

GOVERNMENT EMPLOYEES' PENSIONS.

12th and 13th GEO. VI., No. LVI.

No. 56 of 1948.

AN ACT to make provision for the payment of pensions to certain persons who were employed by or under a Government department prior to the seventeenth day of April, 1905, and for other purposes connected therewith.

[Assented to 21st January, 1949.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Government Employees' Pensions Act, 1948*, and shall come into operation on a date to be proclaimed.

Short title
and com-
mencement.

2. In this Act, subject to the context—

Interpreta-
tion.

“dismissal” means the compulsory termination for disciplinary reasons of the employment of an employee, however expressed, but does not include—

(a) retirement after attaining the age of sixty years; or

(b) retirement through physical or mental incapacity prior to attaining the age of sixty years; or

(c) retrenchment or discharge for any reason not disciplinary; and

“dismissed” shall have a corresponding meaning;

“employee,” subject to the exceptions hereinafter in this definition mentioned, means any person who—

- (a) is still living at the date of the commencement of this Act; and
- (b) was, prior to the seventeenth day of April, 1905, employed in a permanent capacity in or under any department under the administration of a Minister of the Crown in the Government of the State, and was at that time required by the terms of his employment to give his whole time to the duties of his employment in or under a department as aforesaid; and
- (c) was so employed as aforesaid continuously for a period of not less than ten years commencing from a date prior to the seventeenth day of April, 1905; and
- (d) shall have either—
 - (i) whilst so employed as aforesaid attained the age of sixty years and subsequently retired; or
 - (ii) prior to attaining the age of sixty years, ceased to be so employed as aforesaid solely because of his physical or mental incapacity to perform his duties.

The exceptions hereinbefore in this definition referred to are—

- (e) any person who is in receipt of, or who is or shall become eligible on retirement for a pension under the provisions of the Superannuation Act, 1871-1947; or
- (f) any person who is or has at any time been a contributor for a pension; or is in receipt of or eligible for a pension under the provisions of the Superannuation and Family Benefits Act, 1938-1947; or

- (g) any person who shall have been dismissed from his employment in or under a department as aforesaid either before or after attaining the age of sixty years; or
- (h) any person who, prior to the date on which he shall have attained the age of sixty years, shall have resigned or been discharged or retrenched and who shall not subsequently have been re-employed in or under a department as aforesaid and been in continuous employment as aforesaid on attaining the age of sixty years.

For the purposes of this definition—

- (j) a person shall be deemed to have been employed in a permanent capacity if, prior to the seventeenth day of April, 1905, he had been employed in the ordinary work of the department in which he had been employed in circumstances which justified an expectation that, subject to good conduct and efficiency, his employment would have been continuous and permanent;
- (k) a person shall not be deemed to have been employed in a permanent capacity whilst employed casually or in connection with a particular work or undertaking, the completion of which would have put an end to his employment;

“employment as aforesaid” or “employed as aforesaid” refers to employment in a permanent capacity in or under any department under the administration of a Minister of the Crown under terms of employment requiring the giving of whole time to the duties of the employment in or under a department as aforesaid;

“resignation” means the voluntary termination of the employment of an employee before attaining the age of sixty years; and

“resigned” shall have a corresponding meaning;

“retirement” means the termination of the employment of an employee either solely because of his physical or mental incapacity to perform his duties or, after he has attained the age of sixty years, for any reason other than dismissal; and

“retired” shall have a corresponding meaning;

“retrenchment” means the termination, before attaining the age of sixty years, of the employment of an employee for the reason that his services were or position was no longer necessary, or for the reason that the work for which he was engaged had ceased, or for the reason that the quantity of work had diminished and had rendered necessary or expedient a reduction in the number of employees; and

“retrenched” shall have a corresponding meaning;

“Superannuation Board” means the Superannuation Board constituted under the Superannuation and Family Benefits Act, 1938-1947;

“wages” includes the value of allowances, including allowances for rent, house allowed rent free, light, fuel, rations and fees allowed regularly as emoluments, but does not include bonuses, overtime payments or allowances for forage, equipment, climatic disadvantages, isolation or travelling expenses.

† calculation
of rate of
pension.

3. An employee on retirement shall, subject to the provisions of this Act, be eligible for a pension to be calculated as follows, that is to say:—

- (a) An employee who shall have served continuously for ten years but for less than eleven years shall be eligible to receive an annual pension of ten forty-eighths of the average annual amount of wages received by such employee for the three years next preceding the date of his retirement or the date on which he attained the age of sixty-five years, whichever is the earlier:

Provided that, in relation to an employee referred to in subsection (2) of section five of this Act, the period of three years aforesaid shall be the period of three years next

preceding the first date of the resignation, discharge or retrenchment of such employee as in the said subsection mentioned.

- (b) An employee who shall have served continuously for eleven years or more shall, in addition to the amount provided in paragraph (a) of this section, be eligible to receive an addition to his pension in respect of each additional completed year of continuous service of one forty-eighth of the average annual amount of wages received by him as aforesaid, but no addition shall be paid in respect of any service beyond a continuous period of forty years or in respect of any service subsequent to the date on which he attained the age of sixty-five years:

Provided that the total amount of pension which an employee may become eligible to receive under this Act shall not exceed the sum of one hundred and thirty pounds per annum.

4. Notwithstanding anything to the contrary contained in this Act, the commencing date for the payment of a pension under this Act to a retired employee shall be as follows, that is to say:—

Commencing date of payment of pension.

- (a) Where an employee retired prior to the date of the commencement of this Act, the pension to such retired employee shall be payable on and from the date of commencement of this Act.
- (b) Where an employee retires after the date of the commencement of this Act, the pension to such retired employee shall be payable on and from the day next following the day on which he ceased to be an employee or the day following the date of expiration of the period equivalent to paid leave granted to such employee before or after the termination of his employment, whichever is the later.

5. (1) An employee who was absent from his employment as aforesaid because of what, in the opinion of the Superannuation Board, was war service, or was so

Special provisions affecting continuity of service.

absent on annual leave or sick leave or long service leave or leave without pay or on an award holiday shall be deemed to have been continuously employed as aforesaid during such absences:

Provided that any period of leave without pay in excess of three months shall be excluded for the purpose of calculating the amount of pension payable.

(2) An employee who shall have resigned or been discharged or retrenched prior to his having attained the age of sixty years, but who was, on the date of his attaining the age of sixty years, in continuous employment as aforesaid, shall be eligible for a pension under this Act in respect only of any period of continuous employment as aforesaid prior to the first date of his resignation, discharge, or retrenchment, as the case may be, after the sixteenth day of April, 1905.

Cancellation
of pension on
re-employ-
ment of a
pensioner.

6. Where any person who is in receipt of a pension under this Act is employed or re-employed under the Crown, whether the Crown in right of the State or of the Commonwealth, or of any other State of the Commonwealth, his pension shall be cancelled during the period of employment or re-employment:

Provided that so much of the period of such employment or re-employment as shall constitute the equivalent of the first twenty-eight working days in each twelve-monthly period of such employment or re-employment shall be exempted from the cancellation aforesaid, but such exemption shall be limited to one term of twenty-eight days where the period of such employment or re-employment is continuous for more than twelve months.

Pensions
payable for
life.

7. A pension under this Act shall be payable during the life of the person entitled thereto, and no longer.

Payment of
pensions in
instalments.

8. (1) Pensions payable under this Act shall be paid in fortnightly instalments, or as the Treasurer shall direct.

(2) In order to ascertain the amount of an instalment of a pension covering a period of a fortnight, the annual pension shall be divided by twenty-six.

(3) In order to ascertain the amount of pension payable for one day, the fortnightly pension shall be divided by twelve.

9. (1) All claims for pensions under this Act shall be made, in the form and manner prescribed, to the Superannuation Board.

Claims for pensions.

(2) Subject to the next succeeding section, the Superannuation Board shall determine all questions and disputes relating to eligibility for and amounts of pension under this Act.

Superannuation Board to determine questions.

10. (1) Any person aggrieved by a decision of the Superannuation Board under this Act may, in accordance with the regulations, appeal to the Public Service Appeal Board as constituted under the Public Service Appeal Board Act, 1920-1945.

Appeals.

(2) The decision of the said Public Service Appeal Board hearing and determining an appeal under this section shall be final and conclusive and without further appeal, and effect shall be given thereto according to the tenor thereof.

Decision of Appeal Board to be final.

11. All pensions under this Act shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly.

Appropriation of Consolidated Revenue Fund.

12. Pensions under this Act shall not be in any way assigned or charged or passed by operation of law to any person other than the employee entitled thereto, and any moneys payable under this Act on the death of the employee shall, subject to any law of the Commonwealth to the contrary, not be assets for the payment of his debts or liabilities:

Assignment of pensions.

Provided that the Superannuation Board may authorise any person other than the employee entitled to any pension under this Act to receive payments of pension on behalf of the employee and the receipt of such other person for any payment so made shall be a sufficient discharge therefor.

13. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters 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.

Regulations.

(2) In particular and without prejudice to the generality of subsection (1) of this section the regulations may prescribe the manner and form of claims for pensions and the particulars to be furnished in support of such claims.