

SUPERANNUATION AND FAMILY BENEFITS.

2° and 3° GEO. VI., No. XXXIV.

No. 34 of 1938.

AN ACT to provide Superannuation Benefits for persons permanently employed by or under the Government of the State and to make provision for the families of those persons.

[Assented to 31st January, 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:—

1. This Act may be cited as the *Superannuation and Family Benefits Act, 1938.* Short title.

2. (1) This Act shall, except where otherwise provided, commence on a date to be fixed by proclamation. Commence-
ment.

(2) The date so fixed is, in this Act, referred to as "the commencement of this Act."

3. This Act is divided into Parts as follows:—

Act divided
into parts.

PART I., SS. 4-6—PRELIMINARY.

PART II., SS. 7-22—THE SUPERANNUATION
BOARD.

PART III., SS. 23-29—THE SUPERANNUATION
FUND.

PART IV., SS. 30-48—CONTRIBUTIONS.

Division 1, ss. 30-35—Contributions by Employees.

Division 2, ss. 36-38—Scale of Units.

Division 3, ss. 39-41—Scale of Contributions by Employees.

Division 4, ss. 42-45—Contributions by the State.

Division 5, ss. 46-48—General Provisions as to Contributions.

PART V., SS. 49-77—PENSIONS AND BENEFITS.

Division 1, ss. 49-53—Retirement on Pension.

Division 2, ss. 54-71—Grant of Pensions and Benefits.

Division 3, ss. 72-74—Breakdown Pensioners.

Division 4, ss. 75-76—Existing Assurance Policies.

Division 5, s. 77—Provisions relating to the Government Railways and Tramways Employees' Death Benefit and Endowment Fund.

PART VI., SS. 78-83—MISCELLANEOUS.

First Schedule.—Rates of Contribution to be paid by male employees based on a retiring age of 65.

Second Schedule.—Rates of Contribution to be paid by female employees based on retiring age of 65.

Third Schedule.—Rates of Contributions to be paid by male employees based on a retiring age of 60.

Fourth Schedule.—Rates of Contributions to be paid by female employees based on a retiring age of 60.

PART I.—PRELIMINARY.

4. This Act shall be construed subject to the Commonwealth of Australia Constitution Act, to the National Health and Pensions Insurance Act, 1938, of the Commonwealth and to any Acts of the Parliament of the Commonwealth with which this Act is or shall be or may be deemed to be inconsistent, and so as not to exceed the legislative power of the Parliament of the State, to the intent that any portion of this Act which may be held to be in excess of that power or which may be held to be inconsistent with any Acts aforesaid shall, to the extent to which it is so in excess or so inconsistent, be deemed to be severable from the other portions of this Act and not to affect the validity or operation thereof.

Construction.

5. This Act shall not (except insofar as it expressly or impliedly indicates a contrary intention) affect the provisions of the Superannuation Act, 1871 (35 Victoriae No. 7), in relation to employees employed at the commencement of this Act but no person who becomes an employee after the commencement of this Act shall be eligible for any benefit under the said Act, notwithstanding anything to the contrary contained in the said Act.

Saving provisions.

6. (1) In this Act, subject to the context—

Interpretation.

“Actuary” means a Fellow or Associate of the Institute of Actuaries (London) or a Fellow or Associate of the Faculty of Actuaries (Edinburgh), or any other person of whose actuarial knowledge and experience the Governor approves.

cf., Commonwealth Superannuation Act, 1922-1934, s. 4.*

“Children” includes children adopted by a contributor or by a pensioner who has been a contributor and dependent on him at the time of his death.

“Contributor” means an employee who is or has been contributing under this Act otherwise than as a qualified contributor.

“Department” means any department under the administration of a Minister of the Crown in the

* The Superannuation Act, 1922-1934, of the Commonwealth is contained in Volume 2 of Commonwealth Acts, 1901-1935 (as published by the Commonwealth) at page 2019.

Government of the State and includes the Agricultural Bank of Western Australia, every State trading concern, the Fremantle Harbour Trust Commissioners, every harbour board and every Crown instrumentality the employees whereof are remunerated with moneys (other than grants) appropriated by the Parliament of the State to the purpose of such Crown instrumentality.

“Employee” means a person employed under the State in a permanent capacity in any department, who is by the terms of his employment required to give his whole time to the duties of his employment, but does not include the Chief Justice or any Judge of the Supreme Court or the President or any member of the Court of Arbitration.

For the purposes of this definition—

(a) A person shall be deemed to be employed in a permanent capacity when he is regularly employed in the ordinary work of the department in which he is employed in circumstances which justify an expectation that, subject to good conduct and efficiency, his employment will be continuous and permanent;

(b) A person shall not be deemed to be employed in a permanent capacity when he is employed casually or in connection with a particular work or undertaking, the completion of which will put an end to his employment.

“Minister” means the Minister of the Crown from time to time charged with the administration of this Act.

“Police Benefit Fund” means the Police Benefit Fund as established and administered under the Police Benefit Fund Ordinance, 1866 30 Victoriae No. 10, and its amendments.

“Qualified Contributor” means an employee who elects to contribute to the Fund the special contribution in respect of a pension to his widow and children as provided for in subsections (2) and (4) of section thirty-three of this Act.

“Railway Death Benefit and Endowment Fund” means the Western Australian Government Railways and Tramways Employees’ Death Benefit and Endowment Fund as established and administered under the authority of section sixty-eight A of the Government Railways Act, 1904-1933.

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

“Service” means service under or employment by or under the State in any department.

“The Board” means the Superannuation Board constituted by this Act.

“The Fund” means the Superannuation Fund established by this Act.

“The maximum age for retirement” means the age of sixty-five years, or, in the case of a contributor, the age for whose retirement is fixed by law at an earlier age than sixty-five years, the age so fixed.

(2) References in this Act to the retirement of an employee upon his attaining the age of sixty-five years shall include the case of an employee whose retirement takes place on the day before he attains the age of sixty-five years.

(3) Where an employee has been or is appointed, whether before or after the commencement of this Act, for a term of years to a statutory office under the Government of the State he shall for the purposes of this Act be deemed, so long as he continues to be employed in the office (whether during or after the expiration of the term for which he was appointed) to continue to be an employee, and the cessation of his employment under the Government of the State (otherwise than by retrenchment, discharge, dismissal or resignation) shall be deemed to be retirement within the meaning of this Act, and, if it takes place at an earlier age than sixty-five years, be deemed to be, within the meaning of section

fifty-six of this Act, the retirement of a contributor, the age for whose retirement is fixed by law at an earlier age than sixty-five years.

(4) Notwithstanding anything contained in the last preceding subsection, if an employee who is the holder of a statutory office notifies in writing to the authority administering the Act under which he was appointed, that he does not desire re-appointment at the expiration of the term for which he was appointed the notice shall, unless—

(a) he has attained the age of sixty years; or

(b) he has attained the age for retirement fixed by law

be deemed to be resignation within the meaning of this Act.

PART II.—THE SUPERANNUATION BOARD.

Commence-
ment of this
Part.

7. This Part of this Act shall commence on the day upon which this Act is assented to.

Constitution
of Board.
cf., Common-
wealth Super-
annuation Act,
1922-1934,
s. 61.

8. (1) For the purposes of this Act there shall be a Superannuation Board which shall consist of three members who shall be appointed by the Governor.

(2) Of such three members, one shall be the Government Actuary, and one shall be a contributor elected by contributors in the manner prescribed by regulations.

(3) The Governor shall appoint one of the members of the Board to be the Chairman of the Board.

(4) No person, after he has attained the age of sixty-five years, shall be eligible to be a member of the Board, or, being a member of the Board at the time he reaches the said age, to continue as such member thereafter.

Term of office.
Ibid., s. 62.

9. (1) Subject to subsection (4) of section eight of this Act the members of the Board, other than the Government Actuary, may be appointed for any period not exceeding seven years and any member shall be eligible for re-appointment. The person holding office as Government Actuary shall continue to be a member of the Board while he holds such office.

(2) If any officer of the Public Service within the meaning of the Public Service Act, 1904-1935, is appointed a

member of the Board his service as member shall, for the purpose of determining his existing and accruing rights, be counted as service in the Public Service as aforesaid.

(3) If any person, who has served in an established capacity in the permanent civil service of the State within the meaning of the Superannuation Act, 1871, so as to become qualified thereby for a superannuation allowance or other benefit under that Act, is appointed a member of the Board his service as member shall, for the purpose of determining the amount of his qualifying service within the meaning of the said Act, be counted as service in an established capacity in the permanent civil service of the State.

10. Where a member of the Board dies or otherwise vacates his office the Governor may appoint a person eligible to be a member of the Board to fill the vacancy: Provided that—

Extraordinary vacancies—
Appointments to fill.
Ibid., s. 63.

- (i) such appointment shall be for the remainder of the term of the vacant office; and
- (ii) where the vacant office was held by a contributor elected by contributors, the person appointed to the vacant office shall be a contributor elected by contributors; and
- (iii) where the vacant office was held by the Government Actuary, the person appointed to the vacant office shall be the person appointed in succession as Government Actuary.

11. In the case of the illness, suspension or absence of the Chairman or any member of the Board, the Governor may appoint any person eligible to be a member of the Board as a deputy to act for the Chairman or member during his illness, suspension or absence, and every deputy so appointed shall, while so acting, have all the powers of the Chairman or member as the case may be: Provided that during the illness, suspension or absence of the Government Actuary the person for the time being acting as the Government Actuary may be appointed as deputy aforesaid.

Temporary appointments.
Ibid., s. 64.

12. (1) A member of the Board may be suspended from his office by the Governor for misbehaviour or incompetence.

Removal of members of Board.
Ibid., s. 65.

(2) Upon the suspension of a member the Minister shall cause a full statement of the grounds of suspension to be laid before both Houses of the Parliament within seven days after the suspension if the Parliament is in session, and if the Parliament is not in session, then within seven days after the commencement of the next session.

(3) A member of the Board suspended under this section shall be restored to office unless each House of the Parliament within twenty-one days after the time when the statement was laid before it passes a resolution requesting the Governor to remove the member from office, and upon the passage of the resolution the member shall be removed by the Governor accordingly.

Vacation of
office.
Ibid., s. 66.

13. A member of the Board shall be deemed to have vacated his office if he—

- (a) becomes bankrupt or insolvent or applies to take the benefit of any Act for the relief of bankrupt or insolvent debtors, or compounds with his creditors, or makes an assignment of his salary or remuneration for their benefit;
- (b) being Chairman absents himself from duty for a period of fourteen consecutive days, or for twenty-eight days in any twelve months without leave first granted by the Governor, or, being a member other than the Chairman, absents himself without leave first granted by the Governor, from three consecutive meetings of which reasonable notice has been given to him;
- (c) becomes permanently incapable of performing his duties;
- (d) resigns his office by writing under his hand addressed to the Governor; or
- (e) being a member elected by contributors ceases to be a contributor;
- (f) being a member attains the age of sixty-five years.

Chairman of
the Board.
Ibid., s. 67.

14. The Chairman of the Board shall preside at its meetings and shall have a deliberative vote.

15. The Chairman and the other members of the Board shall be paid such remuneration respectively as the Governor shall from time to time determine.

Remuneration
of members of
the Board.
Ibid., s. 68.

16. Two members of the Board shall constitute a quorum for the purpose of transacting the business of any meeting of which notice has been given to all the members.

Quorum.
Ibid., s. 69.

17. (1) Where the voting on any question is equal, the question shall be postponed until the next meeting of the Board, and notice of the question and of the fact that the voting was equal shall be given in the notice calling the next meeting.

Where voting
equal.
Ibid., s. 70.

(2) If the voting at the next meeting is again equal, the question shall be postponed to a full meeting of the Board.

18. (1) The Board shall be a body corporate to be called The Superannuation Board, having perpetual succession and a common seal.

Incorporation
of Board.
Ibid., s. 71.

(2) The seal of the Board shall not be attached or affixed to any document except on resolution of the Board, and shall be authenticated by the signatures of two members of the Board.

19. The Board may by resolution under seal authorise the Chairman to determine such matters as are specified in the resolution and may at any time in like manner revoke such authority.

Delegation of
power to
Chairman.
Ibid., s. 72.

20. The staff of the Board shall be appointed under and be subject to the provisions of the Public Service Act, 1904-1935, and shall include a secretary.

Staff.
Ibid., s. 73.

21. (1) The cost of the administration of this Act shall be paid out of moneys appropriated from time to time by the Parliament for the purpose.

Cost of
management.
Ibid., s. 74.

(2) The moneys received and paid under this section and the accounts in connection therewith shall be kept as part of the public accounts separately from the moneys and accounts of the fund.

Annual report
to Parliament.
Ibid., s. 75.

22. The Board shall in each year submit to the Minister to be laid before both Houses of the Parliament a report dealing with the general administration and working of this Act.

PART III.—THE SUPERANNUATION FUND.

Establishment of the Fund.
Ibid., s. 5.

23. (1) For the purposes of this Act there shall be a fund, to be called The Superannuation Fund, to be kept at the Treasury and to be administered by the Board, into which shall be paid the contributions of employees who become contributors or qualified contributors and payments by the State under this Act, and from which shall be paid the benefits provided for in this Act.

(2) Income derived from the investment of the fund shall form part thereof.

(3) The income of the fund shall not be subject to taxation by the State.

Investment of the Fund.
Ibid., s. 6.

24. The fund may and shall, as far as practicable, be invested by the Board in such investments as are from time to time authorised by any Act of this State for the investment of trust funds.

Moneys uninvested may be lodged in a bank.
Ibid., s. 7.

25. Moneys in the fund held uninvested may be lodged in call with any bank approved by the Minister and while in any bank shall be held to be moneys of the Crown.

How cheques signed.
Ibid., s. 8.

26. Cheques drawn on the account in any bank referred to in section twenty-five of this Act shall be signed as prescribed by the regulations.

Audit.
Ibid., s. 9.

27. The accounts relating to the fund shall be audited by the Auditor General.

Borrowing.
Ibid., s. 10.

28. The Board may borrow for and the Treasurer may lend to the Fund moneys not exceeding two-thirds of the amount of and on the security of moneys of the Fund invested in securities of the Commonwealth and in securities of this State.

29. (1) An investigation as to the state and sufficiency of the Fund shall be made at the expiration of each period of five years after the commencement of this Act.

Quinquennial
investigation
by actuary.
Ibid., s. 11.

(2) The investigation shall be made by the State Government Actuary or by an actuary appointed by the Board and approved by the State Government Actuary.

(3) The State Government Actuary or the actuary, as the case may be, making the investigation shall report to the Board the result of his investigation, and shall state whether any reduction or increase is necessary in the rates of contributions payable to the Fund or in the proportion payable by the State in respect of any pension and, where the Fund is found to be more than sufficient to provide for the benefits which are a charge upon the Fund, he shall also state what additional benefits (if any) could, in his opinion, be provided out of the surplus.

(4) The remuneration paid to any actuary appointed by the Board in relation to any investigation made by him under this section shall be deemed to be part of the general expenses of the Board incurred in the administration of this Act.

PART IV.—CONTRIBUTIONS.

Division 1—Contributions by Employees.

30. (1) It shall not be compulsory for any employee, whether his employment commenced before or commences after the commencement of this Act, to become a contributor or a qualified contributor under this Act, and unless and until an employee elects in accordance with the provisions of this Act to become a contributor or a qualified contributor under this Act, this Act shall not apply to such employee.

Contribution
to the Fund
not compul-
sory.

(2) Any employee may, subject to this Act, elect to become a contributor under this Act, and when any employee does so elect then during such time thereafter as he continues to be an employee he shall continue to be a contributor, and shall in all respects as such contributor be subject to and be bound by the provisions of this Act.

Election to
become a
contributor.

31. Every employee employed at the commencement of this Act who wishes to become a contributor under this Act shall, within six months after the commencement of this Act and whilst he is still an employee, give notice of such election by a notice in writing in the prescribed form to the Board; and every employee whose employment commences after the commencement of this Act and who wishes to become a contributor under this Act shall, within six months after the commencement of such employment and whilst he is still an employee, give notice of such election by a notice in the prescribed form to the Board. Provided that—

- (i) The Board may extend for such period as it may think fit the time aforesaid for the giving of the notice aforesaid in the case of any employee when in the opinion of the Board such an extension of time is reasonable.
- (ii) This section shall be read subject to section thirty-four of this Act.

Provisions in
relation to
contributors
who are also
contributors
to the Com-
monwealth
National
Health and
Pensions
Insurance
Funds and
other statu-
tory funds.

32. (1) Where an employee, who elects to become a contributor under this Act, is, at the time when he becomes a contributor, liable to contribute to the Commonwealth National Health and Pensions Insurance Funds under the provisions of the National Health and Pensions Insurance Act, 1938, of the Commonwealth, and subsequently whilst still a contributor under this Act ceases to be liable to contribute to the Commonwealth National Health and Pensions Insurance Funds by reason of an increase in the rate of his salary or wages as an employee, such employee shall cease to be entitled to continue as a contributor under this Act unless he continues to contribute voluntarily to the said Commonwealth National Health and Pensions Insurance Funds in accordance with the provisions of the National Health and Pensions Insurance Act, 1938, aforesaid relating to voluntary contributors to the said Fund. Where an employee to whom this subsection relates ceases by virtue of this subsection to be entitled to continue as a contributor under this Act he shall, for the purposes of Part V. of this Act, be deemed to have been discharged as on the date of the cessation aforesaid.

(2) Where an employee, who elects to become a contributor under this Act, is employed in the Police Department of the State and is liable to contribute to the Police Benefit Fund, such employee shall, as from the date when he becomes a contributor under this Act, cease to be liable or to be entitled or permitted to contribute further to the Police Benefit Fund; but such amount as shall be certified in writing by the Government Actuary to be equivalent to the share of the moneys in or the investments representing the moneys in the Police Benefit Fund to which on the date when the employee became a contributor under this Act such employee would have been entitled as a contributor to the Police Benefit Fund if on such date the Police Benefit Fund had been dissolved and the moneys therein distributed amongst all the then contributors to the Police Benefit Fund upon the basis and in the proportions which, in the opinion of the Government Actuary, would be fair and just, shall be paid forthwith out of the Police Benefit Fund by the authority controlling the same to the Board, and by the said Board be held to the credit of the employee as such contributor under this Act and be applied at the option of the employee for either of the following purposes, that is to say:—

- (a) in satisfaction of the contributions from time to time payable by the contributor under this Act until such time as the said amount has been fully applied in such manner; or
- (b) subject to the regulations and provided the said amount is sufficient, in payment forthwith by one lump sum of such sum as may be certified by the State Government Actuary to be required to redeem forthwith all future contributions which would be payable fortnightly under this Act by the contributor in respect of the number of units of pension stated by the State Government Actuary in his said certificate:

Provided that—

- (i) where the amount held by the Board as aforesaid can be applied only as to a part thereof for the purpose mentioned in paragraph (b) in this subsection, the said amount shall, at the option of the employee, be applied as to such part for

the purpose mentioned in paragraph (b) aforesaid and thereafter the balance of such amount shall be applied for the purpose mentioned in paragraph (a) in this subsection; and

- (ii) where payment in full for one or more units of pension has been made in accordance with the provisions of paragraph (b) aforesaid, the number of units of pension in respect of which the contributor shall be liable under this Act to contribute by fortnightly payments shall be the number of units of pension appropriate to his rate of salary from time to time less the number of units of pension paid for in full as aforesaid; and
- (iii) if any balance of the amount held by the Board as aforesaid remains not applied for any of the purposes aforesaid when the employee for any reason ceases to be a contributor of fortnightly payments of contributions under this Act, such balance shall be paid by the Board to the employee or to his legal representative as the case may require.

(3) Where an employee who elects to become a contributor under this Act is employed in the Government Railways and Tramways Department and is liable to contribute to the Railway Death Benefit and Endowment Fund, such employee may, notwithstanding anything to the contrary contained in the Government Railways Act, 1904-1933, or in any regulation or by-law made under that Act, elect at any time after he has become a contributor under this Act to cease to contribute to the Railway Death Benefit and Endowment Fund by a notice in writing signed by him and served upon the authority charged with the administration of or having the management and control of such last-mentioned Fund; and where such an election is made the following provisions shall apply—

- (a) As from the receipt of the notice of election by the authority required to be served with such notice the employee shall no longer be liable to contribute to the Railway Death Benefit and Endowment Fund, and

(b) The employee shall be entitled to be paid out of the said Fund and the authority aforesaid shall be and is hereby authorised to pay and shall pay out of the said fund to the employee in respect of the contributions then previously made by him to the said Fund such amount as upon an actuarial determination by the Government Actuary is a reasonable surrender value for such contributions; or

(c) At the option of the employee, the amount to which he is entitled as mentioned in paragraph (b) hereof shall, instead of being paid to the employee, be paid to the Board and, when paid to the Board, shall be held to the credit of the employee as such contributor under this Act, and be applied at the option of the employee for either of the following purposes, that is to say:—

(a) in satisfaction of the contributions from time to time payable by the contributor under this Act until such time as the said amount has been fully applied in such manner; or

(b) subject to the regulations and provided the said amount is sufficient, in payment forthwith by one lump sum of such sum as may be certified by the State Government Actuary to be required to redeem forthwith all future contributions which would be payable fortnightly under this Act by the contributor in respect of the number of units of pension stated by the State Government Actuary in his said certificate:

Provided that—

(i) where the amount held by the Board as aforesaid can be applied only as to a part thereof for the purpose mentioned in sub-paragraph (b) of this paragraph, the said amount shall, at the option of the employee, be applied as to such part for the purpose mentioned in sub-paragraph (b) aforesaid, and thereafter the balance of such amount shall be applied for the purpose mentioned in sub-paragraph (a) of this paragraph; and

- (ii) where payment in full for one or more units of pension has been made in accordance with the provisions of sub-paragraph (b) aforesaid, the number of units of pension in respect of which the contributor shall be liable under this Act to contribute by fortnightly payments shall be the number of units of pension appropriate to his rate of salary from time to time less the number of units of pension paid for in full as aforesaid; and
- (iii) if any balance of the amount held by the Board as aforesaid remains not applied for any of the purposes aforesaid when the employee for any reason ceases to be a contributor of fortnightly payments of contributions under this Act, such balance shall be paid by the Board to the employee or to his legal representative as the case may require.

(4) Nothing in subsection (3) of this section shall operate or be deemed to operate so as to preclude any employee to whom the said subsection applies continuing to contribute to the Railway Death Benefit and Endowment Fund after he has become, and while he continues to be, a contributor under this Act, if he so desires.

Provisions relating to employees who are qualified for superannuation allowance under the Superannuation Act, 1871.

33. (1) Where an employee employed at the commencement of this Act is qualified by length of service for a superannuation allowance under the provisions of the Superannuation Act, 1871, and does not become a contributor under this Act this Act shall not operate so as to deprive him of any eligibility for superannuation allowance under the Superannuation Act, 1871.

(2) Where an employee employed at the commencement of this Act is qualified by length of service for a superannuation allowance under the provisions of the Superannuation Act, 1871, such employee may elect to become either a contributor or a qualified contributor under this Act and section thirty-one of this Act shall, with such adaptations as are necessary, apply.

(3) Where an employee mentioned in subsection (2) of this section elects to become a contributor under this Act he shall be liable to contribute to the fund under this

Act as if he were contributing for the full benefits of a pensioner under this Act and shall, as from the date when he becomes a contributor as aforesaid but subject as in this subsection hereinafter provided, cease any longer to be eligible for any superannuation allowance or other benefit whatsoever under the said Superannuation Act, 1871.

Provided that if, when such employee reaches the maximum age for retirement under this Act, such employee is, except for this subsection, still a person to whom the Governor may lawfully grant a superannuation allowance under the Superannuation Act, 1871, such employee, in addition to becoming a pensioner under this Act, shall be entitled to receive from the State and the State shall pay to him such amount as upon an actuarial determination made by the Government Actuary is the reasonable equivalent of that portion of the aggregate contributions made by him as a contributor under this Act for and on account of the pension payable to him personally as a pensioner under this Act.

(4) Where an employee mentioned in subsection (2) of this section elects under this section to become a qualified contributor the following provisions shall apply—

- (a) Subject to the Superannuation Act, 1871, the employee will continue to be qualified and eligible for the grant of a superannuation allowance under that Act;
- (b) The employee shall not be entitled to any benefits personally as a pensioner under this Act;
- (c) The employee shall contribute to the fund at a rate to be prescribed by regulations for the number of units of pension for which he would be required under this Act to contribute as a contributor; and
- (d) Upon the death of the employee his widow and children shall be entitled in respect of the units of pension for which the employee was contributing as a qualified contributor under this section to receive from the fund in accordance with this Act the same benefits to which they would have been entitled if the employee had been a contributor or a pensioner under this Act.

Medical exam-
ination of
employee
who elects to
become con-
tributor.

34. When any employee elects to become a contributor or a qualified contributor under this Act, and such employee has not been required as a condition of his employment to submit himself for examination by a duly qualified medical practitioner as to his mental and physical health, such employee shall not be eligible or entitled under this Act to become a contributor or a qualified contributor unless and until he has in accordance with the regulations submitted himself for examination as to his mental and physical health and has been certified to be free from mental and physical infirmity likely to affect seriously and prejudicially a reasonable expectation of life in such employee.

Commence-
ment and ces-
sation of con-
tributions.
cf. Common-
wealth Super-
annuation
Act, 1922-
1934, s. 12.

35. (1) Subject to this Act and except as otherwise provided in this Act, every employee who becomes a contributor or a qualified contributor shall contribute to the Fund from such date (not being more than six months after the commencement of this Act) as the Governor notifies in the *Government Gazette* in the case of an employee employed at the commencement of this Act or after the commencement of this Act and before the date notified as aforesaid, or, in the case of an employee whose employment commences after the date so notified, from the date of the commencement of his employment.

(2) The following provisions shall apply in relation to the cessation of payments of contributions, that is to say—

(a) The contributions of a contributor and of a qualified contributor shall, subject to the next succeeding paragraph, cease to be paid when he ceases to be employed in the Service, or immediately after the last periodical payment of contribution preceding the attainment by him of the maximum age for retirement, whichever first happens; and

(b) in the case of a contributor or of a qualified contributor whose initial contribution is paid within twelve months before he attains the maximum age for retirement twenty-six contributions at the periodical rates applicable to the contributor or to the qualified contributor

shall be paid before pension in respect of superannuation shall become payable.

(c) For the purposes of paragraph (a) and paragraph (b) hereof, the initial contribution of an employee in respect of any additional unit or part thereof for which he has elected to contribute shall be deemed to have been made on the date as from which the contribution in respect of such additional unit or part became payable.

(3) A contributor or a qualified contributor—

(a) who elects or is called upon to retire on or after attaining the age of sixty years; or

(b) whose maximum age for retirement is fixed at an earlier age than sixty-five years, but not less than sixty years, and who retires on attaining the age so fixed

may, notwithstanding anything contained in this section, contribute in a lump sum or in such smaller sums and at such periods as the Board approves, the actuarial equivalent of the amount necessary to complete his payments to the Fund up to a later age (not exceeding the age of sixty-five years).

(4) A contributor or pensioner or a qualified contributor—

(a) who has completed his contributions up to the anniversary of his initial contribution next preceding the attainment by him of the maximum age for retirement; and

(b) whose salary has been increased subsequently but from a date prior to the cessation of his contributions to a higher salary group in column one of the scale contained in subsection (1) of section thirty-six of this Act than the salary group in which it fell prior to the increase

may elect to contribute such an amount as will provide additional units of pension but so that the total number of units shall not exceed the number specified in column two of the scale contained in subsection (1) of section thirty-six of this Act opposite to that higher salary group.

Provided that in respect of those units twenty-six contributions at the rate applicable to the maximum age for retirement shall be made before pension in respect of superannuation shall become payable and upon payment of those contributions the pension shall become payable as from the date of retirement in the case of a contributor, and, in the case of a qualified contributor, the pension to his widow shall become payable after the death of the qualified contributor following the payment of the said contributions.

Division 2—Scale of Units.

Scale of units of pension. *Ibid.*, s. 18.

36. (1) Subject to this Act, contributions by a contributor and by a qualified contributor shall be in respect of units of pension as defined in section fifty-five of this Act, and the number of units in respect of which a contributor or a qualified contributor shall contribute shall have relation to the salary of the employee in accordance with the following scale:—

Column one.				Column two.	
Where the Annual Salary of the Employee—				The Employee shall Contribute the amount necessary to provide units of pension as under—	
				£	Per Annum. £
Does not exceed	130—Two units equivalent to a pension of ...	52
Exceeds 130 and does not exceed	130	and does not exceed	156	—Two and a-half units equivalent to a pension of ...	65
„	156	„	„	208—Three units equivalent to a pension of ...	78
„	208	„	„	260—Four units equivalent to a pension of ...	104
„	260	„	„	312—Five units equivalent to a pension of ...	130
„	312	„	„	364—Six units equivalent to a pension of ...	156
„	364	„	„	416—Seven units equivalent to a pension of ...	182
„	416	„	„	468—Eight units equivalent to a pension of ...	208
„	468	„	„	520—Nine units equivalent to a pension of ...	234
„	520	„	„	572—Ten units equivalent to a pension of ...	260
„	572	„	„	624—Eleven units equivalent to a pension of ...	286
„	624	—Twelve units equivalent to a pension of ...	312

(2) Notwithstanding anything to the contrary contained in the scale in the next preceding subsection but subject as hereinafter provided, an employee who is a contributor or a qualified contributor under this Act and is also a contributor (whether by compulsion or voluntarily) to the Commonwealth National Health and Pensions Insurance Funds under the Commonwealth National Health and Pensions Insurance Act, 1938, shall be required and permitted to contribute under this Act only in respect of the number of units of pension which relates to his salary in accordance with the said scale, less two units of pension. Provided that—

(i) This subsection shall not apply to or affect an employee, who being a contributor under this Act and also a contributor under the National Health and Pensions Insurance Act, 1938, of the Commonwealth, is, by virtue of the provisions of the said last-mentioned Act, disqualified from obtaining at any time an old age pension under that Act; and

(ii) Where an employee who, being a contributor under this Act, and also a contributor under the National Health and Pensions Insurance Act, 1938, of the Commonwealth, will, by virtue of the provisions of the last-mentioned Act, be disentitled to the grant of an old age pension under that Act for any period after he has reached the maximum age for retirement as prescribed by that Act but will, upon the expiration of such period, become entitled to an old age pension under the said Act, such employee, as a contributor under this Act, shall contribute in respect of units of pension in accordance with the scale set forth in subsection (1) of this section and upon reaching the age of retirement under this Act, but subject to this Act, shall, during the period during which he is disentitled to a grant of old age pension under the National Health and Pensions Insurance Act, 1938, as aforesaid, be entitled to payment of the pension appropriate to the number of units in respect of which he shall have contributed under this Act, but thereafter, as from the date when old age pension is granted to him under the National Health and

Pensions Insurance Act, 1938, aforesaid, shall be entitled to payment under this Act of the pension appropriate to the number of units for which he shall have contributed as aforesaid, less an amount equivalent to the amount of the old age pension which has been granted to him as aforesaid.

(3) Subject to subsection (2) of this section, a contributor or a qualified contributor whose salary does not exceed two hundred and eight pounds per annum may elect to contribute in respect of additional units or half units to make up a total number of two and a half, three, or four units.

(4) Where an employee enters the Service after the commencement of this Act, and at the time of such entry is not less than forty years of age and becomes a contributor, the Board may, upon application by the employee, reduce the number of units in respect of which he shall contribute.

(5) If the salary of a contributor is increased and by reason of that increase falls within a higher salary group in column one of the scale contained in subsection (1) of this section than the salary group in which it fell prior to the increase, then subject to subsection (2) of this section the following provisions shall apply to the contributor—

(a) if he has attained the age of forty years or was at the commencement of this Act an employee not less than forty years of age, he may increase the amount of his contribution to an amount not exceeding the sum which will provide units of pension to the number specified in column two opposite to that higher salary group; and

(b) in all other cases he shall increase the amount of his contribution to such a sum as will provide units of pension to the number so specified. Any such increased contribution shall be payable as from the date upon which payment of salary at the increased rate is approved, or from the date upon which such increased salary becomes payable, whichever is the later.

(6) An employee employed in the Service at the commencement of this Act who, when he becomes a contributor, is not less than thirty years of age shall not in any case be compelled to contribute for more than two units but may, within six months after he becomes a contri-

butor, elect to take the benefit of this subsection and thereupon the following provisions shall apply to him—

(a) Subject to paragraph (c) of this subsection he may elect within the said six months to contribute, at the rates prescribed for the age of thirty years, for two, two and a half, three or four units; and

(b) if the period of his continuous service under the State is not less than ten years, he may elect within the said six months to contribute at the rate appropriate to his age as provided in the schedules to this Act for units additional to those contributed for under the last preceding paragraph: Provided that—

(i) the total number of units contributed for by any such employee shall not exceed the number of units prescribed for the salary group to which, according to the scale contained in subsection (1) of this section he belongs or the number of four units, whichever is the greater.

(ii) where an employee satisfies the Board that he has failed to make an election under paragraph (a) of this subsection within the time specified in that paragraph owing to circumstances not within his own control, the employee may—

(a) contribute for two units as at the rate for the age of thirty, as from the commencement of his contributions under this Act; and

(b) elect, within such further time as is prescribed, to contribute as at the rate for the age of thirty for additional units so that the total number of units for which he contributes at that rate is either two and a half, three or four units.

(c) Where the employee is a contributor under the National Health and Pensions Insurance Act, 1938, of the Commonwealth, the number of units for which he may contribute at the age of thirty years under this subsection shall not exceed two. Provided that this paragraph shall not apply in the case of a contributor to whom the proviso to subsection (2) of this section applies.

(7) An employee employed in the service at the commencement of this Act who, when he becomes a contributor, is not less than forty years of age, and who has not elected to take the benefit of the last preceding subsection, may, subject to subsection (2) of this section, elect to contribute for any number of units not being less than two and not exceeding the number prescribed for the salary-group to which, according to the scale contained in subsection (1) of this section, he belongs.

(8) An employee who has exercised any power of election in pursuance of either of the last two preceding subsections, shall pay, as from the date when he became a contributor, his contributions for the units for which he has elected to contribute.

Provided that where the employee exercises a power of election within a further prescribed time the employee shall pay as from the first day of the month in which he makes the election his contributions for the units for which he has so elected to contribute.

Provision where adequate provision made by employee.
Ibid., s. 14.

37. Where an employee who becomes a contributor satisfies the Board that adequate provision has been made for himself and family the Board may exempt him from contributing for more than two units of pension.

Employee reduced in salary.
Ibid., s. 15.

38. Where the salary of a contributor is or has been reduced from one salary-group to another salary-group the Board may, upon application by the contributor, reduce the number of units of pension in respect of which he shall contribute to the number appropriate to the salary-group to which his salary has been reduced, and any contributions paid by him prior to such reduction in respect of units in excess of the reduced number shall be credited as payments for paid-up pension to be actuarially calculated or be refunded to him as the Board may determine.

Division 3—Scale of Contributions by Employees.

Contributions according to scale graduated by age at commencement.
Ibid., s. 16.

39. The amount of contribution which shall be paid by a contributor shall, except where otherwise provided in this Act, be based upon—

(a) the number of units or half units of pension in respect of which the employee contributes:

(b) sex; and

(c) the age at which the employee commences to contribute for each unit or half unit and shall be in accordance with the tables of contributions prescribed by or under this Act.

Provided that where an employee elects to become a qualified contributor as provided for in section thirty-three of this Act the amount of contribution which shall be paid by such qualified contributor shall be in accordance with a table to be prescribed by the regulations.

40. (1) An employee who, when he becomes a contributor, is less than sixty years of age may, within six months after he becomes a contributor, elect to contribute at such rates specified in the Third or Fourth Schedule to this Act as are applicable.

Election to contribute for full pension at sixty years of age.

Ibid., s. 16A.

(2) Where a contributor in accordance with subsection (1) of this section, elects to contribute at rates specified in the Third or Fourth Schedule to this Act, the rates at which he shall contribute shall, where he has elected under subsection (6) of section thirty-six of this Act to contribute for units at the rates prescribed for the age of thirty years, be, in respect of those units, the rate prescribed in the Third or Fourth Schedule to this Act for the age of thirty years and, in respect of other units, shall be at the rate in those Schedules which is appropriate to his age at the date when he elects under this section.

(3) Any contributor who makes an election in accordance with this section shall be entitled upon retirement on attaining the age of sixty years to receive full pension according to the number of units for which he was contributing at the time of his retirement.

(4) For the purposes of this Act the maximum age for retirement of a contributor who makes an election under this section shall be sixty years.

(5) Where a contributor who has made an election under this section does not retire upon attaining the age of sixty years he shall not be required to make contributions after attaining that age and shall not be entitled to receive pension until his retirement.

41. (1) During the five years next following the commencement of this Act and until other tables of contribution are prescribed as hereinafter provided, the tables

Tables of contributions in Schedules

Ibid., s. 17.

of contributions for men and women according to ages, set out in the Schedules to this Act respectively, shall be in force.

(2) As soon as practicable after the expiration of each period of five years from the commencement of this Act, the Governor may, upon the recommendation of the Board, prescribe tables of contributions which shall, subject to the approval of both Houses of the Parliament, take effect from a date to be fixed by proclamation and remain in force until other tables are prescribed under this subsection.

Division 4—Contribution by the State.

Payments by State where contributions by employee are at rate for age.
Ibid., s. 18.

42. Subject to this Act, in respect of each unit or portion of a unit of pension paid from the fund on the basis of a contribution corresponding to the rate prescribed for the age of the contributor at the date upon which he commenced to pay the contribution, a sum equal to one-half of the payment so made from the fund shall be paid by the State to the fund.

Payments by State where contributions by employee are not at rate for age.
Ibid., s. 19.

43. (1) Subject to this Act, in respect of each unit or portion of a unit of pension paid from the fund on the basis of a contribution corresponding to the rate prescribed for an age younger than that of the contributor at the date upon which he commenced to pay the contribution, a sum ascertained in the manner provided in this section shall be paid by the State to the fund.

(2) To determine the sum payable in each case by the State under this section, the rate of contribution actually payable by the contributor shall be subtracted from twice the rate prescribed for the age of the contributor at the date upon which he commenced to pay the contribution, and the ratio of this difference to twice the rate so prescribed shall be computed. Subject to this Act, this ratio shall represent the fraction of the pension payment so made from the fund to be paid by the State to the fund.

(3) Where a pension calculated in accordance with this Act is less than the prescribed minimum and where this Act provides that the prescribed minimum shall be paid, the amount necessary to bring the pension up to the minimum shall be paid by the State to the fund in addition to the sums payable by the State under this Division of this Act.

44. Subject to this Act, in respect of each unit or portion of a unit of pension paid from the fund to the widow of an employee who has contributed as a qualified contributor on the basis of the contributions paid by such qualified contributor no payment whatever shall be required from or be payable by the State.

No payment by the State in respect of pension to widow of qualified contributor.

45. (1) Payments by the State to the fund and to contributors under subsection (3) of section thirty-three of this Act, for the purposes of this Act, shall be made from the Consolidated Revenue Fund which is hereby permanently appropriated accordingly.

Payments from Consolidated Revenue Fund.
cf., Commonwealth Superannuation Act, 1922-1934, s. 20.

(2) The payments to the fund shall be made in such manner and at such periods as are prescribed by the regulations.

Division 5—General Provisions as to Contributions.

46. A contributor or a qualified contributor who is on leave of absence either with or without pay, shall pay his contributions during or in respect of the period of leave, as for a period of service, without reduction.

Employees on leave of absence.
Ibid., s. 21.

47. The contributions of contributors and of qualified contributors shall be deducted from their salaries at each payment of salaries, and shall be paid without deduction for postage, forwarding or exchange, to the Board.

Manner of payment—Deduction from salary.
Ibid., s. 22.

Provided that where a contributor or a qualified contributor is on leave of absence through illness, either without pay or at less than full pay, the Board may, upon his application, permit the contributions falling due during his absence to be paid by him in such smaller sums and at such periods as the Board may approve.

48. Notwithstanding anything to the contrary contained in Part V. of this Act, where an employee becomes a qualified contributor, and before he reaches the maximum age for retirement applicable to him, such employee is retired on the ground of invalidity or of physical or mental incapacity or is retrenched, discharged or dismissed or resigns, he may nevertheless continue until he reaches the maximum age for retirement aforesaid to contribute to the Fund as such qualified contributor at

Continuance of contributions by qualified contributor.

the rate of contribution at which he was so contributing at the time of the retirement, retrenchment, discharge, dismissal or resignation aforesaid; or he may at any time after such retirement, retrenchment, discharge, dismissal or resignation after notice in writing in the prescribed form given to the Board, discontinue payment of such contributions.

PART V.—PENSIONS AND BENEFITS.

Division 1—Retirement on Pension.

Age of compulsory retirement.
Ibid., s. 23.

49. Every contributor shall be entitled to a pension on his retirement on or after attaining the maximum age for retirement.

Breakdown retirement.
Ibid., s. 24.

50. A contributor who is retired on the ground of invalidity or of physical or mental incapacity to perform his duties shall be entitled to a pension.

Retrenchment and discharge.
Ibid., s. 25.

51. The compulsory termination of the service of a contributor or of a qualified contributor for the reason that his service or position is not necessary, or for the reason that the work for which he was engaged is finished, or for the reason that the quantity of work has diminished and has rendered necessary a reduction in the number of employees—

- (a) shall be deemed to be “retrenchment” if the contributor or qualified contributor has been in the Service for not less than ten years; and
- (b) shall be deemed to be “discharge” if the contributor or qualified contributor has been in the Service for less than ten years.

Dismissal.
Ibid., s. 26.

52. Compulsory termination of the service of a contributor or qualified contributor aforesaid, however expressed, other than—

- (a) retirement on pension as provided in this Act or retirement without personal pension in the case of a qualified contributor; or
- (b) retirement through invalidity or physical or mental incapacity; or

(c) retrenchment or discharge shall be deemed to be dismissal for the purposes of this Act.

53. Voluntary termination of service (however expressed) by a contributor, who is not entitled to retire on pension, or by a qualified contributor, shall be deemed to be resignation.

Resignation.
Ibid., s. 27.

Division 2—Grant of Pensions and Benefits.

54. (1) Where an employee has contributed to the Fund as a qualified contributor until he reached the maximum age for retirement applicable to him and dies thereafter, or where an employee has contributed to the Fund as a qualified contributor until his death and dies before he reaches the maximum age for retirement applicable to him, then in either case the widow of such employee shall, upon the death of such employee and in accordance with this Act, be entitled during her life or until remarriage, to the pension and benefits corresponding to one-half of the number of units of pension in respect of which the deceased employee had contributed as a qualified contributor in accordance with the prescribed scale relating to contributions by qualified contributors.

Pension to widow of qualified contributor.

(2) The pension and benefits to which the widow of a deceased qualified contributor is entitled under subsection (1) of this section shall include, in addition to such pension an annual payment of thirteen pounds for and in respect of each child under sixteen years of age, being a child of the deceased qualified contributor and living with his widow, until such child reaches the age of sixteen years.

(3) Where, at the time of the death of a qualified contributor to whom subsection (1) of this section relates, such qualified contributor was a widower, or had obtained divorce from his wife, and leaves surviving him a child or children under the age of sixteen years, there shall be payable out of the Fund in accordance with this Act to or for the benefit of each such child an annual payment of thirteen pounds until such child reaches the age of sixteen years.

(4) The provisions of this Act relating to payments out of the Fund to the widow and for the children of a deceased contributor or a deceased pensioner shall, so far as the same can with necessary adaptations be made applicable, apply to payments out of the Fund to the widow and for the children of a deceased qualified contributor under this section.

(5) This section shall be read subject to section forty-four of this Act.

Pension unit.
cf., Common-
wealth Super-
annuation
Act, 1922-
1934, s. 28.

55. (1) The sum of twenty-six pounds per annum shall be the unit of pension.

(2) Subject to section thirty-two of this Act the minimum amount of pension to any contributor shall, except where this Act requires a pension to be actuarially determined, be two units, and the minimum amount of pension to the widow of a contributor or pensioner or to the widow of a qualified contributor shall be one unit.

Amount of
pension on
retirement.
Ibid., s. 29.

56. Subject to this Act, a contributor shall upon retirement be entitled to receive a pension according to the number of units for which he was contributing at the time of his retirement:

Provided that any contributor—

- (a) who has attained the age of sixty years and elects, or is called upon to retire before he attains the maximum age for retirement; or
- (b) the age for whose retirement is fixed by law at an earlier age than sixty-five years, who retires on attaining the age so fixed

shall as from the date of his retirement be entitled to a pension which is the actuarial equivalent of the contributions made or to be made by him and of the share of pension payable by the State and accruing to him under this Act.

Retirement
through
invalidity.
Amount of
pension.
Ibid., s. 30.

57. (1) Where a contributor is retired on the ground of invalidity or physical or mental incapacity to perform his duties, he shall—

- (a) if the invalidity or incapacity is not due to his own fault, be entitled to the full pension for which he was contributing at the time of his retirement; and

(b) if the invalidity or incapacity is due to his own fault, be entitled to a pension which is the actuarial equivalent of the contributions made by him up to the time of his retirement: Provided that—

(i) where a female contributor who has been retired on the ground of invalidity or physical or mental incapacity to perform her duties is married after retirement and becomes restored to health, the Board may cancel the pension and thereupon it shall cease to be payable; and

(ii) in the event of a recurrence of the infirmity which was the cause of her retirement she shall be entitled to pension at a rate not less than the amount of the pension on which she was retired.

(2) A contributor shall not be deemed to have been retired on the ground of invalidity or physical or mental incapacity to perform his duties within the meaning of this section for the reason merely that he is suffering from a particular physical defect which renders him incapable of performing a particular duty which he has been performing as an employee if such physical defect does not in fact disable him from performing another duty, which he is competent to perform, and employment in the performance of such last-mentioned duty is available to him as an employee.

58. (1) On the death of a male contributor before retirement pension shall be paid to his widow as follows—

Pension to widow and children on death of contributor.

Ibid., s. 31.

(a) during her own life, one-half of the pension for which her husband was contributing at the time of his death: Provided that, if she remarries, her pension under this paragraph shall thereupon cease and determine; and

(b) in respect of each of her or the contributor's children (except children of her remarriage) who are under the age of sixteen years, a pension at the rate of thirteen pounds per annum until the age of sixteen years has been attained.

(2) On the death of the widow of any such male contributor, pension shall be payable in respect of each of the children of the widow (except children of her re-

marriage) or of the male contributor who are under the age of sixteen years at the rate of thirteen pounds per annum until the age of sixteen years has been attained.

Pension to widow and children on death of pensioner after retirement.
Ibid., s. 32.

59. (1) On the death of a male pensioner, pension shall be paid to his widow as follows:—

- (a) during her own life, one-half of the pension payable to her husband at the time of his death, or pension at the rate of twenty-six pounds per annum, whichever is the greater: Provided that if she remarries her pension under this paragraph shall thereupon cease and determine; and
- (b) in respect of each of her or the pensioner's children (except children of her remarriage) who are under the age of sixteen years, a pension at the rate of thirteen pounds per annum until the age of sixteen years has been attained.

(2) On the death of the widow of any such male pensioner, pension shall be payable in respect of each of the children of the widow (except children of her remarriage) or of the male pensioner who are under the age of sixteen years at the rate of thirteen pounds per annum until the age of sixteen years has been attained.

(3) Notwithstanding anything contained in this section, where a pensioner marries after his retirement from the Service, pension shall not, upon the death of the pensioner be payable to the widow or in respect of the children of that marriage.

Pension to orphans on death of contributor or pensioner.
Ibid., s. 33.

60. On the death of a male contributor or of a male pensioner whose wife is dead or divorced, and who leaves children of himself or of his wife who are under the age of sixteen years and who were dependent upon him at the time of his death, there shall be paid to the guardian of the children to be used for their support and education a pension at the rate of thirteen pounds per annum in respect of each child until the child attains the age of sixteen years.

61. Where a contributor, who is unmarried or is a widower without children under the age of sixteen years, dies before retirement, the contributions made by him shall be paid to his personal representatives, or, failing them, to such persons (if any) as the Board determines.

62. (1) In the event of the retrenchment of a contributor he shall be entitled to receive the contributions paid by him and the contributions to the Fund which would have been made by the State if the State had, during the period throughout which the contributor had been contributing to the Fund, been making such periodical contributions to the Fund as are necessary to provide for the share of pension payable by the State in respect of that contributor; and within one month after his retrenchment he may choose to receive payment either in the form of a lump sum or as an equivalent pension.

Retrenchment
of contribu-
tor.
Choice of
benefits.
Ibid., s. 39.

(2) In default of such choice the Board shall determine in which form payment shall be made.

(3) Where a contributor who has been retrenched and is in receipt of a pension under this section, re-enters the Service the following provisions shall apply—

- (a) The pension shall not cease to be payable; and
- (b) he may elect to contribute as provided in Part IV. of this Act but shall not be entitled to claim any further benefit in respect of his previous service.

(4) Where a contributor who has been retrenched and has received payment in the form of a lump sum under this section re-enters the Service he may elect to contribute as provided in Part IV. of this Act but shall not be entitled to claim any further benefit in respect of his previous service.

(5) Where a contributor who has been retrenched re-enters the Service he shall upon re-entry into the Service as aforesaid be deemed to be a person entering the Service after the commencement of this Act for the purposes of Part IV. of this Act.

63. (1) Where a contributor resigns or is dismissed or discharged (including discharge within the meaning of subsection (1) of section thirty-two of this Act) from the Service there shall be paid to him the amount of the actual contributions paid by him under this Act, irrespective of the cause of his resignation, dismissal or discharge.

Resignation,
dismissal or
discharge of
contributor.
Refund of
contributions.
Ibid., s. 40.

(2) Where any employee, who has resigned or been dismissed or discharged and has received a refund of the amount of his contributions, re-enters the Service he may

elect to contribute as provided in Part IV. of this Act but shall not be entitled to claim any further benefit in respect of his previous service.

(3) An employee of the kind mentioned in the last preceding subsection shall upon re-entering the Service as aforesaid be deemed to be a person entering the Service after the commencement of this Act for the purposes of Part IV. of this Act.

Desertion by
male pen-
sioner of wife
or child.
Ibid., s. 41.

64. (1) Where a male pensioner deserts his wife, the wife may from time to time apply to any court of competent jurisdiction and on proof of such desertion the court may order the payment, during such period as it thinks desirable, of pension in accordance with the provisions contained in section fifty-nine of this Act, as if the male pensioner were dead. The Board shall comply with any such order and shall discontinue payment of pension to the pensioner during the period mentioned in the order.

(2) Where a pensioner whose wife is dead or divorced deserts any of his children who are dependent on him, the guardian of the children or the Board may apply to any court of competent jurisdiction, and, on proof of the desertion the court may order the payment, during such period as it thinks desirable, of pension in accordance with the provisions contained in section sixty of this Act as if the pensioner were dead. The Board shall comply with any such order and shall discontinue payment of pension to the pensioner during the period mentioned in the order.

Imprisonment
of pensioners.
Ibid., ss. 42
and 44.

65. (1) Where a male pensioner is sentenced to imprisonment for any period exceeding one month, payment of his pension under this Act shall be discontinued during the period of his imprisonment; and—

(a) if his wife is alive she shall, during that period, be entitled in accordance with the provisions contained in section fifty-nine of this Act, as if the pensioner were dead, to pension for herself and for children who were dependent upon the pensioner unless the Board is satisfied after making such inquiry as it thinks fit that payment to the wife is undesirable.

- (b) If his wife is dead or divorced, pensions for children dependent upon the pensioner shall, during that period, be payable in accordance with the provisions contained in section sixty of this Act as if the pensioner were dead.

(2) Where a female pensioner is sentenced to imprisonment for any period exceeding one month, payment of her pension under this Act shall be discontinued during the period of her imprisonment: Provided that any pension payable to her in respect of children shall be payable under section sixty of this Act.

66. (1) Where a male pensioner is detained as a patient in a hospital for the insane, the Board may cause his pension or any part thereof to be paid during the period of detention to his wife, if alive, or, if his wife is dead or divorced, to some person for the use of such of the children of himself or of his late wife as are under the age of sixteen years in such proportions as the Board may think fit.

Insanity of pensioners.
Ibid., s. 43.

(2) Where a female pensioner is detained as a patient in a hospital for the insane, the Board may cause her pension or any part thereof to be paid during the period of detention to some person in such proportion as the Board thinks fit for the use of such of the children of the pensioner or of her late husband as are under the age of sixteen years.

(3) This section shall apply and have effect notwithstanding anything to the contrary contained in the Official Trustee Act, 1921, or the rules made and from time to time in force thereunder.

67. (1) Where pensions in respect of children are payable under this Act to a widow, the pensions shall, if the widow dies, be payable to the guardians of the children.

Payments to children.
Ibid., s. 45.

(2) Notwithstanding anything contained in this Act, any money payable out of the Fund in respect of a child under the age of sixteen years may, at the discretion of the Board, be paid to the guardian of the child or expended by the Board for the benefit of the child.

Pensions payable for life except in case of children.
Ibid., s. 46.

68. (1) Except where otherwise provided in this Act a pension shall be payable during the life of the person entitled thereto.

(2) Pensions in respect of children shall be payable until they attain the age of sixteen years or die before attaining that age.

Provision in case of qualified contributor ceasing to contribute.

69. (1) Where a qualified contributor is retired on the ground of invalidity or mental or physical infirmity or is retrenched, or discharged or dismissed or resigns before he has reached the maximum age for retirement applicable to him, and at any time thereafter before the maximum age for retirement which would have been applicable to him if he had continued to be an employee is reached he ceases to contribute as a qualified contributor, such qualified contributor shall, after ceasing to contribute as aforesaid, be entitled to be paid out of the Fund the amount of the actual contributions paid by him as a qualified contributor under this Act.

(2) Where a qualified contributor to whom subsection (1) of this section relates has ceased to contribute as a qualified contributor, and thereafter re-enters the Service he shall be deemed to be a person entering the Service after the commencement of this Act; he shall not be entitled to claim any further benefit in respect of his previous service, but he may elect to contribute to the Fund as a contributor under section thirty-one of this Act.

Payment of pension instalments.
Ibid., s. 47.

70. (1) Pensions shall be paid in fortnightly instalments.

(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.

Value of widow's pension.
Ibid., s. 48.

71. Except where otherwise provided in this Act, in any case where in this Act provision is made for the pension of a person to be actuarially determined, any pension under this Act to his widow in respect of her own life shall be one-half of the amount so actuarially determined, but not less than one unit.

72. Where, in the opinion of the Board, payment of pension, refund of contributions or other benefit under this Act should be made to a person other than the pensioner or beneficiary, the Board may, subject to this Act, authorise payment to such other person accordingly.

Payment to person other than the pensioner.

Ibid., s. 48A.

Division 3—Break-down Pensioners.

73. (1) Any pensioner who is in receipt of a pension under section fifty-seven of this Act shall, for the purposes of this Act, be deemed to be on leave of absence without pay, and shall not be required to contribute in respect of the period of that leave; but, notwithstanding the fact that he is deemed to be on leave of absence, his office or position shall be held to be vacant and may be filled by the appointment thereto of some other person.

Break-down pensioner to be deemed to be on leave.

Ibid., s. 49.

(2) In the event of the re-employment in the Service of a person who has retired on a pension under section fifty-seven of this Act, 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.

(3) Any such pensioner shall submit himself for medical examination as and when required by the Board, and if he makes default in complying with such requirement the pension shall cease to be payable to him so long as he continues in default.

74. (1) If, in the opinion of the Board, the health of any pensioner to whom a pension under section fifty-seven of this Act is being paid has become so restored as to enable him to perform his duties the Board shall so inform a prescribed authority with a view to suitable employment being found for the pensioner.

Pensioner restored to health may be recalled to the service.

Ibid., s. 50.

(2) If suitable employment is offered to such pensioner at a salary not less than two-thirds of his salary at the time of his retirement, or at such salary as is agreed upon between him and a prescribed authority, the Board may cancel the pension and thereupon it shall cease to be payable.

(3) In the event of the recurrence of his infirmity any contributor who has been re-employed in the Service shall be entitled to pension at a rate not less than the amount of the pension on which he was first retired.

(4) If, in the opinion of the Board, the health of any pensioner to whom a pension under section fifty-seven of this Act is being paid, has become so restored as to enable him to perform his duties and suitable permanent employment in the Service cannot be offered to him but the pensioner is engaged in temporary employment by or under the State at a remuneration not less than two-thirds of his salary at the time of his retirement the Board may suspend the pension, and thereupon it shall cease to be payable so long as the pensioner continues in such employment.

(5) In the event of the recurrence of this infirmity of the pensioner, or in the event of his ceasing to be so engaged in temporary employment by or under the State or in other employment as aforesaid the pensioner shall from the date of such recurrence or the cessation of such employment, as the case may be, be entitled to pension at the same rate as that on which he was retired from the Service.

Re-employment of pensioner.
Ibid., s. 50A.

75. (1) Where a pensioner, other than a pensioner who has been retired on the ground of infirmity or retrenchment, is employed or re-employed in the Service, so much of his pension as is attributable to the contribution payable by the State shall be cancelled during the period of employment or re-employment.

(2) Where a pensioner, part of whose pension has been cancelled under subsection (1) of this section, becomes a contributor upon employment or re-employment, he shall be entitled to receive on retirement after such employment or re-employment such proportions of both pensions which have been contributed for by him or on his behalf as are attributable to the respective contributions made by him or on his behalf, and, in addition to such proportion of pension as is attributable to the contribution payable by the State under this section.

(3) Notwithstanding anything contained in this Act, the State shall, in respect of pensions payable to any person under subsection (2) of this section and to the widow and children of any such person, be liable to contribute only in respect of the pension of which the proportion attributable to contributions by the State is the greater.

Division 4—Existing Assurance Policies.

76. Notwithstanding anything to the contrary contained in any other Act of the State, it shall not be compulsory for any employee who is a contributor under this Act to assure his life, or to continue in force any policy of assurance on his life effected before the commencement of this Act, and any policy held by any authority prescribed under any Act of the State aforesaid relating to the Public Service of the State shall be placed at the disposal of the employee.

Assurance policies may be continued or discontinued at option of contributor.

Ibid., s. 59.

77. (1) Any employee, who is a contributor under this Act and whose life is assured at the commencement of this Act may, with the consent of the Board, transfer the policy (if unencumbered) to the Board or to a person approved by the Board and request the Board to continue the payment of the premiums under the policy.

Transfer of policies to Board.

Ibid., s. 60.

(2) Where a transfer is made under subsection (1) of this section the Board shall duly pay the premiums, and, on the maturity of the policy, shall pay to the employee or to his legal representatives to be administered as part of his estate any sums received on the policy, less the amount of the premiums paid by the Board with compound interest thereon at the rate of four pounds per centum per annum from the respective dates of payment.

(3) Where an employee has transferred his policy in pursuance of subsection (1) of this section, and thereafter he desires that his policy be retransferred to him before maturity, or resigns or retires from the Service, the Board may, on receipt of a request for retransfer or upon his resignation or retirement, retransfer the policy to the employee upon payment to the Board of the amount of premiums paid by the Board with compound interest thereon at the rate of four pounds per centum per annum from the respective dates of payment.

Division 5—Provisions relating to the Western Australian Government Railways and Tramways Employees' Death Benefit and Endowment Fund.

78. (1) Where a contributor under this Act is at the time when he becomes a contributor liable to contribute to the Railway Death Benefit and Endowment Fund, and, as provided for in section thirty-two of this Act, he con-

An employee contributing to Railway Death Benefit and Endowment Fund may transfer rights to Board.

tinues, after he has become a contributor under this Act, to contribute to the Railway Death Benefit and Endowment Fund, such contributor under this Act may, at any time with the consent of the Board, and notwithstanding any law, regulation or by-law regulating or affecting the Railway Death Benefit and Endowment Fund to the contrary, transfer or assign his rights (if any) as a contributor to the Railway Death Benefit and Endowment Fund to the Board and request the Board to continue payment of contributions to such Fund for and on behalf of the contributor.

(2) Where a transfer or assignment is made under subsection (1) of this section the Board shall duly pay the contributions necessary to protect and preserve the rights transferred or assigned, and upon such rights maturing or accruing shall pay to the contributor or to his legal representatives to be administered as part of his estate, any sums received by the Board in satisfaction of the rights transferred or assigned, less the amount of the contributions paid by the Board with compound interest thereon at the rate of four pounds per centum per annum from the respective dates of payment.

(3) This section shall not apply where the contributor has, in accordance with the regulations or by-laws relating to the said Railway Death Benefit and Endowment Fund, nominated some person or persons other than himself to receive from such Fund the benefits attributable to the contributions paid by the contributor to such Fund unless and until such person or persons join with the contributor in the transfer or assignment to the Board of the rights referred to in subsections (1) and (2) of this section.

PART VI.—MISCELLANEOUS.

79. Whenever any question arises under this Act as to whether a contributor is an invalid or is physically or mentally incapable of performing his duties, and whether the invalidity or incapacity is due to his fault, the question shall be determined by the Board (whether before or after the retirement of the contributor) upon a report from a duly qualified medical practitioner appointed by the Governor for the purposes of this Act.

Provided that upon the receipt of an adverse report by the Board, and before a determination is arrived at,

Question as to invalidity, etc., determined by Board on medical officer's report.
cf., Commonwealth Superannuation Act, 1922.
1934, s. 77.

the contributor shall have the right to a second medical report from a duly qualified medical practitioner mutually agreed upon by the contributor and the Board.

80. (1) Any dispute under this Act shall be determined in the first place by the Board:

Settlement of disputes.
Ibid., s. 78.

Provided that any person aggrieved by a decision of the Board may, in accordance with the regulations, appeal to a judge of the Supreme Court sitting in Chambers who shall have jurisdiction to hear and determine such appeal.

(2) The decision of the judge 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.

81. (1) The Board may at any time require the State and any department to furnish such returns with respect to contributors and qualified contributors as the Board may decide, and may at any time require any contributor or qualified contributor to furnish such information as the Board may deem necessary for the purpose of any investigation in connection with the Fund.

Returns.
Ibid., s. 79.

(2) Any contributor or qualified contributor who, without reasonable excuse (proof whereof shall lie with him) fails to furnish the information required of him under this Act shall be guilty of an offence.

Penalty: Ten pounds.

(3) Prosecutions for offences under this section may be commenced by a complaint made by the Secretary of the Board and may be dealt with summarily under the provisions of the Justices Act, 1902-1936.

82. Pensions and other benefits under this Act shall not be in any way assigned or charged or passed by operation of law to any person other than the pensioner or beneficiary, and any moneys payable out of the Fund on the death of a contributor or beneficiary shall not be assets for the payment of his debts or liabilities.

Assignment of pensions.
Ibid., s. 80.

Provided that nothing in this section shall prevent the making of an order in the nature of a garnishee against any instalment of pension payable to a person who has been a contributor.

Power to
recover.
Ibid., s. 81.

83. The Board may recover contributions under this Act as a debt owing to the Board in any court of competent jurisdiction.

Regulations.
Ibid., s. 82.

84. The Governor may, on the recommendation of the Board, make regulations not inconsistent with this Act prescribing all matters required or permitted to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, without in any way limiting the generality of the power hereby conferred, in particular—

- (a) for prescribing in respect of contributors suffering from invalidity or physical or mental incapacity to perform their duties, all or any of the following matters:—
 - (i) conditions of retirement;
 - (ii) pensions or other benefits;
 - (iii) provisions for cancellation of pensions or other benefits; and
 - (iv) conditions of compulsory re-employment;
 - (b) for prescribing the dates in respect of birth, mortality, conjugal condition, dependent children, invalidity and rate of interest to be employed in determining actuarial equivalents for the purposes of this Act, and for prescribing the incidence on the several benefits of the commutations involved in determining such actuarial equivalents.
 - (c) Where, under this Act, an employee may make any election or choice and the time within which it may be made is not stated in the Act, for prescribing the time within which it must be made and the conditions upon which it may be made;
 - (d) for prescribing the practice in respect of appeals against the determination of disputes by the Board; and
 - (e) for prescribing penalties not exceeding fifty pounds for an offence against the regulations.
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First Schedule.

Rates of Contribution to be paid Fortnightly by Male Members, based on a retiring age of 65.

Age next Birthday at Entry.		First £52 Pension to Member; £26 to Widow; £13 to each Child to age 16.	Subsequent Increments, £52 Pension to Member; £26 to Widow.	Age next Birthday at Entry.		First £52 Pension to Member; £26 to Widow; £13 to each Child to age 16.	Subsequent Increments, £52 Pension to Member; £26 to Widow.
		£ s. d.	£ s. d.			£ s. d.	£ s. d.
16	...	0 2 3	0 2 0	41	...	0 7 6	0 6 10
17	...	0 2 4	0 2 1	42	...	0 7 10	0 7 3
18	...	0 2 6	0 2 2	43	...	0 8 4	0 7 9
19	...	0 2 7	0 2 4	44	...	0 8 9	0 8 2
20	...	0 2 9	0 2 5	45	...	0 9 3	0 8 9
21	...	0 2 11	0 2 7	46	...	0 9 10	0 9 4
22	...	0 3 1	0 2 8	47	...	0 10 6	0 10 0
23	...	0 3 3	0 2 10	48	...	0 11 2	0 10 8
24	...	0 3 5	0 3 0	49	...	0 12 0	0 11 6
25	...	0 3 7	0 3 2	50	...	0 12 11	0 12 5
26	...	0 3 9	0 3 4	51	...	0 13 11	0 13 6
27	...	0 3 11	0 3 5	52	...	0 15 1	0 14 8
28	...	0 4 1	0 3 7	53	...	0 16 5	0 16 1
29	...	0 4 3	0 3 9	54	...	0 18 0	0 17 8
30	...	0 4 6	0 3 11	55	...	0 19 10	0 19 6
31	...	0 4 8	0 4 2	56	...	1 2 1	1 1 9
32	...	0 4 11	0 4 4	57	...	1 4 10	1 4 6
33	...	0 5 1	0 4 6	58	...	1 8 4	1 8 0
34	...	0 5 4	0 4 9	59	...	1 13 0	1 12 9
35	...	0 5 7	0 5 0	60	...	1 19 7	1 19 3
36	...	0 5 10	0 5 3	61	...	2 9 6	2 9 2
37	...	0 6 2	0 5 6	62	...	3 6 2	3 5 10
38	...	0 6 5	0 5 10	63	...	4 19 9	4 19 4
39	...	0 6 9	0 6 2	64	...	10 1 7	10 0 10
40	...	0 7 1	0 6 6	65	...	10 5 7	10 4 10

Second Schedule.

Rates of Contribution to be Paid Fortnightly by Female Members, based on a Retiring Age of 65.

Age next Birthday at Entry.	Contribution for £52 Pension.	Age next Birthday at Entry.	Contribution for £52 Pension.	Age next Birthday at Entry.	Contribution for £52 Pension.
	£ s. d.		£ s. d.		£ s. d.
16 ...	0 1 4	36 ...	0 4 0	56 ...	0 18 10
17 ...	0 1 5	37 ...	0 4 3	57 ...	1 1 5
18 ...	0 1 6	38 ...	0 4 6	58 ...	1 4 8
19 ...	0 1 7	39 ...	0 4 9	59 ...	1 8 11
20 ...	0 1 8	40 ...	0 5 1	60 ...	1 15 0
21 ...	0 1 9	41 ...	0 5 5	61 ...	2 4 2
22 ...	0 1 10	42 ...	0 5 9	62 ...	2 19 6
23 ...	0 2 0	43 ...	0 6 2	63 ...	4 10 6
24 ...	0 2 1	44 ...	0 6 7	64 ...	9 4 7
25 ...	0 2 2	45 ...	0 7 1	65 ...	9 8 3
26 ...	0 2 4	46 ...	0 7 7		
27 ...	0 2 5	47 ...	0 8 2		
28 ...	0 2 7	48 ...	0 8 10		
29 ...	0 2 9	49 ...	0 9 7		
30 ...	0 2 10	50 ...	0 10 5		
31 ...	0 3 0	51 ...	0 11 5		
32 ...	0 3 2	52 ...	0 12 6		
33 ...	0 3 4	53 ...	0 13 8		
34 ...	0 3 7	54 ...	0 15 2		
35 ...	0 3 9	55 ...	0 16 10		

Third Schedule.

Rates of Contribution to be Paid Fortnightly by Male Members for Units of Pension based on a Retiring Age of 60.

Age next Birthday at Entry.	Retiring Age of 60 Years.		Age next Birthday at Entry.	Retiring Age of 60 Years.	
	First £52 Pension to Member; £26 to Widow; £13 to each Child to Age 16.	Subsequent increments £52 Pension to Member; £26 to Widow.		First £52 Pension to Member; £13 to each Child to Age 16.	Subsequent increments £52 Pension to Member; £26 to Widow.
	£ s. d.	£ s. d.		£ s. d.	£ s. d.
16 ...	0 2 7	0 2 4	41 ...	0 10 0	0 9 4
17 ...	0 2 9	0 2 6	42 ...	0 10 8	0 10 0
18 ...	0 2 11	0 2 7	43 ...	0 11 5	0 10 9
19 ...	0 3 1	0 2 9	44 ...	0 12 4	0 11 8
20 ...	0 3 3	0 2 11	45 ...	0 13 4	0 12 8
21 ...	0 3 5	0 3 1	46 ...	0 14 5	0 13 9
22 ...	0 3 7	0 3 3	47 ...	0 15 8	0 15 1
23 ...	0 3 10	0 3 5	48 ...	0 17 2	0 16 6
24 ...	0 4 1	0 3 8	49 ...	0 19 0	0 18 4
25 ...	0 4 3	0 3 10	50 ...	1 1 2	1 0 6
26 ...	0 4 6	0 4 0	51 ...	1 3 9	1 3 2
27 ...	0 4 8	0 4 3	52 ...	1 7 0	1 6 5
28 ...	0 4 11	0 4 5	53 ...	1 11 3	1 10 8
29 ...	0 5 2	0 4 8	54 ...	1 16 10	1 16 3
30 ...	0 5 5	0 4 11	55 ...	2 4 8	2 4 1
31 ...	0 5 9	0 5 2	56 ...	2 16 6	2 15 11
32 ...	0 6 0	0 5 5	57 ...	3 16 4	3 15 7
33 ...	0 6 4	0 5 9	58 ...	5 16 1	5 15 2
34 ...	0 6 8	0 6 1	59 ...	11 16 0	11 14 5
35 ...	0 7 1	0 6 5	60 ...	12 0 8	11 19 1
36 ...	0 7 5	0 6 9			
37 ...	0 7 11	0 7 2			
38 ...	0 8 4	0 7 8			
39 ...	0 8 10	0 8 2			
40 ...	0 9 5	0 8 9			

Fourth Schedule.

Rates of Contribution to be Paid Fortnightly by Female Members based on a Retiring Age of 60.

Age next Birthday at Entry.	Contribution for £52 Pension.	Age next Birthday at Entry.	Contribution for £52 Pension.	Age next Birthday at Entry.	Contribution for £52 Pension.
	£ s. d.		£ s. d.		£ s. d.
16 ...	0 1 9	31 ...	0 4 1	46 ...	0 12 0
17 ...	0 1 11	32 ...	0 4 4	47 ...	0 13 2
18 ...	0 2 0	33 ...	0 4 7	48 ...	0 14 7
19 ...	0 2 1	34 ...	0 4 11	49 ...	0 16 3
20 ...	0 2 2	35 ...	0 5 2	50 ...	0 18 3
21 ...	0 2 4	36 ...	0 5 7	51 ...	1 0 9
22 ...	0 2 5	37 ...	0 5 11	52 ...	1 3 10
23 ...	0 2 7	38 ...	0 6 4	53 ...	1 7 9
24 ...	0 2 9	39 ...	0 6 10	54 ...	1 13 0
25 ...	0 2 11	40 ...	0 7 4	55 ...	2 0 4
26 ...	0 3 1	41 ...	0 7 11	56 ...	2 11 5
27 ...	0 3 3	42 ...	0 8 6	57 ...	3 9 11
28 ...	0 3 5	43 ...	0 9 2	58 ...	5 7 1
29 ...	0 3 7	44 ...	0 10 0	59 ...	10 19 1
30 ...	0 3 10	45 ...	0 10 11	60 ...	11 2 9