

Queensland



ANNO VICESIMO PRIMO

ELIZABETHAE SECUNDAE REGINAE

No. 22 of 1972

**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**

[ASSENTED TO 19TH DECEMBER, 1972]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title and commencement. (1) This Act may be cited as the *State Service Superannuation Act 1972*.

(2) This Act shall commence on the first day of January, 1973.

2. Parts of Act. This Act is divided into Parts and Divisions as follows:—

PART I—PRELIMINARY (ss. 1-4);

PART II—ADMINISTRATION (ss. 5-19);

PART III—CONTRIBUTIONS (ss. 20-25);

PART IV—BENEFITS AND PAYMENTS (ss. 26-49);

Division I—Contributors' pensions and other benefits;

Division II—Widows' pensions;

Division III—Children's pensions;

Division IV—Refund of contributions;

Division V—Adjustment of pensions;

Division VI—General provisions as to pensions;

Division VII—Conversion of pension entitlement into a lump sum payment;

PART V—FINANCIAL PROVISIONS (ss. 50-53);

PART VI—MISCELLANEOUS (ss. 54-72);

PART VII—APPLICATION AND AMENDMENT OF PUBLIC SERVICE SUPERANNUATION ACT 1958-1969 (ss. 73-74).

3. Application of Act. This Act applies to and in relation to—

(a) a person who becomes an officer on or after the commencement of this Act;

(b) a person—

(i) who was an officer within the meaning of the 1958 Act immediately before the commencement of this Act;

(ii) who continues on the said commencement to be an officer; and

(iii) who is not a continuing contributor;

(c) a continuing contributor;

(d) a person to whom section 46 of the 1958 Act relates who again becomes an officer after the commencement of this Act;

(e) a widow 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 the deceased or divorced wife of any such person.

4. Interpretation of terms. (1) In this Act unless the contrary intention appears—

“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 sixty-five years;

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

“child”, in relation to a contributor or pensioner, a wife of a contributor or pensioner, or a deceased or divorced wife of a contributor or pensioner, means a person who—

(a) is under the age of sixteen years; and

- (b) is not an offspring of—
 - (i) a marriage of a pensioner contracted after his retirement; or
 - (ii) the remarriage of a widow of a contributor or pensioner after his death or of a divorced wife, and includes—
 - (c) a person over that age but under the age of twenty-one years who is receiving, in the opinion of the Board, full time education at a school, college or university;
- “child’s pension” means a pension payable under Division III of Part IV;
- “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 subsection (3) of section 24 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 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 contributions;
 - (b) an officer who has ceased to contribute thereto by reason of his age or incapacity;
- “contributor for full benefits” means a contributor whose contributions to the Fund entitle him, in addition to any other benefits to which he may be entitled under this Act, to an incapacity pension irrespective of his length of service;
- “contributor for limited benefits” has the meaning assigned to that expression by subsection (3) of section 20 and includes a contributor deemed to be such under subsection (4) of that section;
- “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 average annual salary received by the contributor during the three years immediately preceding his attaining the age for retirement or his earlier retirement from or death in service;
- exceeds—
- (b) the annual salary that the member would have received during the three years immediately preceding his

attaining the age for retirement or his earlier retirement from or death in service had his salary remained constant at the rate in force at the date of commencement of this Act or, where the contributor is a person to whom subsection (3) of section 24 relates, the rate in force at the date when he was retired on the grounds of incapacity as mentioned in that subsection;

“final average salary” in relation to a contributor means the average annual salary received by the contributor during the three years immediately preceding his attaining the age for retirement or his earlier retirement from or death in service;

“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 his 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;

“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 the meaning of section 4 of the *Medical Act 1939-1971*;

“Minister” means the Premier or other Minister of the Crown for the time being charged with the administration of this Act;

“officer” means any person employed by or under the Crown, in the opinion of the Board, in a permanent capacity: The term includes—

(a) any person employed in a permanent capacity by a University established under an Act of this State and who is employed in an office, or in an office included in the class or classes of office specified in an Order in Council under subsection (10) of section 20 and who, being eligible so to do, makes an election to contribute under subsection (11) of that section and who has not made an election under subsection (12) of that section to cease contributing;

(b) any person employed 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 1964-1970*;

(c) subject to subsection (8) of section 20, any temporary employee (other than a married woman who is such an employee) employed full-time in the Public Service as defined by the *Public Service Act 1922-1968*

who has been so employed for not less than one 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 paragraph (v) of subsection (3) of section 18 of that Act;

- (d) any person permanently employed full-time—
- (i) in the Railway Department under and within the meaning of the *Railways Act 1914-1971*;
 - (ii) by a Hospitals Board under and within the meaning of the *Hospitals Act 1936-1971*;
 - (iii) by the Queensland Health Education Council constituted under the *Health Act 1937-1971*;
 - (iv) by the Manager of the Golden Casket Art Union in the conduct and administration thereof;

The term does not include—

- (e) a Judge of the Supreme Court, or of a District Court;
- (f) a member of the Police Force;
- (g) a person, or a member of any class of persons, at any time when such person or, as the case may be, persons included in such class of persons is or are excepted from this Act by the Governor in Council (who is hereby thereunto authorized) by Order in Council;

“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 authorized by law;

“salary” means the payment made to an officer by way of fixed remuneration for his services, unless otherwise determined by the Governor in Council on the recommendation of the Public Service Board: The term does not include any sums paid to an officer by way of fees or allowances except that in the case of officers employed as teachers the term includes any sum paid to any such officer as an allowance varying with the number of pupils attending the school in which such 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 he is or was required to contribute thereto and before the first of his contribution is or was paid to the Fund; and
- (b) any period during which contribution to the Fund is or was suspended under section 23 of this Act or section 26 of the 1958 Act;

“the 1958 Act” means the *Public Service Superannuation Act 1958-1969*;

“widow’s pension” means a pension payable under Division II of Part IV.

(2) For the purposes of the definition of "service" in subsection (1)—

- (a) where a person having been retired or permitted to retire from his 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 he was so absent shall be deemed to comprise part of his service; and
- (b) where a person has received a refund of his 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 his employment before the date on which he recommenced shall be deemed not to comprise part of his service.

(3) Any moneys that become payable to or in relation to a contributor after his death or retirement by reason of an increase in the salary of a position held by him at any time during the period of three years immediately preceding his attainment of the age for retirement or his earlier retirement from or death in service (being an increase having effect as from a date occurring within that period) shall for the purposes of this Act be regarded as part of the salary received by him during that period.

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

(5) For the purposes of the definition of "final average increase in salary" in subsection (1), a reference to the period of three years immediately preceding his attaining the age for retirement or his 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 his retirement or death is less than three years, be read as a reference to his 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 two or more such months.

(7) Where at any time during the period of three years immediately preceding the time of his attaining the age for retirement or his earlier retirement from or death in service a contributor has been absent on leave of absence on less than full pay his final average salary or his final average increase in salary shall be calculated as if he continued to receive his 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 in the service of the Crown that person shall, during the period of probation, be deemed to be an officer and be required to contribute to the Fund and if that person's probationary appointment is not confirmed he is entitled to a refund of his contribution to the Fund.

PART II—ADMINISTRATION

5. Administration. This Act shall be administered by the Minister and, subject to the Minister, by the Board.

6. State Service Superannuation Board. (1) For the purposes of this Act and the 1958 Act there shall be a Board to be known as the "State Service Superannuation Board".

(2) The Board shall consist of six persons appointed by the Governor in Council upon the nomination of the Minister.

(3) The Minister shall nominate for appointment to the Board three officers qualified for such appointment who are respectively representative of the Teachers' Division, the Professional Division and the Administrative, Clerical and General Division of contributors as defined in Schedule I and whose names have been submitted to the Minister for such appointment by the Queensland Teachers Union of Employees, the Queensland Professional Officers Association and the Queensland State Service Union of Employees respectively.

(4) If either of the unions or the association mentioned in subsection (3) has ceased to exist, then the Governor in Council may by Order in Council prescribe the manner of and provide for the naming of the representative of the division of contributors, the representative whereof it was empowered by subsection (3) to submit the name.

(5) In respect of every appointment of the whole number of members of the Board, the Minister shall cause the unions and the association mentioned in subsection (3) to be notified by such means as he deems fit of a date on or before which he requires that they respectively furnish to him the name of the officer representative of the division of contributors to be submitted by the union or association.

(6) If, in respect of any appointment of the whole number of the members of the Board, either such union or such association fails to submit to the Minister the name of an officer on or before the date notified under subsection (5), the Minister may nevertheless nominate for appointment as a member of the Board, representative of the division of contributors concerned, an officer who is a contributor and such officer may be appointed a member of the Board and shall be deemed to be such representative.

(7) For the purposes of this section contributors are divided into the divisions set out in Schedule I.

(8) Notice of appointment of any officer to be a member of the Board (including to fill any casual vacancy) shall be published in the Gazette.

(9) The members of the Board shall be appointed for three years and any member shall be eligible for reappointment.

(10) Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, such provision shall not operate to disqualify him from holding that office and also the office of a member, or deputy of a member, of the Board under this Act, or from accepting and retaining any remuneration payable to a member.

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

(12) The Public Service Superannuation Board as constituted immediately before the commencement of this Act shall, notwithstanding the provisions of section 74 of this Act, continue in existence and be the Board within the meaning of the 1958 Act and this Act until the thirtieth day of June 1973 or until the State Service Superannuation Board is first constituted under this Act whichever is the earlier.

7. Board to be body corporate. (1) The Board shall be a body corporate under the name prescribed by subsection (1) of section 6 and by that name shall have perpetual succession and an official seal and shall be capable in law of suing and being sued in its corporate name and of acquiring, holding, leasing and disposing of property, real and personal, movable and immovable, and of doing and suffering all such other acts, matters and things, as bodies corporate may by law do and suffer.

(2) All courts, judges, and persons acting judicially shall take judicial notice of all appointments of members of the Board and of their respective signatures as well as of the appointment of the manager and of his signature, and of the seal of the Board affixed to any document or other writing whatsoever, and, until the contrary is proved, shall presume that every such signature or such seal, as the case may be, was duly affixed to any document or other writing whatsoever.

8. Chairman of the Board. (1) The Governor in Council shall appoint one of the members of the Board to be chairman of the Board.

(2) The Governor in Council may appoint another member of the Board to be the deputy chairman of the Board.

(3) The deputy chairman may act for the chairman during any illness, suspension, or absence of the chairman and, while so acting, shall have all the powers and authority of the chairman.

(4) Where a casual vacancy occurs in the office of the chairman, the Governor in Council shall appoint a member of the Board to fill that vacancy.

(5) The chairman or deputy chairman may resign his office as such by writing under his hand delivered to the Minister.

9. Filling of casual vacancies. (1) Where a casual vacancy occurs in the office of a member of the Board, the Governor in Council may appoint an officer nominated by the Minister to fill that vacancy.

(2) If the vacancy is in the office of an officer representative of a division of contributors defined in Schedule I, subsections (5) and (6) of section 6 shall, with and subject to all necessary adaptations, apply.

(3) Any officer appointed to the Board pursuant to this section shall hold office for the residue of his predecessor's term of office.

10. Temporary appointments. (1) In respect of the illness, absence or suspension from his employment as an officer of any member of the Board, the Governor in Council may appoint a deputy to act for the member during all occasions of his illness, absence or suspension and every deputy so appointed shall, while so acting, have all the powers and authority of a member, but no such deputy shall act as chairman.

(2) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorizing a person to act in the place of a member or as to the necessity or propriety of any appointment of a deputy, and all acts or things done or omitted by a person when so

acting shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the member in whose place such person is acting.

11. Vacation of office. (1) The office of a member of the Board shall become vacant if such member—

- (a) dies or becomes mentally sick;
- (b) becomes bankrupt or compounds with his creditors, or otherwise takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
- (c) is absent without leave granted by the Board from four consecutive ordinary meetings of the Board of which due notice has been given to him;
- (d) resigns his office by writing under his hand delivered to the Minister;
- (e) ceases to be an officer;
- (f) is convicted of an indictable offence; or
- (g) is removed from office by the Governor in Council for misbehaviour or incompetence by notification published in the Gazette.

(2) The attendance of any member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason that no quorum is present no meeting is actually held on that day, and the names of all members who so attend shall be entered in the minute book.

(3) A member of the Board shall not act as such at any time when he is suspended from his employment as an officer.

12. Remuneration. (1) Each member of the Board shall receive such remuneration, if any, as the Governor in Council may from time to time determine.

(2) Any determination made under subsection (1) may from time to time be revoked or amended.

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

14. Proceedings of the Board. (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 four 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 chairman shall preside at all meetings of the Board at which he is present.

(4) If present at any duly convened meeting of the Board whereat the chairman is not present, the deputy chairman shall preside.

(5) If both the chairman and the deputy chairman are absent from any duly convened meeting, the members present shall elect one 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.

15. Delegation. (1) The Board may, by instrument in writing under its common seal, delegate to a member of the Board or to an officer of the Board, either generally or otherwise as provided in the instrument of delegation, all or any of its powers, duties and functions (except the power of delegation).

(2) A power of delegation may be exercised by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Board.

16. Reports by Board. (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 him such report as he requires concerning the administration of this Act and the 1958 Act.

17. Appointment of officers. (1) The Governor in Council may from time to time appoint officers including an actuary as he 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 Act 1922-1968*.

(3) The actuary may be appointed under the *Public Service Act* 1922–1968 but if not appointed thereunder, he 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 him under the *Public Service Act* 1922–1968.

18. The Fund. (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 are hereby included in the cash balance held in the Treasury and may be dealt with accordingly.

(5) The Crown shall pay to the Fund interest at the rate of six per centum per annum upon the average monthly credit balance of the moneys standing to the credit of the Fund.

(6) Interest payable to the Fund under subsection (5) shall be payable out of the Consolidated Revenue Fund which is hereby appropriated accordingly.

(7) Subject to this Act the provisions relating to trust and special funds of the *Audit Act* 1874–1968 shall apply to the Fund.

19. Quinquennial investigation by Actuary. (1) An investigation as to the state and sufficiency of the Fund as at the 30th June 1973 shall be undertaken and completed as soon as practicable after that date and thereafter periodically so that there shall not be a period longer than five years between successive such investigations.

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

(3) The Actuary shall report to the Board the result of his 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;

(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;

(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;

- (d) if a surplus is shown the manner in which such surplus may be dealt with;
 - (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 Division VII of Part IV of this Act or Division VA of Part IV of the 1958 Act;
 - (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 his report such recommendations as he 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 one month after the receipt thereof.

PART III—CONTRIBUTIONS

20. Obligation of officers to contribute to the Fund. (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;
 - (ii) is a person to whom paragraph (b) of section 3 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 paragraph (b) of section 3 relates; and
 - (b) by reason of the operation of section 64 is ineligible to become a contributor for full 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 limited benefits”.

(4) A continuing contributor who is a contributor to the Fund under the 1958 Act pursuant to Part VA only shall be deemed to be a contributor for limited 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 for limited benefits he furnishes evidence to the satisfaction of the Board that his health and physical condition are such as to justify him being accepted as a contributor for full benefits he is entitled to become such a contributor.

(6) If an officer has not been medically examined in accordance with section 64 within six months after becoming an officer or such extended time as the Board may in special circumstances allow, he shall be entitled to no benefits under this Act other than the payment of a sum of money equal to the amount of his contributions thereunder to the Fund.

(7) Subject to the express provisions of this Act where a contributor is granted leave of absence for any period without pay or, on less than his full pay he shall continue to contribute to the Fund during that period at the rate at which he would have been required to contribute thereto if he had continued to receive his full salary in respect of that period and if, for any reason, he becomes entitled to an increase in salary while absent from duty on that leave, his obligation to contribute to the Fund shall be calculated with reference to his salary as so increased.

(8) Any officer whose payment for the services rendered by him in his 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 he has been continuously employed for a period of not less than one year immediately preceding the date when he makes the election hereinafter mentioned in this subsection but notwithstanding that he is eligible to contribute to the Fund such an officer shall not be bound to contribute to the Fund unless he elects so to do.

(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 six 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 he is not obliged and shall not be permitted to so contribute or further contribute under this Act to the Fund.

(10) The Governor in Council may, from time to time by Order in Council, declare that persons permanently employed by a University constituted under an Act of this State, in the offices, or in offices included in the class or classes of offices, specified in the Order in Council 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 permanently employed by a University constituted under an Act of this State to whom an Order in Council under subsection (10) applies, may within three months after the date of publication in the Gazette of the Order in Council, or, in a case where such a person becomes so employed after the date of publication of the Order in Council, the date upon which he becomes so employed elect to contribute for benefits under this Act and, if he so elects, he 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 he 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 he is employed 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, or class or classes of offices, specified in an Order in Council made under subsection (10) unless he elects otherwise in writing within one month of becoming the holder of the office having such higher status.

(13) The Governor in Council may revoke or from time to time amend, alter or otherwise modify any Order in Council under subsection (10) but no such revocation, amendment, alteration or modification of any such Order in Council shall affect the rights as a contributor of any person who is contributing under this Act to the Fund pursuant to the Order in Council in question at the date of the revocation, amendment, alteration or modification otherwise thereof.

21. Commencement and cessation of contributions. (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 his salary is first increased after the commencement of this Act; or
- (b) in any other case, from the day on which his salary commences by reason of his appointment to the position by virtue of which he 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 day on which he ceases, for any reason, to be an officer or he attains the age for retirement whichever first occurs.

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

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

(3) Where a contributor—

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

the Board, on the application of the contributor, may permit him to defer his contributions for such period (not exceeding two years) as the Board may approve, subject to such conditions as to the future payment of his contributions 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 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 to be made by a contributor not paid by deduction from his salary as prescribed by subsections (1) and (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 his salary in addition to the deductions from his salary as prescribed

by subsections (1) and (2) but where, in the opinion of the Board, any amount of contributions to be made by a contributor is irrecoverable or the enforcement of payment by the person would impose undue hardship the Board may waive payment thereof wholly or in part.

(5) Notwithstanding the foregoing provisions of this subsection, the Board may recover by action as for a debt any amount of the contributions to be made by a contributor which is due and unpaid.

(6) For the purposes of subsections (4) and (5), the amount of any unpaid contributions shall be the aggregate of the amount thereof due and unpaid and of interest thereon which 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 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 him a sum of money equal to the amount of the contributions, whether paid or in arrears, payable by him under this Act to the Fund to the date of such determination reduced by the aggregate of the amount of the arrears of contributions and of the interest thereon which would have accrued to the Fund had the same been duly paid unless the Board waives such interest wholly or in part.

(8) Save as provided under subsection (3), an officer shall continue to contribute as prescribed by this Act to the Fund until he attains the age for retirement or his employment as an officer is sooner terminated by earlier retirement, death, resignation or otherwise howsoever and, subject to subsection (3) and section 23 shall, in respect of any period of recreation leave, sick leave or other leave of absence either with or without salary, pay contribution, as for a period of service, without reduction.

23. Suspension of contribution. (1) During any period of sick leave of absence without pay of two weeks or longer the contributions payable by an officer under this Act to the Fund shall be suspended, but in every such case such contributions shall again become payable if and when he resumes his employment as an officer.

(2) This section does not apply in relation to a contributor for limited benefits who has completed less than ten years' service.

24. Rates of contribution. (1) The amount of the contributions of a continuing contributor (not being an officer to whom subsection (3) relates) which shall be paid by him periodically in addition to the amount of contributions payable by him 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 his salary for the time being exceeds the amount of his 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 paragraph (b) of section 3 relates, which shall be paid by him periodically, shall be a sum calculated at the prescribed rate per centum of the amount of his salary for the time being.

- (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 him periodically shall be, in addition to the contributions, if any, to the Fund payable by him under the 1958 Act, the sum calculated at the prescribed rate per centum—

- (i) of the amount of his salary for the time being where he was an officer to whom subsection (2) applied before he was retired on the grounds of incapacity; and
- (ii) in any other case, of the amount by which the amount of his salary for the time being exceeds the amount of his salary at the time when he was so retired.

(4) Where by reason that an officer becomes a contributor on or after the commencement of this Act and after he 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 him under this Act if he attains the age for retirement will not amount to 45 years, the officer may elect, within a period of two months after he becomes an officer, to increase the rate of his 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 him 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).

(5) Where by reason that an officer became a contributor under the 1958 Act after he had attained the age of 20 years the length of service of the officer for the purpose of calculating the pension to be paid to him under this Act will not amount to 45 years, the officer may elect within a period of six months after the commencement of this Act to increase the rate of his 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 him 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) or (5) in relation to an officer, the Board may determine that, for the purpose of calculating the pension to be paid to him under Part IV,

his length of service as an officer shall be regarded as being equal to his 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.

(7) Where the salary of a contributor is reduced, the contributor shall thereupon contribute to the Fund in relation to the reduced rate of his salary and the Board shall make to him a refund of such part of his 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 his rate of salary in respect of any period before the time his salary was reduced shall be deemed not to have been in excess of the rate to which his salary was so reduced.

25. Further provisions re contributions. (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 his 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 increased, contributions to the Fund shall be payable to the Fund as from the date on and from which the increase is payable and any contributions in respect of the increase relating to any periodic interval prior to the interval in which the increase is actually paid shall be payable by deduction from the contributor's salary in respect of the last-mentioned interval.

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

- (a) in the case of a male contributor—
 - (i) who has not attained the age of twenty years at the time when the contribution is payable—two per centum;
 - (ii) who has attained the age of twenty years but has not attained the age of twenty-five years at the said time—five and one-half per centum;
 - (iii) who has attained the age of twenty-five years but has not attained the age of thirty-five years at the said time—six per centum; **and**
 - (iv) who has attained the age of thirty-five years at the said time—six and one-half per centum; **and**
- (b) in the case of a female contributor—
 - (i) who has not attained the age of twenty years at the time when the contribution is payable—two per centum;
 - (ii) who has attained the age of twenty years but has not attained the age of twenty-five years at the said time—five per centum;

- (iii) who has attained the age of twenty-five years but has not attained the age of thirty-five years at the said time—five and one-half per centum;
- (iv) who has attained the age of thirty-five years at the said time—six per centum.

(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 one cent then, where the last mentioned 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 one cent and the contribution shall be payable accordingly.

PART IV—BENEFITS AND PAYMENTS

Division I—Contributors' pensions and other benefits

26. Calculation of service. 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 twenty years shall be disregarded in ascertaining the contributor's length of service;
- (b) where his length of service as an officer after having due regard to the provisions of paragraph (a), exceeds forty-five years, the contributor's length of service shall be deemed to be forty-five years; and
- (c) where the contributor is a person in relation to whom a determination has been made by the Board under subsection (6) of section 24, the contributor's length of service shall, unless otherwise expressly provided by this Act, be deemed to be the length of his service ascertained in accordance with the Board's determination.

27. Rights of contributors for full benefits. (1) Where a contributor for full benefits (other than a continuing contributor)—

- (a) retires on attaining the age for retirement;
- (b) elects to retire at any time within the period of five years immediately preceding the day on which he 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 part for the obtaining of any benefit under this Act,

he 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 an annual sum calculated in accordance with the formula—

$$P = \frac{A}{60} \times B,$$

where—

P represents the annual amount of that pension;

A represents the final average salary of the contributor; and

B represents the contributor's length of service (expressed in years), as at the time of his attaining the age for retirement or his earlier retirement from service, or, in the case of a contributor who becomes entitled to an incapacity pension, as at the time when he would have attained the age for retirement.

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

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

(a) on attaining the age for retirement to a pension calculated at the rate of two-sevenths of the pension to which he would have been entitled under this section if he had retired on attaining the age for retirement; and

(b) on his retiring or being retired from his 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 he would have been entitled under this section if he had retired on attaining the age for retirement.

(5) Where a contributor who has made an election under subsection (4) of section 24, after attaining the age for retirement, continues to be an officer he 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 he would have been entitled under this section if the said subsection (4) had not been enacted and he 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 the said subsection (4); and

(b) on his retiring or being retired from his employment as an officer to an increase in the pension payable under subparagraph (i) of paragraph (a), which shall then become payable at the rate of the pension to which he would have been entitled under this section if the said subsection (4) had not been enacted and he had retired on attaining the age for retirement.

(6) Where a contributor to whom subsection (1) relates makes an election as is mentioned in paragraph (b) of that subsection to retire before the day on which he would attain the age for retirement, the pension to which he is entitled is a pension calculated in accordance with the formula—

$$P = \frac{A}{60} \times (N - 0.6t),$$

where—

P represents the annual amount of the pension payable to the contributor;

- A represents the final average salary of the contributor;
- N represents the contributor's length of service (expressed in years) as at the time of his retirement; and
- t represents the remainder obtained by subtracting from 65 the contributor's age as at the time of his retirement (expressed in years to the nearest month).

(7) In respect of any period of leave of absence without salary for longer than two months, by reason of incapacity, from his 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 authorized by law to approve such leave, a contributor for full benefits (other than a continuing contributor) is entitled after the expiration of the first two months of such leave of absence to a pension at the rate of the pension to which he would have been entitled under this section if he 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 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.

28. Rights of continuing contributors for full benefits. (1) Where a continuing contributor for full benefits—

- (a) retires on attaining the age for retirement;
- (b) elects to retire at any time within the period of five years immediately preceding the day on which he 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 part for the obtaining of any benefit under this Act,

he 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 he may be entitled under the 1958 Act, is an annual sum calculated in accordance with the formula—

$$P = \frac{A}{60} \times B,$$

where—

- P represents the annual amount of that pension;
- A represents the final average increase in salary of the contributor; and
- B represents the contributor's length of service (expressed in years), as at the time of his attaining the age for retirement or his earlier retirement from service, or, in the case of a contributor who becomes entitled to an incapacity pension, as at the time when he would have attained the age for retirement.

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

(4) Where a continuing contributor for full benefits, after attaining the age for retirement, continues in his employment as an officer, he is entitled, in addition to any benefits to which he 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 he would have been entitled under this section if he had retired on attaining the age for retirement; and

(b) on his retiring or being retired from his 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 he would have been entitled under this section if he had retired on attaining the age for retirement.

(5) Where a contributor to whom subsection (1) relates makes an election as is mentioned in paragraph (b) of that subsection to retire before the day on which he would attain the age for retirement the pension to which he is entitled, in addition to the benefits to which he may be entitled under the 1958 Act, is a pension calculated in accordance with the formula—

$$P = \frac{A}{60} \times (N - 0.6t),$$

where—

P represents the annual amount of the pension payable to the contributor;

A represents the final average increase in salary of the contributor;

N represents the contributor's length of service (expressed in years) as at the time of his retirement; and

t represents the remainder obtained by subtracting from 65 the contributor's age as at the time of his retirement (expressed in years to the nearest month).

(6) In respect of any period of leave of absence without salary for longer than two months, by reason of incapacity, from his 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 authorized by law to approve such leave, a continuing contributor for full benefits is, in addition to the benefits to which he may be entitled under the 1958 Act, entitled after the expiration of the first two months of such leave of absence to a pension at the rate of the pension to which he would have been entitled under this section if he 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 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.

29. Rights of contributors for limited benefits. (1) This section does not apply to or in relation to a contributor for limited benefits who is a continuing contributor.

(2) Where a contributor for limited 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 part for the obtaining of any benefit under this Act; and
- (b) has completed less than 10 years' service at the time of his retirement,

the contributor is entitled to be paid out of the Fund a sum equal to three and one-half times the total amount of the contributor's contributions (other than any additional contributions payable under subsection (4) of section 24) to the Fund under this Act and a sum equal to the total amount of any such additional contributions.

(3) Where a contributor for limited 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 part for the obtaining of any benefit under this Act; and
- (b) at the time of his retirement has completed at least 10 years' but less than 20 years' service,

he is entitled to a pension calculated in accordance with the formula—

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

where—

P represents the annual amount of the pension payable to the contributor;

A represents the annual amount of the pension that would have been payable to the contributor at the time of his retirement if he had been a contributor for full benefits; and

B represents the contributor's length of service (expressed in years) as at the time of his retirement.

(4) Where a contributor for limited benefits—

- (a) retires on attaining the age for retirement;
- (b) elects to retire at any time within the period of five years immediately preceding the day on which he 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 part for the obtaining of any benefit under this Act and has completed at least 20 years' service,

he is entitled to the same pension as the pension that would have been payable to him if he had been a contributor for full benefits.

(5) For the purposes of this section (other than factor "A" in subsection (3)), additional service determined by the Board under subsection (6) of section 24 shall be disregarded.

30. Rights of continuing contributors who are contributors for limited benefits. (1) This section does not apply to or in relation to a contributor for limited benefits who is not a continuing contributor.

(2) Where a contributor for limited 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 part for the obtaining of any benefit under this Act; and
- (b) has completed less than 10 years' service at the time of his retirement,

the contributor is entitled, in addition to the benefits to which he may be entitled under the 1958 Act, to be paid out of the Fund a sum equal to three and one-half times the total amount of the contributor's contributions to the Fund under this Act.

(3) Where a continuing contributor for limited 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 part for the obtaining of any benefit under this Act; and
- (b) at the time of his retirement has completed at least ten years' but less than 20 years' service,

he is entitled, in addition to any benefits to which he may be entitled under the 1958 Act, to a pension calculated in accordance with the formula—

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

where—

P represents the annual amount of the pension payable to the contributor;

A represents the annual amount of the pension that would have been payable to the contributor at the time of his retirement if he had been a continuing contributor for full benefits; and

B represents the contributor's length of service (expressed in years) as at the time of his retirement.

(4) Where a contributor for limited benefits—

- (a) retires on attaining the age for retirement;
- (b) elects to retire at any time within the period of five years immediately preceding the day on which he would attain the age for retirement; or
- (c) before attaining the age for retirement from service, is retired or permitted to retire on the ground of incapacity not due to wilful action on his part for the obtaining of any benefit under this Act and has completed at least 20 years' service,

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

(5) For the purposes of this section (other than factor "A" in subsection (3)), additional service determined by the Board under subsection (6) of section 24 shall be disregarded.

Division II—Widows' pensions

31. Widows' pensions. (1) Subject to this section, the widow of—

- (a) a contributor for full benefits; or
- (b) a pensioner who, immediately before becoming eligible for a pension, was a contributor for full benefits,
- (c) a contributor for limited benefits who has completed at least 20 years' service; or
- (d) a pensioner who, immediately before becoming eligible for a pension, was a contributor for limited benefits and who when he ceased to be a contributor had completed at least 20 years' service,

is, as from the date of the day following the death of the contributor or pensioner, entitled to a pension calculated at the appropriate rate specified in subsection (4).

(2) Where a contributor for limited benefits dies in service having completed at least 10 years' but less than 20 years' service, the widow of the contributor is entitled, as from the date following the day of his death, to a pension at the rate of five-eighths of the pension that would have been payable to him under section 29 or 30, as the case may be, if he had retired by reason of incapacity on the day of his death.

(3) Where a former contributor for limited benefits dies and the former contributor was, immediately before his death in receipt of, or eligible to receive, a pension under subsection (3) of section 29 or subsection (3) of section 30, the widow of such former contributor is entitled, as from the date following the day of his death, to a pension at the rate of five-eighths of the pension that was payable to him immediately before he died.

(4) A widow's pension (other than a pension to which subsections (2) and (3) relate) is payable—

- (a) in the case of the widow of a contributor who dies before attaining the age for retirement, at the rate of five-eighths of the pension that would have been payable to the contributor if he had retired and become eligible for an incapacity pension immediately before his death;
- (b) in the case of the widow of an officer who was a contributor and who continued in his employment as an officer after attaining the age for retirement, five-eighths of the pension that would have been payable to the contributor immediately before the day of his death if he had retired on attaining the age for retirement;
- (c) in any other case, at the rate of five-eighths of the pension that her husband was receiving, or for which he was eligible, immediately before his death.

(5) A pension is not payable under this section to the widow of a pensioner who married after attaining the age for retirement or his earlier final retirement.

(6) A widow's pension under this section ceases to be payable if the widow remarries.

(7) Subject to subsection (8) where a widow to whom this section applies remarries and subsequently again becomes a widow, she shall be entitled to receive a pension under this section at the same rate as she would be receiving had she not remarried as from the date of the death of the husband of her remarriage until her death or if she again remarries until her further remarriage.

(8) Subsection (7) does not entitle a widow to derive a pension from more than one contributor and where but for this subsection she would be so entitled she shall be deemed to derive her sole entitlement to pension under this section from the contributor through whom she would derive the greatest entitlement to such benefit.

(9) Where the contributor or the pensioner through whom pension under this section is derived is or was a continuing contributor immediately before finally ceasing to contribute to the Fund, the pension payable under this section is in addition to the benefits, if any, derived through the contributor, or as the case may be pensioner, and payable under the 1958 Act.

(10) For the purposes of paragraphs (c) and (d) of subsection (1) and subsection (2)—

(a) service before attaining the age of 20 years; and

(b) additional service determined by the Board under subsection (6) of section 24,

shall be disregarded.

Division III—Children's pensions

32. Child's pension: When payable. (1) A pension is payable under this Act in respect of every child to whom this section applies until he ceases to be a child.

(2) This section applies to every child of—

(a) a person who when he died was a male contributor (other than a contributor for limited benefits who at the time of his death had not completed at least 10 years' service) or a male pensioner (other than a former contributor for limited benefits who at the time when he ceased to be a contributor had not completed at least 10 years' service);

(b) a person who when she died was a contributor (other than a contributor for limited benefits who at the time of her death had not completed at least 10 years' service) and whose spouse has predeceased her;

(c) a deceased or divorced wife of a person who when he died was a contributor, or a pensioner, referred to in paragraph (a), where the child was a dependant of such person when he died;

(d) the widow of a person who when he died was a contributor, or a pensioner, referred to in paragraph (a).

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

(a) where the widow of the person through whom the child's pension is derived under subsection (2) is or was entitled to a widow's pension under this Act and is living, at the rate of two hundred and eight dollars per annum; and

(b) in any case other than a case to which paragraph (a) applies, four hundred and sixteen dollars.

(4) The pension payable under this section to a child who derives his entitlement to such through a contributor to whom subsection (3) of section 29 or subsection (3) of section 30 relates or a former contributor, who, at the time of his death, was in receipt of, or eligible to receive, a pension under subsection (3) of section 29 or subsection (3) of section 30 shall, in lieu of the pension to which, but for this subsection, he would have been entitled, be a pension calculated in accordance with the formula—

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

where—

P represents the annual amount of the pension payable to the child;

A represents the annual amount of the pension that would have been payable to the child but for this subsection;

B represents the length of service of the contributor through whom the pension is derived (expressed in years) as at the time of his retirement.

(5) Where a contributor for limited benefits retires before attaining the age for retirement and at the time of his retirement has completed at least 20 years' service such service being after the contributor has attained the age of 20 years, a child who derives his entitlement to pension through that contributor is entitled to the same pension as the pension that would have been payable to him if the contributor had been a contributor for full benefits.

(6) For the purposes of paragraphs (a) and (b) of subsection (2), subsection (4) and subsection (5), service before attaining the age of 20 years shall be disregarded.

(7) For the purposes of paragraphs (a) and (b) of subsection (2), factor "B" in subsection (4), and subsection (5), additional service determined by the Board under subsection (6) of section 24 shall be disregarded.

(8) While a child remains entitled to further assurance benefit under the 1958 Act, no pension is payable to the child under this section.

33. Commencement and cessation of children's pensions. (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 21 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.

34. Persons to whom a child's pension is payable. (1) A child's pension shall be paid to the widow, if any, of the contributor or pensioner in relation to whom it is payable, or, if there is no widow, 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 IV—Refund of contributions

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

- (a) his resignation;
- (b) his dismissal; or
- (c) his being retired or permitted to retire on the ground of incapacity that is due to wilful action on his part for the obtaining of benefits under this Act,

he is entitled to be paid from the Fund a sum of money equal to the total amount of his contributions to the Fund under this Act.

(2) In the event of the death, before attaining the age for retirement, of—

- (a) a male contributor who does not leave a widow or children; or
- (b) a female contributor whose death does not give rise to a child's pension under Division III,

the Board shall pay a sum equal to the total amount of the contributor's contributions to the Fund under this Act to the personal representatives of the contributor or, if the Board considers it desirable to do so, to such other person as the Board may determine.

(3) Where a male contributor for limited benefits dies and has completed less than ten years' service at the time of his death and leaves a widow or children, his widow or where he does not leave a widow, his personal representative, is entitled to be paid out of the Fund a sum equal to three and one-half times the total amount of the contributor's contributions (other than any additional contributions under subsection (4) of section 24) to the Fund under this Act and a sum equal to the total amount of any such additional contributions.

(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)—

- (a) service before attaining the age of 20 years; and
- (b) additional service determined by the Board under subsection (6) of section 24,

shall be disregarded.

Division V—Adjustment of pensions

36. Increases in rates of benefits. (1) A person who is entitled to receive contributor's pension, incapacity pension, widow'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, widow'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 represents 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); and

T represents the number of periods each of one year that have elapsed between—

(a) the date on which occurred—

(i) in the case of a pension other than a widow'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 two 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 he does not resume his employment as an officer after such grant;

(B) the retirement of the contributor to whom the pension in question is payable or through whom the pension is derived from his employment by reason of incapacity;

(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 his employment as an officer within the period of five years immediately preceding the day on which he would attain the age for retirement;

(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 widow'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.

(3) A person entitled to receive contributor's pension, incapacity pension, widow'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.

Division VI—General provisions as to pensions

37. Duration of pensions. 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.

38. Time and manner of payment of pensions. Pensions shall be paid in fortnightly instalments or if so determined by the Board, periodically at other intervals.

39. Payment to person other than the beneficiary. (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 authorize 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.

40. Commencement of benefits. 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 he 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 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 in respect of those benefits or additional benefits.

41. Reduction in contributor's pension where employed temporarily by Crown. A contributor retired from employment as an officer who thereafter and after attaining the age for retirement or retiring by reason

of an election to retire within the period of five years immediately preceding the day on which he would attain the age for retirement is re-employed, whether in a temporary or permanent capacity, by the Crown, a University constituted under an Act of this State, the Railway Department, a Hospitals Board or any Board or council referred to in paragraph (b) of the definition "officer" in section 4, the Queensland Health Education Council or the Manager of the Golden Casket Art Union for any continuous period of four weeks or longer, shall, in lieu of the pension to which but for this section he would have been entitled, be entitled to a pension at the rate of two-sevenths of the pension to which he would have been entitled but for this section and in addition five-sevenths of any pension attributable to additional contribution under subsection (4) of section 24, whilst he continues to be so re-employed at a salary equal to or greater than the rate of the basic wage for males (or, in the case of any such person who is a female, for females) declared for the time being by the Full Bench of the Industrial Commission under *The Industrial Conciliation and Arbitration Acts 1961 to 1964*.

42. Proof of continued incapacity. (1) Any person who has been retired, by reason of incapacity, from employment as an officer, and who is in receipt of incapacity pension, shall whilst he continues to be in receipt of incapacity pension, give as prescribed such notifications and certificates relating to his continued incapacity as shall be prescribed and submit himself for medical examination when and so often as the Board requires to a medical practitioner 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 him of incapacity pension until he remedies the default to its satisfaction.

43. Incapacity pensioner restored to health may be recalled to service. (1) If, in the opinion of the Board, the health of any person who has been retired, by reason of incapacity, from employment as an officer, who is in receipt of incapacity pension and who has not attained the age for retirement, has become so restored as to enable him to perform in the opinion of the Board duties as an officer, the Board shall so inform the Public Service Board (or the person or authority other than the Public Service Board by whom or which that person was formerly employed as an officer) with a view to employment as an officer being found for such person.

(2) If employment as an officer is offered to him at a rate of salary at least equal to the rate of salary then payable in respect of the office held by him at the time he became eligible for the incapacity pension in question and he fails to accept that employment the Board may cancel the incapacity pension and thereupon it shall cease to be payable.

(3) Upon the cancellation pursuant to this section of the incapacity pension payable to any person, neither that person nor any other person claiming through him, either immediately or at any future time, shall have any right or claim to any payment or, as respects incapacity pension further payment from the Fund in respect of any contributor's pension, incapacity pension, widow's pension or child's pension in respect of which he was contributing to the Fund when he retired save that such

person shall be paid from the Fund a sum of money equal to the total amount of his contributions to the Fund less such amount thereof as the Actuary certifies is attributable to the provision of incapacity pension.

44. Incapacity pension may be suspended during employment. (1)

If at any time it appears to the Board that any person who has been retired, by reason of incapacity from employment as an officer, and who is in receipt of incapacity pension, engages in—

- (a) any business or occupation on his own account; or
- (b) employment (not being employment by virtue whereof he is an officer receiving salary at least equal to the rate referred in subsection (2) of section 43),

the Board may suspend the incapacity benefit.

(2) For the period during which any such person is engaged as specified in subsection (1) he shall not be entitled to or receive any incapacity pension provided that the Board may direct that he receive for that period or such part thereof as the Board determines, the whole of the incapacity pension in question or such part thereof as the Board considers reasonable.

(3) Upon the termination of the engagement by virtue whereof payment of incapacity pension to any person has been suspended under subsection (1) such incapacity pension shall, subject to this Act, again become payable and be paid to such person.

45. Contribution by retired incapacity pensioners upon re-employment.

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 he was retired shall not, for the purposes of this Act, be deemed to be a break in the continuity of his service, and accordingly the officer shall be deemed to be a contributor and contributions to the Fund shall again become payable by him in accordance with this Act.

46. Right to prepay contributions.

The Board may permit a contributor to commute wholly or in part any existing contribution under this Act, payable by him 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.

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

47. Right of contributor to convert his pension into a lump sum. (1)

A contributor may elect to convert the whole or any part of his pension entitlement under this Act into a lump sum payment.

(2) A contributor may not make an election under this section in relation to his entitlement to an incapacity pension.

(3) An election under this section—

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

- (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 one month after the contributor attains the age for retirement; and
- (c) shall, in any case, be made by notice in writing given to the Board (in the following provisions of this section referred to as "the contributor's notice of election").

(4) In the case of an election under this section made by a contributor or a retired contributor, the contributor's notice of election shall specify the percentage (if any) of his pension entitlement that he desires to convert into a lump sum.

(5) Where an election is made under this section by a contributor or a retired contributor and he elects to convert a specified percentage only of his pension entitlement—

- (a) he shall be paid from the Fund—
 - (i) in the case of a contributor, other than a contributor for limited benefits, a sum equal to ten times, or in the case of a female contributor eleven times, that specified percentage of the total amount of his annual pension entitlement under this Act; or
 - (ii) in the case of a contributor for limited benefits, a sum equal to that specified percentage of the amount of his annual pension entitlement under this Act multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of evidence of his state of health furnished under subsection (10); and
- (b) the contributor's pension to which the contributor would have been entitled, but for his having made an election under this section, shall be reduced by a percentage equal to the percentage specified in the contributor's notice of election.

(6) Where a contributor or a retired contributor makes an election under this section and elects to convert the whole of his pension entitlement—

- (a) he shall be paid from the Fund—
 - (i) in the case of a contributor to whom subparagraph (i) of paragraph (a) of subsection (5) refers, a sum equal to ten times, or in the case of a female contributor eleven times, the amount of his annual pension entitlement under this Act; or
 - (ii) in the case of a contributor to whom subparagraph (ii) of paragraph (a) of subsection (5) refers, a sum equal to his annual pension entitlement multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of evidence of his state of health furnished under subsection (10); and
- (b) his entitlement to contributor's pension under this Act ceases.

(7) Where a contributor (other than a contributor who has made an election under subsection (4) of section 24) who makes an election under this section continues, on attaining the age for retirement, in his

employment as an officer, he shall in lieu of the lump sum payment from the Fund to which he would have been entitled but for this subsection, be entitled to be paid from the Fund—

- (a) where, in the case of a contributor other than a contributor for limited benefits, he elects to convert a specified percentage only of his pension entitlement—
 - (i) a sum equal to ten times, or in the case of a female contributor eleven times, that specified percentage of two-sevenths of the amount of his annual pension entitlement under this Act if he had retired on attaining the age for retirement; and
 - (ii) on his retiring or being retired from his employment as an officer a sum equal to that specified percentage of five-sevenths of the amount of his annual pension entitlement under this Act if he had retired on attaining the age for retirement multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of his age at the time that he so retires or is retired, and the pension to which the contributor would have been entitled but for his having made an election under this section shall be reduced by a percentage equal to the percentage specified in the contributor's notice of election;
- (b) where, in the case of a contributor for limited benefits, he elects to convert a specified percentage only of his pension entitlement—
 - (i) a sum equal to that specified percentage of two-sevenths of the amount of his annual pension entitlement under this Act if he had retired on attaining the age for retirement multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of evidence of his state of health furnished under subsection (10); and
 - (ii) on his retiring or being retired from his employment as an officer a sum equal to that specified percentage of five-sevenths of the amount of his annual pension entitlement under this Act if he had retired on attaining the age for retirement multiplied by such factor not exceeding ten, or in the case of a female contributor eleven as the Actuary may determine on the basis of his age at the time that he so retires or is retired and the evidence of his state of health furnished under subsection (10), and the pension to which the contributor would have been entitled but for his having made an election under this section shall be reduced by a percentage equal to the percentage specified in the contributor's notice of election;
- (c) where, in the case of a contributor other than a contributor for limited benefits, he has elected to convert the whole of his pension entitlement—
 - (i) a sum equal to ten times, or in the case of a female contributor eleven times, the amount of two-sevenths of his annual pension entitlement under this Act if he had retired from his employment as an officer on attaining the age for retirement; and

- (ii) on retiring or being retired from his employment as an officer a sum equal to five-sevenths of his annual pension entitlement to which he would have been entitled if he had retired from his employment as an officer on attaining the age for retirement multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of his age at the time of his retirement,
and his entitlement to contributor's pension ceases.
 - (d) where, in the case of a contributor for limited benefits, he has elected to convert the whole of his pension entitlement—
 - (i) a sum equal to the amount of two-sevenths of his annual pension entitlement under this Act if he had retired from his employment as an officer on attaining the age for retirement multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of evidence of his state of health furnished under subsection (10); and
 - (ii) on retiring or being retired from his employment as an officer a sum equal to five-sevenths of his annual pension entitlement to which he would have been entitled if he had retired from his employment as an officer on attaining the age for retirement multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of his age at the time of his retirement and the evidence of his state of health furnished under subsection (10),
and his entitlement to contributor's pension ceases.
- (8) Where a contributor (being a contributor who has made an election under subsection (4) of section 24) who makes an election under this section continues, on attaining the age for retirement, in his employment as an officer, he shall in lieu of the lump sum payment from the Fund to which he would have been entitled but for this subsection, be entitled to be paid from the Fund—
- (a) where, in the case of a contributor other than a contributor for limited benefits, he elects to convert a specified percentage only of his pension entitlement—
 - (i) a sum equal to ten times, or in the case of a female contributor eleven times, that specified percentage of the amount of his annual pension entitlement referred to in subparagraph (i) of paragraph (a) of subsection (5) of section 27;
 - (ii) a sum equal to ten times, or in the case of a female contributor eleven times, that specified percentage of the amount of his annual pension entitlement referred to in subparagraph (ii) of paragraph (a) of subsection (5) of section 27; and
 - (iii) on his retiring or being retired from his employment as an officer a sum equal to that specified percentage of five-sevenths of the amount of his annual pension entitlement under this Act if he had retired on attaining the age for retirement and the said subsection (4) of section 24 had not been enacted

multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of his age at the time that he so retires or is retired, and the pension to which the contributor would have been entitled but for his having made an election under this section shall be reduced by a percentage equal to the percentage specified in the contributor's notice of election;

(b) where, in the case of a contributor for limited benefits, he elects to convert a specified percentage only of his pension entitlement—

- (i) a sum equal to that specified percentage of the amount of his annual pension entitlement referred to in subparagraph (i) of paragraph (a) of subsection (5) of section 27 as applied by section 29 multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of evidence of his state of health furnished under subsection (10);
- (ii) a sum equal to that specified percentage of the amount of his annual pension entitlement referred to in subparagraph (ii) of paragraph (a) of subsection (5) of section 27 as applied by section 29 multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of evidence of his state of health furnished under subsection (10); and
- (iii) on his retiring or being retired from his employment as an officer a sum equal to that specified percentage of five-sevenths of the amount of his annual pension entitlement under this Act if he had retired on attaining the age for retirement and the said subsection (4) of section 24 had not been enacted multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of his age at the time that he so retires or is retired and the evidence of his state of health furnished under subsection (10),

and the pension to which the contributor would have been entitled but for his having made an election under this section shall be reduced by a percentage equal to the percentage specified in the contributor's notice of election;

(c) where, in the case of a contributor other than a contributor for limited benefits, he has elected to convert the whole of his pension entitlement—

- (i) a sum equal to ten times, or in the case of a female contributor eleven times, the amount of his annual pension entitlement referred to in subparagraph (i) of paragraph (a) of subsection (5) of section 27;
- (ii) a sum equal to ten times, or in the case of a female contributor eleven times, the amount of his annual pension entitlement referred to in subparagraph (ii) of paragraph (a) of subsection (5) of section 27; and
- (iii) on retiring or being retired from his employment as an officer a sum equal to five-sevenths of his annual pension entitlement to which he would have been entitled if he had retired from his employment as an officer on attaining the

age for retirement and the said subsection (4) of section 24 had not been enacted multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of his age at the time of his retirement,

and his entitlement to contributor's pension ceases.

(d) where, in the case of a contributor for limited benefits, he has elected to convert the whole of his pension entitlement—

- (i) a sum equal to the amount of his annual pension entitlement referred to in subparagraph (i) of paragraph (a) of subsection (5) of section 27 as applied by section 29 multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of evidence of his state of health furnished under subsection (10);
- (ii) a sum equal to the amount of his annual pension entitlement referred to in subparagraph (ii) of paragraph (a) of subsection (5) of section 27 as applied by section 29 multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of evidence of his state of health furnished under subsection (10); and
- (iii) on retiring or being retired from his employment as an officer a sum equal to five-sevenths of his annual pension entitlement to which he would have been entitled if he had retired from his employment as an officer on attaining the age for retirement and the said subsection (4) of section 24 had not been enacted multiplied by such factor not exceeding ten, or in the case of a female contributor eleven, as the Actuary may determine on the basis of his age at the time of his retirement and the evidence of his state of health furnished under subsection (10),

and his entitlement to contributor's pension ceases.

(9) This section does not apply to a contributor who is a person employed on the staff of the Agent-General for Queensland and being liable—

- (a) to pay tax under the law of the United Kingdom relating to tax on incomes, is not exempted from payment of such tax; or
- (b) to contribute for national insurance including graduated pensions under the law of the United Kingdom relating to national insurance, is not exempted therefrom.

(10) A contributor or retired contributor who is or was a contributor for limited benefits who makes an election under this section shall produce to the Board evidence of his 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 due weight shall be given to that evidence.

(11) A contributor who (being a contributor under the 1958 Act) is not entitled to make an application to commute for a lump sum his annuity benefit (wholly or in part) under Division VA of Part IV of that Act, is not entitled to make an election under this section.

48. Rate of widow's pension not affected by an election made by her husband under section 47. Where a male contributor makes an election under section 47, the widow's pension payable on his death to his widow is payable to her at the same rate as the rate that would have been applicable if that election had not been made.

49. Child's pension not affected by an election under this Division. The making by a contributor of an election under this Division does not affect any pension payable in respect of a child under Division III of this Part derived through the contributor, and such a pension, notwithstanding the making of that election, continues to be payable to the same person and at the same rate as if that election had not been made.

PART V—FINANCIAL PROVISIONS

50. Cost of administration. 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 Revenue Fund.

51. Contributions to the Fund by the State and by State authorities. (1) Subject to subsection (2) of 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 paragraph (f) of subsection (3) of section 19, 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 41, a payment under section 56 unless the Governor in Council specifically approves payment in full, a payment under section 70, and not including such part of any payment that would not have been payable but for subsection (4) of section 24 or any payment of contributor's pension to a contributor whilst he remains an officer after attaining the age for retirement). For the purposes of this section a payment pursuant to subsection (2) of section 29, subsection (2) of section 30, or subsection (3) of section 35 (save the part thereof attributable to the additional contributions under the said subsection (4) of section 24) shall not be treated as a payment made by way of refund of contributions.

(2) A contribution that is required by this Act to be paid to the Fund by the Treasurer—

- (a) is payable out of the Consolidated Revenue 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.

52. State Service Superannuation Additional Benefits Fund. (1) The Fund called The Public Service Superannuation Additional Benefits Fund as established in the Treasury immediately before the commencement of this Act is hereby preserved, continued in existence and established in the Treasury under this Act under the name "State Service Superannuation Additional Benefits Fund".

(2) The Treasurer shall pay into the Fund referred to in subsection (1) in respect of each financial year such sum as the Actuary certifies from time to time to be necessary in order to make proper provision for payment out of such Fund of all sums payable by the Crown under this Part or section 28, 69 or 85 of the 1958 Act in respect of all contributors and persons other than those mentioned in subsection (4).

(3) Payments to be made under this section by the Treasurer into the said Fund shall be made from the Consolidated Revenue Fund (exclusive of the moneys standing to the credit of the Loan Fund Account) which is hereby appropriated accordingly.

(4) In respect of any period of time during which the salary of any contributor is payable from the Loan Fund Account or any of the Trust and Special Funds, the Treasurer shall cause to be paid monthly from such Account or Fund and, in respect of any contributor employed by a Hospitals Board, the Treasurer shall cause to be paid monthly from the Hospital Administration Trust Fund established under an Act of this State, and in respect of any contributor employed by a university constituted under an Act of this State, the Queensland Health Education Council, the Board of Advanced Education, the Board of Teacher Education or a Council of a college of advanced education constituted under the *Education Act* 1964-1970, or the Manager of the Golden Casket Art Union, such employer shall cause to be paid monthly into the State Service Superannuation Additional Benefits Fund an amount equal to such amount as the Actuary certifies from time to time to be necessary to make proper provision for payment out of the Account or Fund in question or by the employer of all sums payable by the Crown under this Part or section 28, 69 or 85 of the 1958 Act in respect of every contributor or person whose salary when (whether before or after the enactment of this subsection) he ceased employment as an officer, or retired from the employment in relation to which he contributed for benefit under this Act, the 1958 Act or any Act repealed by that Act, was payable from the Loan Fund Account or any of the Trust and Special Funds, or who was an employee of a Hospitals Board or of any other employer hereinbefore mentioned in this subsection.

(5) The Treasurer shall pay into the State Service Superannuation Additional Benefits Fund in respect of each financial year such sum as when added to the income from investments accrued to that Fund during the year in question will provide an earning rate of not less than six per centum per annum, such rate to be determined by dividing one hundred times the income from investments accrued to the State Service Superannuation Additional Benefits Fund in that year (plus any sum payable by the Treasurer under this subsection) by the average of investible moneys in that Fund in that year less one half of the income from investments accrued to the Fund in that year (plus any sum payable by the Treasurer under this subsection):

Provided that where in respect of the year immediately preceding the year in question the earning rate per centum per annum ascertained as prescribed by the preceding provisions of this subsection exceeded the rate of six per centum per annum the sum payable under this subsection (except for this proviso) in respect of the year in question may be reduced so as to provide over the period comprising the year in question and the year immediately preceding that year an average earning rate of not less than six per centum per annum determined in accordance with this subsection as if the subsection applied to the said period instead of to the year in question.

(6) The Treasurer shall cause to be paid out of the State Service Superannuation Additional Benefits Fund all sums payable by the Crown under section 51 of this Act or section 28, 69 or 85 of the 1958 Act.

(7) Payment from the State Service Superannuation Additional Benefits Fund of the amount or proportion prescribed by this Part or section 28, 69 or 85 of the 1958 Act to be payable by the Crown of any payment from the State Service Superannuation Fund mentioned

in this Part or the said section 28, 69 or 85 shall be deemed to be payment of such amount or proportion from the State Service Superannuation Fund and accordingly shall be a lawful and sufficient compliance with any provision of this Act or the 1958 Act requiring such amount or proportion to be paid from the State Service Superannuation Fund.

(8) All investments under *The Treasury Funds Investment Acts 1958 to 1964* before the commencement of this Act of moneys in the Fund preserved, continued in existence and established in the Treasury under this Act by this section shall, to the extent that they were immediately before the said commencement of force and effect, have the same force and effect as if the investments had been made from the Fund under the name State Service Superannuation Additional Benefits Fund and shall be available to the Fund under its changed name.

53. Accounts to be kept by the Board. (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 him by the *Audit Act 1874-1968* in relation to the audit of the public accounts.

PART VI—MISCELLANEOUS

54. Assignment of pensions. Subject to section 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 debts or liabilities.

55. When Fund charged with defalcations by contributors. If any contributor ceases employment as an officer by reason of his 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.

56. When officer may continue to contribute after resignation. (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 immediately prior to his resignation, for the benefit in question and any benefit in respect whereof he 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: Provided that 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 his 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 subsection (4) of section 24) payable pursuant to Part IV shall be reduced to two-sevenths of the amount which, save for this subsection, would be payable in respect thereof under this Act.

57. Determination of questions arising under this Act. (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;
- (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 him an opportunity to be heard, and shall consider any medical report or other evidence he may then submit to it.

58. Settlement of disputes. (1) Any dispute under this Act shall be determined in the first place by the Board: 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 thirty 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 he 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 he deems necessary or expedient to give effect to his 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 he 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.

59. Unclaimed moneys. (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 six 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 six 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 six 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: But the Board may allow and pay any claim after such period of six 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 the moneys.

60. Barring of claims for compensation. 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.

61. Fund to be exempt from taxation. (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.

62. Returns. (1) The Public Service Board 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 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) An officer or a pensioner who fails to comply with a requirement of the Board under subsection (2) is guilty of an offence and is liable to a penalty of twenty dollars unless he proves that he had reasonable excuse for the failure; and, in addition, the Board may, in the case of a pensioner, suspend his pension until such time as the Board's requirement is complied with to its satisfaction, and thereupon the pension ceases to be payable in respect of the period of the suspension.

63. Pensioners rejoining service. (1) Where a pensioner who has elected to retire within the period of five years immediately preceding the day on which he would attain the age for retirement is reappointed to a position as an officer he is not obliged, and shall not be permitted, to contribute to the Fund as provided in Part III.

(2) Except as expressly provided in this Act, the re-employment of a former officer does not affect his then existing rights, if any, under this Act, but in all other respects he is in the same position as if he had not previously been an officer.

64. Medical examinations. (1) Every person who on or after the commencement of this Act becomes an officer and every officer to whom paragraph (b) of section 3 relates shall, before contributing to the Fund, be medically examined by a medical practitioner.

(2) A person referred to in subsection (1) shall not contribute to the Fund as a contributor for full benefits if the Board is not satisfied, after considering the report of the medical practitioner, that the health and physical condition of that person are such as to justify his being accepted as such a contributor.

(3) Notwithstanding anything to the contrary contained in this Act, 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: But 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.

65. Calculation of benefits based on contributions of officers: (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 him up to the date of his attaining the age for retirement or his earlier retirement or death, as the case may be, together with any contributions that he may be required or permitted to pay and that are paid by him or on his behalf, after that date, but subject to the deduction of any contributions previously refunded to him.

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

66. Discretionary powers of the Board. (1) Where the Board is satisfied, after such inquiry as it thinks necessary, that a person has, otherwise than through his own fault, lost or ceased to be entitled to a right, privilege, or benefit under this Act to which he was otherwise entitled or might have obtained, and that it is just and equitable that he should be allowed to have the enjoyment of the right, privilege, or benefit, the Board may, with the approval of the Minister, permit the person to exercise the right or grant to him 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 and as the Minister may approve.

(3) Notwithstanding anything contained in this Act, where an application, election or notice under this Act has been or is made or given to the Board before the commencement, or after the expiration, of the prescribed period, and the Board is satisfied that—

(a) hardship would accrue to a person or his dependants if the same were not recognized; and

(b) in all the circumstances of the case it is desirable that the same should be recognized,

the Board may recognize the application, election or notice, as the case may be, as if it had been made within the prescribed period.

67. Provisions in respect of officer accidentally excluded from contributing. (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 he 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 he shall be deemed to have exercised the right of election

to the greatest advantage of himself and his dependants and pension is thereupon payable accordingly as from the date of his retirement or death, as the case may be.

(3) A pension that is payable under this section is subject to the payment by the pensioner to the Board of the contributions that would have been payable by him while he was an officer if no mistake, omission, or accident had occurred and he had made the election, if any, that he 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 he is entitled to exercise, within such time not exceeding six months after the discovery thereof as the Board may allow, any right of election to which he would have been entitled if the mistake, omission, or accident had not occurred, but subject to the payment by him to the Board of the contributions that he would have made in that event up to the date of his entry to the Fund and of interest thereon that would have accrued to the Fund had the contributions been duly paid.

68. Rates or amounts of pensions etc. to be rounded off. Where the rate or amount of a pension under this Act, when expressed in dollars and cents, leaves a number of cents remaining that is less than ten cents or a multiple of ten cents, the Board shall round off that rate or amount as prescribed, and the pension is payable in terms of that rate or amount as so rounded off.

69. Certain payments to be without interest. Except where otherwise expressly provided in this Act, a lump sum payment that is required or authorized by this Act to be made out of the Fund to a contributor or former contributor shall be paid without the addition of any interest thereto.

70. False declarations. (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 his age or the state of his health that is false or misleading; or
- (b) for the purposes of a medical examination required to be undergone by him under this Act, knowingly furnish the medical practitioner by whom the examination is made with information as to the state of his health or his medical history that is false or misleading.

Penalty: One hundred dollars.

(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 he shall forthwith cease to be a contributor and that he shall be ineligible, either permanently or for such time as the Board may determine, to contribute to the Fund; or
 - (ii) if his contributions have not commenced, that he be ineligible to commence to contribute to the Fund either permanently or for such time as the Board may determine;

- (b) in the case of a pensioner, order that his pension be cancelled forthwith and that no refund of his contributions be made to him; 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 a refund of his contributions and he is entitled to no other benefit under this Act.
- (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 his service for the purpose of determining his entitlement, or that of a person deriving an entitlement through him, to pension or other benefits under this Act.

71. Regulations. The Governor in Council may from time to time make regulations, not inconsistent with this Act—

- (a) prescribing in respect of contributors or persons who have retired by reason of incapacity—
 - (i) provisions for cancellation or suspension of incapacity pension or other payments; and
 - (ii) conditions regarding resumption of payments of contribution and the effecting of additional benefits on re-employment;
- (b) where under this Act an officer may make any election or choice, and the time within which it may be made is not stated in the Act, prescribing the time within which it must be made and the conditions upon which it may be made;
- (c) regulating the conduct of the business of the Board, the procedure at meetings, and the powers and duties of the chairman;
- (d) prescribing the manner of paying benefits under this Act;
- (e) prescribing the duties of the manager and other officers appointed for the effectual administration of this Act, and the mode of keeping the accounts;
- (f) prescribing forms under this Act and the respective purposes for which such forms or forms to the like effect shall be used;
- (g) regulating payments by contributors absent on leave without salary;
- (h) prescribing all matters and things, which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act; and
- (j) prescribing penalties not exceeding one hundred dollars for an offence against the regulations.

72. Offences to be dealt with summarily. All offences against this Act may be prosecuted in a summary way under *The Justices Acts 1886 to 1968* on complaint by the manager or by any other person authorized by the Board.

PART VII—APPLICATION AND AMENDMENT OF PUBLIC SERVICE SUPERANNUATION ACT 1958–1969

73. Application of Act 7 Eliz. 2 No. 73. (1) The *Public Service Superannuation Act 1958–1969* (hereinafter in this section referred to as 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;
- (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 elected, or was required, to contribute to the Fund but had not commenced his 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;
- (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 his salary but for which on the said commencement he had not commenced to contribute; and
- (c) units of benefits in respect of which, being thereunto authorized 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.

(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 paragraph (b) or (c) of subsection (3) or subsection (5) relates.

(5) At any time before the expiration of a period of six months commencing on the commencement of this Act, a continuing contributor may make any election under and in accordance with section 22A of the said Act that he was eligible to make immediately before the commencement of this Act and subject to the said section he may increase his 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 section 22 thereof 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 he was contributing under the said Act immediately before the commencement of this Act;
- (b) units of benefits referred to in paragraph (b) or (c) of subsection (3) for which he 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 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.

74. Amendment of 7 Eliz. 2 No. 73. (1) The *Public Service Superannuation Act 1958–1969* is amended as set out in Schedule II.

(2) The *Public Service Superannuation Act 1958–1969* is amended by repealing sections 6 to 18 (both inclusive), section 19A and section 81.

(3) The *Public Service Superannuation Act 1958–1969* is amended by inserting after section 38 the following section:—

“**38A. Refunds of incapacity benefit contributions.** (1) If and when a person ceases to be a contributor before attaining the age of sixty-five years he or, if he has died, his legal personal representative or other person approved by the Board, shall be paid from the Fund a sum equal to the aggregate of all sums contributed by him to the Fund in respect of units of incapacity benefit for which he was then contributing accumulated at the rate of one and one-quarter per centum per annum compound.

(2) This section does not apply to a person retired, by reason of incapacity, from his employment as an officer.

(4) The *Public Service Superannuation Act 1958–1969* as amended by this section may be cited as the *Public Service Superannuation Act 1958–1972*.

SCHEDULE I

[s. 6]

TEACHERS' DIVISION

Contributors who are employed as teachers in schools and colleges controlled by the Department of Education, the Board of Teacher Education and Councils of Colleges of Advanced Education constituted under the *Education Act 1964–1970* and contributors who are employed on the academic staff of universities established under an Act of this State;

PROFESSIONAL DIVISION

Contributors (not being contributors included in the Teachers' Division as defined in this Schedule) who hold positions the duties of which require some professional, technical, or special skill or knowledge usually acquired only in some profession or pursuit different from that ordinarily required in the administrative, clerical or general portions of the Public Service;

ADMINISTRATIVE, CLERICAL AND GENERAL DIVISION

Contributors other than contributors included in the Teachers' Division or the Professional Division as respectively defined in this Schedule.

SCHEDULE II [s. 74]

AMENDMENTS OF THE PUBLIC SERVICE SUPERANNUATION ACT 1958-1969

Provisions amended	Amendments
Section 4	<p>(a) omit the definition "Board" and insert in its stead the following definition:— "Board"—The State Service Superannuation Board constituted under the <i>State Service Superannuation Act 1972</i>;"</p> <p>(b) omit the definition "Fund" and insert in its stead the following definition:— "Fund"—The State Service Superannuation Fund preserved, continued in existence and established under the <i>State Service Superannuation Act 1972</i>;"</p> <p>(c) omit the definition "Manager" and insert in its stead the following definition:— "Manager"—The Manager within the meaning of section 4 of the <i>State Service Superannuation Act 1972</i>;" and</p> <p>(d) omit the definition "Surrender value."</p>
Section 19	<p>(a) omit subsections (1), (2) and (3); and (b) renumber subsections (4) and (5) as subsections (1) and (2) respectively.</p>
Section 20	<p>Omit from subsection (4) the words "the surrender value, if any, payable in respect of contributions, whether paid or in arrears, payable by him to the Fund to the date of such determination" and insert in their stead the words "a sum equal to the aggregate of contributions, whether paid or in arrears, payable by him to the Fund to the date of such determination accumulated at the rate of one and one quarter per centum per annum compound".</p>
Section 23	<p>Omit paragraph (b) of subsection (5) thereof and insert in its stead the following paragraph:— "(b) The sum equal to the aggregate of all amounts paid by the contributor in respect of units of annuity benefit, incapacity benefit and assurance benefit surrendered under this subsection accumulated at the rate of one and one-quarter per centum per annum compound shall be paid to the contributor."</p>
Section 24	<p>Omit from the first paragraph the words "surrender value, if any, payable in respect of contributions paid by him or her in respect of units of annuity benefit and, in the case of a male contributor, assurance benefit, in excess of the reduced number of units shall be paid to him or her" and insert in their stead the words "sum equal to the aggregate of all amounts paid by him or her in respect of units of annuity benefit, incapacity benefit and assurance benefit, in excess of the reduced number of units accumulated at the rate of one and one-quarter per centum per annum compound shall be paid to him or her".</p>

AMENDMENTS OF THE PUBLIC SERVICE SUPERANNUATION ACT 1958-1969—
continued

Provisions amended	Amendments
Section 26	<p>(a) omit from subsection (2) the words “ of two weeks or longer (in this subsection called the “period of incapacity”) in respect of which an officer is in receipt of incapacity benefit from the Fund ” and insert in their stead the words “of absence without salary for two weeks or longer not being such leave in respect of incapacity due to wilful action on the part of the officer for the obtaining of benefits under this Act ”; and</p> <p>(b) omit the second paragraph of subsection (2).</p>
Section 27	<p>Add at the end thereof the following subsections:—</p> <p>“ (3) For the purpose of subsection (4), “hypothetical fortnightly contribution” means the fortnightly contribution, as at the first day of January, 1973, that would have been payable by a contributor in respect of the units of benefit (hereinafter in this section referred to as the “said units of benefit”) for which he or she is a contributor under this Act as at that date (including any units of whole life and endowment assurance, but excluding any units of benefit that were effected pursuant to section 22A after the first day of October, 1972 and any reserve units of benefit) if—</p> <p>(a) each (if any) of the said units of benefit that was taken up pursuant to section 22A had been effected immediately before the date of its becoming a unit of benefit in respect of which an election might be made under the said section; and</p> <p>(b) each (if any) of the said units of benefit in respect of which any fortnightly contributions have been commuted by payment of a lump sum had not been so commuted,</p> <p>but where neither paragraph (a) or (b) is applicable to the case in question means the fortnightly contribution as at the first day of January 1973 that is payable by a contributor in respect of the said units of benefit.</p> <p>(4) A contributor whose hypothetical fortnightly contribution exceeds the sum equal to thirteen per centum of his or her fortnightly salary as at the first day of January, 1973 may, by application in writing to the Board prior to the first day of March, 1973, have the actual fortnightly contribution that he or she is paying as at that first mentioned date in respect of the said units of benefit reduced by whichever is the lesser of—</p> <p>(i) the fortnightly contribution that is payable by the contributor as at the said first day of January; and</p>

AMENDMENTS OF THE PUBLIC SERVICE SUPERANNUATION ACT 1958-1969—
continued

Provisions amended	Amendments
	<p>(ii) one-third of the excess of the hypothetical fortnightly contribution over the sum equal to thirteen per centum of such fortnightly salary.</p> <p>(5) Any reduction in the actual fortnightly contribution under subsection (4) shall apply retrospectively from the first due date for the payment of the contributor's fortnightly contributions after the first day of January, 1973.</p>
Section 27C	omit from subsection (1) the words "surrender value, if any, of the reserve units of annuity benefit and, in the case of a male contributor, assurance benefit in respect of which he or she has so elected to discontinue his or her contributions" and insert in their stead the words "sum equal to the aggregate of all amounts paid by him or her in respect of units of annuity benefit, incapacity benefit and assurance benefit for which he or she has so elected to discontinue his or her contributions accumulated at the rate of one and one-quarter per centum per annum compound".
Section 27D	Add at the end thereof the following sentence:— "In the case of a contributor who is continued in his or her employment as an officer after attaining the age of sixty-five years, benefits payable in respect of reserve units of annuity shall be payable to the contributor on his attaining the age of sixty-five years and shall be at the same rate as that to which he would be entitled if he had ceased to be an officer on attaining the age of sixty-five years."
Section 27E	<p>(a) omit from subsection (1) the word "annuity" (firstly occurring);</p> <p>(b) omit from subsection (3) the words "annuity benefit" (where twice occurring) and insert in their stead the words "annuity benefit, incapacity benefit"; and</p> <p>(c) omit from paragraph (b) of subsection (4) the words "the surrender value, if any, of such number of reserve units of annuity benefit and (in the case of a male contributor) assurance benefit" and insert in their stead the words "the aggregate of all amounts (accumulated at the rate of one and one-quarter per centum per annum compound) contributed by the contributor in question in respect of such number of reserve units of annuity benefit, incapacity benefit and assurance benefit".</p>

AMENDMENTS OF THE PUBLIC SERVICE SUPERANNUATION ACT 1958-1969—
continued

Provisions amended	Amendments
Section 28	<p>(a) Add after the words " payment so made " the words " where the entitlement to such payment arose before the commencement of the <i>State Service Superannuation Act 1972</i> or the entitlement to such payment is derived from a person whose entitlement to annuity benefit or incapacity benefit arose before the said commencement or a sum equal to—</p> <p>(a) five-sevenths of the payment so made; or</p> <p>(b) such other sum as the Treasurer on the advice of the actuary may determine,</p> <p>where the entitlement to such payment arose after the said commencement and is not derived from a person whose entitlement to annuity benefit or incapacity benefit arose before the said commencement "; and</p> <p>(b) omit from paragraph (b) the words " subsection two of section thirty-two or ".</p>
Section 31	<p>(a) insert in paragraph (a) of subsection (2), after the words " sick leave of absence without salary ", the words " exceeding two months not including the first two months thereof ";</p> <p>(b) omit from subsection (3) the second paragraph thereof and insert in its stead the following paragraph:—</p> <p>" If by reason of incapacity to which this subsection applies a contributor is retired from employment as an officer, he or she shall be entitled to be paid the sum equal to the aggregate of all amounts paid by him or her in respect of units of annuity benefit, incapacity benefit and assurance benefit under this Act accumulated at the rate of one and one-quarter per centum per annum compound, and, in the case of a contributor to whom Part V of this Act applies, the surrender value in respect of contributions paid by him or her to the Fund for assurance benefit under and within the meaning of the repealed Acts but, save such payment, such retirement shall determine all his or her right and interest in respect of benefits for which he or she was a contributor."; and</p> <p>(c) omit subsection (4).</p>
Section 32	<p>(a) omit from subsection (1) the words " to subsection (2) of this section and "; and</p> <p>(b) omit subsection (2).</p>

AMENDMENTS OF THE PUBLIC SERVICE SUPERANNUATION ACT 1958-1969—
continued

Provisions amended	Amendments
Section 36	<p>(a) omit the words "one hundred and fifty-six" and insert in their stead the words "two hundred and eight"; and</p> <p>(b) omit the words "three hundred and twelve" and insert in their stead the words "four hundred and sixteen".</p>
Section 37	<p>Omit all words commencing with the words "that age" and ending with the words "sixty cents" and insert in their stead the words "that age, the sum of one hundred and five dollars and sixty cents".</p>
Section 38	<p>(a) omit from subsection (1) the words "the surrender value of the number of units of annuity benefit under this Act for which he was then contributing" and insert in their stead the words "a sum equal to the aggregate of all amounts contributed by him to the Fund in respect of units of annuity benefit for which he was then contributing accumulated at the rate of one and one-quarter per centum per annum compound"; and</p> <p>(b) omit subsection (2) and insert in its stead the following subsection:—</p> <p style="padding-left: 40px;">“(2) When a person over the age of sixty-five years who has been a contributor and who when he died was entitled to receive annuity benefit under this Act, dies before he has been in receipt of such benefit for a period of three years his legal personal representative or other person approved by the Board shall be entitled to be paid from the Fund the amount by which the aggregate of all payments from the Fund in respect of units of annuity benefit under this Act in respect of which he was entitled to the receipt of annuity benefit when he died that would have been paid if he had been in receipt of such annuity benefit for a period of three years exceeds the aggregate of all such payments that had been paid to him before he died.</p> <p style="padding-left: 40px;">For the purposes of this subsection—</p> <p style="padding-left: 80px;">(a) it shall be deemed that the annuity benefit that would have been received by the person during any unexpired portion of the period of three years subsequent to his death shall be at the rate of one hundred dollars per annum per unit of annuity benefit; and</p> <p style="padding-left: 80px;">(b) the provisions of section 43A shall be disregarded in calculating entitlement under this subsection.”.</p>

AMENDMENTS OF THE PUBLIC SERVICE SUPERANNUATION ACT 1958-1969—
continued

Provisions amended	Amendments
Section 39	<p>(a) omit from subsection (1) the phrase “(without in the case of such a widower leaving him surviving any child in respect of whom additional assurance benefit is payable)”;</p> <p>(b) add at the end of subsection (1) the words “ accumulated at the rate of one and one-quarter per centum per annum compound ”;</p> <p>(c) omit subsection (2); and</p> <p>(d) omit from subsection (3) the words “ the surrender value of the number of units of assurance benefit for which he was contributing when he ceased to be a contributor ” and insert in their stead the words “ a sum equal to the aggregate of all amounts contributed by him to the Fund in respect of units of assurance benefit for which he was contributing accumulated at the rate of one and one-quarter per centum per annum compound ”.</p>
Section 39A	<p>Insert after subsection (4) the following subsection—</p> <p>“(4A) A person who makes an application under subsection (1) in respect of units of benefit effected under Part VA for which he commenced to contribute to the Fund after the thirtieth day of June 1971, shall produce evidence of his or her state of health at the time of the application satisfactory to the Board and in determining the lump sum payable under this section due weight shall be given to that evidence.”.</p>
Section 39B	<p>Insert in subparagraph (ii) of paragraph (c) after the words “under this Act” the words “other than a commutation by way of a single premium of the contribution for units of benefits under this Act effected under section 22 by reason of an increase in the salary of the contributor.”.</p>
Section 45	<p>Omit from subsection (3) the words “ the surrender value, if any, of each unit of any such benefit ” and insert in their stead the words “ the sum equal to the aggregate of all amounts paid by him in respect of units of annuity benefit, incapacity benefit and assurance benefit accumulated at the rate of one and one-quarter per centum per annum compound ”.</p>

AMENDMENTS OF THE PUBLIC SERVICE SUPERANNUATION ACT 1958-1969—
continued

Provisions amended	Amendments
Section 69	Omit subsection (3).
Section 73B	Omit from subsection (5) all words after the words " under this Part " and insert in their stead the words " unless he has been a contributor for a period of at least ten years."
Section 77A	Insert in the last paragraph of subsection (9), after the words " section thirty-eight ", the words ", of section 38A ".



UNION VICARIAL BOARD

REPUBLICAN RECORDING SERVICE

No. 22 of 1972

AN ACT to amend the Superannuation and Pensions Act 1958-1971 in certain particulars

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