

POLICE BENEFIT FUND ABOLITION.

3° and 4° GEO. VI., No. XL.

No. 40 of 1939.

AN ACT to repeal the ordinance 30 Victoriae No. 10 to regulate the Police Benefit Fund; to abolish the Police Benefit Fund established under the said Ordinance; to make provision for the winding up of the said Fund and the disposition and distribution of the moneys in the said Fund; and for other purposes.

[Assented to 20th December, 1939.]

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:—

Short title.

1. This Act may be cited as the *Police Benefit Fund Abolition Act, 1939.*

Operation.

2. Subject to section five of this Act this Act shall have effect and operate and shall be deemed to have had effect and to have been in operation as from and after the twenty-ninth day of June, one thousand nine hundred and thirty-nine.

3. In this Act, unless the context otherwise requires— Interpreta-
tion.
- “Closing day” means the twenty-ninth day of June, one thousand nine hundred and thirty-nine.
- “Family relation” means the widow, orphan, child, or next of kin of a member of the Police Force.
- “Member of the Police Force” includes an inspector, sub-inspector, non-commissioned officer, constable and any other person employed in or as a member of the Police Force in this State, who at the closing day was eligible to contribute to the Police Benefit Fund. The term also includes any person who, having prior to the closing day been employed in or as a member of the Police Force and during such employment contributed to the Police Benefit Fund, had, prior to the closing day been transferred to another Department in the service of the State and has not received any benefit from the Police Benefit Fund under the ordinance and the regulations made thereunder.
- “Ordinance” means the Ordinance 30 Victoria No. 10 to regulate the Police Benefit Fund.
- “Police Benefit Fund” means the Police Benefit Fund established under the Ordinance.
- “Superannuation Act” means the Superannuation and Family Benefits Act, 1938.
- “Superannuation Board” means the Superannuation Board established and constituted under the Superannuation Act.

4. Subject to section five of this Act the Ordinance 30 Victoria No. 10 to regulate the Police Benefit Fund is hereby repealed and the Police Benefit Fund is hereby abolished. Repeal of
Ordinance
and abolition
of Police
Benefit Fund.

5. Notwithstanding anything to the contrary contained in this Act, where since the closing day and prior to this Act being assented to— Saving
provisions.

- (a) any payment has been made out of the Police Benefit Fund in accordance with the provisions of the Ordinance or the regulations made thereunder to any member of the Police Force or to

any family relation, or in accordance with the provisions of the Superannuation Act to the Superannuation Board, such payment shall be and is hereby validated;

- (b) any payment by way of contribution has been made by any member of the Police Force to the Police Benefit Fund, such member shall be entitled to and shall receive a refund of the amount of such payment out of the moneys in the Police Benefit Fund at the date when this Act is assented to.

Discontinu-
ance of
accrued and
accruing
rights.

6. Notwithstanding anything to the contrary contained in the Ordinance or in the regulations made thereunder, or in the Interpretation Act, 1918, every right, interest, or benefit, whether accrued or accruing, at the closing day, held by or existing for the benefit of any member of the Police Force or any family relation under the Ordinance or the regulations made thereunder shall, as from and after the closing day, cease and determine, and thereafter no member of the Police Force and no family relation shall be entitled to or receive any payment out of the moneys in the Police Benefit Fund otherwise than as provided for and authorised by this Act.

Disposition
of moneys in
Police Benefit
Fund.

7. (1) As soon as practicable after the commencement of this Act the trustees or other authority administering or having the control of the Police Benefit Fund and the moneys therein shall pay to the Treasurer all the moneys remaining in or to the credit of the Police Benefit Fund at the commencement of this Act, and, where any of the said moneys are invested in any current investments or securities, shall transfer, convey, or assign and deliver to the Treasurer such investments or securities.

(2) The receipt of the Treasurer in acknowledgment of the payment of the said moneys and the transfer, conveyance, or assignment and delivery of the said investments and securities shall be a complete release and discharge of the said trustees or other authority aforesaid in relation to the said moneys and the said investments and securities.

(3) After payment of the said moneys and after transfer, conveyance, or assignment and delivery of the said investments and securities to the Treasurer as aforesaid, the trustees or other authority aforesaid shall be released, discharged, and absolved of and from all their duties and obligations as trustees of the said moneys and of the said investments and securities, they shall not in any way be concerned with or affected by or in any way responsible for the application or misapplication of the said moneys or the said investments and securities by the Treasurer and shall cease to have any right, power, or authority in relation to the said moneys and the said investments and securities.

8. Upon the receipt by him of the moneys and investments and securities in the Police Benefit Fund as provided for in section seven of this Act, the Treasurer shall place the same in or to the credit of a special trust account, to be known as "The Police Benefit Fund Distribution Trust Account," to be kept at the Treasury, and to be administered by the Treasurer.

Moneys and investments received by the Treasurer to be placed in a special trust account.

9. (1) Any moneys at any time in the Police Benefit Fund Distribution Trust Account and not immediately required for the purposes of making payments provided for and authorised by this Act may be invested by the Treasurer in any investment in which trust moneys may lawfully be invested.

Moneys in special trust account may be invested.

(2) Where any moneys are invested by the Treasurer under the authority of this section the net income or profit derived from such investments shall, as and when received, be paid into and become part of the moneys in the said Police Benefit Fund Distribution Trust Account.

10. (1) As soon as practicable after the commencement of this Act, and for the purposes of winding up the Police Benefit Fund and determining the method of distributing the moneys in the said Fund at the date of the commencement of this Act, the trustees or other authority at the closing day administering or having control

Shares of contributors in Police Benefit Fund to be ascertained and valued according to formula.

of the Police Benefit Fund shall prepare a statement containing the following particulars:—

- (a) The name, address, and age of every member of the Police Force who on the closing day was a contributor to and entitled to benefits in the Police Benefit Fund under the Ordinance and the regulations thereunder;
- (b) the total amount of the contributions which up to the closing day had been paid into the Police Benefit Fund by each such member of the Police Force;
- (c) the date when each such member of the Police Force first became a contributor to the Police Benefit Fund; and
- (d) any other particulars which may be relevant.

(2) From the particulars contained in the said statement the said trustees or other authority shall cause to be assessed in accordance with the formula prescribed in the Schedule to this Act the amount of money which each member of the Police Force, who was a contributor to the Police Benefit Fund on the closing day, is entitled to be paid out of the moneys in the Police Benefit Fund as his share thereof in the winding up of the Police Benefit Fund.

(3) When the amount payable to each member of the Police Force has been assessed as provided for in subsection (2) of this section, the said trustees or other authority shall cause a statement in quadruplicate to be prepared showing the name of each member of the Police Force entitled to payment and the amount of the payment to which he is entitled. Each counterpart of such statement shall be examined and approved by the Government Actuary and, save and except as regards any omission or mistake therein which may subsequently be discovered or admitted by the said trustees or other authority, shall, both as against the contributor concerned and the Treasurer, be final and conclusive as to the right of the contributor to payment and as to the amount of the payment to which the contributor is entitled.

(4) When the statement referred to in subsection (3) hereof has been prepared and examined and approved

by the Government Actuary as aforesaid, one copy thereof shall be delivered to and retained in safe keeping by the Treasurer, one copy shall be delivered to the secretary of the Police Union, one copy shall be delivered to the Superannuation Board, and the remaining copy shall be retained in safe keeping by the Government Actuary.

11. (1) The statement prepared by the trustees or other authority and examined and approved by the Government Actuary as provided for in section ten of this Act shall, subject to this Act, create for each member of the Police Force named therein a legal right against the Treasurer to the payment by the Treasurer out of moneys in the Police Benefit Fund Distribution Trust Account to or for the benefit of such member or to his legal representatives, as the case may be, of the amount which in such statement is shown to be payable to such member of the Police Force.

Statement of payments to create and be evidence of right to payment.

(2) Any counterpart of such statement or any copy thereof certified by the Government Actuary as a true copy shall be admissible as evidence in any cause, action, or proceeding in any court.

12. (1) The moneys from time to time in or standing to the credit of the Police Benefit Fund Distribution Trust Account, and the investments for the time being representing the same, shall be held by the Treasurer in trust for the payment in accordance with this Act to or for the benefit of the members of the Police Force named in the statement prepared by the trustees or other authority, and examined and approved by the Government Actuary, as required by section ten of this Act, or their legal representatives respectively, of the amounts shown in such statement to be payable to such members of the Police Force respectively.

Application and distribution by Treasurer of moneys in special trust account. Provision in case of deficiency.

(2) Where the moneys in the Police Benefit Fund Distribution Trust Account are not sufficient for the payment in full of the amount payable to any member of the Police Force at the time when in accordance with this Act such amount is payable by the Treasurer to or for the benefit of such member or to his legal representatives, the amount of money necessary to make up the

deficiency shall be provided out of the Consolidated Revenue Fund, and the Consolidated Revenue Fund shall be and is hereby permanently appropriated to such purpose.

Payments out
of special
trust account.

13. The following provisions shall apply to payments by the Treasurer out of the Police Benefit Fund Distribution Trust Account to or for the benefit of members of the Police Force, or their legal representatives, that is to say:—

- (a) Where any member of the Police Force named in the statement aforesaid has become a contributor or a qualified contributor under the provisions of the Superannuation Act, the amount shown by the said statement to be payable to him out of the Police Benefit Fund Distribution Trust Account, shall, subject to section fourteen of this Act, be payable and be paid forthwith to the Superannuation Board for the benefit of such member of the Police Force in accordance with the provisions of the Superannuation Act;
- (b) Subject to paragraph (a) hereof no member of the Police Force shall be entitled to any payment whatsoever out of the Police Benefit Fund Distribution Trust Account until he has retired from or ceased to be employed in the service of the State, but as and when a member of the Police Force retires from or ceases to be employed in the service of the State, he shall be entitled to payment of and shall be paid in full the amount shown in the statement aforesaid to be payable to him: provided such amount has not already been paid for his benefit to the Superannuation Board in accordance with the requirements of paragraph (a) hereof;
- (c) Where a member of the Police Force, to whom a payment is shown by the statement aforesaid to be payable, dies whilst still employed in the service of the State, then, provided the amount shown to be payable to him as aforesaid has not already been paid for his benefit to the Superannuation Board in accordance with the requirements of paragraph (a) hereof, the amount pay-

able to such member shall be a debt owing by the Treasurer to the estate of the deceased member and shall be paid to the executor or administrator of the will or estate of such deceased member of the Police Force on demand.

14. Notwithstanding anything to the contrary contained in this Act or in the Superannuation Act, the Superannuation Board and the Treasurer may by a mutual agreement arrange from time to time that any payment required to be made by the Treasurer to the Superannuation Board in accordance with the provisions of paragraph (a) of section thirteen of this Act may, instead of being paid immediately to the Superannuation Board, be retained by the Treasurer as and by way of a loan by the Superannuation Board to the Treasurer, and in every such case the following provisions shall apply, that is to say:—

Special provision regarding payments to Superannuation Board.

- (a) The Treasurer shall pay to the Superannuation Board interest on the amount retained by him as aforesaid pursuant to the said agreement at the rate of four pounds per centum per annum, by such periodical instalments as shall be provided in such agreement.
- (b) Subject to such agreement, the Treasurer shall pay to the Superannuation Board the full amount or any specified portion of the amount for the time being retained by the Treasurer as aforesaid, if and when such payment is demanded by the Superannuation Board.
- (c) When any amount is retained by the Treasurer as aforesaid, such amount shall nevertheless be deemed—
 - (i) to have been paid by the Treasurer to the Superannuation Board in accordance with the provisions of paragraph (a) of section thirteen of this Act for the benefit of the member of the Police Force for whose benefit such amount is required by the said paragraph (a) to be paid to the Superannuation Board in order that such member of the Police Force shall derive the benefit of such payment under the provisions of the Superannuation Act; and

(ii) to have been invested as moneys in the Superannuation Fund under the Superannuation Act available for investment by the Superannuation Board under that Act as on the date when the said amount was, pursuant to the agreement aforesaid, retained by the Treasurer instead of being paid to the Superannuation Board.

- (d) The retention by the Treasurer of moneys payable to the Superannuation Board as authorised by this section as a loan to the Treasurer by the Superannuation Board shall be and is hereby authorised as an investment in which the Superannuation Board may lawfully invest moneys payable to the Superannuation Board by the Treasurer under paragraph (a) of section thirteen of this Act.

Recovery of
payments from
Treasurer.

15. Where the Treasurer refuses or fails or neglects to make any payment in accordance with his obligations under this Act, an action shall lie at the suit of the person or the Superannuation Board, as the case may be, entitled to such payment, against the Treasurer, as the Treasurer of the State, for the recovery of such payment as a debt in any court of competent jurisdiction.

Accounts.

16. The Treasurer shall cause books to be provided and kept and true and regular accounts to be entered therein—

- (a) of all moneys received and paid by the Treasurer into the Police Benefit Fund Distribution Trust Account and the sources from which the same have been received; and
- (b) of all moneys paid by the Treasurer out of the said Police Benefit Fund Distribution Trust Account, and of the persons to whom and the purposes for which such moneys have been paid.

Accounts to be
balanced.

17. The Treasurer shall cause his accounts to be balanced every year on the thirtieth day of June.

18. (1) The accounts of the Treasurer shall be examined and audited by the Auditor General and a report thereof shall be made by the Auditor General at least once in every year.

Accounts to be audited.

(2) The Auditor General shall in respect of such accounts have all the powers conferred on him by the Audit Act, 1904.

19. The Treasurer shall once at least in every year furnish to the Governor a true copy of the accounts so audited, and copies of such accounts, together with the Auditor General's report thereon, shall be laid before both Houses of the Parliament.

Copy of accounts as audited to be furnished.

20. The Governor may make any regulations, not inconsistent with this Act, in relation to any matters in respect of which it may be necessary or convenient to make regulations for the purpose of carrying out the provisions of this Act.

Regulations.

SCHEDULE.

Section 10.

FORMULA.

The formula to be used for assessing the amounts to be paid to members of the Police Force as provided for in section ten of this Act shall be as follows:—

A—Members of the Police Force who were less than fifty-five years of age on the closing day shall be entitled to a payment equal to the aggregate amount of their contributions to the Police Benefit Fund up to the closing day;

B—Members of the Police Force who were fifty-five years of age or over that age on the closing day shall be entitled to a payment equal to the aggregate amount of their contributions to the Police Benefit Fund up to the closing day, plus one-tenth of the difference between the aggregate amount of their contributions aforesaid and the gratuity to which they would be entitled on retirement under the Ordinance and the regulations made thereunder as in force on the closing day, increasing by one-tenth of the difference aforesaid for every year by which the age of the member of the Police Force exceeds on the closing day fifty-five years of age. Provided that in no event shall the amount assessed in accordance with this paragraph exceed the amount of the gratuity which would have been payable to the member of the Police Force as on the closing day under the Ordinance and the regulations made thereunder as in force on the closing day.