

WESTERN AUSTRALIA.

SUPERANNUATION AND FAMILY BENEFITS.

2° and 3° Geo. VI., No. XXXIV.

No. 34 of 1938.¹

(Affected by Acts No. 78 of 1953 and No. 71 of 1956.)

[As amended by Acts

- No. 43 of 1939² assented to 20/12/39;
- No. 55 of 1945³ assented to 30/1/46;
- No. 65 of 1947⁴ assented to 10/1/48;
- No. 39 of 1950⁵ assented to 18/12/50;
- No. 25 of 1951 assented to 12/12/51;
- No. 36 of 1955⁶ assented to 28/11/55;
- No. 55 of 1957⁷ assented to 6/12/57;

and reprinted pursuant to the Amendments Incorporation Act, 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 the 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, 1938-1957.*

Short title.
Amended by
No. 55 of
1957.

¹ Came into operation on 1st March, 1939. (See *Gazette* 24/2/39.)

² Deemed to have been in operation as from 1st March, 1939. (See No. 43 of 1939, s. 2.)

³ (i) Amendments effected by sections 2 (1) (b), 8 (1) and 13 (1) deemed to have had effect as from 20/12/39. (See respective sections of No. 55 of 1945);

(ii) Sections 3 (1), 9 (1), 10 (1), 11 (1), 14 (1) and 16 (1) came into operation on 1/3/46. (See *Gazette* 22/2/46.)

⁴ Came into operation on 31/1/48. (See *Gazette* 30/1/48.)

⁵ Came into operation on 13/1/51. (See *Gazette* 12/1/51.)

⁶ Came into operation on 9/12/55. (See *Gazette* 9/12/55.)

⁷ Came into operation on 1/1/58. (See No. 55 of 1957, s. 1 (2).)

No. 34 of
1938, s. 1.
Commence-
ment.

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

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

Act divided
into parts.
No. 34 of
1938, s. 3, as
amended by
No. 65 of
1947, s. 2.

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

PART I.—ss. 4-7—PRELIMINARY.

PART II.—ss. 8-23 — THE SUPERANNUATION BOARD.

PART III.—ss. 24-30 — THE SUPERANNUATION FUND.

PART IV.—ss. 31-51—CONTRIBUTIONS.

Division 1—ss. 31-36—Contributions by Employees.

Division 2—ss. 37-39—Scale of Units.

Division 3—ss. 40-42—Scale of Contributions by Employees.

Division 3A—s. 42A—Reserve Units of Pension.

Division 4—ss. 43-46—Contributions by the State.

Division 5—ss. 47-51—General Provisions as to Contributions.

PART V.—ss. 52-83—PENSIONS AND BENEFITS.

Division 1—ss. 52-56—Retirement on Pension.

Division 2—ss. 57-77—Grant of Pensions and Benefits.

Division 3—ss. 78-80B—Breakdown Pensioners.

Division 4—ss. 81-82—Existing Assurance Policies.

Division 5—s. 83—Provisions relating to the Government Railways and Tramways Employees' Death Benefit and Endowment Fund.

Division 6—ss. 83A-83B—The Provident Account.

¹ Came into operation on 1st March, 1939. (See Gazette 24/2/39.)

PART VI.—ss. 84-89—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 a 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.
No. 34 of
1938, s. 4.

*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.
No. 34 of
1938, s. 5.

* It is enacted by No. 55 of 1945, s. 20, as follows:—

20. (1) Insofar as any matter or thing has been done in pursuance of the provisions of the principal Act prior to the passing of this Act, which at the time of the doing thereof was not or may not have been authorised by the principal Act as then in force, but which if done after the relevant provisions of this Act shall have come into operation and taken effect, would be authorised by the principal Act as amended by this Act, the doing of such matter or thing shall be and is hereby confirmed and validated.

Validation.

(continued—footnote p. 4.)

Interpretation.

No. 34 of 1938, s. 6, amended by No. 43 of 1939, s. 3, No. 55 of 1945, s. 2, No. 65 of 1947, s. 3; No. 39 of 1950, s. 4.

6. (1) In this Act, subject to the context—
- “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;
- “actuarial reserve portion of contributions” means the balance deemed to remain in the Fund to meet future risks after the estimated value of the risks carried by the Fund during the period of contributions has been assessed on an actuarial basis;
- “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 Government of the State and includes the State Electricity Commission of Western Australia, the Rural and Industries Bank of Western Australia, every State trading concern, the Fremantle Harbour

(2) Any adjustments and other arrangements in relation to any matter or thing, which by subsection (1) of this section is confirmed or validated, may be made or effected after the relevant provisions of this Act shall have come into operation and taken effect wherever necessary in order to give effect retrospectively to the provisions of the principal Act as amended by this Act.

It is enacted by No. 65 of 1947, s. 25, as follows:—

Validation.

25. (1) Insofar as any matter or thing has been done in purported pursuance of the provisions of the principal Act prior to the commencement of this, the Superannuation and Family Benefits Act Amendment Act, 1947, which at the time of the doing thereof was not or may not have been authorised by the principal Act as then in force, but which if done after the relevant provisions of this, the Superannuation and Family Benefits Act Amendment Act, 1947, shall have come into operation, would be authorised by the principal Act as amended by this, the Superannuation and Family Benefits Act Amendment Act, 1947, the doing of such matter or thing is confirmed and validated.

(2) Any adjustments and other arrangements in relation to any matter or thing, which by subsection (1) of this section is confirmed and validated, may be made or effected after the relevant provisions of this, the Superannuation and Family Benefits Act Amendment Act, 1947, shall have come into operation wherever necessary in order to give effect retrospectively to the provisions of the principal Act as amended by this, the Superannuation and Family Benefits Act Amendment Act, 1947.

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 for the purpose of such Crown instrumentality.

The term "Department" shall, subject as hereinafter provided, also include the board of management of a public hospital financed either wholly or partly with moneys from the Hospital Fund established under the Hospital Fund Act, 1930-1937, and any other corporate body, being a Crown instrumentality established by or under any Act of the Parliament of the State, the inclusion of which board of management or other corporate body aforesaid in the said term is recommended by the Minister and is approved by the Treasurer.

Provided that—

- (i) the Treasurer shall not approve of the inclusion in the term "Department" as aforesaid of any such board of management or other corporate body aforesaid, unless and until such board of management or other corporate body has entered into a proper written agreement with the Treasurer and has made arrangements satisfactory to the Treasurer whereby such board of management or other corporate body is bound to pay and will pay to the board on behalf of the State during the employment of its employees who become contributors under this Act and thereafter will continue to pay to the board on behalf of the State so long as may be necessary progressively by way of fortnightly contributions commencing from the date or dates

when its employees become contributors under the Act as aforesaid, and payable fortnightly on the days when the contributions by such employees are payable or otherwise on the days when in accordance with section forty-three and section forty-four of this Act payments of its share of the pensions are payable by the Government of the State as the case may be, such amounts in respect of each and every one of its employees who become contributors as aforesaid as are and will be, in the opinion of the board, sufficient to meet and recoup to the Government of the State the amounts which in accordance with section forty-three and section forty-four of this Act the said Government will be liable to pay as its share of the pension or other benefits to which the employees of such board of management or other corporate body aforesaid and their dependants will be or are entitled by virtue of being or having been contributors under this Act; and

- (ii) as and when any board of management or other corporate body aforesaid is approved by the Treasurer as a department for the purposes of this Act, notification of such approval shall be published in the *Government Gazette*;

“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, and does not include a person who is a contributor to, or is in receipt of a pension on the ground of invalidity or physical or mental incapacity from, any Superannuation Fund to which contributions are made by the Crown other than the Crown in right of Western Australia.

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;

“local authority” means a municipal council or a road board;

“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 Victoriæ No. 10, and its amendments;¹

¹ Amended by No. 11 of 1922, and repealed by Police Benefit Fund Abolition Act, 1939. (No. 40 of 1939.)

Superannuation and Family Benefits.

“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-four 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, 1904-1939;¹

“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 Provident Account” means the Provident Account established under Part V. of 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 and means in the case of a female electing to become a contributor after the coming into operation

¹ Now Government Railways Act, 1904-1957.

of the Superannuation and Family Benefits Act Amendment Act, 1950, the age of sixty years.

(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 sixty 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.

Extension
of this Act
to employees
of local
authorities.
New section
inserted as
s. 6A by
No. 55 of
1945, s. 3.

7. Where by any law of this State provision is made in relation to permanent employees of local authorities for the adoption or establishment of a scheme of superannuation and family benefits on a voluntary and contributory basis to operate within the provisions of this Act, and any local authority and the permanent employees thereof acting in pursuance of the provision of such law elect to participate in such a scheme, then, notwithstanding anything to the contrary contained in this Act, and in order to give effect to the provisions of the law aforesaid, but subject as in this section hereafter provided, the provisions of this Act shall, so far as may be necessary, apply and, with such adaptations thereof as may be requisite, be made applicable to such employees and to such local authority as if the employees of the local authority were employees within the meaning of this Act employed in a department.

Provided that—

- (a) the extension of the provisions of this Act as in this section provided for shall not take effect in respect of any local authority or the employees of any local authority unless and until the Governor shall by notice in the *Government Gazette* declare that in relation to the local authority named in such notice and to the employees of such local authority the provisions of this section shall operate and have effect; and
- (b) nothing in this section or elsewhere in this Act shall create or be construed as creating any liability on the part of the State to contribute towards the cost of a pension payable or paid under this Act by virtue of this section in respect of any employee of a local authority who in accordance with the provisions of any other law aforesaid and of this section becomes a contributor under this Act or to contribute towards the cost of administration in connection with the payment of such pension; and the State

shall not incur any liability whatsoever in relation to such employee or such pension, or such cost.

PART II—THE SUPERANNUATION BOARD.

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

Commencement of this Part.
No. 34 of 1938, s. 7.

9. (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.

Constitution of Board.
No. 34 of 1938, s. 8, amended by No. 55 of 1945, s. 4.

(2) Of such three members, 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.

10. (1) Subject to subsection (4) of section nine of this Act, the members of the Board may be appointed for any period not exceeding seven years, and every member shall be eligible for re-appointment.

Term of Office.
No. 34 of 1938, s. 9, as amended by No. 55 of 1945, s. 5.

(2) If any officer of the Public Service within the meaning of the Public Service Act, 1904-1935,¹ 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.

¹ Now Public Service Act, 1904-1956.

(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, 1871,¹ 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.

Extra-ordinary vacancies—Appointments to fill.
No. 34 of 1938, s. 10, as amended by No. 55 of 1945, s. 6.

11. 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—

- (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.

Temporary appointments.
No. 34 of 1938, s. 11, as amended by No. 55 of 1945, s. 7.

12. 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.

Removal of members of Board.
No. 34 of 1938, s. 12.

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

¹ Now Superannuation Act, 1871-1957.

(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.

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

Vacation
of office.
No. 34 of
1938, s. 13.

- (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.
No. 34 of
1938, s. 14.

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

Remunera-
tion of
members of
the Board.
No. 34 of
1938, s. 15.

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

Quorum.
No. 34 of
1938, s. 16.

17. 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.

Where
voting
equal.
No. 34 of
1938, s. 17.

18. (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.

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

Incorpora-
tion of
Board.
No. 34 of
1938, s. 18.

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

(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.

Delegation
of power to
Chairman.
No. 34 of
1938, s. 19.

20. 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.

Staff.
No. 34 of
1938, s. 20.

21. The staff of the Board shall be appointed under and be subject to the provisions of the Public Service Act, 1904-1935,¹ and shall include a secretary.

¹Now Public Service Act, 1904-1956.

22. (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.
No. 34 of 1938, s. 21.

(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.

23. 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.

Annual report to Parliament.
No. 34 of 1938, s. 22.

PART III.—THE SUPERANNUATION FUND.

24. (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 any "employer" payments made on behalf of the State for the purposes of this Act in pursuance of paragraph (i) of the proviso to the second paragraph of the definition of "department" in section six of this Act and from which shall be paid the benefits provided for in this Act.

Establishment of the Fund.
No. 34 of 1938, s. 23, as amended by No. 55 of 1945, s. 8.

(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.

25. (1) The fund may and shall, as far as practicable, but subject to subsection (2) of this section, be invested in investments of the following kinds, that is to say—

Investment of fund.
Substituted for s. 24 of No. 34 of 1938, by No. 43 of 1939, s. 4.

(a) any investments which are from time to time authorised by any Act of the State for the investment of trust funds, and

- (b) any debentures or other securities issued or given by any corporate body constituted or established by any law of the Commonwealth of Australia or of any State in the said Commonwealth which authorises the issue of such debentures or the giving of such other securities, and provides that the said debentures or other securities are guaranteed by the Government of the Commonwealth or of the State, as the case may be, under the laws whereof the said debentures are issued or the said other securities are given as aforesaid.

(2) The Board shall not invest the fund or any portion thereof in any investment of any kind whatever without the consent of the Treasurer being first obtained.

Moneys uninvested may be lodged in a bank.
No. 34 of 1938, s. 25.

26. Moneys in the fund held uninvested may be lodged at 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.
No. 34 of 1938, s. 26.

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

Audit.
No. 34 of 1938, s. 27.

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

Borrowing.
No. 34 of 1938, s. 28.

29. 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.

Quinquennial investigation by actuary.
No. 34 of 1938, s. 29, as amended by No. 65 of 1947, s. 4.

30. (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.

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

(3) For the purposes of the investigation, the rate of interest assumed to be earned by the assets of the fund shall be not less than three pounds fifteen shillings per centum per annum.

(4) 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.

(5) Where in relation to any financial year the amount ascertained in accordance with the prescribed formula to be the amount earned by the fund is less than the amount required to provide the rate specified in subsection (3) of this section, the State shall pay to the fund an amount equal to the difference between those amounts.

Payment by State to fund in respect of interest.

(6) If any investigation made under this section discloses a surplus of assets over liabilities of the fund, the amount of the surplus shall be set off against the amount or amounts otherwise payable by the State to the fund under subsection (5) of this section.

(7) 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.

31. (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

Contribution to the Fund not compulsory. No. 34 of 1938, s. 30.

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.

(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. No. 34 of 1938, s. 31, as amended by No. 55 of 1945, s. 9.

32. (1) 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—

- (a) 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;
- (b) this section shall be read subject to section thirty-five of this Act.

(2) Notwithstanding the provisions of subsection (1) of this section but subject to subsections (3) and (4) of this section, any employee employed at the commencement of this subsection and any person who later becomes an employee, and who wishes to become a contributor under this Act, may at any time, provided he is still an employee, elect to become

a contributor and become such a contributor by giving to the Board notice of such election in the prescribed form.

(3) Before making his election under subsection (2) of this section, the employee shall submit himself for medical examination as to his mental and physical health, and shall not be eligible or entitled to become a contributor unless and until he has on a date not earlier than one month prior to the date of lodgment of the notice of his election, submitted himself for the said medical examination and has been certified by a duly qualified medical practitioner to be free from mental and physical infirmity likely to affect seriously and prejudicially a reasonable expectation of life in such employee.

(4) The provisions of subsection (6) of section thirty-seven of this Act shall not apply to an employee who elects under subsection (2) of this section to become a contributor under this Act; and upon becoming such a contributor such employee shall contribute to the Fund at the rate appropriate to his age prescribed in the appropriate schedule to this Act.

32A. (1) In this section—

“former employee” means a person who immediately prior to his becoming an employee within the meaning of this Act, was a contributor to a similar fund;

“former employment” means employment by the Commonwealth or the State of New South Wales, Victoria, South Australia or Tasmania;

“similar fund” means a fund or account established under the law applying to the former employment and providing for superannuation or other like benefits for persons employed in the former employment similar to the purposes of The Fund established pursuant to this Act.

Contributions where employee formerly contributed to similar fund in the service of the Commonwealth and certain States.

S. 32A added by No. 39 of 1950, s. 5.

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(2) Notwithstanding the provisions of section thirty-five of this Act, a former employee—

- (a) who has received or is entitled to receive payment of an amount which is in satisfaction of contributions made by him to a similar fund and which is in lieu of pension or like benefits;
- (b) who is appointed as an employee within the meaning of this Act;
- (c) who within three months of that appointment elects to contribute under the provisions of this Act to The Fund;
- (d) who pays or causes to be paid, that amount or such part of that amount as in the circumstances of the employee's case is determined by an Actuary appointed by the Board, into The Fund; and
- (e) who makes contributions to The Fund as provided by the tables referred to in section forty-two of this Act, but according to the age at which he commenced contributing to the similar fund;

shall be entitled to pension and benefits pursuant to the provisions of this Act.

(3) (a) The operation of the last two preceding subsections shall not—

increase the rates of contribution which would have been payable by contributors; or diminish or otherwise detrimentally affect pensions and benefits which would have been payable and conferred—

under the provisions of this Act, if those subsections had not been included in this Act.

(b) Where, but for the provisions of the last preceding paragraph, that operation would have necessitated—

an increase in those rates in order to maintain those pensions and benefits without diminution or other detrimental effect—

the State shall pay into The Fund, such amounts as an Actuary certifies are requisite to give effect to that operation, but subject to the provisions of the last preceding paragraph.

33. (1) [*Repealed by No. 65 of 1947, s. 5.*]

(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 to 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—

Provisions in relation to contributors who are also contributors to certain statutory funds. No. 34 of 1938, s. 32. as amended by No. 65 of 1947, s. 5.

- (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, 1904-1939,¹ 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 lastmentioned 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

¹ Now Government Railways Act, 1904-1957.

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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 subparagraph (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 subparagraph (b) aforesaid, and thereafter the balance of such amount shall be applied for the purpose mentioned in subparagraph (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 subparagraph (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.

34. (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, 1871,¹ 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, 1871.¹

Provisions relating to employees who are qualified for superannuation allowance under the Superannuation Act, 1871. No. 34 of 1938, s. 33, as amended by No. 43 of 1939, s. 5, and No. 65 of 1947, s. 6.

(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, 1871,¹ such employee may elect to become either a contributor or a qualified contributor under this Act and section thirty-two 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

¹ Now Superannuation Act, 1871-1957.

Fund under this Act as if he were contributing for the full benefits of a pensioner under this Act, and subject thereto the following provisions shall apply:—

- (a) If when such employee reaches the maximum age for retirement under this Act he is still a person to whom the Governor may lawfully grant a superannuation allowance under the Superannuation Act, 1871,¹ such employee may, at his option, take any one of the following benefits, namely—
- (i) accept the pension benefits of a contribution under this Act and relinquish all qualification or eligibility for a superannuation allowance under the Superannuation Act, 1871;¹ or
 - (ii) accept a superannuation allowance under and in accordance with the provisions of the Superannuation Act, 1871,¹ and a refund from the Board of the amount of the contributions made by him as a contributor in accordance with his obligation under this Act to make such contributions; or
 - (iii) accept from the Board a refund of a sum equal to the difference between the aggregate amount of the contributions made by him as a contributor as aforesaid and the amount determined actuarially to be necessary to pay in full the amount of all the contributions which he would have been liable to make as a qualified contributor, if in the first instance he had elected to become a qualified contributor instead of electing to become a contributor.

¹ Now Superannuation Act, 1871-1957.

(b) When any employee aforesaid elects to take the benefit provided in subparagraphs (iii) of paragraph (a) hereof—

(i) subject to the Superannuation Act, 1871,¹ he will continue to be qualified and eligible for the grant of a superannuation allowance under that Act;

(ii) he shall not be entitled to any benefits personally as a pensioner under this Act; and

(iii) upon his death his widow and children shall be entitled in respect of the units of pension for which the employee was contributing as a contributor under this Act to receive from the fund in accordance with this Act the same benefits to which they would have been entitled if the employee had elected to take the benefit provided in subparagraph (i) of paragraph (a) hereof; and

(c) The employee shall make his choice of the benefit under paragraph (a) which he desires to take and shall give notice thereof in writing in the prescribed form to the Board not later than one month after he is notified that he is qualified and eligible for a superannuation allowance under the Superannuation Act, 1871,¹ or within such further period as the Board may allow.

(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, 1871,¹ the employee will continue to be qualified and eligible for the grant of a superannuation allowance under that Act;

¹ Now Superannuation Act, 1871-1957.

- (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 any number of units of pension for which under this Act he may 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 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 examination of employee who elects to become contributor, No. 34 of 1938, s. 34, as amended by No. 43 of 1939, s. 6, and No. 65 of 1947, s. 7.

35. When an 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.

Commencement and cessation of contributions. No. 34 of 1938, s. 35, as amended by No. 43 of 1939, s. 7; No. 39 of 1950, s. 6; No. 25 of 1951, s. 2 (3), No. 36 of 1955, s. 2.

36. (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 on or 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 employee's election to become a contributor.

(2) An employee in the Service at the commencement of this Act who at that date had not reached his maximum age for retirement and in accordance with the provisions of section thirty-two of this Act, and within the period prescribed by that section gave the necessary notice of his election to become a contributor or a qualified contributor, but who attained his maximum age for retirement before the date notified for the commencement of contributions pursuant to subsection (1) hereof, shall, subject to payment of his initial contribution on the date appointed under this Act for the payment thereof, be deemed actually to have become a contributor or a qualified contributor, as the case may be, within the meaning and for the purposes of this Act and to have paid his initial contribution within twelve months before he attained his maximum age for retirement as aforesaid and shall be bound by the provisions of this Act, and shall be entitled to the benefits provided by this Act accordingly, notwithstanding that after attaining his maximum age for retirement he ceased to be an employee.

(3) 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 before the anniversary of his initial contribution next 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

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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.

(4) 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).

(5) 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 attainment of his elected retiring age to a higher salary group in column one of the scale contained in subsection (1) of section thirty-seven 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-seven 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.

37. (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-eight of this Act, and the maximum number of units in respect of which a contributor or a qualified contributor may contribute shall have relation to the salary of the employee

Scale of units of pension.
No. 34 of 1938, s. 36, as amended by No. 43 of 1939, s. 8, No. 55 of 1945, s. 10, No. 65 of 1947, s. 8, No. 35 of 1950, s. 7, No. 25 of 1951, s. 2 (4), No. 36 of 1955, s. 3, No. 55 of 1957, s. 2.

- (a) in accordance with scale A appended to this subsection if the employee commenced contributing before the first day of January, one thousand nine hundred and fifty-eight; or
- (b) in accordance with scale B appended to this subsection if the employee
 - (i) commences contributing on or after that day; or
 - (ii) having commenced contributing before that day in respect of any number of units elects to contribute after that day for an increase in that number of units, in which case scale B applies only in respect of the increase in the number of units.

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SCALE A.

<i>Column One.</i>		<i>Column Two.</i>
Where the Annual Salary of the Employee		The Employee may Contribute the Amount necessary to provide Units of Pension as under.
Exceeds	Does not Exceed	
£	£	
—	130	Two.
130	156	Two and a half.
156	208	Three.
208	260	Four.
260	312	Five.
312	364	Six.
364	416	Seven.
416	468	Eight.
468	520	Nine.
520	572	Ten.
572	624	Eleven.
624	676	Twelve.
676	728	Thirteen.
728	780	Fourteen.
780	832	Fifteen.
832	884	Sixteen.
884	936	Seventeen.
936	988	Eighteen.
988	1,040	Nineteen.
1,040	1,144	Twenty.
1,144	1,248	Twenty-one.
1,248	1,352	Twenty-two
1,352	1,456	Twenty-three.
1,456	1,560	Twenty-four.
1,560	1,664	Twenty-five.
1,664	—	Twenty-six.

SCALE B.

<i>Column One.</i>		<i>Column Two.</i>
Where the Annual Salary of the Employee		The Employee may Contribute the Amount necessary to provide Units of Pension as under.
Exceeds	Does not Exceed	
£	£	
—	162	Two.
162	195	Two and a half.
195	260	Three.
260	325	Four.
325	390	Five.
390	455	Six.
455	520	Seven.
520	585	Eight.
585	650	Nine.
650	715	Ten.
715	780	Eleven.
780	845	Twelve.
845	910	Thirteen.
910	975	Fourteen.
975	1,040	Fifteen.
1,040	1,105	Sixteen.
1,105	1,170	Seventeen.
1,170	1,235	Eighteen.
1,235	1,300	Nineteen.
1,300	1,430	Twenty.
1,430	1,560	Twenty-one.
1,560	1,690	Twenty-two.
1,690	1,820	Twenty-three.
1,820	1,950	Twenty-four.
1,950	2,080	Twenty-five.
2,080	—	Twenty-six.

(2) [*Repealed by No. 65 of 1947, s. 8.*]

(3) 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 subsection and becomes a contributor, the Board may grant an application by him for a number of units less than the relative number for his salary-group as shown in the scale in subsection (1) of this section.

(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, the following provisions shall apply to the contributor—

- (a) if he has attained the age of forty years, or, being an employee at the commencement of this Act, was not less than thirty years of age when he became a contributor, 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 may 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.

Provided that—

- (i) where any increase of salary is due to the operation of an award of a court or body having power to fix rates of pay, which award makes

the amount of salary liable to be increased if an increase occurs in a declared basic wage, and by reason of such increase the salary of a contributor or of a qualified contributor falls within a higher salary group than the salary group in which it fell prior to the increase, the contributor or the qualified contributor may elect to increase the amount of his contribution accordingly; and

- (ii) in any instance in which a declaration of the basic wage as mentioned in paragraph (i) of this proviso has the effect of placing employees in the Service outside the metropolitan area in a salary group higher than that for the same grade or class of employees in the Service within the metropolitan area, the employees in the Service outside the metropolitan area who are contributors or qualified contributors may, at their option, continue to contribute in respect of the same number of units for which they were contributing prior to such declaration of the basic wage, or may contribute for the additional unit or units prescribed for the higher salary group in which they have been placed by reason of the operation of the said declaration of the basic wage as aforesaid; and
- (iii) for the purpose of paragraph (ii) of this proviso the "metropolitan area" means that portion of the State comprised within an imaginary circle having a radius of thirty miles from the General Post Office, at Perth, as the centre of such circle.

(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 may, within six months after he becomes a contributor, 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 his period of his 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, or
- (c) if the period of his service under the State is less than ten years he may, in addition to his election under paragraph (a) of this subsection, but subject as hereinafter provided, elect to contribute from the date on which his period of service will be not less than ten years at the rate appropriate to his age at that date for units additional to those for which he has elected to contribute under paragraph (a) of this subsection.

Provided that—

- (i) he shall make his election under this paragraph within two months after the date on which his period of service under the State will be not less than ten years as aforesaid; and
- (ii) the total number of units contributed for by 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.

(d) [*Repealed by No. 65 of 1947, s. 8.*]

(7) 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, 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.

(9) Subject as hereinafter provided, where a contributor or a qualified contributor has not elected to take the full benefit available to him under this section and he is a contributor or a qualified contributor for a number of units of pension less than the number prescribed for the salary group to which he belongs, he may at any time elect to increase the amount of his contribution to an amount not exceeding the sum which will provide units of pension up to the number of such units prescribed for his said salary group. Provided that—

- (i) the amount of his contribution for the additional units of pension which he has so elected to take shall be at the rate appropriate to his age at the date when he so elects, and shall be payable on and from the date when he so elects; and
- (ii) in the case of an election under this subsection made after the expiration of twelve months after the commencement of this subsection, such election shall have no effect unless and until the person making such election submits to the Board within one month after the date on which he so elects or within such further time as the Board may allow, a certificate in a form

approved by the Board from a duly qualified medical practitioner that he is not suffering from any physical or mental defect which is likely to render him incapable, before attaining the maximum age for retirement, of performing his duties as employee.

(10) Where a contributor or a qualified contributor who makes an election under subsection (9) of this section has completed his contributions up to the anniversary of his initial contribution next preceding the attainment by him of the maximum age for retirement, the provisions of the proviso to subsection (5) of section thirty-six shall apply in respect of the additional units for which he elects under subsection (9) of this section.

37A. (1) Where, immediately prior to the date of commencement of the Superannuation and Family Benefits Act Amendment Act, 1951, a contributor whose salary exceeded one thousand one hundred and forty-four pounds per annum was contributing for the maximum number of units of pension for which he was eligible to contribute, he may, within twelve months after that date, elect to increase the amount of his contributions to a sum which will provide units of pension not exceeding the number specified in column two of the scale contained in subsection (1) of section thirty-seven of this Act opposite to the salary group within which his salary fell on that date.

Provisions re contributors whose salaries exceed £676 per annum. New section inserted by No. 65 of 1947, s. 9. Amended by No. 25 of 1951, s. 2 (5); No. 36 of 1955, s. 4. [Cf. Commonwealth No. 35 of 1947, s. 30.]

(2) [*Repealed by No. 25 of 1951, s. 2 (5).*]

(3) Any increased contribution payable in pursuance of subsection (1) of this section shall be payable as from the date of the election.

(4) Where a contributor of the kind mentioned in subsection (1) of this section has not elected to take the full benefit available to him under this section within the time specified in subsection (1) of this section, the provisions of subsection (9) of section thirty-seven of this Act shall apply in respect of any later application made by him.

Units in excess of two units optional.
No. 34 of 1938, s. 37, amended by No. 55 of 1945, s. 11.

38. (1) Notwithstanding anything to the contrary contained in this Act, it shall be optional for an employee who becomes a contributor to contribute for more than two units of pension; but the total number of units shall not exceed the prescribed number for the salary-group of the contributor concerned, as shown in the scale in subsection (1) of section thirty-seven of this Act.

(2) Subsection (1) of this section may be applied to any employee who has already become a contributor at the commencement of this section. In any such case the provisions of sections thirty-nine and forty-eight of this Act shall apply and have effect.

Employee reduced in salary.
No. 34 of 1938, s. 38, as amended by No. 55 of 1945, s. 12.

39. 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 contributions in respect of the reduced pension 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.
No. 34 of 1938, s. 39, as amended by No. 43 of 1939, s. 9, No. 65 of 1947, s. 10; No. 39 of 1950, s. 8.

40. 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-four 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.

Provided also, that in those cases in which the retiring age is amended from sixty-five years to an age between sixty years and sixty-five years, as provided for in subsection (2) of section forty-one of this Act, the amount of contribution which shall be paid by the contributor shall be based upon the equivalent, determined actuarially, of the amount necessary to pay the higher rate of contribution consequent upon the amendment of the retiring age as aforesaid, together with interest at the rate of four pounds per centum per annum compounded annually on the amounts of the increase in the contributions as from the dates when such contributions were due respectively.

41. (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.
No. 34 of 1938, s. 40, as amended by No. 43 of 1939, s. 10, and No. 65 of 1947, s. 11.

Provided that this subsection shall not in any circumstances apply to a contributor who, when he becomes a contributor, is of an age which will prevent him completing ten years' service under the State before attaining the age of retirement for which he desires to contribute.

(2) Any employee, who, although entitled to do so, has not in accordance with subsection (1) of this section made the election provided for in such subsection and any employee who is of an age which will permit him to complete ten years' service under the State before attaining the age for retirement for

which he desires to contribute and who at the commencement of this Act was an employee and was not less than sixty years of age when he became a contributor may at any time after the period prescribed in subsection (1) aforesaid elect to contribute for a full pension upon retirement at the age of sixty years or at any later age up to and including the age of sixty-four years, but in such case the amount of further or higher contribution payable by him shall be assessed in the manner prescribed in the second proviso to section forty of this Act:

Provided that an employee shall not in any case be entitled to elect to contribute for retirement at an age earlier than that which he will attain after the date when he makes his election.

(3) The rates of contribution to be paid by employees electing under subsection (2) hereof to contribute for full pension upon retirement at the ages of sixty-one, sixty-two, sixty-three and sixty-four years, respectively, shall be determined by the Board.

Election to contribute for full pension at age 61 to 65 years.

(3a) Where a contributor has made an election to contribute for a pension upon retirement at an age earlier than sixty-five years, the Board may, upon application by the contributor, permit him to elect to contribute for a full pension upon retirement at a later age up to sixty-five years and in such case his contributions shall be adjusted accordingly.

(4) 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-seven 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.

(5) Any contributor who makes an election in accordance with this section shall be entitled upon retirement on attaining the age of retirement in respect of which he has elected to contribute and has contributed to receive full pension according to the number of units for which he was contributing at the time of his retirement.

(6) 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, or the later age for which he elects under and in accordance with subsection (2) of this section, as the case may require.

(7) Subject as hereinafter provided, where a contributor who has made an election under this section to contribute for full pension upon retirement at the age of sixty years, or at a later age less than sixty-five years, does not retire upon attaining the age of retirement for which he has contributed as aforesaid, he shall not be required to make contributions after he has attained the age of retirement for which he has contributed as aforesaid, and he shall not be entitled to receive pension until his retirement. Provided that if such contributor has elected to make contributions in respect of units of pension at the rates prescribed for the age of thirty years in accordance with paragraph (a) of subsection (6) of section thirty-seven of this Act, then, notwithstanding anything to the contrary contained in this subsection or elsewhere in this Act, such contributor shall be liable to make and shall make his contributions in respect of the said units of pension at the prescribed rate for a period of five years from the date when he commenced to make contributions in respect of such units of pension or until he retires when he retires before the completion of such period of five years, and shall not be entitled to receive pension until after his retirement.

Tables of contributions in Schedules. No. 34 of 1938, s. 41.

42. (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 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.

Reserve units of pension. New Division and section inserted by No. 65 of 1947, s. 12. Amended by No. 36 of 1953, s. 5. [Cf. Commonwealth No. 35 of 1947, s. 11.]

42A. (1) There shall be a Reserve Units of Pension Account (in this Division referred to as "the account"), which shall form part of the fund and into which shall be paid all contributions made by contributors under this Division.

(2) A contributor who is contributing for the number of units of pension corresponding to the salary group within which his salary falls may, from time to time, elect to contribute, in accordance with this Division for one or more reserve units of pension, with a maximum of eight.

(3) Contributions in respect of a reserve unit of pension shall, subject to subsection (2) of section forty-two of this Act, be in accordance with the rate prescribed in the appropriate Schedule to this Act, and shall be payable as from the date on which the contributor elects to contribute for that reserve unit of pension.

(4) Where a contributor who is contributing for one or more reserve units of pension becomes eligible to contribute for one or more additional units of pension in pursuance of the provisions of this Act, he may elect to transfer to the Fund the contributions paid by him to the Account in respect of a number of reserve units of pension not exceeding the number of those additional units of pension.

(5) Where a contributor so elects, no further contributions shall be paid into the Account in respect of the reserve units of pension to which the election applies and the contributions payable by the contributor in respect of the additional units of pension equal to the number of those reserve units of pension shall be at the same rate as the contributions paid into the Account in respect of those reserve units of pension.

(6) Where a contributor is contributing for one or more reserve units of pension, he may, subject to subsection seven of this section, elect to discontinue his contributions in respect of any number or all of those units. In that event or if he ceases to be an employee, there shall be paid to him or to his personal representatives, from the Account, the amount of the contributions made by him in respect of those reserve units of pension, together with interest, compounded annually, on those contributions, at the rate determined by the Board in respect of the period or periods concerned.

(7) A contributor who has made an election to reduce the number of reserve units under subsection six of this section shall not again be eligible to elect to contribute for reserve units of pension.

Division 4.—Contributions by the State.

43. (1) Where units of pension are paid from the fund on or after the first day of January, one thousand nine hundred and fifty-eight on the basis of contribution corresponding to the rate prescribed for the age of the contributor at the date upon which he commenced to pay the contribution, the State shall, in respect of each unit or part of a unit of pension

Payments by State where contributions by employee are at rate for age.

No. 34 of 1938, s. 42, as amended by No. 55 of 1945, s. 13, No. 65 of 1947, s. 13; No. 25 of 1951, s. 2 (6); No. 55 of 1957, s. 2 (4).

- (a) pay to the fund a sum equal to two-thirds of the payment made from the fund on or after that day if payment of the pension commenced before that day, and in addition, irrespective of the number of units of the pension, a supplementation at the rate of

fifty-two pounds per annum on or after that day in respect of each pension payment of which commenced before that day; and

- (b) pay to the fund a sum equal to five-sevenths of the payment made from the fund on or after that day in respect of each pension payment of which commences on or after that day.

(2) [*Repealed by No. 55 of 1957, s. 2 (4).*]

(3) Where in accordance with paragraph (i) of the proviso to the second paragraph of the definition of "Department" in section six of this Act, fortnightly payments have been made to the Board on behalf of the State on account of the pension to which such contributor is entitled under this Act, the liability of the State in respect of the pension payable to such contributor under this section and section forty-four of this Act shall be deemed to be satisfied and discharged to the extent to which the said fortnightly payments have already been made as aforesaid.

(4) Where a contributor, under section thirty-six or section sixty of this Act, elects or is called upon to retire at age sixty years or later age and elects to continue to pay contributions at the lower rate until he attains the age of sixty-five years, the employing department shall continue to pay the "employer" contributions for the corresponding period to the Board on behalf of the State.

Payments
by State
where con-
tributions
by employee
are not at
rate for age.
No. 34 of
1938, s. 43.
Amended by
No. 39 of
1950, s. 9;
No. 25 of
1951, s. 2 (7);
No. 55 of
1957, s. 2 (5).

44. (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) (a) In order to determine the sum payable in each case by the State under this section

- (i) in respect of pensions payment of which commenced before the first day of January, one thousand nine hundred and fifty-eight, the rate of contribution actually payable by the contributor shall be subtracted from three times the rate prescribed for the age of the contributor on the date on which he commenced to pay the contribution, and the ratio of that difference to three times the rate so prescribed shall be computed; or
- (ii) in respect of pensions payment of which commences on or after that day, the provisions of subparagraph (i) of this paragraph shall be applied but with the substitution of three and one-half times the rate so prescribed for three times that rate.

(b) Subject to this Act, the ratio so computed represents such part of the pension payment made from the fund as the State shall pay to the fund.

(3) Whereas 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.

45. 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.
No. 34 of 1938, s. 44.

46. (1) Payments by the State to the fund and to contributors under subsection (3) of section thirty-four 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.
No. 34 of 1938, s. 45.

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

Rate of pensions to be increased.
New section inserted by No. 65 of 1947, s. 14.
Amended by No. 39 of 1950, s. 10; No. 25 of 1951, s. 2 (8); No. 55 of 1957, s. 2 (6).
[Cf. Commonwealth No. 35 of 1947, s. 31.]

46A. (1) Where payment of any pension under this Act, not being a pension payable in respect of a child, commenced before the first day of January, one thousand nine hundred and fifty-eight, the amount payable on and after that day in respect of the pension shall, notwithstanding any other provision of this Act, be fifteen shillings for each unit of the pension and in addition a supplementation at the rate of fifty-two pounds per annum irrespective of the number of units of pension.

(2) The State shall pay to the Superannuation Fund the amount of the increase payable from that Fund on or after the first day of January, one thousand nine hundred and fifty-eight as the result of the operation of subsection (1) of this section, and the Consolidated Revenue Fund is, to the extent necessary, hereby permanently appropriated accordingly.

(3) The provisions of this section shall apply in respect of the first fortnightly payment of pension made after the thirty-first day of December, one thousand nine hundred and fifty-seven, and in respect of all subsequent payments.

S. 46B added by No. 25 of 1951, s. 2 (a).

46B. [*Repealed by No. 55 of 1957, s. 2 (7).*]

Division 5.—General Provisions as to Contributions.

Employees on leave of absence.
No. 34 of 1938, s. 46.

47. 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.

48. (1) The Board may accept lump sum payments to redeem forthwith all future contributions which would be payable fortnightly under this Act by a contributor.

Lump sum payments in redemption of future contributions.

Inserted as s. 46A by No. 43 of 1939, s. 11.

(2) The amount of the lump sum payment to be made under this section shall be determined by the Board which may allow any discount or other allowance it thinks fit.

49. Outstanding and unpaid contributions shall be chargeable with interest upon the amounts thereof as from the date when they fell due for payment at such rate (not exceeding five pounds per centum per annum) as the Board shall from time to time determine.

Interest payable on contributions in arrear.

Inserted as s. 46B by No. 43 of 1939, s. 11.

50. 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.

No. 34 of 1938, s. 47.

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.

51. 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 the rate of contribution at which he was so contributing at

Continuance of contributions by qualified contributor.

No. 34 of 1938, s. 48.

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.

52. (1) Subject to subsection (2) of this section every contributor shall be entitled to a pension on his retirement on or after attaining the maximum age for retirement.

Age of compulsory retirement. No. 34 of 1938, s. 49, as amended by No. 43 of 1939, s.12.

(2) In the event of the death of a male contributor before reaching his maximum age for retirement, whose widow is then a pensioner in her own right under this Act by reason of having been a contributor under this Act, such widow shall not be entitled to receive concurrently more than one pension under this Act, but shall be paid either the pension to which she is entitled in her own right as aforesaid, or the pension to which she is entitled as the widow of the deceased male contributor, whichever is the greater.

53. 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.

Breakdown retirement. No. 34 of 1938, s. 50.

54. 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—

Retrenchment and discharge. No. 34 of 1938, s. 51.

(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.

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

Dismissal.
No. 34 of
1938, s. 52.

- (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.

56. (1) 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.
No. 34 of
1938, s. 53,
as amended
by No. 65 of
1947, s. 15.

(2) A female employee who marries shall, for the purposes of this Act, be deemed to have resigned on the date of her marriage.

Cf. Com-
monwealth
1945, s. 5.

Division 2.—Grant of Pensions and Benefits.

57. (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

Pension to
widow of
qualified
contributor,
No. 34 of
1938, s. 54.
Amended by
No. 39 of
1950, s. 11;
No. 36 of
1955, s. 6;
No. 55 of
1957, s. 2 (8).

contributed as a qualified contributor in accordance with the prescribed scale relating to contributions by qualified contributors.

(2) (a) In addition to the pension and benefits payable under subsection (1) of this section, there shall be payable, as from but excluding the thirty-first day of December, one thousand nine hundred and fifty-seven, a payment of one pound per week for the benefit of each child of the deceased qualified contributor until the child attains the age of sixteen years, or ceases to be wholly maintained by the widow, or by a person or body, having the care of the child, whichever happens first.

(b) The payment of one pound per week for the benefit of each child of the deceased qualified contributor

(i) shall be made to the widow or other person or body, as the case may be, wholly maintaining the child; and

(ii) shall, subject to adjustment pursuant to section forty-four of this Act if that section is applicable, be made as to seven shillings and sixpence from the Fund, and as to twelve shillings and sixpence by the State from the Consolidated Revenue Fund which is, to the necessary extent, hereby permanently appropriated.

Cf. No. 39 of
1950, s. 11
(c); and
No. 36 of
1955, s. 6 (b).

(3) (a) Where at the time of the death of a qualified contributor to whom subsection (1) of this section relates, the qualified contributor was a widower or was divorced from his wife, and leaves surviving him any child, there shall be payable as from but excluding the thirty-first day of December, one thousand nine hundred and fifty-seven, for the benefit of each child he so leaves a payment of one pound per week until the child attains the age of sixteen years or ceases to be wholly maintained by any person or body having the care of the child, whichever happens first.

(b) The payment of one pound per week for the benefit of each child the qualified contributor so leaves shall be made

- (i) to the person or body wholly maintaining the child; and
- (ii) shall, subject to adjustment pursuant to section forty-four of this Act if that section is applicable, be made as to seven shillings and sixpence from the Fund, and as to twelve shillings and sixpence by the State from the Consolidated Revenue Fund, which is, to the necessary extent, hereby permanently appropriated.

(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-five of this Act.

58. (1) The unit of pension as from and including the first day of January, one thousand nine hundred and fifty-eight

Pension unit.
No. 34 of 1938, s. 55, as amended by No. 65 of 1947, s. 16; No. 25 of 1951, s. 2 (10), No. 55 of 1957, s. 2 (9).

- (a) is the sum of thirty-nine pounds per annum for each unit, irrespective of the number of units of the pension and irrespective of any supplementation payable under this Act, if payment of the pension commenced before that day; or
- (b) is the sum of forty-five pounds ten shillings per annum for each unit, irrespective of the number of units of the pension, if payment of the pension commences after that day.

(2) Subject to section thirty-three 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.

Commencing
dates for
payment of
pension. .
Inserted as
s. 55A by
No. 43 of
1939, s. 13.
Amended by
No. 39 of
1950, s. 12.

59. Notwithstanding anything to the contrary contained in this Act—

- (a) the commencing date for payment of any pension or superannuation allowance under this Act to a contributor shall, subject to paragraph (c) hereof, be the day following the day when such contributor ceased to be an employee, or the day next following the day upon which any leave of absence in respect of which the contributor has been paid the equivalent in money when he ceased to be an employee would, if taken by the contributor, have expired, whichever of the said dates is the later;
- (b) the commencing date for payment of any pension or superannuation allowance under this Act to the widow or children of a contributor (including a qualified contributor) following the death of such contributor shall be the day following the day of the death of the contributor; and
- (c) a personal pension or superannuation allowance shall not in any circumstances be payable to a contributor before the expiration of twelve months after the prescribed date for the payment of his initial contribution, and then only upon the completion of the payment of twenty-six contributions at the periodical rates applicable to such contributor.

60. (1) 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:

Amount of pension on retirement.
No. 34 of 1938, s. 56, as amended by No. 43 of 1939, s. 14, No. 55 of 1945, s. 14; No. 39 of 1950, s. 13.

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 calculated by adding the actuarial equivalent of the contributions made or to be made by him to the share of pension which would have been payable by the State if he had continued to pay contributions until he attained the maximum age for retirement:

Provided also that, where a contributor has elected to contribute under subsection (2) of section forty-one of this Act for an age of retirement between sixty years and sixty-five years and has contributed a higher rate of contribution assessed in accordance with the second proviso to section forty of this Act, and such contributor elects or is called upon to retire before he attains the age of retirement for which he has elected to contribute and has contributed as aforesaid, he may either—

(a) continue to pay contributions at the higher rate aforesaid until he reaches the age of retirement for which he has elected to contribute and has contributed and thereafter receive the full pension to which he is entitled as such contributor; or

(b) as from the date of his actual retirement continue to pay contributions at the lower rate prescribed in respect of retirement at

sixty-five years of age until he attains the age of sixty-five years, and thereafter receive the full pension to which he is entitled as such contributor.

(2) As an alternative to the acceptance by him of a pension according to the number of units for which he was contributing at the time of his retirement, a contributor may either—

- (a) accept a pension for two or more units with a refund of the actual amount of his contributions for the units in excess of the number of units represented by such reduced pension; or
- (b) waive his entitlement to a pension under this Act and accept from the Board a refund of the actual amount of the contributions made by him as a contributor.

(3) The contributor shall make his choice of the benefit under this section which he desires to take, and shall give to the Board notice thereof in writing in the prescribed form within one month after he is notified of the proposed retirement, or within such further period as the Board may allow.

Retirement through invalidity. Amount of pension. No. 34 of 1938, s. 57, as amended by No. 43 of 1939, s. 15, and No. 65 of 1947, s. 17.

61. (1) Where a contributor, who has been a contributor for at least three years 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, or, at his option, to the payment to him out of the Fund of a sum equal to the actual amount of all the contributions paid by him to the Fund; and

(c) if the invalidity or incapacity is shown by the medical report obtained by the Board as provided for in section eighty-four of this Act to be partly due to his own fault, or to have been aggravated by the conduct or action of the contributor, be entitled to such reduced pension or other benefit as the Board may determine to be reasonable, having regard to the circumstances of the particular case: 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, provided she married before the commencement of the Superannuation and Family Benefits Act Amendment Act, 1947, 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 lastmentioned duty is available to him as an employee.

(3) Subject to this Act, a pension payable to any contributor under subsection (1) of this section shall be paid from such date, being not later than the maximum age for retirement of the contributor, except in the case of a contributor governed by paragraph (b) of subsection (3) of section thirty six of this Act, as the Board may determine.

(4) Where a contributor who has been a contributor for less than three years is retired on the ground of invalidity or physical or mental incapacity to perform his duties, he shall be entitled to a refund of the actual amount of the contributions made by him.

Pension to widow and children on death of contributor. No. 34 of 1938, s. 56. Amended by No. 39 of 1950, s. 14; No. 36 of 1955, s. 7; Repealed and re-enacted by No. 55 of 1957, s. 2 (10).

62. (1) On the death of a male contributor before his retirement, pension at the rate of one-half of the pension for which he was contributing at the time of his death shall be payable to his widow until her death, or, if she remarries, until her remarriage unless it appears to the Board that in the particular circumstances of the case, the termination of her pension because of remarriage will result in hardship in which case the Board may direct that her pension shall be paid and effect shall be given to the direction.

(2) (a) In addition to the pension payable under subsection (1) of this section, there shall be payable as from but excluding the thirty-first day of December, one thousand nine hundred and fifty-seven a payment at the rate of one pound per week for the benefit of each child of the deceased male contributor, and except as provided in paragraph (b) of this subsection, for the benefit of each child of his widow, until the child attains the age of sixteen years or ceases to be wholly maintained by the widow or by a person or body having the care of the child.

(b) If the widow remarries, the provisions of paragraph (a) of this subsection do not apply in respect of any child of her remarriage.

(3) Payments under subsection (2) of this section—

- (a) shall be made to the widow or other person or body, as the case may be, wholly maintaining the child; and
- (b) shall, subject to adjustment pursuant to section forty-four of this Act if that section is applicable, be made as to seven shillings and sixpence from the Fund and as to twelve shillings and sixpence by the State from the Consolidated Revenue Fund which is, to the necessary extent, hereby permanently appropriated.

63. On the death of a male pensioner the provisions of section sixty-two of this Act apply as if repeated in this section but

Pension to widow and children on death of pensioner after retirement.
No. 34 of 1938, s. 59, amended by No. 65 of 1947, s. 18; No. 39 of 1950, s. 15; No. 25 of 1951, s. 2; No. 36 of 1955, s. 8. Repealed and re-enacted by No. 35 of 1957, s. 2 (11).

- (a) as if the reference in subsection (1) of that section to “pension at the rate of one-half of the pension for which he was contributing at the time of his death”, were a reference to “pension at the rate of one-half of the pension which he was receiving at the time of his death”; and
- (b) as if any reference in that section to “male contributor” were a reference to “male pensioner”.

64. (1) 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, the provisions of section sixty-two, or as the case requires, of section sixty-three of this Act, relating to children, apply after the thirty-first day of

Pension to orphans on death of contributor or pensioner.
No. 34 of 1938, s. 60, amended by No. 65 of 1947, s. 19; No. 36 of 1955, s. 9; No. 55 of 1957, s. 2 (12).

December, one thousand nine hundred and fifty-seven in respect of those children so left and so dependent.

(2) Where a male contributor or a male pensioner whose wife is dead or divorced has died leaving children of himself or of his wife who were under the age of sixteen years at the time of his death, and all such children have attained the age of sixteen years; and the total amount of any pensions paid to the contributor or pensioner and in respect of the children is less than the total amount of the contributions paid to the fund by the contributor or pensioner, the Board shall pay a sum equal to the amount by which the said pensions are less than the said contributions, to the guardian of the children or to some other person approved by the Board, to be used for the support and education of the children.

Payment of contributions of deceased contributor to personal representatives in certain cases.
No. 43 of 1939, s. 16.

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

Retrenchment of contributor. Choice of benefits.
No. 34 of 1938, s. 62.

66. (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.

(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.

67. (1) Where a contributor resigns or is dismissed or discharged (including discharge within the meaning of subsection (1) of section thirty-three of this Act) from the Service, there shall be paid to him the amount of the contributions paid by him under this Act, irrespective of the cause of his resignation, dismissal or discharge except where the contributor is dismissed after having attained his elected retiring age, in which case his entitlement to a pension shall be such as would have applied had he retired when so dismissed.

Resignation, dismissal or discharge of contributor. Refund of contributions. No. 34 of 1938, s. 63, amended by No. 55 of 1945, s. 15; No. 36 of 1955, s. 10.

(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 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.

Refunds.
New section
inserted as
s. 63A by
No. 55 of
1945, s. 16,
amended by
No. 65 of
1947, s. 20.

68. Notwithstanding anything to the contrary contained in this Act or in any other Act and save and except as regards refunds of contributions made under the provisions of subsection (2) of section sixty and subsection (4) of section sixty-one of this Act, wherever in any provision in this Act it is enacted that a contributor shall be entitled to have refunded or paid to him or to his personal representative (as the case may be) the amount or amounts of contributions made by such contributor in accordance with the provisions of this Act, the refund or payment made to such contributor or to his personal representative shall represent the actuarial reserve portion of such contributions. Provided that before any such refund or payment aforesaid is made by the Board there shall be deducted therefrom—

- (a) any sum of money due and payable by or in respect of the contributor to the Board or to the State; and
- (b) any sum received by the contributor as pension under section sixty-one of this Act; but such deduction shall not in any case reduce the sum to be paid to the contributor below the amount of the actuarial reserve portion of the contributions made by the contributor subsequently to the receipt by him of the amount then last paid to him as pension.

Provided also that any such refund or payment shall exclude the amount, if any, credited by the State to the fund in respect

of contributions for the period or periods during which the contributor served in the naval, military or air force.

69. (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 sixty-three 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.

Desertion by male pensioner of wife or child.

No. 34 of 1938, s. 64.

(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-four 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.

70. (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—

Imprisonment of pensioners. No. 34 of 1938, s. 65.

- (a) if his wife is alive she shall, during that period, be entitled in accordance with the provisions contained in section sixty-three 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-four 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-four of this Act.

Insanity of pensioners. No. 34 of 1938, s. 66, as amended by No. 55 of 1945, s. 17.

71. (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.

(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 Public Trustee Act, 1941.

Payments to children. No. 34 of 1938, s. 67.

72. (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.

(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.

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

Pensions payable for life except in case of children.
No. 34 of 1938, s. 68.

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

74. (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.

Provision in case of qualified contributor ceasing to contribute.
No. 34 of 1938, s. 69.

(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-two of this Act.

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

Payment of pension instalments.
No. 34 of 1938, s. 70.

(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. No. 34 of 1938, s. 71.

76. 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.

Payment to person other than the pensioner. No. 34 of 1938, s. 72.

77. 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.

Division 3.—Break-down Pensioners.

Breakdown pensioner to be deemed to be on leave. No. 34 of 1938, s. 73, as amended by No. 55 of 1945, s. 18 and No. 65 of 1947, s. 21.

78. (1) Any pensioner who is in receipt of a pension under section sixty-one 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.

(2) In the event of the re-employment in the Service of a person who has retired on a pension under section sixty-one 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.

Breakdown pensioner leaving the State.

(4) Before any such pensioner shall leave this State, he shall submit to the Board a certificate from a duly qualified medical practitioner indicating the need of the pensioner to leave the State; and in any such case the continuance of the payment of pension

to the pensioner shall be subject to the approval of the Board to the pensioner leaving this State being first obtained.

(5) If a person who has retired through invalidity as provided for in section sixty-one of this Act, engages in employment, or in any occupation or business on his own account, the Board may, if it thinks fit, cancel the pension payable to such person or reduce the amount of such pension to any amount which in its opinion the circumstances of the case warrant.

Breakdown pensioner engaging in employment or business.

(6) Where a pension is cancelled by the Board under this section, the pensioner shall be regarded as a contributor and notwithstanding the provisions of subsection (1) of this section he shall be required to pay his contributions in accordance with section forty-seven of this Act.

79. (1) If in the opinion of the Board the health of any pensioner to whom a pension under section sixty-one of this Act is being paid or is to be paid is such as to enable him to perform suitable 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. No. 34 of 1938, s. 74, as amended by No. 43 of 1939, s. 17.

(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 sixty-one 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-employ-
ment of
pensioner.
No. 34 of
1938, s. 75,
amended by
No. 55 of
1945, s. 19.
No. 65 of
1947, s. 22;
No. 36 of
1955, s. 11.

80. (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, or in any public department under the Crown 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.

Provided that the cancellation provided for in this section shall not be imposed or be effective during that or those portions of the period of employment or re-employment aforesaid which constitute the equivalent of the first twenty-eight working days in each twelve-monthly period of such period of the said employment or re-employment, but such exemption shall be limited to one term of twenty-eight days where the period of employment or re-employment is continuous for more than twelve months:

And provided that where in the opinion of the Board, the circumstances of the case do not warrant the cancellation either wholly or in part, the Board may resolve that the cancellation shall not apply wholly or in part, and such a resolution is final and binding and has effect according to its tenor.

(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, or, if the payments from the State are equal, of only one of those pensions.

80A. The increases effected by the Acts Amendment (Superannuation and Pensions) Act, 1951, in the rates of pensions shall be deemed to have commenced to apply in respect of the payments of pension which fell due on the fifth day of October, one thousand nine hundred and fifty-one.

Increases effected by Acts Amendment (Superannuation and Pensions) Act, 1951. Inserted by No. 25 of 1951, s. 2

80B. The increases effected by the Acts Amendment (Superannuation and Pensions) Act, 1957, in the rates of pensions and benefits commence to apply from and including the first day of January, one thousand nine hundred and fifty-eight.

Inserted by No. 55 of 1957, s. 2 (13).

Division 4.—Existing Assurance Policies.

81. 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. No. 34 of 1938, s. 76.

Transfer of policies to Board.
No. 34 of 1938, s. 77.

82. (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.

(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.

An employee contributing to Railway Death Benefit and Endowment Fund may transfer rights to Board.
No. 34 of 1938, s. 78.

83. (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-three of this Act, he continues, 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.

Division 6.—The Provident Account.

83A. (1) There shall be a Provident Account which shall form part of the fund and into which shall be paid all moneys paid to the fund by, or by authorisation of, any person under this Division.

Provident
(Voluntary
Savings)
Account.
New division
and section
inserted by
No. 65 of
1947, s. 23.
Amended by
No. 25 of
1957, s. 2
(13).

(2) No payment whatever shall be required from or be payable by the State in respect of subscribers to the Provident Account.

(3) Subject to such conditions as are prescribed any person (referred to in this Division as a "subscriber") employed in a department may authorise the deduction from his salary and payment

to the fund or may pay directly to the fund any sum of money, subject to subsection (6) of this section. A subscriber may at any time increase the rate of his subscription.

(4) Such moneys shall be credited to such subscriber and shall accumulate with interest at a rate per centum per annum compounded annually, which rate shall be fixed by the Board from time to time.

(5) A subscriber by whom or on whose behalf moneys are paid to the fund under this Division shall not be regarded as a contributor for the purposes of this Act, nor shall he be entitled to any benefits, other than as specified in this Division, in respect of moneys credited to the Provident Account.

(6) Subject to subsection (2) of section eighty-three B of this Act, amounts credited to the Provident Account shall be in multiples of one shilling per fortnight.

(7) Subject to subsection (4) of section eighty-three B of this Act, a subscriber, after giving written notice to the Board and provided that he has made regular fortnightly subscriptions to the Provident Account for a period not less than five years, may withdraw from the Account the whole or portion of the moneys standing to his credit under this section but the provisions of this subsection shall not apply where an employee is required by the terms of his employment to subscribe to the Provident Account, and such an employee shall continue to make subscriptions while he continues to be an employee.

(8) When a subscriber ceases to be employed in the Service, the amount standing to his credit in the Provident Account shall be paid to him or to his personal representatives, or failing them, to such persons, if any, as the Board may determine.

(9) The provisions of section forty-nine and the proviso to section fifty of this Act in regard to unpaid amounts shall not apply in respect of subscriptions

to the Provident Account, except in the cases referred to in subsection (2) of section eighty-three B of this Act.

(10) Except in regard to paragraph (a) of the proviso to section sixty-eight of this Act, that section shall not be applied to refunds or payments from the Provident Account.

(11) Subject to this Act, a subscriber may elect to become a contributor at any time and thereupon the provisions of section thirty-two of this Act shall apply. Where such an election is made, the employee shall have the option of contributing—

- (a) at the rate of contribution prescribed for his age at the date of commencing to contribute to the Provident Account, and payable from that date, the amount standing to his credit in the Provident Account without interest (which shall not be payable or chargeable to such subscriber or contributor) to be utilised to the extent necessary to meet the arrears of contributions; or
- (b) at the rate for his age at the date of making the election, in which case the interest credited as per subsection (4) of this section shall stand to his credit.

(12) Nothing in this Division of this Act shall operate or be deemed to operate so as to preclude a subscriber from becoming or continuing to be a contributor under this Act.

83B. (1) A female contributor under this Act may at any time elect to transfer to the Provident Account the whole of the contributions paid by her to the Fund or the portion in respect of units in excess of two.

Provident Account. Female subscribers. New section inserted by No. 65 of 1947, s. 23. Amended by No. 36 of 1955, s. 12.

(2) A female employee who is not a contributor for a pension under this Act and who elects to become a subscriber, or a female contributor who

(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, 1902-1942.¹

Assignment
of pensions.
No. 34 of
1938, s. 82.

87. 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.

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.
No. 34 of
1938, s. 83.

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

Regulations.
No. 34 of
1938, s. 84,
amended by
No. 43 of
1939, s. 13.

89. 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

¹ Now Justices Act, 1902-1957.

- (iv) conditions of compulsory re-employment;
- (b) for prescribing the data 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.

Superannuation and Family Benefits.

FIRST SCHEDULE.

Males.

Retiring Age of 65.

Age Next Birthday.	Fortnightly Contribution.	
	Contribution for first two units.	Contribution for each subsequent two units.
	£ s. d.	£ s. d.
16	0 2 6	0 2 5
17	0 2 8	0 2 6
18	0 2 9	0 2 8
19	0 2 11	0 2 9
20	0 3 1	0 2 11
21	0 3 3	0 3 0
22	0 3 5	0 3 2
23	0 3 7	0 3 4
24	0 3 9	0 3 6
25	0 3 11	0 3 8
26	0 4 1	0 3 10
27	0 4 3	0 4 0
28	0 4 5	0 4 2
29	0 4 7	0 4 5
30	0 4 10	0 4 7
31	0 5 0	0 4 10
32	0 5 3	0 5 0
33	0 5 6	0 5 3
34	0 5 9	0 5 6
35	0 6 0	0 5 9
36	0 6 4	0 6 1
37	0 6 8	0 6 5
38	0 7 0	0 6 9
39	0 7 4	0 7 1
40	0 7 10	0 7 6
41	0 8 3	0 8 0
42	0 8 9	0 8 6
43	0 9 3	0 9 0
44	0 9 10	0 9 7
45	0 10 6	0 10 3
46	0 11 2	0 10 11
47	0 11 11	0 11 8
48	0 12 10	0 12 8
49	0 13 10	0 13 7
50	0 15 0	0 14 9
51	0 16 3	0 16 0
52	0 17 9	0 17 7
53	0 19 7	0 19 4
54	1 1 8	1 1 6
55	1 4 2	1 4 0
56	1 7 3	1 7 1
57	1 11 1	1 10 11
58	1 16 0	1 15 10
59	2 2 7	2 2 5
60	2 11 4	2 11 2
61	3 4 3	3 4 2
62	4 5 4	4 5 3
63	6 7 1	6 7 0
64	12 9 10	12 9 9
65	12 14 0	12 13 11

New
Schedule
substituted
and
amended
pursuant to
No. 65 of
1947, s. 24.
Headings
amended by
No. 25 of
1951, s. 2
(14).

SECOND SCHEDULE.

Females.
(2 units.)
Retiring Age of 65.

Age Next Birthday.						Contribution for two units.
16	....	....	....	....	....	0 1 11
17	....	....	....	....	....	0 2 1
18	....	....	....	....	....	0 2 3
19	....	....	....	....	....	0 2 5
20	....	....	....	....	....	0 2 8
21	....	....	....	....	....	0 2 10
22	....	....	....	....	....	0 3 0
23	....	....	....	....	....	0 3 2
24	....	....	....	....	....	0 3 4
25	....	....	....	....	....	0 3 6
26	....	....	....	....	....	0 3 8
27	....	....	....	....	....	0 3 10
28	....	....	....	....	....	0 4 1
29	....	....	....	....	....	0 4 3
30	....	....	....	....	....	0 4 6
31	....	....	....	....	....	0 4 8
32	....	....	....	....	....	0 4 11
33	....	....	....	....	....	0 5 2
34	....	....	....	....	....	0 5 6
35	....	....	....	....	....	0 5 9
36	....	....	....	....	....	0 6 1
37	....	....	....	....	....	0 6 5
38	....	....	....	....	....	0 6 9
39	....	....	....	....	....	0 7 2
40	....	....	....	....	....	0 7 7
41	....	....	....	....	....	0 8 0
42	....	....	....	....	....	0 8 6
43	....	....	....	....	....	0 9 0
44	....	....	....	....	....	0 9 8
45	....	....	....	....	....	0 10 3
46	....	....	....	....	....	0 11 0
47	....	....	....	....	....	0 11 10
48	....	....	....	....	....	0 12 9
49	....	....	....	....	....	0 13 10
50	....	....	....	....	....	0 15 1
51	....	....	....	....	....	0 16 6
52	....	....	....	....	....	0 18 2
53	....	....	....	....	....	1 0 2
54	....	....	....	....	....	1 2 8
55	....	....	....	....	....	1 5 7
56	....	....	....	....	....	1 9 3
57	....	....	....	....	....	1 13 11
58	....	....	....	....	....	1 19 10
59	....	....	....	....	....	2 7 7
60	....	....	....	....	....	2 18 4
61	....	....	....	....	....	3 12 9
62	....	....	....	....	....	4 14 6
63	....	....	....	....	....	6 11 11
64	....	....	....	....	....	12 10 9
65	....	....	....	....	....	12 13 6

New
Schedule
substituted
and
amended
pursuant to
No. 65 of
1947, s. 24.
Heading
amended by
No. 25 of
1951, s. 2
(14).

Superannuation and Family Benefits.

THIRD SCHEDULE.

New Schedule substituted and amended pursuant to No. 65 of 1947, s. 24. Heading amended by No. 25 of 1951, s. 2 (14).

				Males.		Retiring Age of 60.			
				Fortnightly Contribution.					
				Contribution for first two units.		Contribution for each subsequent two units.			
Age Next Birthday.				£ s. d.		£ s. d.			
16	0	3	1	0	3	0
17	0	3	3	0	3	2
18	0	3	6	0	3	4
19	0	3	8	0	3	6
20	0	3	10	0	3	8
21	0	4	0	0	3	10
22	0	4	3	0	4	1
23	0	4	6	0	4	4
24	0	4	9	0	4	6
25	0	5	0	0	4	9
26	0	5	2	0	5	0
27	0	5	5	0	5	3
28	0	5	9	0	5	6
29	0	6	0	0	5	9
30	0	6	3	0	6	0
31	0	6	7	0	6	4
32	0	6	11	0	6	8
33	0	7	4	0	7	1
34	0	7	9	0	7	6
35	0	8	2	0	7	11
36	0	8	8	0	8	4
37	0	9	2	0	8	11
38	0	9	9	0	9	6
39	0	10	5	0	10	1
40	0	11	1	0	10	10
41	0	11	10	0	11	6
42	0	12	8	0	12	5
43	0	13	7	0	13	4
44	0	14	8	0	14	5
45	0	15	10	0	15	7
46	0	17	4	0	17	0
47	0	18	11	0	18	8
48	1	0	9	1	0	6
49	1	3	0	1	2	9
50	1	5	10	1	5	6
51	1	9	2	1	8	11
52	1	13	6	1	13	3
53	1	19	0	1	18	9
54	2	6	7	2	6	5
55	2	17	4	2	17	1
56	3	13	1	3	12	11
57	4	18	3	4	18	0
58	7	6	7	7	6	5
59	14	8	8	14	8	6
60	14	12	9	14	12	7

FOURTH SCHEDULE.

Females.
(2 units.)
Retiring Age of 60.

Age Next Birthday.						Contribution for two units.		
						£	s.	d.
16	....	....	....	....	....	0	2	4
17	....	....	....	....	....	0	2	7
18	....	....	....	....	....	0	2	9
19	....	....	....	....	....	0	3	0
20	....	....	....	....	....	0	3	3
21	....	....	....	....	....	0	3	6
22	....	....	....	....	....	0	3	8
23	....	....	....	....	....	0	3	11
24	....	....	....	....	....	0	4	2
25	....	....	....	....	....	0	4	5
26	....	....	....	....	....	0	4	8
27	....	....	....	....	....	0	4	10
28	....	....	....	....	....	0	5	2
29	....	....	....	....	....	0	5	5
30	....	....	....	....	....	0	5	9
31	....	....	....	....	....	0	6	1
32	....	....	....	....	....	0	6	5
33	....	....	....	....	....	0	6	9
34	....	....	....	....	....	0	7	2
35	....	....	....	....	....	0	7	7
36	....	....	....	....	....	0	8	1
37	....	....	....	....	....	0	8	7
38	....	....	....	....	....	0	9	1
39	....	....	....	....	....	0	9	8
40	....	....	....	....	....	0	10	4
41	....	....	....	....	....	0	11	1
42	....	....	....	....	....	0	11	10
43	....	....	....	....	....	0	12	9
44	....	....	....	....	....	0	13	9
45	....	....	....	....	....	0	14	11
46	....	....	....	....	....	0	16	3
47	....	....	....	....	....	0	17	9
48	....	....	....	....	....	0	19	6
49	....	....	....	....	....	1	1	8
50	....	....	....	....	....	1	4	2
51	....	....	....	....	....	1	7	3
52	....	....	....	....	....	1	11	2
53	....	....	....	....	....	1	16	3
54	....	....	....	....	....	2	3	1
55	....	....	....	....	....	2	12	4
56	....	....	....	....	....	3	6	8
57	....	....	....	....	....	4	10	1
58	....	....	....	....	....	6	16	3
59	....	....	....	....	....	13	13	0
60	....	....	....	....	....	13	15	6

New
Schedule
substituted
and
amended
pursuant to
No. 65 of
1947, s. 24.
Heading
amended by
No. 25 of
1951, s. 2
(14).

