

Queensland



# PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1970

**Reprinted as in force on 2 June 1998  
(includes amendments up to Act No. 81 of 1997)**

**Reprint No. 1D**

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# Information about this reprint

This Act is reprinted as at 2 June 1998. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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**PARLIAMENTARY CONTRIBUTORY  
SUPERANNUATION ACT 1970**

[as amended by all amendments that commenced on or before 2 June 1998]

**An Act to provide contributory superannuation benefits for members  
of the Legislative Assembly and for other purposes**

**PART 1—PRELIMINARY**

**Short title**

1. This Act may be cited as the *Parliamentary Contributory Superannuation Act 1970*.

**Application of Act**

4. This Act applies to and in relation to—

- (a) any person who is a member at the commencement of this Act and to whom the *Parliamentary Contributory Superannuation Fund Act 1948* applied immediately prior to that commencement; and
- (b) any person who becomes a member on or after the commencement of this Act; and
- (c) any widow, female dependent and child or children of any person referred to in paragraph (a) or (b).

**Definitions**

5. In this Act—

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**“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 of whose actuarial knowledge and experience the Governor in Council approves.

**“Assembly”** means the Legislative Assembly.

**“basic salary”** means the salary payable to every member.<sup>1</sup>

**“continuing member”** means a member who was entitled to salary as a member on 21 and 22 October 1983.

**“election”** means a general election or by-election for the Assembly.

**“fund”** means the Parliamentary Contributory Superannuation Fund established and kept under this Act.

**“member”** means a member of the Assembly.

**“new member”** means—

- (a) a member other than a continuing member; and
- (b) a continuing member who has elected pursuant to this Act to be treated as a new member for the purposes of this Act.

**“salary”**, of a member, means the member’s basic salary, and any additional salary payable to the member as the holder of an office in the Assembly or as Minister or Parliamentary Secretary.<sup>2</sup>

**“trustee”** means a trustee of the fund.

**“widow”** includes a widower and does not include a person who married a former member after he or she had finally ceased to be a member.

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<sup>1</sup> Salary is presently payable under the *Parliamentary Members’ Salaries Act 1988*, part 2.

<sup>2</sup> Additional salary is presently payable under the *Parliamentary Members’ Salaries Act 1988*, parts 3 (Parliamentary office holders), 4 (Ministers) and 5 (Parliamentary Secretaries). Under the *Acts Interpretation Act 1954*, section 34 a reference to the holder of a particular office includes a reference to the person for the time being acting in the office.



### **Meaning of ceasing to be a member**

**5A.** For the purposes of this Act a member shall be deemed not to have ceased to be a member by reason only of retirement by effluxion of time or the dissolution of the Assembly.

## **PART 2—ADMINISTRATION**

### **Parliamentary Contributory Superannuation Fund**

**6.(1)** There shall be kept in the Treasury a fund to be called the Parliamentary Contributory Superannuation Fund.

**(2)** Income and accretions to capital derived from the investment of the fund shall form part thereof.

### **Trustees of the fund**

**7.(1)** The trustees of the fund shall be—

- (a) the Premier; and
- (b) the speaker; and
- (c) the member of the Assembly who is recognised as the leader of the opposition.

**(2)** The trustees shall under the name and style of ‘the Trustees of the Parliamentary Contributory Superannuation Fund’ be a body corporate with perpetual succession and a common seal, capable in law of suing and being sued in its corporate name and shall, for the purposes of this Act, have power to take, hold, deal in and dispose of property of all kinds and to do and suffer all such other acts, matters and things as bodies corporate may by law do and suffer.

**(3)** All courts, judges and persons acting judicially shall take judicial notice of the respective signatures of the trustees and of the seal of the trustees affixed to any document and, until the contrary is proved, shall presume that every such signature or such seal, as the case may be, was

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duly affixed to the document.

(4) If a trustee ceases to be the holder of the office by virtue of which he or she became a trustee the trustee shall nevertheless continue to be a trustee until the successor to that office is appointed but if, having ceased to be a member by reason of the expiration of the trustee's term of office as such member, any trustee is not re-elected as a member the trustee may resign office as trustee.

### **Meetings of trustees**

8.(1) Meetings of the trustees shall be held at such times and shall be conducted in accordance with such procedure as the trustees from time to time determine.

(2) The decision of any 2 trustees at a meeting duly notified to all of the trustees shall be binding.

### **Appointment of deputies**

9.(1) A trustee may, in writing, appoint a person to be the trustee's deputy.

(2) A deputy appointed pursuant to subsection (1) shall, in the event of the absence from any cause whatsoever from any meeting of the trustees of the trustee for whom he or she is deputy, have all powers of that trustee during the trustee's absence.

### **Administration**

10.(1) The Treasurer may make available to the trustees the services of an officer of the Treasurer's department for the purpose of assisting the trustees in the administration of this Act.

(2) The cost of the administration of this Act shall be paid out of the fund.

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### **Payments into and out of the fund**

**11.(1)** Into the fund there shall—

- (a) be transferred the moneys and investments that immediately before the commencement of this Act, constituted the Parliamentary Contributory Superannuation Fund established and kept under the *Parliamentary Contributory Superannuation Fund Act 1948*; and
- (b) subject to section 15(2), be paid all deductions from the salaries of members made pursuant to part 3; and
- (c) be paid payments by the Crown provided for by this Act; and
- (d) be paid all moneys howsoever arising by reason of investment of the fund.

**(2)** Out of the fund there shall be paid all pensions, annuities and other payments provided for in this Act.

### **Investment of fund**

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

**(2)** The trustees 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 trustees or their 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 trustees’ 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.

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

**Fund's income not subject to tax**

**12A.** The income of the fund is not subject to tax imposed by an Act.

**Investigation by actuary**

**13.(1)** An investigation as to the state and sufficiency of the fund shall be made before the expiration of 3 years after the commencement of this Act, and thereafter periodically so that there shall not be a period longer than 3 years between successive such investigations.

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

(3) The actuary shall report to the trustees the result of the actuary's investigations and the trustees may act as they deem advisable with respect to any recommendation made by the actuary in such report.

**Accounts and audit**

**14.(1)** The trustees shall keep complete and proper accounts of all their financial transactions.

(2) In each financial year the accounts of the trustees shall be audited by the auditor-general and copies of the accounts shall be laid before the Assembly.

## **PART 3—CONTRIBUTIONS, BENEFITS AND PAYMENTS**

### **Deductions from salaries of members**

**15.(1)** From each instalment of salary paid to a member or person who, having ceased to be a member, is in receipt of salary (commencing in the case of persons who are members at the date of commencement of this Act with the first such instalment made after that date) there shall be deducted an amount equal to  $11\frac{1}{2}\%$  of the gross amount of the instalment before any deductions.

**(2)** Where a member is over 65 years, the deduction from the salary of the member required to be made under subsection (1) shall be paid to the Treasurer unless—

- (a) the member was at least 60 years on 1 July 1990; and
- (b) the deduction is made before the member reaches 70 years.

### **Contribution by Crown**

**16.(1)** The Treasurer, on behalf of the Crown, shall pay to the fund a contribution of an amount equal to such proportion as the Treasurer, having regard to any recommendation of the actuary in that behalf, may determine, or, in the absence of any such determination, five-sevenths, of each payment by way of pension or other benefit under this Act made out of the fund.

**(2)** Payments to be made under this Act by the Treasurer into the fund shall be paid from the consolidated fund which is hereby appropriated accordingly.

### **Election to be treated as new member**

**16A.** A person who is a continuing member may, within 3 months after the passing of the *Superannuation Acts Amendment Act 1984*, elect by notice in writing served on the trustees to be treated as a new member for the purposes of this Act whereupon for the purposes of the application of

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this Act to that person or to any widow, female dependant or child of that person it shall be deemed—

- (a) that that person is or, as the case may be, was a new member; and
- (b) that that person had thereby ceased to be a continuing member.

### **Members' superannuation benefit**

**17.(1)** Subject to this Act a person who has received salary as a member (either after or partly before and partly after the commencement of this Act)—

- (a) for an aggregate period of 11 years or more; or
- (b) for an aggregate period of 8 years or more and ceases to be a member as the result of defeat at an election or, being a representative of a recognised political party, as the result of not standing for re-election by reason that such party has not selected the person to so stand or as the result of resignation for, or of not seeking re-election owing to, good and sufficient reasons which satisfy the trustees;

shall, on ceasing to be a member and to be entitled to payment of salary, be entitled to be paid out of the fund an annual pension at the rate ascertained in accordance with the formula—

$$A \times \frac{B}{C}.$$

**(1A)** In subsection (1)—

“**A**” means an amount determined by multiplying the basic salary in force immediately prior to the time at which he or she ceased to be a member by the value—

$$\frac{.5 + [.025 \times (t - 96)]}{12}$$

the symbol ‘t’ having a value of 240 or a less number, being the number of complete months during which the member received salary as a member.

“**B**” means the total salary received by that person.

“**C**” means the total basic salary in respect of the period of service of that

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person in the Assembly.

(1B) However, if the person has received salary as a member for an aggregate period of more than 20 years and the number worked out under subsections (1) and (1A) by dividing factor B by factor C (the “**actual number**”) is less than the highest number that would have been worked out under the subsections by dividing factor B by factor C had the person ceased to be a member at any time after completing 20 years service in the Assembly, the actual number is taken to be the highest number.

(2) Subject to subsection (4), a person who—

- (a) ceases to be a member (other than because of death); and
- (b) is not entitled to a pension under this Act;

is entitled—

- (c) if the person ceases to be a member because of a result mentioned in subsection (1)(b)—to an amount equivalent to  $3\frac{1}{3}$  times the relevant deductions; or
- (d) if paragraph (c) does not apply—to an amount equivalent to  $2\frac{1}{6}$  times the relevant deductions.

(3) Subsection (3A) applies in relation to—

- (a) a member who has died while serving as a member and in respect of whom no entitlement under section 20, 20B, 21 or 22 has arisen; and
- (b) a former member who has died and to whom section 18(11) would have applied had the member not died but had ceased to be a person referred to in that section.

(3A) Subject to this Act, the legal personal representative of a member or former member in relation to whom this subsection applies or other person approved by the trustees shall be entitled to be paid—

- (a) in the case of a member—a sum in accordance with the formula for A being the formula—
  - (i) in section 20(a), where the member had not served for an aggregate period of 8 years; or
  - (ii) in section 20(b), where the member had served for an

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aggregate period of 8 years; or

- (b) in the case of a former member—a sum in accordance with the formula in section 20(c) except that, for the purposes of this paragraph, the factor E represents a factor determined by an actuary and approved by the trustees having regard to the average age, at nearest birthday, of widows (be they female or male, as the case requires) of persons whose age, at nearest birthday, was or would have been that, at nearest birthday, of the former member at the date of the member's death.

(4) If—

- (a) a payment has been made to a person under subsection (2); and  
(b) the person becomes entitled to a pension under subsection (1) or section 19;

then—

- (c) the pension must be suspended until the aggregate of the pension that would have been paid equals the payment escalated to an amount determined by an actuary; or  
(d) if the person elects to convert the pension to a lump sum entitlement—the entitlement must be reduced by the payment escalated to an amount determined by an actuary.

(5) In this section—

**“relevant deductions”** means the amount of deductions made under this Act from the person's salary in respect of the person's continuous service to the day the person ceased to be a member.

### **Right to convert entitlement to lump sum entitlement**

**18.(1)** Notwithstanding anything in this Act a former member who is entitled to a pension under section 17 and who is under the age of 75 years at the time of ceasing to be a member may within the period of 3 months after ceasing to be a member, elect by notice in writing served on the trustees to convert the whole or any part of the member's pension entitlement to a lump sum payment determined in accordance with subsection (2).



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(2) A lump sum payment under subsection (1) shall be—

- (a) in the case of a person under the age of 71 years on the date on which the person became entitled to a pension under section 17—the amount of the annual pension entitlement in respect of which the election is made, multiplied by 10;
- (b) in the case of a person who is 71 years or over on the date on which the person became entitled to a pension under section 17—the amount of the annual pension entitlement in respect of which the election is made multiplied by 10 less half of the difference between the number of years of the person's age on the said date and 70.

(3) A former member who makes an election under subsection (1) shall be entitled to receive a lump sum payment calculated under subsection (2) less the amount of pension that the former member has been paid or, where the election has been made in respect of part only of the pension entitlement, less an amount that bears to that amount of pension the proportion that the part of the pension entitlement in respect of which the election was made bears to the whole of the pension entitlement and from the date of payment of that lump sum the annual pension entitlement of that former member shall be reduced by the amount of annual pension entitlement in respect of which the election was made.

(4) The provisions of this section do not apply to a person who is entitled to a pension under section 19.

(5) Where section 23 applies to a former member the part of the former member's pension entitlement which the former member may elect to convert under this section shall be reduced by the amount that the former member's annual pension is reduced pursuant to section 23.

(6) Notwithstanding anything in this section, where the trustees are of opinion that, but for an election under subsection (1), a member would become, or but for the provisions of section 24(2) would become, a person to whom section 24(1)(a), (b) or (c) relates within a period of 12 months after the commencement of the member's entitlement to a pension under section 17, such an election by that member shall be deferred for such period not exceeding 12 months as the trustees may determine.

(7) The trustees may at any time reduce the period of deferment of an

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election under subsection (6).

**(8)** During the period of deferment of an election under subsection (6), the former member is entitled to payment of the former member's annual pension entitlement under section 17.

**(9)** If during the period of deferment of his or her election, a former member who made the election becomes a person to whom section 24(1)(a), (b) or (c) relates, the former member shall be deemed not to have made the election under this section and the former member shall not be entitled to payment of any lump sum thereunder except where being a person to whom section 24(1)(c) relates the appointment to the office or place of profit in question was made after the former member last ceased to be a member.

**(10)** Where during the period of deferment of an election under this section the former member by whom the election was made does not become a person to whom section 24(1)(a), (b) or (c) relates or having become such a person section 24(1) is deemed not to apply to or in relation to the former member, the lump sum that would have been payable under subsection (2) but for the deferment less in the case of an election to convert the whole of the former member's pension entitlement the amount paid to the former member pursuant to subsection (8) or, in the case of an election to convert part only of the pension entitlement, the amount that bears to the amount paid to the former member pursuant to subsection (8) the same proportion as the part in respect of which the election is made bears to the whole of the pension entitlement, shall become payable to the former member.

**(11)** Where under subsection (9) an election made by a former member under subsection (1) has been deemed not to have been made or a former member not having made such an election becomes within a period of 3 months after ceasing to be a member a person in relation to whom the consequences referred to in section 24(1) are applicable, the former member may, on ceasing to be a person in relation to whom the consequences referred to in section 24(1) are applicable, elect to convert the whole or any part of the pension entitlement under section 17 to a lump sum payment and the provisions of subsections (1) to (10) as modified in accordance with subsection (12) apply with respect to the election and the payment of a lump sum thereunder.

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(12) With respect to an election under subsection (11) and payment of a lump sum thereunder subsections (1) to (10) shall apply subject to the following modifications—

- (a) in subsection (1)—
  - (i) for the words ‘ceasing to be a member’ (wherever occurring) substitute the words ‘ceasing to be a person in relation to whom the consequences referred to in section 24(1) are applicable’; and
  - (ii) insert, after the words ‘the pension entitlement’ the words ‘at the time of ceasing to be a member’;
- (b) in subsection (2)—
  - (i) for the words ‘became entitled to a pension under section 17’ (wherever occurring) substitute the words ‘ceased to be a person in relation to whom the consequences referred to in section 24(1) are applicable’;
  - (ii) add to the subsection the words ‘increased in the same proportion as that person’s rate of pension is increased, or would but for the election have been increased, under sections 25 and 25A at the date on which the election is made, less in the case of an election to convert the whole of the person’s pension entitlement, the amount of pension paid to the former member pursuant to this Act or, in the case of an election to convert part only of the pension entitlement, the amount that bears to the amount of pension paid to the former member the same proportion as the part in respect of which the election is made bears to the whole of the pension entitlement’;
- (c) in subsections (2), (3) and (6) for the words ‘subsection (1)’ substitute the words ‘subsection (11)’;
- (d) in subsection (6)—
  - (i) for the word ‘member’ (wherever occurring) substitute the words ‘former member’; and
  - (ii) for the words ‘the commencement of the member’s entitlement to a pension under section 17’ substitute the

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words 'last ceasing to be a person in relation to whom the consequences referred to in section 24(1) are applicable';

- (e) in subsection (8), add, after the words 'section 17', the words 'and section 25';
- (f) in subsection (10) for the words 'subsection (2)' substitute the words 'subsection (11)'.

### **Pension on retirement on ground of ill health**

**19.(1)** A person who becomes a member after the commencement of this Act may furnish to the satisfaction of the trustees a certificate of a legally qualified medical practitioner who has been approved by the trustees certifying that the member is in a state of good health.

**(1A)** Where in accordance with the *Superannuation (Public Employees Portability and Acts Amendment) Act 1985* a transfer value is received by the trustees in relation to a member and the trustees or manager (howsoever described) of the superannuation scheme from which the transfer value is paid certify as to the member's state of health for benefit purposes under that scheme, the trustees may, for the purposes of the Act, accept that state of health as the member's state of health for the purposes of this Act.

**(2)** Where a member who has furnished a certificate pursuant to subsection (1) or (1A) or where a person who was a member at the commencement of this Act satisfies the trustees that the person has ceased to be a member because the person has been rendered incapable of being a member by reason of ill health he or she shall, subject to subsection (3) and provided the person does not qualify for pension entitlement under section 17, be entitled to a pension calculated in accordance with the formula specified in section 17(1).

**(3)** A person who applies to the trustees under this section shall provide the trustees with such medical reports and other evidence as they may require.

**(4)** Where a member, having failed to comply with subsections (1) or (1A), retires on the ground of ill health occasioned by accident and applies to the trustees, the trustees may, notwithstanding the failure to comply with subsections (1) or (1A), determine that that person is entitled to a pension

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calculated in accordance with the formula specified in section 17(1).

(5) Despite section 17(1), the minimum amount of pension payable to a member under this section is 50% of the member's basic salary.

### **Right to convert s 19 entitlement to lump sum entitlement**

**19A.(1)** A person who was a new member and is entitled to a pension under section 19 may within the period of 6 months after ceasing to be a member elect by notice in writing served on the trustees to convert the whole or any part of the person's pension entitlement to a lump sum payment determined in accordance with subsection (2).

(1A) Such election shall be effective only if in the trustees' opinion the elector is medically competent to make the election.

(2) A lump sum payment under subsection (1) shall be the amount of the annual pension entitlement in respect of which the election is made multiplied by 9.

(3) A person who makes an effective election under subsection (1) shall be entitled to receive a lump sum payment calculated in accordance with subsection (2) less the amount of pension that the person has been paid or, where the election has been made in respect of part only of the pension entitlement, less an amount that bears to that amount of pension the proportion that the part of the pension entitlement in respect of which the election was made bears to the whole of the pension entitlement and from the date of payment of that lump sum the annual pension entitlement of that person shall be reduced by the amount of annual pension entitlement in respect of which the election was made.

### **Benefit of widows of members other than continuing members**

**20.** The widow of a member or former member (other than the widow of a continuing member, a former continuing member or a former new member who had converted the whole of the pension entitlement to a lump sum) is entitled to payment of a sum—

- (a) in the case of the widow of a new member who has not served for an aggregate period of 8 years—in accordance with whichever

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of the following formulae, for A or F, yields the greater amount—

$$A = .375 \times B \times C \times \frac{D}{E}$$

where—

“A” means the amount payable.

“B” means the value—

- (a) 10, if the member’s age at death is less than 66 years;
- (b) 10 less half the difference between the member’s age and 65, if the member’s age at death is 66 years or more but less than 75 years;
- (c) zero, if the member’s age at death is 75 years or more.

“C” means the basic salary payable at the date of the member’s death.

“D” means the total salary received by the member.

“E” means the total basic salary in respect of the period of service of the member in the Assembly.

$$F = G \times H$$

where—

“F” means the amount payable.

“G” means 40% of the basic salary payable at the date of the member’s death.

“H” means the factor set forth in schedule 2 opposite the age at nearest birthday of the widow at the date of the member’s death.

- (b) in the case of the widow of a new member who has served for an aggregate period of 8 years or more—in accordance with whichever of the following formulae, for A or F, yields the greater amount—

$$A = \frac{3}{4} \times I \times B \times C \times \frac{D}{E}$$

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where—

“**A**” means the amount payable.

“**B**”, “**C**”, “**D**” and “**E**” means respectively the same values as are ascribed to them in paragraph (a).

“**T**” means the value—

$$.5 + \left[ \frac{.025}{12} \times (t - 96) \right]$$

the symbol ‘t’ having a value of 240 or a less number, being the number of complete months during which the member received salary as a member prior to death.

$$F = G \times H$$

where—

“**F**” means the amount payable.

“**G**” means either—

(a)  $\frac{2}{3} \times I \times C \times \frac{D}{E}$ ; or

(b)  $.4 \times C$ ;

whichever yields the greater value.

“**T**”, “**C**”, “**D**” and “**E**” mean respectively the same values as are ascribed to them in this paragraph.

“**H**” means the factor set forth in schedule 2 opposite the age at nearest birthday of the widow at the date of the member’s death.

(c) in the case of the widow of a former new member who was or but for the application of section 24 would have been in receipt of a pension immediately before the member’s death—in accordance with the formula—

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

where—

“**A**” means the amount payable.

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“**B**” means—

- (a) two-thirds of the pension that became or but for the application of section 24 would have become payable to the former member when the former member ceased to be a member; or
- (b) 40% of the basic salary at the time when the former member ceased to be a member;

whichever is the greater;

however, if the former member had, pursuant to section 18 or 19A, converted a part of the pension entitlement to a lump sum payment such amount shall be reduced by the proportion that the part in respect of which the election to convert was made bears to the whole of the former member’s pension entitlement.

“**C**” means the annual amount of the pension that was payable under this Act to the person through whom the widow derives the entitlement immediately before the person’s death or, where that person had made an election under section 18, 19A or 24 applied to the person, that would have been payable under this Act to that person immediately before the person’s death but for the election or the application of section 24.

“**D**” means the annual amount of the pension (being the pension to which definition “**C**” refers) that was payable or, as the case may be, would have been payable under this Act to the person through whom the widow derives the entitlement on that person ceasing to be a member.

“**E**” means the factor set forth in schedule 2 opposite the age at nearest birthday of the widow as at the date of the former member’s death.

- (d) in the case of the widow of a former member who ceased to be a member prior to 22 October 1983 and immediately before the former member’s death, was entitled to a pension or would have been entitled to a pension but for an election under section 18 or the application of section 24—in accordance with the formula—

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

where—



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“A” means the amount payable.

“B” means—

- (a) five-eighths of the pension that became payable to the former member when the former member ceased to be a member; or
- (b) 40% of the basic salary at the time when the former member ceased to be a member;

whichever is the greater.

“C” means the annual amount of the pension that was payable under this Act to the person through whom the widow derives the entitlement immediately before the person’s death or, where that person had made an election under section 18 or 24 applied to the person, that would have been payable under this Act to that person immediately before the person’s death but for the election or the application of section 24.

“D” means the annual amount of the pension (being the pension to which definition “C” refers) that was payable or, as the case may be, would have been payable under this Act to the person through whom the widow derives the entitlement on that person ceasing to be a member.

“E” means the factor set forth in schedule 2 opposite the age at nearest birthday of the widow as at the date of the former member’s death.

### **Widow’s right to substitute pension for entitlement**

**20A.(1)** The widow of a member or former member (other than the widow of a continuing member, a former continuing member, or a former new member who had converted the whole of the pension entitlement to a lump sum) may elect not to receive the sum payable to a widow pursuant to section 20 but to receive in lieu a pension on and from the day following the date of the member’s or former member’s death until the widow’s death or remarriage.

**(2)** The rate of widow’s pension payable shall be calculated—

- (a) in the case of the widow of a new member who has not served for an aggregate period of 8 years—in accordance with the formula—

$$P = B \times C$$

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where—

“**B**” means 40% of the basic salary payable at the date of the member’s death.

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

“**P**” means the annual amount of widow’s pension.

- (b) in the case of the widow of a new member who has served for an aggregate period of 8 years or more—in accordance with the formula—

$$\mathbf{P = B \times C}$$

where—

“**B**” means either—

- (a) two-thirds of the pension that would have become payable to the member if the member had ceased to be a member on the date of the member’s death and had been entitled to a pension under section 17; or
- (b) 40% of the basic salary payable at the date of the member’s death;

whichever is the greater.

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

“**P**” means the annual amount of widow’s pension.

- (c) in the case of the widow of a former new member who was or but for the application of section 24 would have been in receipt of a pension immediately before the former member’s death—in accordance with the formula—

$$\mathbf{P = B \times \frac{C}{D} \times E}$$

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where—

“**B**” means—

- (a) two-thirds of the pension that became or but for the application of section 24 would have become payable to the former member when the former member ceased to be a member; or
- (b) 40% of the basic salary at the time when the former member ceased to be a member;

whichever is the greater;

however, if the former member had, pursuant to section 18 or 19A, converted a part of the pension entitlement to a lump sum payment such amount shall be reduced by the proportion that the part in respect of which the election to convert was made bears to the whole of the former member’s pension entitlement.

“**C**” means the annual amount of the pension that was payable under this Act to the person through whom the widow derives the entitlement immediately before the person’s death or, where that person had made an election under section 18, 19A or 24 applied to the person, that would have been payable under this Act to that person immediately before the person’s death but for the election or the application of section 24.

“**D**” means the annual amount of the pension (being the pension to which definition “**C**” refers) that was payable or, as the case may be, would have been payable under this Act to the person through whom the widow derives the entitlement on that person ceasing to be a member.

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

“**P**” means the annual amount of widow’s pension.

- (d) in the case of the widow of a former member who ceased to be a member before 22 October 1983 and who immediately before the former member’s death was entitled to a pension or would have been entitled to a pension but for an election under section 18 or

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the application of section 24—in accordance with the formula—

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

where—

“**B**” means the sum to which the widow is entitled pursuant to section 20 or, where the election relates to part only of that sum, the value of that part.

“**C**” means the factor set forth in schedule 2 opposite the age at nearest birthday of the widow as at the date of the former member’s death.

“**P**” means the annual amount of widow’s pension.

(3) 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 sum to the widow arises;
- (c) shall specify the percentage of the amount of entitlement in respect of which the elector desires to substitute a widow’s pension.

(4) This section does not apply to the widow of a deceased new member (other than a continuing member who has elected to be treated as a new member) unless in the trustees’ opinion the widow was wholly financially dependent upon the member immediately before the member’s death.

(5) For the purposes of subsection (4) a widow shall be taken to be wholly financially dependent upon a member notwithstanding that the widow is in receipt of an income that in the trustees’ opinion is insufficient to maintain for the widow a reasonable standard of living.

### **Pension for widow of continuing member**

**20B.(1)** Upon the death of a former continuing member (other than a continuing member who has elected to be treated as a new member) who immediately before his or her death was in receipt of, or who, if the former continuing member had not, pursuant to section 18, converted the whole of his or her pension entitlement to a lump sum or if section 24 had not applied to the former continuing member, would have been entitled to

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receive, a pension under the provisions of this part the widow of that person shall until death or remarriage be entitled to an annual pension at the rate of—

- (a) five-eighths of the pension that became payable to the former member when the former member ceased to be a member or, if the former member had pursuant to section 18 converted the whole or part of the pension entitlement to a lump sum payment, five-eighths of the pension that would have been payable to the former member when the former member ceased to be a member if the former member had not so converted the whole or part of the pension entitlement; or
- (b) 40% of the basic salary at the time when the former member ceased to be a member;

whichever is greater, increased by the fraction—

$$\frac{\mathbf{A}}{\mathbf{B}}$$

where—

“**A**” means the annual amount of pension that was payable under this Act to the person through whom the widow derives the entitlement immediately before the person’s death or, where that person had made an election under section 18 or 24 applied to the person, that would have been payable under this Act to that person immediately before the person’s death but for the election or the application of section 24.

“**B**” means the annual amount of the pension (being the pension to which definition “A” refers) that was payable or, as the case may be, would have been payable under this Act to the person through whom the widow derives the entitlement on that person ceasing to be a member.

(2) Upon the death of a continuing member (other than a continuing member who has elected to be treated as a new member) who has served for an aggregate period of 8 years or more the widow of that person shall until death or remarriage be entitled to an annual pension at the rate of—

- (a) five-eighths of the pension that would have become payable to that person if the person had ceased to be a member on the date of the person’s death and had been entitled to a pension under

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section 17; or

(b) 40% of the basic salary payable at the date of the person's death; whichever is greater.

(3) Upon the death of a continuing member (other than a continuing member who has elected to be treated as a new member) before the continuing member has served for an aggregate period of 8 years the widow of that person shall until death or remarriage be entitled to a pension at the rate of 40% of the basic salary at the time of the continuing member's death.

### **Provisions applicable to widow's pension**

**20C.(1)** Where a person who as a widow is entitled to a widow's pension remarries 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 the widow is, in the trustees' opinion, likely to suffer hardship if the benefit prescribed by this subsection is not granted to the widow;

the widow shall be entitled, until death or further remarriage to an annual pension on and from the occurrence of the event referred to in paragraph (a) or (b) (whichever is relevant to the case), at the same rate as that at which the pension would have been payable had there been no remarriage.

(2) A widow who having remarried again becomes widowed shall not be entitled to a pension pursuant to subsection (1) if a sum becomes payable to the widow under section 20 in the event of her or his so becoming widowed unless the widow elects as prescribed to forgo entitlement to that sum.

(3) An election under subsection (2)—

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

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## **Payments to children**

**21.(1)** Subject to this section, on the death—

- (a) of a person receiving, or of a person (being a member other than a new member) who if the person had not pursuant to section 18 converted the whole of the person's pension entitlement to a lump sum would have been entitled to receive, a pension under section 17 or 19; or
- (b) of a member;

leaving any child or children under the age of 16, or where the trustees are satisfied that he or she is or they are receiving full-time education at a school, college or university 25 years, the trustees may, subject to this section, make from the fund payments in respect of the child or children.

**(2)** Subject to subsection (3), a payment from the fund under subsection (1)—

- (a) where the widow of the person through whom the child's benefit is derived is living—shall be at the rate of \$50 per fortnight, which shall be adjusted in accordance with the cost of living adjustment provided for in section 25A from and including the first pay-period that occurs wholly in August 1987;
- (b) in a case other than one to which paragraph (a) applies—where the person through whom the child's benefit is derived was a member at the date of the person's death—
  - (i) in the case of payment for the benefit of 1 child only—shall be at the rate of pension under this Act (including any increase in the rate pursuant to this Act) that would be payable to the widow of that person if the widow were living and entitled to such a pension; or
  - (ii) in the case of payment for the benefit of 2 or more children—shall be at the rate of pension under this Act (including any increase in the rate pursuant to this Act) that would have been payable to that person, being a person who had served as a member for an aggregate period of 11 years or more, had the person ceased to be a member, other than by reason of death, on the date of the person's death; or

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shall be at the rate of pension under this Act (including any increase in the rate pursuant to this Act) that would have been payable to that person, being a person who had served as a member for less than an aggregate period of 11 years, had the person ceased to be a member by reason of ill health on the date of the person's death;

- (c) in a case other than one to which paragraph (a) applies—where the person through whom the child's benefit is derived had ceased to be a member before the date of the person's death—
  - (i) in the case of payment for the benefit of 1 child only—shall be at the rate of pension under this Act (including any increase in the rate pursuant to this Act) that would be payable to the widow of that person if the widow were living and entitled to such a pension;
  - (ii) in the case of payment for the benefit of 2 or more children—
    - (A) where the person through whom the child's benefit is derived had been a new member—shall be at the rate of pension under this Act (including any increase in the rate pursuant to this Act) that was payable to that person at the date of the person's death;
    - (B) where the person through whom the child's benefit is derived had been a member other than a new member—shall be at the rate of pension under this Act (including any increase in the rate pursuant to this Act) that was payable to that person at the date of the person's death or, if the person had converted, pursuant to section 18, the whole or part of the person's pension entitlement to a lump sum, that would have been payable to that person at the date of the death if the person had not so converted.

**(3)** Where by reason of the death of a member or a former member a payment is to be made under subsection (1) for the benefit of 2 or more children it shall be made for their benefit in equal shares.

**(3A)** Where by reason of the death of a member the only benefit derived



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through the member is a child's benefit under subsection (1) arising on or after the passing of the *Superannuation Acts Amendment Act 1987* and the amount of benefit payable in respect of the child or, where there are more than 1 child who derive the benefit, 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 benefit arose) is less than the amount that would have been payable under section 20 to the widow of the member had the member left a widow upon the member's death, there may be paid to such persons as are approved by the trustees, in equal shares if more than 1, the difference between the 2 amounts hereinbefore referred to in this subsection.

(4) Payment from the fund under this section shall not be made in respect of a child or children the issue of a marriage contracted by a person after the person had finally ceased to be a member.

(5) Payment under this section in respect of any particular child or children may be made as determined from time to time by the trustees to the widow of the former member, to the guardian or, if deemed necessary or expedient by the trustees for the better maintenance, support or education of such child or children, in whole or in part to such person as the trustees determine.

(6) The trustees shall not be under any obligation or duty to inquire into or see to the proper application of any moneys paid from the fund under this section.

### **Endowment benefit to new members who were continuing members**

**22A.** A continuing member who has elected pursuant to this Act to be treated as a new member and who has pursuant to section 18 converted the whole or part of the pension entitlement to a lump sum payment is entitled, in addition to the benefits to which the continuing member is entitled under section 17 or 18, to an amount determined by the actuary and approved by the trustees, having regard to the period for which deductions have been made from salary paid to that member before 22 October 1983 and paid to the fund.

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**Pension entitlement reduced if the member has previously converted pension entitlement**

**23.** Notwithstanding anything in this part, where a person who, on ceasing to be a member, converted the whole or part of the person's pension entitlement to a lump sum becomes entitled to a pension under this Act the amount of the person's annual pension entitlement shall be reduced by the amount of annual pension entitlement in respect of which the conversion was made escalated to an amount determined by the actuary.

**Death benefit reduced if pension converted**

**23AA.(1)** This section applies in relation to a member (other than a continuing member) who—

- (a) dies while serving as a member; and
- (b) had, under this Act, previously converted a pension entitlement, in whole or part, to a lump sum.

**(2)** Despite any other provision of this part, the benefit payable on the member's death must be calculated disregarding the period, or part of the period, of service as a member to which the conversion of the pension entitlement related.

**Entitlement in respect of beneficiary who becomes a member**

**23A.(1)** A person who—

- (a) being a contributor under the *State Service Superannuation Act 1972* (the "**1972 Act**"), has retired or been retired and has thereby become entitled to any payment on account of any entitlement under the 1972 Act, and becomes a member; or
- (b) being a contributor under the *Police Superannuation Act 1974* (the "**1974 Act**"), has retired or been retired and has thereby become entitled to any payment on account of any entitlement under the 1974 Act, and becomes a member;

is not a person to whom or in relation to whom this Act applies unless, within a period of 3 months after first so becoming a member, the person elects, by notice in writing given to the trustees, to be treated as a person to

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and in relation to whom this Act applies whereupon the person shall become and be such a person on and from the date of first so becoming a member but, notwithstanding any other provision of this Act, the amount of the person's entitlement under this Act, other than under section 17(2) or (3), or of the entitlement under this Act of any other person arising by reason of being a person to and in relation to whom this Act applies, other than the entitlement of the person's personal representative under section 17(3), 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 referred to in paragraph (a) or (b).

(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.

### **Reduction of pension in certain cases**

**24.(1)** If—

- (a) a person who is receiving or is entitled to receive a pension under this Act again becomes a member of the Legislative Assembly; or
- (b) a person who is receiving or is entitled to receive a pension under this Act becomes a member of the Parliament of the Commonwealth or of any State (including Queensland) and receives or is entitled to receive any salary or parliamentary allowance in the nature of salary in respect of the person's office as such member; or
- (c) a person (being a person who has ceased to be a member) who is receiving or is entitled to receive a pension under this Act holds any office or place of profit under the Crown, whether in Queensland or elsewhere, for which the person is remunerated or entitled to be remunerated out of moneys of the Crown;

then, whilst such person continues to be such a member or, as the case may be, to hold such an office or place of profit the following consequences ensue—

- (d) if the salary or parliamentary allowance, or as the case may be,

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the remuneration which the person receives or is entitled to receive as such a member or, as the case may be, the holder of such an office or place of profit is at a rate equal to or greater than the person's pension under this Act—that pension shall not be payable;

- (e) if the salary or parliamentary allowance or, as the case may be, the remuneration which the person receives or is entitled to receive as such a member or, as the case may be, the holder of such an office or place of profit is at a rate less than that of the person's pension under this Act—the rate of that pension shall be reduced by the rate of the salary, allowance or, as the case may be, remuneration.

(2) Subsection (1) shall be deemed not to apply to or in relation to a person in respect of the holding of an office or place of profit referred to in subsection (1)(c) where the appointment to the office or place of profit in question was made after that person last ceased to be a member.

(3) Where a person to whom, but for the provisions of subsection (1), a pension under this Act would have been payable dies, the widow of that person, any child or children of that person and any female member of that person's family named in a notice given to the trustees as prescribed by section 22(1) shall be entitled to receive the same pension or payments under this Act as she or they would have been entitled to receive if the person firstmentioned in this subsection had not been a person to whom the consequences mentioned in subsection (1) were applicable and was at the time of death in receipt of the person's full pension entitlement under this Act.

### **Increase in rates of pensions etc.**

**25.(1)** Notwithstanding any other provision of this part, a person who is entitled to receive pension under section 17, 19, 20 or 22 is entitled to an increase in the rate of that pension in accordance with this section.

(2) The increased rate of pension referred to in subsection (1) payable to the person in question from time to time shall be the rate ascertained in accordance with the formula—

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

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where—

“**P**” means the rate of pension prescribed in relation to that person at the time in question by the provisions of this part (other than this section).

“**T**” means the number of periods each of 12 months that have elapsed between—

- (a) the date on which the person to whom the pension in question is payable or through whom the entitlement to the pension is derived last ceased to be a member or to be entitled to salary (whether by reason of death or any other cause whatsoever) whichever last occurs; 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 pension under the provisions of this Act referred to in subsection (1) is entitled to receive that pension at the increased rate thereof ascertained in accordance with this section in lieu of pension at the rate prescribed by those provisions.

(4) This section shall not apply in relation to pension entitlement 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**

**25A.(1)** In this section—

“**basic rate**”, in relation to a pension, means the rate at which the pension was payable under section 17, 19, 20A, 20B or 22 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 instalment of pension is payable in pursuance of section 32.

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(2) Subject to this section, a pension under this Act shall be adjusted by the trustees 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 Treasurer 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 Treasurer 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 Treasurer 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
- (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—

- (a) in the case of a pension that comes into force after 1 July in any

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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;

- (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;
- (c) the annual 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 subsection (7), 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 annual amount referred to in subsection (7)(c).

(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

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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.

### **Minimum benefit payable**

**25B.(1)** Despite any other provision of this Act, a person who ceases to be a member is entitled to the minimum benefit (if any) determined by an actuary approved by the trustees.

(3) 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).

## **PART 4—TRANSITIONAL**

### **Annuity payable or to become payable under repealed Acts**

**26.(1)** The right and interest in respect of annuity that, before the commencement of this Act, became payable under any of the provisions of the repealed Acts specified in schedule 1 to a person by reason of the person



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ceasing to be a member are, to the extent subsisting immediately prior to the date of commencement of this Act, hereby preserved and continued on and from that date and accordingly payment as necessary to give effect to this subsection shall be made from the fund.

(2) Where immediately prior to the commencement of this Act a person who ceased to be a member but who was not entitled forthwith to payment of an annuity but had a right or claim under the provisions of the repealed Acts specified in schedule 1 to the payment of annuity upon attaining a prescribed age, that person shall have the same right or claim to payment of annuity as that person would have had under those provisions if this Act had not been passed and the said provisions had continued in force and accordingly payments as necessary to give effect to this subsection may be made accordingly.

**Annuity to widow's and female dependents payable or to become payable under repealed provisions**

27.(1) The right and interest of a person in respect of annuity payable to the widow or female dependent of—

- (a) a member who died; or
- (b) a person who having ceased to be a member died;

that, before the commencement of this Act, became payable under any of the provisions of the repealed Acts specified in schedule 1 to the widow or female dependent are, to the extent subsisting immediately prior to the date of commencement of this Act, hereby preserved and continued on and from that date and accordingly payments as necessary to give effect to this subsection shall be made from the fund.

(2) Upon the death of a person to whom section 26(1) or (2) applies, the widow, or as the case may be female dependent, of that person shall have the same right or claim to payment of annuity as the person would have had under the provisions of the repealed Acts specified in schedule 1 if this Act had not been enacted and the said provisions had continued in force and accordingly payments as necessary to give effect to this subsection shall be made from the fund.

(3) A former member's widow who before or after the passing of the

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*Superannuation Acts Amendment Act 1987* becomes entitled to an annuity payable under any of the provisions of the repealed Acts specified in schedule 1 may within 6 months after the date on which entitlement to the annuity arises elect, by notice in writing served on the trustees, to convert the whole or any part of the pension entitlement to a lump sum payment of an amount determined by the actuary and approved by the trustees.

(4) A person who makes an election under subsection (3) shall be entitled to receive the lump sum determined and approved in accordance with that subsection and from the date of payment of that lump sum the annuity entitlement of that person shall be reduced by the amount of that entitlement in respect of which the election is made.

### **Payments in respect of a child or children**

**28.(1)** The right and interest of a person in respect of sums payable in respect of a child or children of—

- (a) a member who died; or
- (b) a person who having ceased to be a member died;

that, before the commencement of this Act, became payable under any of the provisions of the repealed Acts specified in schedule 1 to the child or children are to the extent subsisting immediately prior to the date of commencement of this Act hereby preserved and continued on and from that date and accordingly payments as necessary to give effect to this subsection shall be made from the fund.

(2) Upon the death of a person to whom section 26(1) or (2) applies, a child or children of that person shall have the same right or claim to payments in respect of a child or children as the child or children would have had under the provisions of the repealed Acts specified in schedule 1 if this Act had not been enacted and the said provisions had continued in force and accordingly payments as necessary to give effect to this subsection shall be made from the fund.

### **Saving**

**29.** To the extent necessary to give operation and effect to the provisions of this part, the provisions of the repealed Acts specified in schedule 1

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(other than the *Parliamentary Contributory Superannuation Fund Act 1948*, section 11A) with respect to annuities and payments in respect of a child or children of a deceased member or person who had ceased to be a member shall, notwithstanding the repeal thereof, be deemed to remain in force.

**Increase in rates of annuities etc.**

**30.(1)** Notwithstanding any other provision of this part, a person who is entitled to receive annuity (whether or not that entitlement was preserved and continued under this part or arose under this part after the commencement of this Act) is entitled to an increase in the rate of the annuity in accordance with this section.

**(2)** The increased rate of annuity payable to the person in question from time to time shall be the rate ascertained in accordance with the formula—

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

where—

“**P**” means the rate of annuity (without any bonus addition) prescribed in relation to that person at the time in question under the provisions of this part (other than this section).

“**T**” means the number of periods each of 12 months that have elapsed between—

(a) the commencement of this Act; and

(b) the date at which the increased rate of pension is to be ascertained;

increased by 2 or, where the pension in question became payable to the person concerned before 1 July 1973, by 3.

**(3)** In relation to payments in respect of a child or children under this part, the *Parliamentary Contributory Superannuation Fund Act 1948*, section 14A(3) shall be read as if a reference to ‘the rate of annuity under this Act’ were a reference to a rate of annuity increased in accordance with the provisions of this section.

**(4)** This section shall not apply in relation to annuity entitlement which arises on or after 1 July 1974 or so as to increase in respect of any period,

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or part of a period, occurring on or after 1 July 1974, the rate of any pension payable under this Act.

### **Adjustment of annuities**

**30A.(1)** In this section—

**“basic rate”**, in relation to an annuity, means the rate at which the annuity was payable under the repealed Acts specified in schedule 1 or this part 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 annuity is payable in pursuance of this Act.

(2) Subject to this section, an annuity preserved and continued under this part or arising thereunder shall be adjusted by the trustees 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 Treasurer 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 Treasurer shall, by order—

- (a) declare the percentage by which annuities 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 annuities shall not be adjusted in respect of that year.

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(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 Treasurer under subsection (3).

(6) An adjustment of an annuity 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 annuity was payable by the percentage declared in respect of that year under subsection (4); and
- (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 an annuity pursuant to this section if at the time when the adjustment is to be made the annuity has been in force for less than 12 months—

- (a) in the case of an annuity that comes into force after 1 July in any year—the first adjustment of that annuity 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;
- (b) in the case of an annuity that comes into force on or before 1 July in any year—the first adjustment of that annuity 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;
- (c) the annual amount by which an annuity 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—

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

(8A) In subsection (8)—

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“**A**” means the amount by which, but for the operation of subsection (7), the annuity would have been increased or decreased.

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

“**V**” means the annual amount referred to in subsection (7)(c).

(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 annuities 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), annuities 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 an annuity to be decreased below the basic rate and if, by reason of the making of an adjustment under this section, the rate of an annuity would be so decreased, that annuity 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) an annuity 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 annuity in respect of any year;

that adjustment shall be made as if, immediately before the making of the adjustment, the annuity were payable at the rate at which, but for the operation of subsection (11), it would have been payable.

## **PART 5—MISCELLANEOUS**

### **Exemption from charges, duties etc.**

**31.** All contributions and moneys paid to the fund under this Act and all payments out of the fund on account of pensions, annuities, payments in respect of a child or children and refunds of contributions to the fund payable under this Act 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.

### **Payment of pensions etc.**

**32.(1)** Pensions under this Act shall be payable in fortnightly instalments.

**(2)** Pensions under this Act shall be apportionable in point of time.

### **Payment of interest on lump sum**

**32A.** Where a person becomes entitled, in accordance with this Act, to the payment of a lump sum the trustees are to pay interest to that person, at such rate, as may be determined by the trustees, for the period between the date when the person becomes entitled to the payment of the lump sum and the date on which the lump sum is actually paid to that person.

### **Pensions**

**33.** Pensions and other rights under this Act shall not be 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.

### **Preservation of lump sum**

**33A.(1)** Where a person becomes entitled, in accordance with this Act, to the payment of a lump sum, that person may elect, as prescribed, not to take from the fund that lump sum.

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(2) An election for the purposes of subsection (1) is—

- (a) to be in writing and furnished to the trustees;
- (b) to be made within 3 months after the person becomes entitled to the payment of the lump sum.

(3) Where an election is duly made, such lump sum is then to be held by the trustees in the fund until that person—

- (a) attains the age of 65 years; or
- (b) informs the trustees in writing that the election no longer applies; or
- (c) dies;

whereupon there is to be paid to that person, or the legal personal representative of that person, the lump sum, together with interest calculated at a rate or rates of interest determined by the trustees, for the period for which that lump sum was preserved.

### **Transfers in**

**33B.(1)** The trustees may receive from some other superannuation, pension or like scheme or fund or from the trustees or administrators or other controlling body thereof any moneys in respect of a member's interest in that other scheme or fund or from a life assurance office or from such other source as is approved by the trustees.

(2) The trustees shall after consultation with the actuary, advise the member of the manner in which the trustees intend to deal with those moneys.

### **Unclaimed benefits**

**34.(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 trustees must keep the benefit in the Fund for the beneficiary.

(3) The trustees may pay a person the benefit only if the trustees are



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satisfied the person is the beneficiary.

(4) Payment of a benefit to a person (the “**first claimant**”) under this section releases the trustees 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 trustees.

### **Service of notice on trustees**

35. A notice to the trustees required or permitted to be given or served under this Act and given to or served on an officer of a department of State specified for that purpose by the trustees by notice in the gazette shall, for the purposes of this Act be deemed to have been given to or served on the trustees.

### **Information to members**

35A. The trustees are to supply in writing to each member—

- (a) on becoming a member; and
- (b) after the close of each financial year; and
- (c) upon ceasing to be a member;

a statement containing such information as the trustees consider necessary or desirable to give that member reasonable knowledge of that member’s entitlements from the fund.

### **Regulation making power**

36.(1) The Governor in Council may make regulations under this Act.

(2) To ensure the fund is, or continues to be, a complying superannuation fund under the *Superannuation Industry (Supervision) Act 1993* (Cwlth), a

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regulation may change the application of this Act to the fund.

(3) For subsection (2), a regulation may be given retrospective operation.

(4) A regulation made under subsection (2) expires 1 year after it is made.

## SCHEDULE

### FACTORS FOR WIDOWS OF MEMBERS OR FORMER MEMBERS

sections 20 and 20A

<b>Age nearest birthday of widow at time of member's or former member's death</b>	<b>Factor</b>
Up to 24 .....	6.0
25 to 29 .....	7.0
30 to 34 .....	8.0
35 to 39 .....	9.0
40 to 59 .....	10.0
60 to 64 .....	9.0
65 to 69 .....	8.0
70 to 74 .....	7.0
75 to 79 .....	6.0
80 to 82 .....	5.0
83 to 85 .....	4.25
86 to 88 .....	3.75
89 to 91 .....	3.25
92 to 94 .....	2.75
95 to 97 .....	2.25
98 to 100 .....	1.75

## ENDNOTES

### 1 Index to endnotes

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### 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 2 June 1998. Future amendments of the Parliamentary Contributory Superannuation Act 1970 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

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### 3 Key

**Key to abbreviations in list of legislation and annotations**

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	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
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

### 4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only]

Reprint No.	Amendments included	Reprint date
1	to Act No. 53 of 1995	22 December 1995
1A	to Act No. 3 of 1996	30 August 1996
1B	to Act No. 3 of 1996	13 June 1997
1C	to Act No. 3 of 1996	1 August 1997

### 5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## **6 List of legislation**

### **Parliamentary Contributory Superannuation Act 1970 No. 1**

date of assent 2 April 1970  
commenced on date of assent  
as amended by—

### **Parliamentary Contributory Superannuation Act Amendment Act 1971 No. 47**

date of assent 1 November 1971  
commenced on date of assent

### **Superannuation Acts Amendment Act 1974 No. 20 pt 4**

date of assent 24 April 1974  
ss 38, 40 commenced 1 July 1974 (see ss 38(2), 40(2))  
remaining provisions commenced on date of assent

### **Superannuation Acts Amendment Act 1984 No. 14 pt 6**

date of assent 27 February 1984  
commenced 22 October 1983 (see s 2(5))

### **Superannuation (Public Employees Portability and Acts Amendment) Act 1985 No. 35 pt 7**

date of assent 17 April 1985  
ss 1–2 commenced on date of assent (see s 2(1))  
remaining provisions commenced 4 May 1985 (proc pubd gaz 4 May 1985  
p 307)

### **Superannuation Acts Amendment Act 1987 No. 27 pt 4**

date of assent 23 April 1987  
commenced on date of assent

### **Parliamentary Members' Salaries Act 1988 No. 32 pt 5**

date of assent 21 April 1988  
commenced on date of assent

### **Parliamentary Contributory Superannuation Act Amendment Act 1989 No. 51**

date of assent 5 May 1989  
ss 1–2 commenced on date of assent (see s 2(1))  
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 4**

date of assent 13 June 1990  
ss 1.1–1.2 commenced on date of assent (see s 1.2(1))  
s 4.7 commenced 1 July 1990 (see s 35A(2))  
remaining provisions commenced 14 June 1990 (proc pubd gaz 14 June 1990  
p 833)

**Superannuation (Miscellaneous Acts) Amendment Act 1991 No. 11 pt 4**

date of assent 15 April 1991

ss 1.1–1.2, 4.1 commenced on date of assent (see s 1.2(1))

ss 4.2(a)(i), 4.3 commenced 1 July 1990 (see s 1.2(2))

ss 4.6–4.7 commenced 11 May 1991 (proc pubd gaz 4 May 1991 p 73)

remaining provisions never proclaimed into force and rep by 1997 No. 21 pt 6  
(as from 30 June 1997)**Superannuation Legislation Amendment Act 1992 No. 31 pts 1–2**

date of assent 23 June 1992

commenced on date of assent

**Superannuation Legislation Amendment Act 1993 No. 11 pts 1–2**

date of assent 28 May 1993

ss 3–4 commenced 1 July 1992 (see s 2(1))

remaining provisions commenced on date of assent

**Superannuation Legislation Amendment Act 1995 No. 27 pts 1, 4**

date of assent 14 June 1995

ss 1–2 commenced on date of assent

ss 9, 11–12 commenced 14 June 1994 (see s 2(6))

s 15 commenced 1 June 1997 (1997 SL No. 127)

remaining provisions commenced 18 August 1995 (1995 SL No. 229)

**Superannuation Legislation Amendment Act (No. 2) 1995 No. 53 pts 1–2**

date of assent 22 November 1995

commenced on date of assent

**Constitution (Parliamentary Secretaries) Amendment Act 1996 No. 3 pts 1, 5**

date of assent 9 May 1996

commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1–3, sch**

date of assent 5 December 1997

commenced on date of assent

**7 List of annotations****Short title**

s 1 amd R1 (see RA s 37)

**Act to comply with prescribed standards**s 2 sub 1992 No. 31 s 3  
om 1995 No. 27 s 10**Repeals**

s 3 om 1992 No. 31 s 3

**Definitions**

prov hdg sub 1996 No. 3 s 9(1)

s 5 amd 1996 No. 3 s 9(4)

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- def “**basic salary**” amd 1988 No. 32 s 17  
 sub 1996 No. 3 s 9(2)–(3)  
 def “**continuing member**” ins 1984 No. 14 s 122(a)  
 sub 1992 No. 31 s 4  
 def “**financial year**” om 1992 No. 31 s 4(1)  
 def “**new member**” ins 1984 No. 14 s 122(b)  
 def “**salary**” amd 1984 No. 14 s 122(c)  
 sub 1996 No. 3 s 9(2)–(3)  
 def “**Treasurer**” om R1 (see RA s 39)  
 def “**widow**” amd 1984 No. 14 s 122(d)

**Meaning of ceasing to be a member**

- s 5A** (prev s 5(2)) renum 1996 No. 3 s 9(5)

**Parliamentary Contributory Superannuation Fund**

- s 6** amd 1995 No. 27 s 11

**Payments into and out of the fund**

- s 11** amd 1991 No. 11 s 4.2(a)(i) (s 4.2(a)(ii), (b) never proclaimed into force and om 1997 No. 21 s 39)

**Investment of fund**

- s 12** amd 1989 No. 51 s 4  
 sub 1995 No. 27 s 12

**Fund’s income not subject to tax**

- s 12A** ins 1995 No. 27 s 12

**Deductions from salaries of members**

- s 15** amd 1991 No. 11 s 4.3

**Contribution by Crown**

- prov hdg** amd 1991 No. 11 s 4.4(a) (never proclaimed into force and om 1997 No. 21 s 39)  
**s 16** amd 1989 No. 51 s 5; 1991 No. 11 s 4.4(b)–(c) (never proclaimed into force and om 1997 No. 21 s 39)

**Election to be treated as new member**

- s 16A** ins 1984 No. 14 s 123

**Members’ superannuation benefit**

- s 17** amd 1984 No. 14 s 124; 1987 No. 27 s 52; 1988 No. 32 s 18; 1990 No. 23 s 4.2; 1991 No. 11 s 4.5 (never proclaimed into force and om 1997 No. 21 s 39); 1992 No. 31 s 5; 1997 No. 81 s 3 sch

**Right to convert entitlement to lump sum entitlement**

- s 18** amd 1971 No. 47 s 2; 1974 No. 20 s 33; 1984 No. 14 s 125; 1989 No. 51 s 6

**Pension on retirement on ground of ill health**

- s 19** amd 1990 No. 23 s 4.3; 1995 No. 27 s 13

**Right to convert s 19 entitlement to lump sum entitlement**

- s 19A** ins 1984 No. 14 s 126



**Benefit of widows of members other than continuing members**

- s 20**      amd 1974 No. 20 s 34; 1984 No. 14 s 127  
            sub 1985 No. 35 s 58  
            amd 1988 No. 32 s 19; 1989 No. 51 s 7

**Widow's right to substitute pension for entitlement**

- s 20A**     ins 1984 No. 14 s 128  
            sub 1985 No. 35 s 58

**Pension for widow of continuing member**

- s 20B**     ins 1984 No. 14 s 128  
            sub 1985 No. 35 s 58

**Provisions applicable to widow's pension**

- s 20C**     ins 1985 No. 35 s 58

**Payments to children**

- s 21**      amd 1974 No. 20 s 35; 1984 No. 14 s 129; 1985 No. 35 s 60; 1987 No. 27  
            s 53; 1991 No. 11 s 4.8(a) (never proclaimed into force and om 1997  
            No. 21 s 39)

**Payment to female dependant**

- s 22**      amd 1984 No. 14 s 130; 1985 No. 35 s 61; 1989 No. 51 s 7  
            om 1990 No. 23 s 4.4

**Endowment benefit to new members who were continuing members**

- s 22A**     ins 1984 No. 14 s 131

**Pension entitlement reduced if the member has previously converted pension entitlement**

- s 23**      sub 1984 No. 14 s 132

**Death benefit reduced if pension converted**

- s 23AA**   ins 1992 No. 31 s 6

**Entitlement in respect of beneficiary who becomes a member**

- s 23A**     ins 1985 No. 35 s 62  
            amd 1989 No. 51 s 7

**Reduction of pension in certain cases**

- s 24**      amd 1971 No. 47 s 3  
            sub 1974 No. 20 s 36  
            amd 1984 No. 14 s 133

**Increase in rates of pensions etc.**

- s 25**      amd 1974 No. 20 s 37(1)

**Adjustment of pensions**

- s 25A**     ins 1974 No. 20 s 38(1)  
            amd 1984 No. 14 s 134; 1985 No. 35 s 63

**Minimum benefit payable**

- s 25B**     ins 1993 No. 11 s 4  
            amd 1995 No. 27 s 14

**PART 3A—ELECTION TO SURRENDER POTENTIAL WIDOWS’  
ENTITLEMENTS OF FORMER MEMBERS AND MARRIED  
WIDOWS’ ENTITLEMENTS**

**pt 3A (ss 25C–25I)** ins 1995 No. 53 s 3  
exp 22 November 1996 (see s 25I)  
AIA s 20A applies (see s 25H)

**Annuity payable or to become payable under repealed Acts**

**s 26** amd 1991 No. 11 s 4.8(a) (never proclaimed into force and om 1997  
No. 21 s 39)

**Annuity to widow’s and female dependents payable or to become payable  
under repealed provisions**

**s 27** amd 1987 No. 27 s 54; 1991 No. 11 s 4.8(a) (never proclaimed into force  
and om 1997 No. 21 s 39)

**Payments in respect of a child or children**

**s 28** amd 1991 No. 11 s 4.8(a) (never proclaimed into force and om 1997  
No. 21 s 39)

**Increase in rates of annuities etc.**

**s 30** amd 1974 No. 20 s 39(1)

**Adjustment of annuities**

**s 30A** ins 1974 No. 20 s 40(1)  
amd 1984 No. 14 s 135; 1985 No. 35 s 64; 1989 No. 103 s 3 sch

**Exemption from charges, duties etc.**

**s 31** amd 1991 No. 11 s 4.8(b) (never proclaimed into force and om 1997  
No. 21 s 39)

**Payment of interest on lump sum**

**s 32A** ins 1990 No. 23 s 4.5

**Preservation of lump sum**

**s 33A** ins 1990 No. 23 s 4.6  
amd 1991 No. 11 s 4.8(a), (c) (never proclaimed into force and om 1997  
No. 21 s 39)

**Transfers in**

**s 33B** ins 1991 No. 11 s 4.6

**Unclaimed benefits**

**s 34** sub 1995 No. 27 s 15

**Information to members**

**s 35A** ins 1990 No. 23 s 4.7  
amd 1991 No. 11 s 4.8(a) (never proclaimed into force and om 1997  
No. 21 s 39); R1 (see RA s 37)

**Mandatory commutation**

**s 35B** ins 1991 No. 11 s 4.7  
om 1995 No. 27 s 16

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**Regulation making power**

**s 36**      amd 1990 No. 23 s 4.8  
              sub 1993 No. 11 s 5; 1995 No. 27 s 16

**SCHEDULE 1**

om 1992 No. 31 s 7

**SCHEDULE—FACTORS FOR WIDOWS OF MEMBERS OR FORMER  
MEMBERS**

**sch hdg**    amd R1 (see RA s 5(d))  
              (prev sch 2) ins 1985 No. 35 s 65