 27 s 48

Discretionary powers of the board

s 66 amd 1978 No. 20 s 25; 1984 No. 14 s 42

Rates or amounts of pensions etc. to be rounded off

s 68 amd 1976 No. 82 s 26

No interest on certain payments

s 69 amd 1991 No. 11 s 3.18(b)
sub 1993 No. 11 s 37

False declarations

s 70 amd 1990 No. 23 s 3.11; 1993 No. 11 s 38 sch 1; 1995 No. 27 s 49

Information to contributors

s 70A ins 1990 No. 23 s 3.12
amd 1991 No. 11 s 3.18(a); R1 (see RA s 37)

Regulation making power

s 71 sub 1995 No. 27 s 50

Board may approve forms

s 72 amd 1984 No. 14 s 43
sub 1995 No. 27 s 50

PART 7—APPLICATION OF PUBLIC SERVICE SUPERANNUATION ACT 1958

pt hdg amd R1 (see RA s 7(1)(k))

Application of Public Service Superannuation Act 1958

prov hdg sub 1991 No. 97 s 3 sch 2
s 73 amd 1974 No. 20 s 22

PART 8—SAVINGS AND TRANSITIONAL**pt hdg** ins 1993 No. 11 s 38 sch 1**Saving of existing orders in council****prov hdg** sub 1991 No. 97 s 3 sch 2**s 74** sub 1993 No. 11 s 38 sch 1**SCHEDULE I**

om 1991 No. 11 s 3.19

SCHEDULE 1A

ins 1976 No. 82 s 26

PART 1—COMMUTATION FACTORS**pt 1 hdg** amd 1984 No. 14 s 45(a)**PART 2—COMMUTATION FACTORS****pt 2 hdg** amd 1984 No. 14 s 45(b)**SCHEDULE II—AMENDMENTS OF THE PUBLIC SERVICE
SUPERANNUATION ACT 1958–1969**

om 1993 No. 11 s 38 sch 1

**SCHEDULE 3—FACTORS FOR BENEFITS UPON DEATH OF
CONTRIBUTORS WHO DIE BEFORE AGE 60****hdg** amd 1987 No. 27 s 28

ins 1985 No. 35 s 26

**SCHEDULE 3A—FACTORS FOR BENEFITS UPON DEATH OF
CONTRIBUTORS WHO DIE AT AGE 60 OR BETWEEN AGES 60
AND 65****hdg** amd 1987 No. 27 s 28

ins 1985 No. 35 s 26

SCHEDULE 3B—FACTORS FOR RELICTS OF PENSIONERS

ins 1985 No. 35 s 26

**SCHEDULE 4—FACTORS FOR LUMP SUM BENEFITS OF CONTRIBUTORS
WHO RETIRE BETWEEN AGES 55 AND 60**

ins 1987 No. 64 s 15

SCHEDULE 5

ins 1987 No. 64 s 16

6 Table of changed names and titlesTABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
board of trustees (of a rural training school)	agricultural college board	Agricultural Colleges Act 1994 s 48(3)
consolidated revenue	consolidated fund	Financial Administration and Audit Act 1977 s 112
consolidated revenue fund	consolidated fund	Financial Administration and Audit Act 1977 s 112
member of the police force	police officer	Police Service Administration Act 1990 s 11.1(1)(c) (see also s 1.4)

7 Table of changed citations and remade lawsTABLE OF CHANGED CITATIONS AND REMADE LAWS
under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Audit Act 1874	Financial Administration and Audit Act 1977	Financial Administration and Audit Act 1977 s 114
Public Service Act 1922	Public Service Management and Employment Act 1988	Public Service Management and Employment Act 1988 s 38(1)
Rural Training Schools Act 1965	Agricultural Colleges Act 1994	Agricultural Colleges Act 1994 s 48(4)
Workers' Compensation Act 1916	Workers' Compensation Act 1990	Workers' Compensation Act 1990 s 206

8 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
references included in citation of law	Acts Interpretation Act 1954 s 14H

9 Table of corrected minor errors

TABLE OF CORRECTED MINOR ERRORS under the Reprints Act 1992 s 44

Provision	Description
36A(1), def “index”	ins ‘(Cwlth)’ after ‘ <i>Census and Statistics Act 1905</i> ’

10 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 s 43

Previous	Renumbered as
4(9), 2nd sentence	4(9AA)
13(1), 2nd sentence	13(1A)
21(2), 1st unnum para	21(2)(a)
21(2), 2nd unnum para	21(2)(b)
21(2), 3rd unnum para	21(2)(c)
22(1), 2nd sentence	22(1A)
22(2A), 2nd sentence	22(2B)
22(4), 2nd sentence	22(4AA)
30A(1), def “B”, 1st unnum para	30A(1), def “B”, (a)
30A(1), def “B”, 2nd unnum para	30A(1), def “B”, (b)
30A(1), def “C”, 1st unnum para	30A(1), def “C”, (a)

State Service Superannuation Act 1972

30A(1), def "C", 2nd unnum para	30A(1), def "C", (b)
30A(2), def "C", (i)	30A(2), def "C", (a)
30A(2), def "C", (ii)	30A(2), def "C", (b)
30A(3), def "B", (i)	30A(3), def "B", (a)
30A(3), def "B", (ii)	30A(3), def "B", (b)
30A(4), 1st unnum para	30A(4)(a)
30A(4), 2nd unnum para	30A(4)(b)
30A(4), 3rd unnum para	30A(4)(c)
30D(1)	30D(a)
30D(2)	30D(b)
30D(2)(a)	30D(c)
30D(2)(b)	30D(d)
31(1)(a), 1st unnum para	31(1)(a)(i)
31(1)(a), 2nd unnum para	31(1)(a)(ii)
31(1)(b), 1st unnum para	31(1)(b)(i)
31(1)(b), 2nd unnum para	31(1)(b)(ii)
31(1)(c), 1st unnum para	31(1)(c)(i)
31(1)(c), 2nd unnum para	31(1)(c)(ii)
31(1)(c)(i)	31(1)(d)
31(1)(c)(i), def "B", 1st unnum para	31(1)(d), def "B", (i)
31(1)(c)(i), def "B", 2nd unnum para	31(1)(d), def "B", (ii)
31(1)(c)(ii)	31(1)(e)
31(1)(c)(ii), def "B", 1st unnum para	31(1)(e), def "B", (i)
31(1)(c)(ii), def "B", 2nd unnum para	31(1)(e), def "B", (ii)
31(2)(a), 1st unnum para	31(2)(a)(i)
31(2)(a), 2nd unnum para	31(2)(a)(ii)
31(2)(b), 1st unnum para	31(2)(b)(i)
31(2)(b), 2nd unnum para	31(2)(b)(ii)
31(2)(c), 1st unnum para	31(2)(c)(i)
31(2)(c), 2nd unnum para	31(2)(c)(ii)
31(2)(c), 3rd unnum para	31(2)(c)(iii)
31(2)(c), 4th unnum para	31(2)(c)(iv)
31(3), 1st unnum para	31(3)(a)
31(3), 2nd unnum para	31(3)(b)
31(8), 2nd sentence	31(9)
31(8), 3rd sentence	31(10)
31A(1)(i)	31A(1)(a)

State Service Superannuation Act 1972

31A(1)(i), 1st unnum para	31A(1)(a)(i)
31A(1)(i), 2nd unnum para	31A(1)(a)(ii)
31A(1)(i), def “B”, (i)	31A(1)(a), def “B”, (A)
31A(1)(i), def “B”, (ii)	31A(1)(a), def “B”, (B)
31A(1)(ii)	31A(1)(b)
31A(2), 1st unnum para	31A(2)(a)
31A(2), 2nd unnum para	31A(2)(b)
31A(2), 3rd unnum para	31A(2)(c)
31A(7), 2nd sentence	31A(7A)
31A(7), 2nd sentence, 1st unnum para	31A(7A)(a)
31A(7), 2nd sentence, 2nd unnum para	31A(7A)(b)
32(2)(g), 1st unnum para	32(2)(g)(i)
32(2)(g), 2nd unnum para	32(2)(g)(ii)
32(2)(g)(i)	32(2)(g)(iii)
32(2)(g)(ii)	32(2)(g)(iv)
32(2)(h)(ii), 1st unnum para	32(2)(h)(iii)
32(2)(h)(ii), 2nd unnum para	32(2)(h)(iv)
32(3)(b)(iv), proviso	32(3A)
32(3), 2nd sentence	32(3B)
35(2), 2nd sentence	35(2AA)
35(2), 2nd sentence, 1st unnum para	35(2AA)(a)
35(2), 2nd sentence, 2nd unnum para	35(2AA)(b)
35(2B), 2nd sentence	35(2BAA)
35(2C), 2nd sentence	35(2CA)
36C(2), 2nd sentence	36C(2A)
36C(2), 3rd sentence	36C(2B)
43(2), 2nd sentence	43(2A)
43(3), 2nd sentence	43(4)
47(2A), 2nd sentence	47(2AB)
47(9), 2nd sentence	47(9A)
51(1), 2nd sentence	51(1AA)
51(1), 2nd sentence, 1st unnum para	51(1AA)(a)
51(1), 2nd sentence, 2nd unnum para	51(1AA)(b)
51(1), 2nd sentence, 3rd unnum para	51(1AA)(c)
51(1), 2nd sentence, 4th unnum para	51(1AA)(d)
56(2), proviso	56(2A)
58(1), 2nd sentence	58(1A)
59(4), 2nd sentence	59(4A)
63, 1st sentence	63(1)
63, 2nd sentence	63(2)
64(3), proviso	64(4)
64B(3), 2nd sentence	64B(3A)
64B(4)(c)(i), 1st unnum para	64B(4)(c)(i)(A)

64B(4)(c)(i), 2nd unnum para 64B(4)(c)(i)(B)

11 Transitional and savings provisions

Superannuation Acts Amendment Act 1974 No. 20 s 14(2) provides—

14.(2) Paragraph (a) of subsection (1) shall be deemed to have come into operation as from the commencement of the first pay period, within the meaning of section 36A of the Principal Act as amended by this Act, that shall have occurred in the year commencing 1st January 1974 and shall have effect retrospectively accordingly.

Superannuation Acts Amendment Act (No. 2) 1974 No. 66 s 5(2) provides—

5.(2) In the case of an officer who made an election under section 24(4) of the Principal Act before the commencement of this Act and who is a contributor at that commencement the additional contribution pursuant to the election shall be adjusted by the Board as if that section as amended by this Act were in force at the date of the election.

Superannuation Acts Amendment Act 1984 No. 14 ss 10(2), 44(2) provides—

10.(2) The provisions of subsections (7), (7A), (7B) and (7C) of section 20 of the *State Service Superannuation Act 1972-1984*, provided by this Act, apply in respect of a contributor (as defined by that Act) who is absent from duty immediately before the passing of this Act and the absence is such that it is within the terms of subsection (7A) of section 20 of that Act if his absence from duty extends beyond the passing of this Act.

44.(2) Any person who before the passing of this Act was a contributor for limited benefits shall on and from the passing of this Act be taken to be and to have been a contributor for category B benefits:

Provided that the entitlements of a person who at the passing of this Act is a pensioner and was a contributor for limited benefits or of any person entitled through him shall not be affected by any amendment of the Principal Act by a provision of this Act.

Superannuation (Public Employees Portability and Acts Amendment) Act 1985 No. 35 s 21 provides—

Preservation of existing entitlements

21. Entitlements that have arisen under the Principal Act shall continue to be governed by the Principal Act as if sections 31, 31A, 31B and 31C of that Act had not been repealed by this Act and, in addition, in the application of section 31B of that Act to any such entitlement, as if the following subsection had been added to section 31B:—

“(6) Where an entitlement to a relict’s pension had by reason of the death of a contributor or pensioner has ceased after the commencement of the *Superannuation Acts Amendment Act 1984* and revived as prescribed by section 31, this section does not apply in respect of the entitlement, upon its revival, derived through the same contributor or pensioner.”.

Superannuation Acts Amendment Act 1988 No. 45 ss 4, 7 provides—

Postponed effect of certain amendment

4. Effect shall not be given to the amendment provided by section 8 in relation to the prescribed rate of contribution referred to in section 25 of the Principal Act to be paid by a contributor until the day that is the first pay day in July 1988 for that contributor and until that day section 25 of the Principal Act shall continue to be given effect as if section 8 had not been enacted.

Consequence of person’s ineligibility to contribute to Fund by reason of s. 6

7. Where by reason of the enactment of section 6 a person who is contributing to the Fund within the meaning of the *State Service Superannuation Act 1972-1988* becomes ineligible to be a contributor under that Act—

- (a) he shall thereupon cease to contribute to the fund;
- and
- (b) section 35 of that Act shall apply to him as if he were a contributor who had ceased to be an officer by reason of his resignation prior to attaining the age of 55 years.

Superannuation Acts Amendment Act 1989 No. 54 s 12 provides—

Fund's income for year ending 30 June, 1989

12.(1) Notwithstanding the provisions of section 18(5) and (6) of the Principal Act, the Fund within the meaning of the Principal Act is not entitled to payment or crediting of interest in respect of the year terminating on 30 June, 1989.

(2) In respect of a year or other period, nominated in either case by the Treasurer of Queensland, the Treasurer shall cause to be appropriated for the benefit of such Fund such investment or investments of the cash balance held in the Treasury as will generate for such Fund earnings in an amount at least equal to the sum that, but for subsection (1), would have been paid to such Fund pursuant to section 18 of the Principal Act in respect of the year terminating on 30 June, 1989.

12 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992 s 5(c)).

Superannuation Acts (Miscellaneous Amendments) Act 1991 No. 11 ss 3.7, 3.8, 3.14(a), (b), (c), (g), 3.16, 3.17, 3.18(a), (b) reads as follows—

Amendment of s. 18. The Fund

3.7 Section 18 of the Principal Act is amended by omitting subsection (3) and substituting:—

“(3) All benefits and other payments provided for in this Act and in the 1958 Act, to such extent as they are not paid under section 50 or 51 of this Act or section 28 of the 1958 Act, shall be paid from the Fund.”.

Amendment of s. 19. Triennial investigation by Actuary

3.8 Section 19 (3) of the Principal Act is amended by omitting paragraph (f) and substituting:—

“(f) whether any change should be made in the proportion of pension or other benefit under this Act required to be paid by the Crown;”.

Amendment of s. 35. Refund of contributions

3.14 Section 35 of the Principal Act is amended by—

- (a) in subsection (1), omitting “from the Fund”;
- (b) in subsection (2), omitting “from the Fund”;
- (c) in subsection (2A), omitting “in the Fund”;
- (g) in subsection (3), omitting “out of the Fund”.

Amendment of s. 51. Contributions to the Fund by the State and by State authorities

3.16 Section 51 of the Principal Act is amended by—

- (a) in the note appearing in and at the beginning of the section, omitting “**Contributions to the Fund**” and substituting “**Payments**”;
- (b) in subsection (1), omitting “to the Fund a contribution comprising” and “made out of the Fund”;
- (c) in subsection (1A), omitting “to the Fund a contribution comprising”, “made out of the Fund” and “to be borne by the Fund”;
- (d) in subsections (1B) and (1C), omitting “contribution” and substituting “amount” in each case;
- (e) in subsection (1D), omitting “to the Fund a contribution being” and “made out of the Fund”;
- (f) in subsection (1E), omitting “contribution of” and substituting “amount paid by”;
- (g) in subsection (2)—
 - (i) omitting “A contribution” and substituting “An amount”;
 - (ii) omitting “to the Fund”.

Amendment of s. 59

3.17 Section 59 (4) of the Principal Act is amended by omitting all words from and including “All moneys” to and including “of the Fund, and” and

substituting:—

“Where moneys are placed to the credit of the Unclaimed Moneys Account and a claim is not established within six years after having been so placed,”.

Miscellaneous amendments

3.18 The Principal Act is amended by—

(a) in the following sections, omitting the words “from the Fund” whenever they occur:—

22(4)	44(2)
30B	46(2)
30D(2)(b)	47(5)(a), (6)(a), (7) (twice occurring), (8) (twice occurring), (8A) (twice occurring), (8B), (9) (twice occurring), (10), (12)
31(2)(b)	
32(2)(f), (g) and (h)	
41	55
43(3) (twice occurring)	70A(1);

(b) in sections 29(2), 30(2), 61(2) and 69 omitting “out of the Fund”;

Superannuation Legislation Amendment Act 1995 No. 27 s 47 reads as follows—

Replacement of ss 58 and 59

47. Sections 58 and 59—

omit, insert—

‘Unclaimed benefits

‘**59.(1)** This section applies if a benefit payable under this Act is not claimed by a person entitled to it (the “**beneficiary**”) within 6 months after it becomes payable.

‘**(2)** The Board must keep the benefit in the fund for the beneficiary.

‘**(3)** The Board may pay a person the benefit only if the Board is satisfied the person is the beneficiary.

‘**(4)** Payment of a benefit to a person (the “**first claimant**”) under this

section releases the Board from the obligation to pay another person (a **“subsequent claimant”**) a further benefit from the fund in relation to a member.

‘**(5)** Subsection (4) does not prevent the subsequent claimant from claiming the amount of the value of the benefit from the first claimant.

‘**(6)** In this section—

“benefit” includes interest payable on the benefit at the rate decided by the Board.’.