

# Deed of Amendment

Dated 16 FEBRUARY 2022

QSuper Board (ABN 32 125 059 006) ("Trustee") as the trustee of  
QSuper (ABN 60 905 115 063)

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# Deed of Amendment

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# Deed of Amendment

## Details

### Date

### Party

#### Trustee

Name

**QSuper Board**

ABN

32 125 059 006

Address

70 Eagle Street (Central Plaza 3)  
BRISBANE QLD 4000

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### Recitals

**A**

QSuper (ABN 60 905 115 063) (**QSuper Fund**) is the superannuation fund that is part of the public sector superannuation scheme that was established under the *Superannuation (State Public Sector) Act 1990* (Qld) (**QSuper Act**) and the *Superannuation (State Public Sector) Deed 1990* (Qld).

**B**

The Trustee is trustee of the QSuper Fund.

**C**

The QSuper Act was amended by the *Superannuation (State Public Sector) (Scheme Administration) Amendment Act 2021* (Qld) (**Amending Act**) which was enacted on 28 October 2021.

**D**

Section 54 of the QSuper Act, as introduced by the Amending Act (and which will commence on a day to be fixed by proclamation), states:

“(1) QSuper Board must prepare an instrument that restates the provisions of the 1990 deed, subject only to—

(a) amendments necessary as a consequence of the provisions of the 1990 deed being restated as provisions of an instrument that is not subordinate legislation, including, for example, amendments—

(i) to update references to this Act; or

(ii) to remove provisions that have been included in this Act or a regulation; or

(iii) to add provisions that have been removed from this Act or a regulation; or

(iv) to enable the deed to be amended by the

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trustee; and

(b) amendments to correct a minor error or make another change that is not a change of substance.

(2) Any provision of the instrument that is inconsistent with subsection (1) must be disregarded to the extent of the inconsistency.”

**E** Section 6 of the QSuper Act, as replaced by the Amending Act (and which replacement will commence on a day to be fixed by proclamation), states:

“(1) The 1990 deed continues in existence as the trust deed for the scheme in the form of the instrument prepared under section 54.

(2) The continuation of the 1990 deed under subsection (1) does not—

(a) affect, or purport to affect, the continuation of the scheme or the fund for the scheme; or

(b) otherwise resettle or redeclare the scheme or the fund for the scheme.

(3) Subsections (1) and (2) apply even though the 1990 deed stopped being subordinate legislation on the repeal of the 1990 regulation.

(4) The trust deed may be amended by the trustee in accordance with this Act and the deed.

(5) The amendment of the trust deed by the trustee does not affect the operation of subsections (1) to (3).”

**F** Under Schedule 2 to the QSuper Act, as introduced by the Amending Act (and which will commence on a day to be fixed by proclamation):

(a) “1990 deed” means the deed under the 1990 regulation; and

(b) “1990 regulation” means the repealed *Superannuation (State Public Sector) Deed 1990* (Qld) as in force immediately before its repeal.

**G** In accordance with sections 6 and 54 of the QSuper Act, as referred to above, the Trustee prepared an instrument (**Instrument**) which, pursuant to the terms of a deed poll (**Initial Deed Poll**) (that was executed and dated on or around the date of this deed), restated the provisions of the 1990 deed, subject to certain amendments permitted

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under section 54 of the QSuper Act, as the trust deed for the QSuper Fund (**Trust Deed**).

**H** Sections 55 and 56 of the QSuper Act, as introduced by the Amending Act (and which will commence on a day to be fixed by proclamation), state:

**“55 Definition for subdivision**

In this subdivision—

***Sunsuper transfer*** means the transfer of the benefits of all members of Sunsuper Superannuation Fund (ABN 98 503 137 921) to the scheme.

**56 Amendment of deed to facilitate Sunsuper transfer**

- (1) The trustee must, in accordance with the deed and before the Sunsuper transfer is completed, amend the deed to provide for and facilitate the implementation of the Sunsuper transfer.
- (2) An amendment under subsection (1) must not amend the deed in a way that—
  - (a) adversely affects the rights to superannuation or other benefits of members of the scheme accrued before the amendment; or
  - (b) affects, or purports to affect, the continuation of the scheme or the fund for the scheme; or
  - (c) otherwise resettles or redeclares the scheme or the fund for the scheme.
- (3) An amendment of the deed under subsection (1) that is inconsistent with subsection (2) is void to the extent of the inconsistency.”

**I** Section 26(1) of the QSuper Act, as replaced by the Amending Act (and which replacement will commence on a day to be fixed by proclamation), that applies in relation to members of the scheme in a government defined benefit category and their rights to superannuation or other benefits attributable to that category, states:

“The trustee may amend the deed in a way that affects the rights to superannuation or other benefits of members only if—

- (a) all of the following apply—
  - (i) the trustee, acting on the advice of an actuary, believes the amendment will not affect the

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Treasurer's contributions under section 31;

- (ii) the amendment does not affect entitlements to defined benefits, or defined benefit contributions, of the members;
- (iii) the Minister has been given written notice of the amendment; or

(b) the Minister has consented to the amendment.”

**J**

The Trustee and Sunsuper Pty Ltd (ABN 88 010 720 840) (**SPL**), the trustee of Sunsuper Superannuation Fund (ABN 98 503 137 921) (**Sunsuper Fund**), have entered into:

- (a) a Successor Fund Transfer Deed (**SFT Deed**) dated 17 December 2021, to effect a merger of the QSuper Fund and the Sunsuper Fund by way of a successor fund transfer of members and assets from the Sunsuper Fund to the QSuper Fund (**SFT**); and
- (b) a Deed of Retirement and Appointment (**DORA**) dated 17 December 2021, under which the Trustee will cease to be the trustee of the QSuper Fund and SPL will become the trustee of the QSuper Fund (**Change of Trustee**).

**K**

Under clause 3 of the DORA and clause 3.1 of the SFT Deed, the following are conditions precedent to the Change of Trustee and SFT occurring:

- (a) that the Trustee execute a deed of amendment that will amend the Trust Deed, the form of which has been agreed in writing between the Trustee and SPL; and
- (b) that the Trustee, SPL and the Queensland Treasurer on behalf of the State of Queensland, execute a participation deed, the form of which has been agreed in writing between the Trustee and SPL.

**L**

Section 14B of the Instrument in the schedule to the Initial Deed Poll states:

“Subject to the *Superannuation (State Public Sector) Act 1990*, the board may, by deed poll, either prospectively or retrospectively, amend all or any of the provisions of this deed, including this section.”

**M**

To provide for and facilitate the implementation of the SFT, the Trustee wishes to:

- (a) pursuant to section 14B of the Instrument in the schedule to the Initial Deed Poll, amend the Trust

Deed by:

- (1) amending the Trust Deed in the manner contemplated in this deed poll; and
  - (2) pursuant to the amendments that are referred to in paragraph (a)(1) above, incorporating into the Trust Deed the provisions of chapters 2, 4, 5, 6, 7, 8 and 9 of the Instrument in the schedule to the Initial Deed Poll (**Closed Defined Benefit Chapters**) as set out in the participation schedule to the participation deed entered into between the Trustee and the Queensland Treasurer on behalf of the State of Queensland (**Participation Deed**) as executed at or around the same time as the execution of this deed poll; and
- (b) change the name of the QSuper Fund to the Australian Retirement Trust.

**N** The Trustee is satisfied that the amendments made by this deed poll (which incorporate provisions set out in the participation schedule of the Participation Deed):

- (a) may be made in accordance with section 14B of the Instrument in the schedule to the Initial Deed Poll and sections 26 and 56 of the QSuper Act, as referred to above;
- (b) are in the best financial interests of beneficiaries of the QSuper Fund; and
- (c) do not adversely alter a beneficiary's right or claim to accrued benefits or the amount of those accrued benefits in contravention of regulation 13.16 of the *Superannuation Industry (Supervision) Regulations 1994* (Cth).

# Deed of Amendment

## General terms

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### 1 Definitions

These meanings apply unless the contrary intention appears:

**Closed Defined Benefit Chapters** has the meaning set out in recital M.

**Participation Deed** has the meaning set out in recital M.

**QSuper Act** has the meaning set out in recital A.

**QSuper Fund** has the meaning set out in recital A, being a regulated superannuation fund that will be known as the Australian Retirement Trust from the Transfer Time.

**SPL** has the meaning set out in recital J.

**Transfer Time** means 12.00.01 am, or such other time agreed by the Trustee and SPL, on 28 February 2022, or such other date agreed by the Trustee and SPL.

**Trust Deed** has the meaning set out in recital G.

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### 2 Operative time

Subject to:

- (a) commencement by proclamation of section 56 of the QSuper Act; and
- (b) the execution of the Participation Deed before the Transfer Time,

the amendments to the Trust Deed under clause 5 take effect immediately before the Transfer Time.

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### 3 Change of name

The QSuper Fund is renamed the Australian Retirement Trust, with effect from the Transfer Time.

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### 4 No redeclaration or resettlement

The Trustee is not, by this deed poll:

- (a) redeclaring or resettling the QSuper Fund;
- (b) declaring any trust;
- (c) causing the transfer, vesting or accruing of property in any person; or



- (d) otherwise intending to affect, or purport to affect, the continuation of the QSuper Fund.

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## **5 Amendments**

The Trust Deed is amended:

- (a) so that the provisions of the Trust Deed are as set out in Schedule 1 to this deed poll; and
- (b) pursuant to the amendments that are referred to in clause 5(a) above, by incorporating into the Trust Deed the provisions of the Closed Defined Benefit Chapters as set out in the participation schedule to the Participation Deed as executed at or around the same time as the execution of this deed poll.

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## **6 Amendments do not affect validity, rights, obligations**

- (a) The amendments to the Trust Deed do not affect the validity or enforceability of the Trust Deed.
- (b) Nothing in this deed poll:
  - (i) prejudices or adversely affects any right, power, authority, discretion or remedy arising under the Trust Deed before the date of this deed poll; or
  - (ii) discharges, releases or otherwise affects any liability or obligation arising under the Trust Deed before the date of this deed poll.

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## **7 Governing law**

This deed poll is governed by the law in force in Queensland.

**EXECUTED** as a deed poll.

# Deed of Amendment

## Signing page

SIGNED, SEALED AND DELIVERED )

by DON LUKE )

and TREVOR COLDEN )

as attorneys for **QSuper Board** under )  
power of attorney dated 22 November )  
2021 )

in the presence of: )

[Signature] )

Signature of witness )

SARAH BROOKES. )

Name of witness (block letters) )

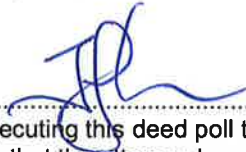
[Signature] )  
Signature of witness )

SARAH BROOKES. )

Name of witness (block letters) )



.....  
By executing this deed poll the attorney )  
states that the attorney has received no )  
notice of revocation of the power of )  
attorney )



.....  
By executing this deed poll the attorney )  
states that the attorney has received no )  
notice of revocation of the power of )  
attorney )

# Deed of Amendment

## Schedule 1

# Australian Retirement Trust

Trust Deed

Deutsche Bank Place  
Corner Hunter and Phillip Streets  
Sydney NSW 2000 Australia  
T +61 2 9230 4000  
F +61 2 9230 5333  
[www.allens.com.au](http://www.allens.com.au)

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## 1 Definitions and interpretation

1.1 Unless the contrary intention appears:

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Death Benefit** means a benefit payable on the death of a Member under the applicable Division Rules.

**Deed** means this trust deed governing the Fund and includes the Division Rules.

**Division** means a part of the Fund identified in clause 2.1 or established in accordance with clause 2.2 and, in relation to a Member, means the Division or Divisions to which they belong.

**Division Rules** means rules governing a particular Division that are set out in a Schedule to this Deed.

**Financial Year** means a year ending on 30 June, or any part of such a year occurring at the commencement or termination of the Fund.

**Fund** means the superannuation fund governed by this Deed and known as the Australian Retirement Trust (ABN 60 905 115 063).

**General Reserve Account** means the account maintained under clauses 8.8 – 8.10.

**Investment Portfolio** means a separate portfolio of assets and liabilities maintained under clause 7.

**Member** means a person who has been admitted to membership of the Fund and who has not ceased to be a Member under the applicable Division Rules.

**Operational Risk Reserve Account** means the account maintained under clauses 8.5– 8.7.

**SIS Act** means the *Superannuation Industry (Supervision) Act 1993* (Cth).

**Superannuation Authority** means the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Commissioner of Taxation or any other government authority responsible for administering the laws or any other rules governing superannuation funds or the availability of income tax concessions to superannuation funds.

**Superannuation Law** means:

- (a) the SIS Act, the Corporations Act, the *Income Tax Assessment Act 1936* (Cth), the *Income Tax Assessment Act 1997* (Cth), the *Family Law Act 1975* (Cth) or any other law or any requirement imposed by the Superannuation Authority which must be satisfied by the Trustee or the Fund in order to qualify for the maximum available tax concessions, secure or better secure a concession or benefit for the Fund or avoid a penalty, detriment or disadvantage for the Fund, the Trustee or a Fund beneficiary; and
- (b) any other present or future law of the Commonwealth of Australia or any state or territory of Australia or any other jurisdiction or non-binding statement from a Superannuation Authority which the Trustee determines to be a Superannuation Law for the purposes of the Fund or this Deed.

**Trustee** means the trustee of the Fund from time to time.

1.2 Unless the contrary intention appears:

- (a) a reference to this Deed or any other document includes any variation, supplement or replacement of any of them and terms that are incorporated by reference into them;

- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
  - (c) the singular includes the plural and vice versa;
  - (d) a word or phrase includes other parts of speech and grammatical forms of that word or phrase have a corresponding meaning;
  - (e) a power to appoint includes a power to vary or cancel the appointment;
  - (f) a power of approval includes a power to withhold, revoke or vary an approval or impose conditions on that approval;
  - (g) amend includes delete or replace;
  - (h) the use of the word 'includes' or 'including' when introducing a list of items or providing an example of the scope of an expression or rule does not exclude a reference to other items of the same class or limit the scope of that expression or rule;
  - (i) person includes an individual, a firm, a body corporate, a partnership, a joint venture, an unincorporated association or an authority;
  - (j) tax includes any duty, government impost or surcharge together with interest, penalties, charges, fees and other amounts payable on or in respect of them;
  - (k) headings are for convenience only and do not affect interpretation.
- 1.3 If a provision of this Deed would otherwise be invalid in part or in whole because it subjects the Trustee to direction by another person then the provision is taken not to subject the Trustee to direction by that person but to give the Trustee the power to treat such a direction as a request and in its discretion agree to act in a manner consistent with it.
- 1.4 If a provision of this Deed would otherwise be invalid in part or in whole because it permits a person to exercise a discretion without the consent of the Trustee, that provision is taken to require the Trustee's consent for the exercise of the discretion.

## **2 Fund**

### **Divisions**

- 2.1 The Fund provides benefits in respect of Members in:
- (a) the Public Offer Division; and
  - (b) the Government Division,
- and the Division Rules of those Divisions are set out in the Schedules to this Deed.
- 2.2 The Trustee may establish one or more further Divisions by making Division Rules in accordance with clause 2.10.
- 2.3 A Member may belong to more than one Division at a time.
- 2.4 The Trustee may identify assets of the Fund as being attributable to a Division.
- 2.5 Divisions do not constitute separate trusts or superannuation funds.
- 2.6 The Trustee:
- (a) may only apply the assets attributable to a Division for the purposes of the Division or to pay or provide for an appropriate portion (as determined by the Trustee) of the liabilities



and expenses of the Fund as a whole, except that and subject always to clause 2.6(b), the Trustee may determine from time to time that an asset attributable to a Division (**Transferring Division**) may be applied for the benefit of the other Division (**Receiving Division**) provided that assets of the same value are attributed by the Trustee from the Receiving Division to the Transferring Division; and

- (b) must pay the benefits payable to or in respect of Members who belong to a Division from the assets attributable to the Division.

- 2.7 For the avoidance of doubt, clause 2.6 does not limit how assets that are attributable to the Operational Risk Reserve Account, the General Reserve Account or any other reserve that is not specific to a particular Division, may be applied.
- 2.8 A Division terminates in accordance with the applicable Division Rules.
- 2.9 A Division does not constitute a sub-plan under regulation 7.9.02 of the *Corporations Regulations 2001* (Cth), unless the Trustee determines otherwise.

### **Division Rules**

- 2.10 The Trustee may, by an amendment to this Deed in accordance with clause 12.1, make Division Rules.
- 2.11 If there is any inconsistency between this Deed (excluding the Division Rules) and the applicable Division Rules, the Division Rules will prevail, unless a contrary intention appears.

## **3 Eligibility and membership**

### **Eligibility**

- 3.1 Subject to clause 3.2, the Trustee may admit a person as a Member if Superannuation Law permits.
- 3.2 The Trustee may only admit a person as a Member of a Division in accordance with the applicable Division Rules.

### **Membership ceases**

- 3.3 A person ceases to be a Member of a Division in accordance with the applicable Division Rules.
- 3.4 A person ceases to be a Member of the Fund if they are no longer a Member of any Division.

## **4 Contributions**

### **Manner and times**

- 4.1 Members may contribute in the manner and at the times stated in the applicable Division Rules.
- 4.2 The Trustee may accept a payment or any other assets from any other person as a contribution, rollover or transfer in respect of a Member.

## **5 Benefits**

### **Benefits**

- 5.1 Members are entitled to benefits in accordance with the applicable Division Rules.
- 5.2 The Trustee must pay a Death Benefit in respect of a Member in accordance with the applicable Division Rules.

## 6 Transfers

### Transfer to Fund

6.1 The Trustee may make arrangements it considers appropriate with:

- (a) a Member or group of Members;
- (b) any employer or previous employer of the Member or group of Members;
- (c) the trustee of any superannuation fund of which the Member or group of Members is or has been a member;
- (d) the issuer of an annuity held by the Member or group of Members;
- (e) the Commissioner of Taxation or a government; or
- (f) any other person,

to transfer assets to the Fund and to provide benefits in respect of the Member or group of Members.

### Transfer between Divisions

6.2 Subject to the applicable Division Rules, the Trustee may transfer a Member's benefit (and, in that case, a part, if appropriate, of a reserve or unallocated amount in a Division) to a different Division (or between parts of a Division) on such terms as it determines.

### Transfer from Fund or Division

6.3 Subject to the applicable Division Rules, if a person who is entitled to a benefit requests in a manner approved by the Trustee, the Trustee:

- (a) must pay all or part of the benefit to another superannuation arrangement; or
- (b) may transfer all or part of the benefit from one Division to another,

and, in either case, the Trustee may, at the same time, pay or transfer a part, if appropriate, of a reserve or unallocated amount.

6.4 The Trustee may:

- (a) pay an amount representing all or part of a person's interest in the Fund to another superannuation arrangement, or to the Commissioner of Taxation, in either case without the consent of the person in the circumstances permitted by Superannuation Law; and
- (b) where clause 6.4(a) applies, transfer all or part, if appropriate, of a reserve or unallocated amount in the Fund to another superannuation arrangement, or to the Commissioner of Taxation.

6.5 A transfer or payment to another superannuation arrangement or to the Commissioner of Taxation under this Deed satisfies the entitlement of the person to any benefit in respect of the amount transferred or paid and the Trustee may agree with the person that it satisfies the entitlement of the person in full.

## 7 Investment Portfolios

### Establishment

7.1 The Trustee may at any time, and on such terms and conditions as it determines, establish one or more Investment Portfolios and, if it does so, it must identify the assets and liabilities of the Fund which are attributable to each Investment Portfolio.

## Changes

- 7.2 The Trustee may vary the terms and conditions that apply to an Investment Portfolio. In addition, the Trustee may:
- (a) combine two or more Investment Portfolios;
  - (b) split any Investment Portfolio into two or more Investment Portfolios; or
  - (c) close (temporarily or permanently), restructure or terminate any Investment Portfolio,
- and, in any of those cases, reallocate Members in the Investment Portfolio (or Investment Portfolios) to the Investment Portfolio (or Investment Portfolios) which the Trustee considers appropriate.

## Valuation

- 7.3 The Trustee must cause each Investment Portfolio to be valued at the times and in the manner which the Trustee considers appropriate.

## Rules

- 7.4 The Trustee may make rules, and adopt policies or procedures, in relation to:
- (a) the range and number of available Investment Portfolios, including the maximum number of such Portfolios that may be selected by and maintained concurrently for a Member or group of Members;
  - (b) whether, when and how the wishes of Members or standard employer sponsors, as the case requires, concerning the application by the Trustee of contributions, transfers and other receipts of the Fund to Investment Portfolios, may be advised to the Trustee; and
  - (c) such other matters concerning the application of contributions, transfers and other receipts of the Fund and the operation of Investment Portfolios, as the Trustee considers to be appropriate.

## Order of payment

- 7.5 If two or more Investment Portfolios are attributable to a Member and the Trustee permits, the Member may, in writing in a manner approved by the Trustee and subject to any conditions determined by the Trustee, choose the order in which the Investment Portfolios are to be applied to make payments and meet other liabilities owed to or in respect of the Member. .
- 7.6 If any choice under clause 7.5 cannot be satisfied for any reason, the choice is taken to be withdrawn.
- 7.7 The Trustee may revoke a choice made under clause 7.5.
- 7.8 If there is no current choice under clause 7.5, or if the value of the current choice of Investment Portfolios does not fully satisfy a payment obligation or other liability, the Trustee may determine the order in which Investment Portfolios held in respect of the Member are to be applied.

## Switching

- 7.9 A Member may elect to switch amounts attributable to the Member between Investment Portfolios if the Trustee permits the switch and the manner in which it is to take place.
- 7.10 The Trustee may switch amounts attributable to a Member between Investment Portfolios at any time without the consent of the Member.

## 8 Accounts and reserves

### Accounts and audit

- 8.1 The Trustee must appoint an auditor.
- 8.2 For each Financial Year the Trustee must prepare financial statements for the Fund.
- 8.3 The Trustee must ensure that, for each Financial Year, the auditor:
- (a) audits the accounts and records of the Fund; and
  - (b) reports in writing to the Trustee,
- within the time specified by Superannuation Law.

### Actuarial investigations

- 8.4 If required by Superannuation Law, the Trustee must arrange for actuarial investigations of the Fund, a Division or a part of a Division to be conducted in accordance with Superannuation Law.

### Operational Risk Reserve Account

- 8.5 The Trustee must maintain an Operational Risk Reserve Account for the Fund.
- 8.6 The Operational Risk Reserve Account may be credited with amounts as considered appropriate by the Trustee.
- 8.7 The Trustee may only apply amounts held in the Operational Risk Reserve Account:
- (a) to satisfy a liability of the Trustee relating to the Fund or for any other purpose permitted by Superannuation Law; and
  - (b) to the extent the balance of the Operational Risk Reserve Account exceeds the amount required, in the Trustee's opinion, to satisfy the operational risk financial requirement (**excessive amount**), in any way the Trustee determines.

### General Reserve Account

- 8.8 The Trustee must maintain a General Reserve Account for the Fund.
- 8.9 The General Reserve Account may be credited with amounts as considered appropriate by the Trustee.
- 8.10 Subject to clause 15.11, the Trustee may apply amounts held in the General Reserve Account as it considers appropriate.

### Other reserve accounts

- 8.11 The Trustee may establish and maintain one or more other reserve accounts with the balance to be applied for the purpose or purposes determined by the Trustee from time to time.

## 9 Investments

### Assets

- 9.1 The assets of the Fund consist of:
- (a) such contributions and other payments as may be made from time to time by Members, employers and other persons;
  - (b) all assets, property, benefits or policies in which the Fund is from time to time invested;

- (c) all earnings from time to time arising from contributions or investments; and
- (d) such other assets as the Trustee determines.

9.2 The Trustee must apply the Fund assets for the purposes of the Fund and in accordance with this Deed.

### **Investments**

9.3 The Trustee may invest Fund assets in any investments the Trustee considers appropriate.

9.4 The Trustee may:

- (a) mix investments with investments of other people or trusts; and
- (b) vary, replace, encumber and deal with the investments, as if it were dealing with its own property.

9.5 The Trustee must invest in a manner which is consistent with Superannuation Law.

9.6 The Trustee may make a loan or give financial assistance to a person.

9.7 Each beneficiary has an undivided interest in the assets of the Fund as a whole and does not have any interest in a particular asset, even where a beneficiary belongs to a Division and an asset is attributable to the Division.

9.8 No beneficiary may interfere with any rights or powers of the Trustee in respect of a Fund asset or purport to exercise a right in respect of a Fund asset or claim any interest in a Fund asset.

### **Borrowing**

9.9 Subject to Superannuation Law, the Trustee may borrow or raise money up to any amount and may secure payment or repayment in any manner which it thinks fit.

## **10 Trustee**

### **Nature**

10.1 The Trustee must be a 'constitutional corporation' (within the meaning of the SIS Act).

### **Removal**

10.2 The Trustee ceases to be the Trustee on the date:

- (a) specified in a written instrument of retirement made, or entered into, by the Trustee, subject to the appointment of a new Trustee under clause 10.3;
- (b) it becomes a disqualified person under Superannuation Law; or
- (c) it ceases to be a registrable superannuation entity licensee under Superannuation Law.

### **Appointment**

10.3 Where clause 10.2 applies, the Trustee must appoint a body corporate as the new Trustee, even if it has already ceased to be the Trustee under clause 10.2(b) or 10.2(c). The appointment must be made in writing.

10.4 An outgoing Trustee must do all things necessary to transfer all assets of the Fund to the new Trustee or its nominee.

**Trustee's powers**

- 10.5 Except as otherwise provided in this Deed, the Trustee has complete management and control of the Fund and may, without limitation, exercise all the powers of a natural person beneficially owning the Fund assets in order to:
- (a) properly administer and maintain the Fund;
  - (b) exercise any power in respect of the Fund that it is possible, consistent with Superannuation Law, to confer on a trustee of a regulated superannuation fund;
  - (c) perform its duties; and
  - (d) fulfil its obligations under this Deed and Superannuation Law.
- 10.6 The Trustee's powers under clause 10.5 include:
- (a) appointing an agent, adviser, service provider or nominee;
  - (b) giving receipts and discharges;
  - (c) conducting and settling legal proceedings;
  - (d) referring claims to arbitration;
  - (e) compromising any claim;
  - (f) compounding and allowing time for payment or satisfaction of any debts due and of any claims or demands by or against the Trustee in relation to the Fund;
  - (g) giving any guarantee or indemnity;
  - (h) insuring any risks;
  - (i) acting as an underwriter;
  - (j) making rules for rounding off contributions and benefits;
  - (k) making rules for the crediting or debiting of interest to a benefit which is paid after the date it becomes payable;
  - (l) providing for and transferring liability for any tax;
  - (m) electing to be bound by any legislation; and
  - (n) doing anything which is not prohibited by Superannuation Law.

**Manager**

- 10.7 The Trustee may appoint any person to administer the Fund or to manage investments of the Fund or both. The appointment must be in writing on terms which the Trustee considers appropriate.

**Delegation**

- 10.8 The Trustee may delegate any of its powers, duties and discretions to any person in such manner and on such terms as the Trustee considers appropriate.

**Trustee's liability**

- 10.9 The Trustee excludes all liability except to the extent that the law prevents it from excluding liability.

**Trustee's indemnity**

- 10.10 The Trustee may recover from the Fund any loss or expenditure incurred in relation to the Fund or the administration of the Trustee, unless the law prevents it.
- 10.11 The Trustee's right of indemnity under clause 10.10 is subject to the following:
- (a) the Trustee is not entitled to be indemnified from Fund assets for any amount expended out of capital of the Trustee managed and maintained by the Trustee to cover operational risk relating to the Fund;
  - (b) the Trustee is not entitled to satisfy its right of indemnity from the Operational Risk Reserve Account in respect of any liability or expense which does not relate to operational risk relating to the Fund unless the liability or expense is satisfied from an excessive amount (within the meaning of clause 8.7(b)); and
  - (c) to the extent that the indemnity is for a liability or expense relating to operational risk relating to the Fund, the indemnity must be satisfied first from the Operational Risk Reserve Account and may only be satisfied from other accounts (including benefit accounts) to the extent that the Operational Risk Reserve Account is insufficient.
- 10.12 Subject to clause 10.13, the benefit of clauses 10.9 and 10.10 also applies to any liability incurred by:
- (a) any directors or employees of the Trustee;
  - (b) a former Trustee;
  - (c) any directors or employees of a former Trustee; or
  - (d) any person who previously fell within clause 10.12(a) or 10.12(c),
- in relation to the Fund or the administration of the Trustee while acting as Trustee or a director or employee of the Trustee.
- 10.13 To the extent permitted by Superannuation Law, clause 10.11 does not limit the operation of clause 10.12.

**Authorisations**

- 10.14 The Trustee may treat a written or oral authorisation purported to be given by a person as given by that person.
- 10.15 The Trustee may act on any proofs or presumptions which it considers satisfactory whether or not they are legal proofs or presumptions.

**Trustee's discretions**

- 10.16 The Trustee and any of its officers may exercise individually or jointly a power or discretion even though that person has another interest in the result of the exercise or may benefit from it or owes other duties in respect of it.
- 10.17 The Trustee is completely unrestricted in the exercise of its powers and discretions.

**Remuneration**

- 10.18 The Trustee is entitled to be paid (and retain for its own benefit) such reasonable remuneration as is determined by the Trustee.
- 10.19 The Trustee's remuneration may be deducted, in the manner determined by the Trustee, from the assets of the Fund.

- 10.20 The Trustee may charge a different fee or amount to any Member (or class of Members) based on such criteria as it determines are fair and reasonable.
- 10.21 In addition to the remuneration under clause 10.18, the Trustee is entitled to charge and retain for its own benefit from the Fund an amount equal to any fee that it would be entitled to charge any person under the *Family Law (Superannuation) Regulations 2001* (Cth).

## 11 Administration

### Expenses

- 11.1 The Trustee is entitled to pay from the Fund or reimburse itself from the Fund for all expenses incurred in connection with the Fund or the Trustee.

### Information

- 11.2 Every Member or person claiming a benefit must give the Trustee any information or documents that the Trustee requires to administer the Fund.
- 11.3 The Trustee may require a Member to have a medical examination.
- 11.4 The Trustee may modify a Member's or beneficiary's benefit, as in its absolute discretion it thinks fit, if:
- (a) any information or document that the Trustee requested under clause 11.2 is not provided or is incomplete or incorrect; or
  - (b) the Member does not undergo any medical examination or test required by the Trustee under clause 11.3.

### Confidentiality

- 11.5 The Trustee may give to any related body corporate of the Trustee (where 'related body corporate' has the same meaning as in the Corporations Act, as if section 48(2) of the Corporations Act did not apply), and the related body corporate may receive, information about any Member or other person who might benefit from the Fund, whether or not that information is confidential or held by the Trustee as a fiduciary.
- 11.6 The related body corporate may use that information in the ordinary course of its business provided it complies with law.
- 11.7 The Trustee must otherwise treat as confidential any information relating to Members which it acquires as Trustee and use the information only for the purposes of the Fund or as required or permitted by law.

### Dispute resolution

- 11.8 If Superannuation Law requires, the Trustee must take reasonable steps to ensure that arrangements are in force under which:
- (a) any person entitled to a benefit from the Fund may inquire into, or complain about, the operation or management of the Fund in relation to that person; and
  - (b) inquiries or complaints will be considered and dealt with within the applicable period as specified by Superannuation Law.

### Notices

- 11.9 Any notice or other written communication in connection with the Fund is given to a person if it is:



- (a) handed to the person;
- (b) delivered to the person's last known address;
- (c) posted by ordinary post from within Australia to the person's last known address;
- (d) sent by email to the person at the email address notified by the person, their employer or a Prior Trustee (as defined in clause 15.1) to the Trustee; or
- (e) sent by any other communication method used by the Trustee and notified to the person.

11.10 If the notice or other written communication is:

- (a) posted, it is taken to be received on the third business day after posting;
- (b) sent by email, it is taken to be received:
  - (i) when the sender receives an automated message confirming delivery;
  - (ii) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,whichever happens first; or
- (c) transmitted by any other medium - it is taken to be received on the second business day (or other period determined by the Trustee from time to time) after transmission.

### **Binding effect**

11.11 Each standard employer sponsor, Member and any other person entitled to or claiming a benefit is bound by this Deed.

### **Governing law**

11.12 The Fund and this Deed are governed by the law in force in Queensland.

## **12 Amendment of Deed**

### **Power to amend**

12.1 Subject to the applicable Division Rules and clause 12.2, the Trustee may, by deed poll, amend any of the provisions of this Deed including this clause 12.

12.2 An amendment must not permit a person other than a 'constitutional corporation' (within the meaning of the SIS Act) to be appointed as trustee unless the Deed is amended to provide that the sole or primary purpose of the Fund is the provision of old age pensions.

### **Date of effect**

12.3 An amendment may take effect from a date before or after the time it is made.

## **13 Termination of Fund or Division**

### **General**

13.1 The Fund terminates if each Division terminates or, if only one Division remains, that Division terminates.

## Application

- 13.2 If a Division terminates, the Trustee must, prior to the application of assets in accordance with the Division Rules, allocate to the Division any portion of the assets, as it considers to be fair and reasonable, that are attributable to the Operational Risk Reserve Account, the General Reserve Account or any other reserve that is not specific to a particular Division.
- 13.3 On termination of the Fund, the Trustee must apply the Fund assets to provide for all expenses and liabilities (other than benefits) for which the Trustee is or may become liable and must then apply the remaining assets as follows:
- (a) remaining assets that are attributable to the Operational Risk Reserve Account, the General Reserve Account or any other reserve that is not specific to a particular Division, must be allocated by the Trustee to a Division as the Trustee considers to be fair and reasonable; and
  - (b) remaining assets that are attributable to each Division (including amounts allocated under clause 13.3(a)) must be applied in accordance with the applicable Division Rules.

## 14 Compliance with Superannuation Law

- 14.1 Any matters (including standards) required by Superannuation Law to be included in the governing rules of regulated superannuation funds, from time to time, form part of this Deed whether or not they are explicitly stated in this Deed.
- 14.2 However, if:
- (a) a matter (including a standard) is no longer required to be included; or
  - (b) the Superannuation Authority does not require it to be complied with,
- then the matter ceases to be included by this clause 14.
- 14.3 In the event of any inconsistency or conflict between those requirements and this Deed, the Trustee must act or refrain from acting in order to comply with Superannuation Law. This clause applies notwithstanding anything to the contrary contained in this Deed.
- 14.4 If, under Superannuation Law, the Trustee has a power if this Deed includes a particular provision, that particular provision is deemed to be included in this Deed if the Trustee exercises that power for so long as it is required by Superannuation Law to be included in this Deed.
- 14.5 If this Deed contains a provision which is, or which requires the Trustee to act in a manner which is, inconsistent with Superannuation Law, then, to the extent of the inconsistency, the Trustee must comply with Superannuation Law and the provision is taken, by force of this clause 14.5, to be excluded from this Deed or modified so as to comply with Superannuation Law. This clause applies notwithstanding anything to the contrary contained in this Deed.

## 15 Successor fund transfers

### General

- 15.1 In this clause 15, unless the contrary intention appears:

***Death Benefit Nomination*** means a death benefit nomination that:

- (a) was in effect in relation to a Member's benefit in a superannuation arrangement immediately prior to the transfer of the Member's benefit from that superannuation arrangement to the Fund; and

(b) has been provided by the Prior Trustee to the Trustee.

**Prior Instruction** means a notice, authorisation, direction, nomination or election or other information or act of like effect, of binding or discretionary effect that:

(a) was in effect in relation to a superannuation arrangement immediately prior to the transfer of the Member and the Member's benefit from that superannuation arrangement to the Fund; and

(b) has been provided by the Prior Trustee to the Trustee.

**Prior Trustee** means the trustee of the superannuation arrangement that transfers a Member's benefit to the Fund as a successor fund.

15.2 If the Trustee accepts a transfer of a benefit to the Fund on the basis that the Fund is a successor fund and admits a person as a Member, the Trustee:

(a) must, if prior to accepting the transfer the Trustee has determined that this clause 15.2(a) is to apply, comply with any Prior Instruction that was a binding Death Benefit Nomination (whether lapsing or non-lapsing) for as long as that nomination would have applied to the Prior Trustee; and

(b) may decide to comply with or recognise any other Prior Instruction, in which case, the Prior Instruction must be treated as if it was provided to the Trustee.

15.3 Despite any other provision in this Deed (except for clause 14) if:

(a) prior to a transfer of benefits to the Fund on the basis that the Fund is a successor fund, the Trustee has determined that this clause 15.3 is to apply;

(b) the Trustee accepts the transfer of benefits to the Fund on that basis and admits the person as a Member; and

(c) the benefit entitlement of the person admitted as a Member is dependent on an event or information that relates to an event that occurred prior to the person becoming a Member,

the Trustee may rely on:

(d) the information provided to the Trustee by (or on behalf of) the Prior Trustee; and

(e) if the information that is referred to in clause 15.3(d) is not provided, or is provided but is inadequate, the Trustee's estimation of what occurred or that information,

and the Trustee is not liable if its estimation is not correct.

### Sunsuper transfer

15.4 In clauses 15.4 to 15.15, unless the contrary intention appears:

**Continuing Member** means each member or other beneficiary of the Fund immediately before the Transfer Time.

**Government Division Reserve Account** means the general reserve account maintained for the Government Division in accordance with the Division Rules set out in Schedule 2.

**QSB** means the QSuper Board ABN 32 125 059 006.

**SSF** means the Sunsuper Superannuation Fund ABN 98 503 137 921.

**SSF Trustee** means Sunsuper Pty Limited ABN 88 010 720 840, as trustee of the SSF.

**Transferring Member** means each member or other beneficiary of the SSF immediately before the Transfer Time.

**Transfer Time** means 12:00:01 am, or such other time agreed by QSB and the SSF Trustee, on 28 February 2022, or such other date agreed by QSB and the SSF Trustee.

- 15.5 With effect from the Transfer Time:
- (a) each Transferring Member will be admitted as a Member of the Fund and allocated to the Public Offer Division; and
  - (b) each person who was a 'participating employer' (within the meaning of the SSF trust deed) immediately before the Transfer Time will be admitted as a 'Participating Employer' (within the meaning of the Public Offer Division Rules) in the Public Offer Division on the same terms as the terms that applied immediately before the Transfer Time (with any necessary changes).
- 15.6 The obligation of the SSF Trustee to pay a pension to a Transferring Member under the SSF trust deed immediately before the Transfer Time is assumed by the Trustee, and continues on the same terms and conditions, from the Transfer Time.
- 15.7 With effect from the Transfer Time, each Continuing Member will be allocated to the Government Division.
- 15.8 The following provisions do not apply in respect of a Transferring Member:
- (a) paragraph (b) of the definition of Death Benefit Nomination in clause 15.1;
  - (b) paragraph (b) of the definition of Prior Instruction in clause 15.1;
  - (c) clause 15.3.
- 15.9 At the Transfer Time, the Operational Risk Reserve Account must be credited with:
- (a) an amount equal to the balance of the 'operational risk reserve' in the Fund immediately prior to the Transfer Time; and
  - (b) an amount equal to the balance of the 'operational risk reserve' in the SSF immediately prior to the Transfer Time.
- 15.10 At the Transfer Time, the General Reserve Account must be credited with:
- (a) an amount equal to the value of the liquid assets in the SSF's general reserve immediately prior to the Transfer Time;
  - (b) an amount produced by:
    - (i) multiplying the amount to be credited under clause 15.10(a) by the Net Assets Available For Benefits (as defined in the relevant accounting standard) of the Fund (excluding the asset representing the unfunded liabilities associated with defined benefits that is included in the determination of net assets within the financial statements for the Fund under AASB 1056) immediately prior to the Transfer Time; and
    - (ii) dividing the amount produced by clause 15.10(b)(i) by the Net Assets Available For Benefits (as defined in the relevant accounting standard) of the SSF immediately prior to the Transfer Time;
  - (c) the shares in QSuper Limited (less the value of the shares held by QSuper Limited in QInsure Limited); and
  - (d) the value of the shares in Precision Administration Services Pty Ltd.

- 15.11 The Trustee may only apply amounts held in the General Reserve Account to subsidise fees if it is done in a fair and reasonable manner as between the Members of the Public Offer Division and the Members of the Government Division.
- 15.12 At the Transfer Time, the following must be credited or otherwise attributed to the Government Division Reserve Account:
- (a) the value of the shares held by QSuper Limited in QInsure Limited;
  - (b) all rights in respect of the ownership of the shares in QInsure Limited;
  - (c) all rights as policyholder under the participating policy (being QInsure Insurance Policy No. 1.6); and
  - (d) the amount held in the 'general reserve' in the Fund immediately prior to the Transfer Time, less:
    - (i) the amounts credited to the General Reserve Account under clauses 15.10(b) and 15.10(c); and
    - (ii) the amounts credited to, and rights attributed to, the Government Division Reserve Account under clauses 15.12(a), 15.12(b) and 15.12(c).
- 15.13 At the Transfer Time, the amount in any other reserves maintained in the Fund or the SSF immediately prior to the Transfer Time, will be credited to a reserve maintained for the same purpose in the Government Division or the Public Offer Division, respectively.
- 15.14 Notwithstanding any other provision of the Deed, any special arrangements in respect of benefits that applied under the SSF trust deed immediately prior to the Transfer Time will continue to apply, with any necessary changes, under the Deed from the Transfer Time.
- 15.15 A person who was a 'Reversionary Beneficiary' for the purposes of the SSF trust deed immediately before the Transfer Time is a 'Reversionary Beneficiary' for the purposes of the Public Offer Division unless and until they make another nomination permitted by the Trustee.

## Schedule 1 – Public Offer Division Rules

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## 1 Definitions and interpretation

1.1 Unless the contrary intention appears, capitalised terms used in these Division Rules and which are defined in clause 1.1 of the Deed have the same meaning in these Division Rules, and:

**Account Balance** in relation to a Member at a particular time means the balance of a Benefit Account maintained for the Member at that time.

**Accrued Benefit** in relation to a Defined Benefit Member at a particular time means the value of the benefit that has accrued in relation to that Member up to that time as determined by the Trustee on the advice of an actuary in accordance with the Defined Benefit Agreement applicable to that Member. A Defined Benefit Member's Accrued Benefit comprises:

- (a) the Defined Benefit applicable to the Member, in the circumstances in which the benefit has become payable (whether on retirement, death, disablement, other termination of service or otherwise); and
- (b) the Member's Account Balance (if any).

**Benefit Account** in relation to a Member means an account maintained for the Member under these Division Rules, including under rules 6.1 – 6.6.

**Binding Nomination** means a notice to the Trustee given by an applicant or Member directing the Trustee to pay all or part of the benefit payable on their death to a person or persons nominated in the notice, and the notice complies with the following:

- (a) each person nominated is within a class of persons the Trustee has prescribed as eligible to be nominated in a Binding Nomination;
- (b) the notice is in a form prescribed by the Trustee;
- (c) the notice otherwise complies with form and content requirements prescribed by the Trustee; and
- (d) the nomination was given or confirmed within the period before the Member's death prescribed by the Trustee.

**Choice Class** means a Class which is not a MySuper Class.

**Choice Member** means a Member who holds an interest in a Choice Class.

**Class** means a class of beneficial interest in this Division and, in relation to a Member, means the Class or Classes to which they belong.

**Defined Benefit** means a benefit to which a Member is or may become entitled, the amount of which is determined in accordance with a Defined Benefit Agreement and other than solely by reference to an account balance or an insured sum under a life insurance policy.

**Defined Benefit Agreement** has the meaning given in rule 9.1.

**Defined Benefit Member** means a Member whose entitlement to benefits from this Division includes a Defined Benefit.

**Dependant** has the meaning given in the SIS Act.

**Eligible Reversionary Beneficiary** in relation to a Member's nomination of a Reversionary Beneficiary means a person who:

- (a) is a Dependant of the Member (at the time of the nomination and at the time of the Member's death);
- (b) where the person is the Member's Spouse at the time of nomination, is the Member's Spouse at the time of the Member's death; and

- (c) is otherwise eligible under Superannuation Law to be a Reversionary Beneficiary in relation to the pension (at the time of the nomination and at the time of the Member's death).

**Interest in this Division** has the meaning given in rule 11.2(d).

**Legal Personal Representative** has the meaning given in the SIS Act.

**Member Spouse** in relation to a Non-Member Spouse means the person:

- (a) who is a 'member spouse' within the meaning given in Part VIIIIB of the *Family Law Act 1975* (Cth); and
- (b) whose interest in this Division is subject to a Payment Split in favour of the Non-Member Spouse.

**MySuper Class** means each Class that the Trustee is authorised to offer as a MySuper product under Part 2C of the SIS Act.

**MySuper Member** means a Member who holds an interest in a MySuper Class.

**Non-Member Spouse** means a person:

- (a) who is a 'non-member spouse' within the meaning given in Part VIIIIB of the *Family Law Act 1975* (Cth); and
- (b) in whose favour a Member's interest in this Division is subject to a Payment Split.

**Participating Employer** means an employer who has been admitted to participation in this Division and who has not ceased to be a Participating Employer under these Division Rules.

**Participation Agreement** has the meaning given in rule 4.5.

**Payment Split** has the meaning given in Part VIIIIB of the *Family Law Act 1975* (Cth).

**Public Offer Division** means the Division of the Fund governed by these Division Rules (and 'this Division' has a corresponding meaning).

**Release Authority** means a 'release authority' or 'transitional release authority' within the meaning given in the *Income Tax Assessment Act 1997* (Cth) and the *Income Tax (Transitional Provisions) Act 1997* (Cth) respectively.

**Reversionary Beneficiary** in relation to a Member means a person who is an Eligible Reversionary Beneficiary of that Member at the relevant time, and:

- (a) the Member:
- (i) on commencement of the Member's pension benefit, in a form acceptable to the Trustee, nominated the person to receive the Member's pension benefit on the Member's death; and
- (ii) has not made another nomination permitted by the Trustee;
- (b) the Member:
- (i) at such time during the term of the pension as the Trustee permits, in a form acceptable to the Trustee, nominated the person to receive the Member's pension benefit on the Member's death; and
- (ii) has not made another nomination permitted by the Trustee; or
- (c) where the Member's pension benefit is transferred to this Division from another superannuation arrangement:

- (i) immediately before transfer of the benefit the person was recognised by the trustee of that superannuation arrangement as a reversionary beneficiary of the benefit; and
- (ii) the Trustee has determined to accept that nomination for the purposes of this Division (either for that Member individually or for all or a group of Members transferring from that superannuation arrangement),

and the Member has not made another nomination permitted by the Trustee.

**Splitting Instrument** in relation to a Payment Split means the superannuation agreement, flag lifting agreement or splitting order (each as defined in the *Family Law Act 1975* (Cth)) which gives rise to the Payment Split.

**Spouse** has the meaning given in the SIS Act.

**Total and Permanent Disablement** in relation to an insured benefit for a Member has the meaning given to 'total and permanent disablement' (or a corresponding term) in the applicable life insurance policy.

**Total Disability** in relation to an insured benefit for a Member has the meaning given to 'total disability' (or a corresponding term) in the applicable life insurance policy.

**Unallocated Account** in relation to a particular Participating Employer has the meaning given in rule 9.3.

- 1.2 For the avoidance of doubt, clauses 1.2 – 1.4 of the Deed apply to these Division Rules.

## 2 Application

- 2.1 These Division Rules apply only to Members of the Public Offer Division.
- 2.2 A reference to a Member in these Division Rules is a reference to a Member of the Public Offer Division.

## 3 Membership and Classes

### Eligibility

- 3.1 The Trustee may admit a person as a Member if Superannuation Law permits.

### Examination and admission

- 3.2 Before admitting a person as a Member, the Trustee may require the person to:
- (a) have a medical examination; and
  - (b) provide information which the Trustee considers relevant to the administration of this Division.
- 3.3 A person becomes a Member on the date determined by the Trustee.
- 3.4 The Trustee may:
- (a) reject an application; or
  - (b) impose conditions or restrictions when accepting an application.

### Classes

- 3.5 This Division provides interests in respect of Members in:
- (a) one or more MySuper Classes; and

- (b) one or more Choice Classes.
- 3.6 A Member may hold an interest or interests in one or more Classes.
- 3.7 If a person:
- (a) applies to the Trustee to be a Member and gives a direction concerning the investment option to which contributions made for them should be allocated, the Trustee may admit them as a Choice Member;
  - (b) is admitted under a successor fund transfer, the Trustee will determine whether to admit them as a Choice Member or a MySuper Member; or
  - (c) is admitted in any other case, the Trustee may only admit them as a MySuper Member, unless the person is admitted to commence a pension.
- 3.8 No person:
- (a) who holds an interest in a MySuper Class is precluded from holding an interest in another Class because of that fact; and
  - (b) is precluded from holding an interest in a MySuper Class because they hold an interest in another Class.
- 3.9 The Trustee must ensure that:
- (a) assets of this Division attributed to a MySuper Class are invested in accordance with a single diversified investment strategy for that MySuper Class; and
  - (b) amounts are attributed to Members of a MySuper Class in a manner that does not stream gains or losses that relate to any assets of this Division to only some Members of that Class, except to the extent that gains and losses are streamed to different subclasses of Members of that Class on the sole basis of:
    - (i) the age of those Members;
    - (ii) the age of those Members and any other factors prescribed by Superannuation Law; or
    - (iii) the age of those Members and any other factors prescribed by Superannuation Law in the circumstances prescribed by Superannuation Law.

### **Transfer between Classes**

- 3.10 Subject to rule 3.11, the Trustee:
- (a) may transfer some or all of a Member's interest in this Division from a Class to another Class if permitted by Superannuation Law;
  - (b) must transfer some or all of a Member's interest in this Division from a Choice Class to a MySuper Class if required by Superannuation Law; and
  - (c) must transfer some or all of a Member's interest in this Division from a MySuper Class to another MySuper Class if required by Superannuation Law.
- 3.11 A Member's interest in this Division cannot be transferred from a MySuper Class to another Class, or out of this Division, unless:
- (a) the Member has consented in writing to the transfer no more than 30 days before the transfer occurs; or
  - (b) the Trustee is permitted or required to do so under Superannuation Law.

**Membership ceases**

- 3.12 Subject to rule 3.13, a person ceases to be a Member when:
- (a) all benefits which are or may be payable in respect of the Member have been paid;
  - (b) a transfer is made in satisfaction of all the Member's entitlement to benefits; or
  - (c) all the Member's entitlement to benefits is terminated.
- 3.13 If a Member's benefit is paid in full, the Member will:
- (a) continue to be a Member if the Trustee considers that it is reasonably likely that a further contribution, rollover or other amount will be received by the Trustee in respect of the Member following the payment of the Member's benefit; and
  - (b) cease to be a Member if a further contribution, rollover or other amount is not received by the Trustee in respect of the Member within the period determined by the Trustee.
- 3.14 For the purposes of rule 3.13, the Trustee:
- (a) may assume that it is reasonably likely that a contribution, rollover or other amount will be received by the Trustee in respect of a Member where special circumstances apply to the Member or the Member forms part of a class or group of Members for whom special circumstances apply;
  - (b) may determine a period that applies to all Members, a class of Members, a group of Members or individual Members, and may decide to shorten or extend that period at any time; and
  - (c) must not deduct or apply any fees or charges to a Member's Benefit Account during any period that the Member's Benefit Account does not have a positive Account Balance.

**Non-Member Spouses**

- 3.15 To the maximum extent permitted by law, it is declared that:
- (a) any Non-Member Spouse is not a beneficiary of the trust operating over this Division by virtue of being a Non-Member Spouse; and
  - (b) the Trustee owes no duties, fiduciary or otherwise, to any Non-Member Spouse by virtue of being a Non-Member Spouse.

**4 Participating Employers****Application**

- 4.1 An employer who wishes to provide retirement benefits for its employees may apply to become a Participating Employer in a form acceptable to the Trustee.
- 4.2 The Trustee may:
- (a) reject an application; or
  - (b) impose conditions or restrictions when accepting an application.
- 4.3 If Superannuation Law permits, the Trustee may accept an employer as a Participating Employer without having received an application, on such terms and conditions as the Trustee determines.
- 4.4 An employer who is accepted becomes a Participating Employer on the date determined by the Trustee.

### Terms of participation

- 4.5 The Trustee may agree that a Participating Employer's participation in this Division is to be governed, wholly or partly, by terms other than, or in addition to, the terms of the Deed and these Division Rules (***Participation Agreement***).
- 4.6 Without limiting rule 4.5, where the benefits of employees of a Participating Employer are transferred to this Division from another superannuation arrangement, the Trustee may adopt a document specifying terms and conditions of membership for those employees (and if applicable former employees and others attributable to the Participating Employer) in the other superannuation arrangement as comprising a Participation Agreement for the Participating Employer.
- 4.7 If there is any inconsistency between the Deed, on the one hand, and a Participation Agreement, on the other hand, the Participation Agreement will prevail, unless:
- (a) a contrary intention appears; or
  - (b) the Participation Agreement contains a provision which is, or which requires the Trustee to act in a manner which is, inconsistent with Superannuation Law.
- 4.8 The same Participation Agreement may apply in respect of employees of two or more Participating Employers, and may identify one 'Principal Employer', who has special rights and obligations, and one or more 'Associated Employers'.
- 4.9 The Trustee may amend the Participation Agreement from time to time in accordance with the terms of the Participation Agreement or, where the Participation Agreement does not specify amendment terms, rule 10.
- 4.10 A part of this Division that is governed by a Participation Agreement does not constitute a separate trust.

### Termination of participation

- 4.11 A Participating Employer may at any time by notice in writing to the Trustee terminate its participation in this Division as from a date specified in the notice and accepted by the Trustee.
- 4.12 The Trustee may by notice in writing given to a Participating Employer terminate the Participating Employer's participation in this Division on a date determined by the Trustee and specified in the notice.
- 4.13 Where:
- (a) the whole or substantially the whole of the assets of a Participating Employer's business are acquired by another person; or
  - (b) another person commences to employ all or any Members formerly employed by a Participating Employer,
- the Trustee may elect to accept the performance by that other person of the obligations of the Participating Employer under the Deed and these Division Rules in place of the performance of those obligations by the Participating Employer.

## 5 Contributions

### Manner and times

- 5.1 Members may contribute in the manner and at the times determined by the Trustee.

- 5.2 The Trustee may accept money or any other assets from any other person as a contribution in respect of a Member.

### Acceptance

- 5.3 Subject to rule 5.6, the Trustee may refuse to accept all or part of money or other assets from a person without giving any reason.
- 5.4 If the Trustee receives money or other assets contrary to Superannuation Law, the Trustee must return them, or any part of them, in accordance with any requirements under Superannuation Law.
- 5.5 If the Trustee returns all or part of any amount under rule 5.4, then it is authorised to take any action permitted by Superannuation Law, including adjusting the amount to be returned.

### MySuper Members

- 5.6 Notwithstanding anything else in this rule 5, a MySuper Member, or any other person in respect of a MySuper Member, may contribute in any amount and at any time, except to the extent Superannuation Law imposes or permits a limitation on the source or kind of contributions and, where Superannuation Law permits a limitation, as the Trustee determines.

## 6 Benefits

### Benefit Accounts

- 6.1 The Trustee must maintain a Benefit Account for each Member whose interest in this Division is, or is to be, determined in whole or part by reference to an account balance.
- 6.2 The Trustee may divide a Benefit Account into sub-accounts.
- 6.3 The Trustee may maintain a Benefit Account in a way it considers appropriate, which may include recording:
- (a) the name of the Investment Portfolio or Investment Portfolios to which the balance of the Benefit Account is allocated;
  - (b) contributions and transfers to this Division in respect of the Member;
  - (c) any other amount received by the Trustee in respect of the Member;
  - (d) any liabilities of this Division which are attributable to the Member;
  - (e) the value of the Investment Portfolio or Investment Portfolios, to the extent attributable to the Member;
  - (f) amounts paid from this Division in respect of the Member, including premiums paid by the Trustee under a life insurance policy on the life of the Member;
  - (g) amounts transferred to or from any reserve;
  - (h) any provisions for any payments in respect of the Member;
  - (i) the proceeds of any life insurance policy on the life of the Member, to the extent that the proceeds are referable to premiums paid from the Benefit Account; or
  - (j) any other matters or amounts which the Trustee considers appropriate.
- 6.4 If all or part of a Member's interest in this Division is to be calculated by reference to the value of more than one Investment Portfolio, the Trustee must maintain the Benefit Account in such a way

as to show how the balance of the Benefit Account is apportioned between the Investment Portfolios.

- 6.5 The Trustee may make rules, and adopt policies or procedures, concerning the value of an Investment Portfolio, and how that value, and changes in that value, are to be recorded in Benefit Accounts. Without limitation, those rules, policies or procedures, may provide for:
- (a) the unitisation of, and the determination of unit prices for, an Investment Portfolio;
  - (b) the determination of crediting rates for an Investment Portfolio.
- 6.6 The Trustee may record in the Benefit Accounts:
- (a) tax incurred by the Trustee;
  - (b) expenses of this Division;
  - (c) fees and administration expenses of the Trustee;
  - (d) provisions for amounts in paragraphs (a), (b) and (c),
- in proportions which the Trustee considers fair and reasonable.

### **MySuper Members**

- 6.7 Except:
- (a) to the extent that a benefit is provided by taking out risk insurance; or
  - (b) as otherwise permitted under Superannuation Law,
- the Trustee must provide all Members of a MySuper Class with access to the same options, benefits and facilities.
- 6.8 The Trustee must:
- (a) adopt the same process in attributing amounts to Members of a MySuper Class except to the extent that a different process is necessary to allow for fee subsidisation by Participating Employers or to comply with the fee cap on low balances;
  - (b) ensure that any permitted fee subsidisation does not favour one Member of a MySuper Class who is an employee of a subsidising Participating Employer over another such Member of that Class who is an employee of that Participating Employer; and
  - (c) comply with the fee rules that apply to a MySuper Class under the SIS Act including the general fee rules and the requirements for the administration fee exemption for employees of an employer-sponsor.

### **When payable**

- 6.9 A benefit becomes payable in respect of a Member when:
- (a) the Member satisfies a condition of release (within the meaning of the SIS Regulations);
  - (b) the Member satisfies the applicable terms of a Defined Benefit Agreement, where the benefit is a Defined Benefit; or
  - (c) the Member asks the Trustee to pay it, where Superannuation Law otherwise permits payment of the benefit.
- 6.10 If a Member requests, the Trustee may defer payment of all or part of the Member's benefit.
- 6.11 If a benefit may be paid in respect of a Member under Superannuation Law, the Trustee may pay that benefit.



**Amount payable**

- 6.12 Where a benefit is payable in respect of a Member other than on Total Disability:
- (a) for a Defined Benefit Member, the amount of the benefit is the Member's Accrued Benefit;
  - (b) for a Member other than a Defined Benefit Member, the amount of the benefit is equal to the Member's Account Balance,

in each case, subject to any vesting condition that applies under an arrangement by which the Trustee is bound.

- 6.13 Where a benefit is payable in respect of a Member on Total Disability, the amount of, and terms on which, the benefit is paid will depend on the applicable life insurance policy.

- 6.14 Notwithstanding any other rule, if, at any time:
- (a) the Trustee considers that it is not reasonably practicable to obtain insurance or an increase in insurance or to maintain insurance for a Member under a life insurance policy on terms acceptable to the Trustee; or
  - (b) under the applicable life insurance policy, the insurer for any reason fails to provide, or reduces, terminates or withholds, insurance in respect of a Member, or refuses to admit a claim for the whole or part of the insurance covering a Member,

the amount of the Member's insured benefit is limited to the amount (if any) received from the insurer.

**Form of benefit**

- 6.15 A benefit is payable as a lump sum, unless:
- (a) the benefit is a reversionary pension; or
  - (b) the Trustee determines that all or part of the benefit is to be paid as a pension.

**Lump sum benefits**

- 6.16 Where a benefit is payable as a lump sum, the Trustee:
- (a) must pay the benefit as soon as practicable after it becomes payable; and
  - (b) may pay the benefit in more than one instalment.

**Trustee's discharge**

- 6.17 The Trustee is discharged from all obligations in respect of a benefit if:
- (a) the Trustee pays or applies it in good faith to or on behalf of a person the Trustee believes to be entitled to it; and
  - (b) in so doing, the Trustee acts honestly and exercises the degree of care and diligence required of it.

**Incapacity**

- 6.18 If, in relation to a person entitled to a benefit:
- (a) the person is a minor;
  - (b) the person is suffering from any form of legal incapacity;
  - (c) the Trustee believes that the person is unable to manage their financial affairs; or

- (d) the Trustee otherwise considers it appropriate for any reason, the Trustee may, subject to Superannuation Law:
- (e) pay the benefit as a lump sum to another person including a parent, guardian or Legal Personal Representative to be applied for the benefit of the first person; or
- (f) pay the benefit as a pension:
  - (i) to the person; or
  - (ii) to another person including a parent, guardian or Legal Personal Representative to be applied for the benefit of the first person.

## **Tax**

- 6.19 The Trustee may deduct, from a payment from this Division, any amount that it considers appropriate for tax.

## **Release Authority**

- 6.20 If the Trustee receives a Release Authority in respect of a Member, the Trustee must pay an amount from this Division in respect of that Member in accordance with Superannuation Law. Subject to Superannuation Law, the Trustee may adjust any amount, benefit or entitlement that a Member has in this Division in order to give effect to a payment under this rule.

## **Unclaimed benefits**

- 6.21 The Trustee must comply with Superannuation Law in relation to benefits which Superannuation Law:
- (a) treats as unclaimed money; or
  - (b) requires to be transferred to another superannuation arrangement or to the Commissioner of Taxation.

## **7 Death Benefits**

### **Binding Nomination**

- 7.1 The Trustee may offer Members (other than a Member who has nominated a Reversionary Beneficiary) the option of making a Binding Nomination.
- 7.2 A Member (other than a Member who has nominated a Reversionary Beneficiary) may nominate any one or more of their Dependants or Legal Personal Representative to receive any part or all of the benefit payable on their death, where the Member's nomination is not binding on the Trustee.
- 7.3 A Member may change a Binding Nomination or other nomination at any time in a form approved by the Trustee for that purpose.

### **Payment on death**

- 7.4 On the death of a Member:
- (a) where there is a Reversionary Beneficiary, the Trustee must pay the death benefit as a pension to the Reversionary Beneficiary;
  - (b) where there is a Binding Nomination, the Trustee must pay the benefit to the person or persons nominated, and if more than one person is nominated in the proportions specified;

- (c) otherwise, the Trustee must pay the benefit to such of the Member's Dependants or Legal Personal Representative, in such proportions, as the Trustee determines.

7.5 If the Trustee after making reasonable enquires is unable to identify any Dependants or Legal Personal Representative of a deceased Member, the Trustee may pay the benefit to any individual who in the Trustee's opinion has a fair claim to the benefit, where the benefit can be paid to that person in accordance with Superannuation Law.

## 8 Pensions

### Payment or transfer

- 8.1 Where a benefit is payable as a pension, the Trustee may:
- (a) pay the pension from this Division (or transfer the benefit to another Division to commence a pension);
  - (b) use the benefit to purchase a pension or an annuity; or
  - (c) rollover the benefit to a superannuation arrangement nominated by the Member.

### Superannuation Law

- 8.2 Where a benefit is paid as a pension on the basis that it qualifies as a particular type of pension under Superannuation Law:
- (a) the terms of the pension must comply with Superannuation Law applicable to the particular type of pension; and
  - (b) any condition, standard or requirement of Superannuation Law that is required to be included in these Division Rules in order for the pension to qualify as that particular type of pension under Superannuation Law is deemed to be included in these Division Rules.

### Options and terms

- 8.3 The Trustee may offer the person entitled to a pension benefit such options in relation to:
- (a) the annual amount of the pension;
  - (b) the frequency of pension payments;
  - (c) the term for which the pension is payable;
  - (d) nomination of a Reversionary Beneficiary:
    - (i) on commencement of the pension; or
    - (ii) if the Trustee permits, at any time during the term of the pension,

as Superannuation Law applicable to the pension permits, and the person may select from the options offered.

8.4 The amount of and frequency of the instalments of a pension, and the terms on which payment is made, may be varied from time to time by the Trustee in accordance with any standards prescribed by Superannuation Law applicable to the pension.

### Commutation

- 8.5 The Trustee may:
- (a) commute to a lump sum all or part of the capital value of an allocated pension or account based pension, other than a pension which is a transition to retirement income stream, at any time at the request of the person entitled; or

(b) otherwise commute all or part of a pension as permitted by Superannuation Law.

8.6 On commutation of any part of a pension, the Trustee must adjust the amount of the subsequent pension payments to take account of the commutation.

## Death

8.7 On the death of:

- (a) a Member in receipt of a pension where there is no Reversionary Beneficiary;
- (b) a Reversionary Beneficiary (other than in receipt of a market linked pension),

the Trustee must pay the remaining balance in the Benefit Account as a death benefit of the Member under rule 7.

8.8 On the death of a Spouse of a Member in receipt of a market linked pension as a Reversionary Beneficiary, the Trustee must pay the remaining balance in the Benefit Account either:

- (a) as a death benefit of the Member; or
- (b) to one or more of the Spouse's Dependants (and if more than one in proportions determined by the Trustee) or to the Spouse's Legal Personal Representative.

## MySuper Members

8.9 The Trustee cannot pay a pension from a MySuper Class unless permitted by Superannuation Law.

## 9 Defined Benefits

### Defined Benefit Agreement

9.1 The Trustee may enter into an agreement with a Participating Employer under which some or all of the benefits for some or all employees of the Participating Employer who are or become Members are Defined Benefits (***Defined Benefit Agreement***).

9.2 A Defined Benefit Agreement:

- (a) forms part of the governing rules of this Division applicable to Members whose benefits are provided under the terms of the Defined Benefit Agreement; and
- (b) is, or forms part of, a Participation Agreement, with the consequence that the provisions of rule 4 apply to it.

### Unallocated Account

9.3 Where a Defined Benefit Agreement is in place, the Trustee must:

- (a) maintain an unallocated account in relation to that Participating Employer (***Unallocated Account***); and
- (b) allocate to each Unallocated Account net changes in the value of the assets of this Division, or of an Investment Portfolio or Investment Portfolios, as applicable to that Unallocated Account.

### Credits and debits

9.4 The Trustee must credit to an Unallocated Account:

- (a) contributions made by the Participating Employer for the purpose of providing Defined Benefits for employees of that Participating Employer;

- (b) any contributions made by employees of that Participating Employer required for the provision of their Defined Benefits;
- (c) any proceeds payable under a life insurance policy taken out to provide Defined Benefits on death or Total and Permanent Disablement or Total Disability for employees of that Participating Employer with Defined Benefits; and
- (d) any other amount held under the Deed or these Division Rules in relation to the provision of Defined Benefits for employees of that Participating Employer.

9.5 The Trustee must debit to an Unallocated Account:

- (a) the amount of any Defined Benefit:
  - (i) paid in respect of an employee of that Participating Employer; or
  - (ii) for any reason converted to an accumulation benefit and allocated to a Benefit Account for an employee of that Participating Employer;
- (b) the amount of any Defined Benefit paid to another superannuation arrangement in respect of an employee of that Participating Employer;
- (c) any insurance premiums payable under a life insurance policy taken out to provide Defined Benefits on death or Total and Permanent Disablement or Total Disability for employees of that Participating Employer with Defined Benefits;
- (d) a share of any expenses and taxes that the Trustee decides to debit to the Unallocated Account;
- (e) any expense or tax that the Trustee determines is properly attributable to that Unallocated Account; and
- (f) any other debits applicable to the Unallocated Account or the provision of Defined Benefits for employees of that Participating Employer, or that the Trustee decides to allocate to the Unallocated Account.

### Restrictions

9.6 The amount of a Defined Benefit payable in respect of a Member:

- (a) must not have the effect that the balance in the Unallocated Account after payment of the benefit will be less than the aggregate vested Defined Benefits of the other Members entitled to Defined Benefits out of the Unallocated Account; and
- (b) cannot be paid out of any assets of this Division other than those attributable to the Unallocated Account.

### Contributions

9.7 A Participating Employer who enters into a Defined Benefit Agreement must make such contributions as are necessary to fund the Defined Benefits provided for in the Defined Benefit Agreement, subject to any provisions of the Defined Benefit Agreement allowing for:

- (a) a suspension or termination of contributions; or
- (b) a decrease in the future accrual of the Defined Benefits.

### Surplus or deficiency

9.8 Where the Trustee determines that there is a surplus in an Unallocated Account, the Trustee may, if the Participating Employer requests:

- (a) pay an amount out of the surplus to the Participating Employer, or an associated entity nominated by the Participating Employer, where the Defined Benefit Agreement authorises the payment and Superannuation Law permits it;
- (b) increase the amount of Defined Benefits payable from the Unallocated Account; or
- (c) otherwise apply the surplus in a manner permitted by Superannuation Law.

9.9 Where the Trustee determines that there is a deficiency in an Unallocated Account:

- (a) subject to paragraph (b) below, the Trustee may take such steps as the Trustee is authorised or required to take under Superannuation Law in relation to the deficiency (which may include reducing the accrued Defined Benefits of employees of the Participating Employer); and
- (b) the Trustee cannot make good any deficiency in an Unallocated Account by transferring to the Unallocated Account any assets of this Division not previously attributable to the Unallocated Account.

### **Investment Portfolios**

9.10 The Trustee:

- (a) must determine the Investment Portfolio or combination of Investment Portfolios to which an Unallocated Account is to be allocated; and
- (b) may consider, but is not bound by, any recommendation of the Participating Employer regarding that matter.

## **10 Amendment of Division Rules**

### **Power to amend**

- 10.1 The Trustee may amend, by deed poll, any of the provisions of these Division Rules including this rule 10.
- 10.2 The Trustee must not amend the Deed (insofar as it relates to the Public Offer Division or its Members or assets), or these Division Rules, to:
- (a) reduce the amount of the benefit entitlement accrued in respect of a Member or a benefit payable to a Member; or
  - (b) otherwise adversely affect the interests and entitlements of any Member up to the date of the amendment,
- without that Member's written consent.
- 10.3 Rule 10.2 does not apply in relation to any amendment that is necessary or desirable in order to comply with Superannuation Law or that is approved by the Superannuation Authority.

### **Date of effect**

10.4 An amendment may take effect from a date before or after the time it is made.

## **11 Termination of Division**

### **Circumstances**

11.1 This Division terminates on a date determined by the Trustee in any of the following circumstances:

- (a) if any legislation is enacted having the effect in the opinion of the Trustee of materially diminishing the amount of income of this Division available for distribution to the Members and the Trustee determines that this Division should be terminated;
- (b) if the Trustee determines that it would be in the best interests of Members to terminate this Division; or
- (c) if the office of the Trustee becomes vacant for any reason and a new Trustee is not appointed.

## Procedure

11.2 On termination of this Division, the Trustee must:

- (a) give notice to all Participating Employers and Members that this Division is to terminate;
- (b) pay any outstanding expenses, including expenses associated with termination of this Division, and make provision for any outstanding liabilities or anticipated expenses;
- (c) realise the assets of this Division; and
- (d) calculate the Account Balance or Accrued Benefit (***Interest in this Division***) of each Member as at the termination date, taking into account the realisable value of the assets of this Division, the balances of any reserves to the extent that they are attributable to the Division, any unallocated earnings and any expenses which remain outstanding.

## Distribution

11.3 The Trustee must on calculation of the Interest in this Division of each Member:

- (a) where a benefit has become payable in respect of the Member, pay the amount of the Interest in this Division as a benefit in accordance with the Deed and these Division Rules;
- (b) otherwise, notify the Member in writing of the amount of the Interest in this Division and request that the Member nominate within 1 month of receipt of the request a superannuation arrangement to which the Interest in this Division is to be transferred.

11.4 The Trustee must use its reasonable endeavours to obtain a nomination of a superannuation arrangement from each Member.

11.5 The Trustee must pay or apply the Interest in this Division of any Member in accordance with the nomination received from the Member where the trustee of the nominated superannuation arrangement agrees to accept that amount.

11.6 If the Trustee does not receive from any Member within the time period prescribed a nomination which the Trustee is able to implement, the Trustee may make such arrangements in relation to payment of the Member's Interest in this Division as Superannuation Law permits.

11.7 Despite the preceding provisions of this rule 11, the Trustee may pay or apply the Interest in this Division of a Member by transfer to another superannuation arrangement selected by the Trustee, where:

- (a) Superannuation Law permits the transfer; and
- (b) the Trustee is of the opinion that the transfer is in the best interests of the Member.

**Receipt**

11.8 A person entitled to a distribution on termination of this Division is entitled to that distribution only on delivery to the Trustee of such form of receipt and discharge as may be required by the Trustee.

**12 Compliance with Superannuation Law**

12.1 For the avoidance of doubt, clause 14 of the Deed applies to these Division Rules.



## **Schedule 2 – Government Division Rules**

# Government Division

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# Chapter 1 General

## Part 1 Definitions and interpretation

### 1 Definitions

In these Division Rules, except so far as the context or subject matter otherwise indicates or requires:

*Accumulation Account* has the meaning set out in rule 102.

*Accumulation Category* has the meaning set out in rule 22(2).

*Actuary* means the actuary appointed under rule 19 to advise the Trustee.

*APRA* means the Australian Prudential Regulation Authority.

*Assets of the Government Division* means all the cash and authorised investments, including contributions received, that are attributable to the Government Division and without limiting the generality of the foregoing includes:

- (a) amounts owing to the Government Division by debtors (excluding any bad debts); and
- (b) income accruing from authorised investments of the Government Division to the extent not included in paragraph (a); and
- (c) the proceeds of sale of any part of the assets of the Government Division; and
- (d) any prepayment of expenditure; and
- (e) all additions or accretions (if any) to the assets of the Government Division which arise by way of dividend interest premium or distribution or which are otherwise received and for the time being retained.

*Binding Death Benefit Nomination* has the meaning set out in rule 62.

*Casual Employee* means an employee who, under the terms of his or her employment, is not entitled to annual leave, sick leave or payment for a public holiday.

*Chapter* means a chapter of the Division Rules.

*Charge Percentage* means the charge percentage under the *Superannuation Guarantee (Administration) Act 1992* (Cth), section 19(2), divided by 100.

**Child** has the meaning set out in rule 3.

**Closed Defined Benefit Category** means the standard defined benefit category, State 58 category, State 72 category, police 68 category, police 74 category, fire category or parliament 70 category.

**Commonwealth Decision-Maker** means the decision-maker who, under the SIS Act, section 6(1), administers the parts of that Act providing for the release of benefits on Compassionate Grounds.

**Compassionate Ground** has the meaning set out in SIS Regulation 6.01(2).

**Concessional Contributions Cap** has the meaning set out in the *Income Tax Assessment Act 1997* (Cth), section 291-20(2).

**Death Benefit Dependant**, of a member of a superannuation or pension scheme or fund, or a similar scheme or fund, means a person to whom the member's beneficial interest in the scheme or fund may be paid under SIS Regulation 6.21(2)(b).

**Death or Disablement Insurance**, for Part 6 of this Chapter, has the meaning set out in rule 37(1).

**Defined Benefit Amount**, for a person, for Chapter 10, has the meaning set out in rule 115.

**Defined Benefit Category** has the meaning set out in rule 22(3).

**Disablement** means any mental or bodily injury, illness, disease or infirmity.

**Discontinued Scheme** means a superannuation scheme that, immediately before 30 June 1997, being the commencement of the *Superannuation and Other Legislation Amendment Act 1997*, part 6, was operated under any of the following Acts:

(a) the *Fire and Emergency Services Act 1990*;

Note—

The *Fire and Emergency Services Act 1990* was previously known as the *Fire and Rescue Service Act 1990*.

(b) the repealed *Superannuation (Government and Other Employees) Act 1988*;

(c) the repealed *Police Superannuation Act 1968*;

(d) the repealed *Police Superannuation Act 1974*;

(e) the repealed *Public Service Superannuation Act 1958*; or



(f) the repealed *State Service Superannuation Act 1972*.

***Division Rules*** means the rules in this Schedule to the Deed that apply to the Government Division of the Fund and, unless the context requires otherwise, includes the rules for the Closed Defined Benefit Categories that are set out in the Participation Schedule.

***Element Taxed in the Fund*** has the meaning set out in the *Income Tax Assessment Act 1997* (Cth), section 995-1(1).

***Eligible Death Benefit*** has the meaning set out in rule 62.

***Eligible Spouse Contributions*** means contributions, made on behalf of a Member's spouse, that are eligible for a tax offset under the *Income Tax Assessment Act 1997* (Cth), section 290-230.

***Employed Member*** means a person who is an employee of an entity:

- (a) whose membership of the Fund:
  - (i) is the subject of a Membership Notice; and
  - (ii) has commenced (or continued) under the Division Rules; and
- (b) for whom contributions in relation to the employment must be made to the Government Division under the Division Rules.

***Employee***, in relation to a Unit of the State Public Sector, has the same meaning as in the *Superannuation (State Public Sector) Act 1990*.

***Employer*** in relation to an Employed Member means the entity of which the Employed Member is an officer, member or employee (howsoever described).

***Gainfully Employed*** has the meaning set out in SIS Regulation 1.03.

***Government Division Reserve Account*** means the account maintained under rules 16(1) - 16(3).

***Income Stream Funds***, for a Superannuation Income Stream for a person, means moneys, or an amount, mentioned in rule 120(2)(c) that is used to pay or purchase the income stream for the person.

***Insured Member***, for Part 6 of this Chapter, has the meaning set out in rule 36.

***Legal Personal Representative*** means the executor or administrator of the estate of the deceased Member, the trustee of the estate of a Member under a legal disability or a person who holds a general power of attorney granted by a Member.

**Member** has the meaning set out in rule 2.

**Membership Notice** means:

- (a) a notice under section 10(1) of the *Superannuation (State Public Sector) Act 1990*; or
- (b) a written agreement between a Standard Employer-Sponsor of the Fund in relation to the Government Division and the Trustee providing for the following for some or all of the Standard Employer-Sponsor's employees—
  - (i) the employees' eligibility for membership in the comprehensive accumulation category or basic accumulation category;
  - (ii) any conditions applying to the employees' membership of the Government Division.

**MySuper Product** means a class of beneficial interest in the Government Division that is a MySuper product under the SIS Act, section 10(1).

**New Legislative Assembly Member** means a member of the Legislative Assembly to whom the *Parliamentary Contributory Superannuation Act 1970* does not apply.

**Non-Casual Employee** means an employee other than a Casual Employee.

**Non-Preserved Transfer Amount**, for a Member, means an amount, received by the Trustee under rule 43(1), that the Trustee has undertaken, on receipt of the amount, to pay to the Member on the Member's request.

**Part** means a part of a Chapter in the Division Rules.

**Participation Deed** means the participation deed entered into between the Trustee and the Queensland Treasurer under rule 6.

**Participation Schedule** means the schedule of the Participation Deed that contains rules relating to the Closed Defined Benefit Categories.

**Permanent and Partial Disablement** means Disablement of a degree which in the opinion of the Trustee is such as to render an Employed Member permanently unfit to discharge or incapable of discharging the duties of the Member's office efficiently, but is not Total and Permanent Disablement.

**Person's Initial Category** has the meaning set out in rule 23.

**Preservation Age** means:

- (a) for a person born before 1 July 1960, 55 years;

- (b) for a person born between 1 July 1960 and 30 June 1961 inclusive, 56 years;
- (c) for a person born between 1 July 1961 and 30 June 1962 inclusive, 57 years;
- (d) for a person born between 1 July 1962 and 30 June 1963 inclusive, 58 years;
- (e) for a person born between 1 July 1963 and 30 June 1964 inclusive, 59 years; or
- (f) for a person born after 30 June 1964, 60 years.

***Preservation Cashing Condition:***

- (a) for Chapter 3, has the meaning set out in rule 85; or
- (b) for Chapter 10, has the meaning set out in rule 115.

***QSuper Board*** means the QSuper Board (ABN 32 125 059 006).

***Retirement Income Stream*** means a Superannuation Income Stream other than a Transition to Retirement Income Stream.

***Reversionary Beneficiary*** has the meaning set out in rule 116.

***RSE Licensee Law*** has the meaning set out in the SIS Act, section 10(1).

***Section*** means a section of a Part in the Division Rules.

***SIS Act*** means the *Superannuation Industry (Supervision) Act 1993* (Cth).

***SIS Regulations*** means the *Superannuation Industry (Supervision) Regulations 1994* (Cth).

***Standard Employer-Sponsor*** has the meaning set out in the SIS Act, section 16(2).

***Superannuation Income Stream*** means an annuity or pension within the meaning of the SIS Act.

***Superannuation Interest*** has the meaning set out in the *Income Tax Assessment Act 1997* (Cth), section 995-1(1).

***Superannuation System*** has the meaning given to it by SIS Regulation 5.01.

***Surcharge Debt Accounts***, for Part 19 of this Chapter, has the meaning set out in rule 75.

**Tax** includes all income tax, capital gains, stamp, financial institutions, registration and other duties, debit tax, value added tax or other tax for or in relation to the provision of services and other taxed levies, imposts, deductions and charges whatsoever (including in respect of any duty imposed on receipts or liabilities of financial institutions any amounts paid in respect thereof to another financial institution) together with interest thereon and penalties with respect thereto (if any) and charges, fees or other amounts made on or in respect thereof whether imposed by or charged in relation to the *Income Tax Assessment Act 1936* (Cth), the *Income Tax Assessment Act 1997* (Cth) or any other Act of the Commonwealth or of any State or Territory.

**Taxed Splittable Contribution** means a contribution made to the Government Division that is a taxable contribution under the *Income Tax Assessment Act 1997* (Cth), chapter 3, part 3-30, division 295, subdivision 295-C.

**Tax File Number** has the meaning set out in the *Income Tax Assessment Act 1936* (Cth), section 202A.

**Temporary Disablement** means Disablement of a degree which, in the opinion of the Trustee, is such as to render an Employed Member for the time being unfit to discharge or incapable of discharging the duties of the Member's office and is not Total and Permanent Disablement or Permanent and Partial Disablement.

**Temporary Resident** has the meaning set out in SIS Regulation 6.01(2).

**Total and Permanent Disablement** means Disablement of a degree which, in the opinion of the Trustee after obtaining the advice of not fewer than 2 medical practitioners, is such as to render the Member unlikely ever to be able to work again in a job for which the Member is reasonably qualified by education, training or experience.

**Transfer Time** has the same meaning as in clause 15.4 of the Deed.

**Transition to Retirement Income Stream** means a transition to retirement income stream under SIS Regulation 6.01(2).

**Unit of the State Public Sector** has the same meaning as in the *Superannuation (State Public Sector) Act 1990*.

## **2 Meaning of Member**

- (1) A person is a **Member** if:
  - (a) the person is an Employed Member;
  - (b) there is an amount in an Accumulation Account kept for the person;

- (c) the person has ceased to be an Employed Member and an amount is to be credited to the person's Accumulation Account on the happening of an event mentioned in section 52(2) in the Participation Schedule;
  - (d) the person has ceased to be an Employed Member and a benefit is payable for the person under Chapter 4, 5, 6, 7 or 9 of the Participation Schedule;
  - (e) a benefit is payable to the person under the Division Rules in the form of a pension;
  - (f) the person becomes a Member in an Accumulation Category under rule 86(1) or 86(2); or
  - (g) the person becomes a Member in the income stream category under Chapter 10.
- (2) However, except so far as the context or subject matter otherwise indicates or requires, a reference in a Chapter to a Member is a reference only to a Member in the category to which that Chapter applies.
- (3) A person ceases to be a Member when the person no longer satisfies any limb of the definition in rule 2(1).

### **3 Meaning of *Child***

- (1) A *Child*, in relation to a person, includes:
- (a) an adopted child, a stepchild or an exnuptial child of the person;
  - (b) a child of the person's spouse; and
  - (c) a child of the person under the *Family Law Act 1975* (Cth).
- (2) However, for the operation of a Beneficial Provision, a Child of a person is a Child under the Division Rules only if:
- (a) the Child is under 18 years;
  - (b) the Child is under 25 years and, in the opinion of the Trustee, is receiving full-time education at a school, college or university; or
  - (c) the Child, in the opinion of the Trustee, has a Disability at the Relevant Time the Beneficial Provision applies in relation to the person.
- (3) In this rule 3:

***Beneficial Provision*** means a provision of the Division Rules that provides for a benefit for a Child in the form of a pension.

***Disability*** see the *Disability Services Act 2006*, section 11.

**Relevant Time**, a Beneficial Provision applies in relation to a person, means the earliest time at which the provision would provide for a benefit to a Child, of the person, who is under 18 years.

*Example:*

If a provision provided for the payment of a benefit to a person's Child at the death of the person, the Relevant Time for the provision would be at the death of the person and the person's Child with a Disability would need to have the Disability at the death of the person to be a Child under the Division Rules.

#### **4 Single Unit of the State Public Sector**

For the Division Rules, all departments are taken to be a single Unit of the State Public Sector.

#### **5 Law to apply and interpretation**

- (1) The Division Rules shall be interpreted and construed in accordance with the law of Queensland.
- (2) A reference to legislation in the Division Rules is a reference to Queensland legislation, unless otherwise stated.
- (3) In interpreting the Division Rules:
  - (a) regard must be had to the origin of the Division Rules being the *Superannuation (State Public Sector) Deed 1990* under Queensland legislation; and
  - (b) the principles of interpretation that applied to Queensland legislation under the *Acts Interpretation Act 1954* immediately prior to the Transfer Time must be considered to the extent that they would have applied in interpreting a provision that had its origin in the *Superannuation (State Public Sector) Deed 1990*.
- (4) Unless the Trustee otherwise determines, or the context otherwise requires:
  - (a) a reference to the Government Division, the Division Rules or a provision of the Division Rules includes a reference to the scheme established by the *Superannuation (State Public Sector) Deed 1990* that was known as QSuper immediately prior to the Transfer Time, the terms of the repealed *Superannuation (State Public Sector) Deed 1990* or the corresponding provision of the repealed *Superannuation (State Public Sector) Deed 1990* immediately prior to its repeal); and
  - (b) any election or notice given, action taken or decision made by a beneficiary, employer sponsor or the QSuper Board under, or referred to in, a section of the *Superannuation (State Public Sector) Deed 1990* prior to its repeal is taken to be an election or notice given, action taken or decision made by the beneficiary, employer sponsor or the Trustee under, or referred to in, the corresponding provision of the Division Rules.

## **6 Participation Deed**

The Trustee and the Queensland Treasurer must enter into a Participation Deed that:

- (a) sets out the rules of each Closed Defined Benefit Category that are incorporated into the Division Rules; and
- (b) may also contain any other matters agreed between the Trustee and the Queensland Treasurer in relation to Employees and former Employees of a Unit of the State Public Sector under the *Superannuation (State Public Sector) Act 1990*.

## **7 Application of Division Rules to categories of Members**

- (1) The Division Rules divides the membership of the Government Division into categories.
- (2) Different Chapters of the Division Rules apply to different categories of Members.
- (3) This Chapter applies to all Members.
- (4) Chapters 2, 4, 5, 6, 7, 8 and 9 are set out in the Participation Schedule and provide for the particular categories of Members to which they apply.
- (5) Chapter 3 and Chapter 10 provide for the particular categories of Members to which they apply.

## **8 References to period of membership etc. for Members transferring from Discontinued Schemes**

- (1) This rule 8 applies to a Member who, under Former Section 34 of the Act, ceased being a member of a Discontinued Scheme and became a Member of this Government Division in a category other than the Former Defined Benefit Category.
- (2) A reference in the Division Rules to the Member's period of membership includes a reference to the period for which the Member was a member of the Discontinued Scheme.
- (3) A reference in the Division Rules to the time the person became a Member is a reference to the time the Member became a member of the Discontinued Scheme.
- (4) A reference in the Division Rules to contributions or payments in relation to the Member under the Government Division includes a reference to the equivalent contributions or payments in relation to the Member under the Discontinued Scheme.
- (5) A reference in the Division Rules to the Member's salary at or for a time during membership includes a reference to the Member's salary at or for the relevant time during membership of the Discontinued Scheme.
- (6) A reference in the Division Rules to an entitlement under the Government Division in relation to the Member includes a reference to the equivalent entitlement in relation to the Member under the Discontinued Scheme.

- (7) A reference in the Division Rules to an election, approval or other decision under the Government Division in relation to the Member includes a reference to the equivalent election, approval or other decision in relation to the Member under the Discontinued Scheme.
- (8) A reference in the Division Rules to the doing or happening of anything else, or the existence of any other state of affairs, in relation to the Member includes a reference to the doing or happening of the equivalent thing, or the existence of the equivalent state of affairs, in relation to the Member while a member of the Discontinued Scheme.
- (9) Rules 8(2) to 8(8) apply except so far as the context or subject matter otherwise indicates or requires.
- (10) In this rule 8:  
*Former Defined Benefit Category* means the category by that name existing immediately after the commencement of Former Section 34 of the Act.  
*Former Section 34 of the Act* means the provision inserted in the *Superannuation (State Public Sector) Act 1990*, as section 34, by the *Superannuation and Other Legislation Amendment Act 1997*.

## **9 References to matters relating to other persons with entitlements under Discontinued Schemes**

- (1) This rule 9 applies to a person who was entitled to a benefit under a Discontinued Scheme, other than as a member of that scheme, immediately before that scheme was discontinued on the commencement of the *Superannuation and Other Legislation Amendment Act 1997*, part 6.
- (2) Rules 8(2) to 8(8) apply to the person as if a reference to a matter relating to membership were a reference to the equivalent matter relating to the person's entitlement to the benefit.
- (3) Rule 9(2) applies except so far as the context or subject matter otherwise indicates or requires.

## **Part 2 The Trustee**

### **10 Powers and authorities**

In addition to any other powers and authorities contained in the Deed, the Trustee may:

- (a) in case of legal incapacity of a person entitled to benefits, pay or apply such benefits or any part thereof, at its discretion to or for the benefit of such person as the Trustee may determine;
- (b) do all acts and things necessary to apply for and maintain an authorisation from APRA to offer a MySuper Product;



- (c) subject to rule 25, offer a MySuper Product the subject of an authorisation mentioned in rule 10(b);
- (d) enter into an arrangement with an entity under which the entity becomes a Standard Employer-Sponsor of the Fund in respect of the Government Division.

*Note:*

See, however, section 51 of the *Superannuation (State Public Sector) Act 1990*, in relation to particular government owned corporations (GOCs).

## **11 Discretionary power of the Trustee**

- (1) Where the Trustee is satisfied, after such inquiry as it thinks necessary, that a person has lost or ceased to be entitled to a right, privilege, or benefit under the Government Division to which that person was otherwise entitled or might have obtained, and that it is just and equitable that the person should be allowed to have the enjoyment of the right, privilege, or benefit, the Trustee may permit the person to exercise the right or grant to the person the privilege or benefit.
- (2) The Trustee may, in the exercise of its power under rule 11(1) impose such conditions and requirements as it may think just.

## **12 Trustee's liability**

Clause 10.9 of the Deed does not apply to the Government Division.

## **13 Amending the Division Rules**

- (1) Subject to rule 13(2) and the *Superannuation (State Public Sector) Act 1990*, the Trustee may, by deed poll, either prospectively or retrospectively, amend all or any of the provisions of the Division Rules, including this rule.
- (2) The Participation Deed may be amended in accordance with its terms.

# **Part 3 The Government Division**

## **14 Income and expenditure**

There shall be credited to the Fund and attributed to the Government Division:

- (a) all contributions paid by, or for, Members of the Government Division;
- (b) all positive investment earnings of the assets attributable to the Government Division;
- (c) all contributions paid by the Queensland Treasurer to the Government Division;

- (d) all contributions paid by an employer to the Government Division;  
and
- (e) all other moneys received by or on behalf of the Trustee in respect of the Government Division or transferred to the Government Division from another part of the Fund;

and there shall be paid from or debited to the Fund and attributed to the Government Division:

- (f) all Tax payable in relation to the Government Division;
- (g) all negative investment earnings of the assets attributable to the Government Division;
- (h) benefits payable in accordance with the Division Rules to persons who are entitled to benefits from the Government Division;
- (i) all the expenses for the establishment, amendment and operation of the Fund that are attributed to the Government Division incurred from time to time; and
- (j) all other amounts that the Trustee determines is to be paid from or debited to the Fund and attributed to the Government Division or transferred from the Government Division to another part of the Fund.

## **15 Assets of the Government Division**

- (1) The Trustee must keep Assets of the Government Division attributable to Defined Benefits (*Defined Benefit Assets*) separate from Assets of the Government Division attributable to any other category of the Government Division (*Assets of Another Category*).
- (2) Rule 15(1) does not apply to Assets of the Government Division used to pay Tax or Operational Expenses as long as rule 15(3) is complied with.
- (3) The Trustee must not:
  - (a) apply Defined Benefit Assets for the payment of amounts related to any other category of the Government Division; or
  - (b) apply Assets of Another Category for the payment of amounts related to Defined Benefits.
- (4) Rule 15(3) does not apply to changes to the Assets of the Government Division arising from the transfer of a Member's beneficial interest between the Defined Benefit Category and any other category of the Government Division.
- (5) If and to the extent that a Defined Benefit Member's entitlement to a Defined Benefit under the Division Rules would, at any time, require Assets of Another Category or assets attributable to any other Division,

including in either case any reserves, to be used to fund any part or all of the Member's Defined Benefit (the *remaining component of the Member's Defined Benefit*), at any time, then, despite any other provision in the Deed and the Division Rules, the Member's entitlement to the remaining component of the Member's Defined Benefit is deferred until the Trustee is able to fund that component from the Defined Benefit Assets.

- (6) In this rule 15:

*Defined Benefits* means benefits payable under the Division Rules to Defined Benefit Members.

*Defined Benefit Members* means Members in a Defined Benefit Category under the Division Rules.

*Operational Expenses* means expenses for the operation of the Government Division, including, for example, administration costs.

## **16 Reserves**

- (1) The Trustee must maintain a Government Division Reserve Account for the Government Division.
- (2) The Government Division Reserve Account may be credited with amounts as considered appropriate by the Trustee.
- (3) The Trustee may apply amounts held in the Government Division Reserve Account as it considers appropriate.
- (4) The Trustee may maintain any other reserves for the Government Division, including an insurance reserve and unallocated contributions reserve, for the purposes determined by the Trustee from time to time.

## **17 Recovery of overpayments**

- (1) Where a person has received payment of a benefit from the Government Division in excess of the payment to which that person is entitled under the Division Rules, the Trustee may recover from that person or that person's estate (if that person has died) in a court of competent jurisdiction as a debt due and owing to the Trustee the difference between the payment received by that person and the payment to which that person was entitled under the Division Rules.
- (2) Where a person who has received payment of a benefit from the Government Division in excess of the payment to which that person is entitled under the Division Rules, is entitled to a further payment from the Fund, that excess may be deducted from the further payment prior to it being paid to that person or that person's estate.
- (3) The Trustee may also deduct interest on the overpayment from the person's entitlement to a further payment from the Fund if the overpayment has been made:

- (a) because the Member or person receiving the payment gave False or Misleading Information to the Trustee; or
  - (b) in any other circumstances prescribed under the Division Rules.
- (4) However, the Trustee may deduct interest on the overpayment only if the Trustee gives written notice to the person:
- (a) stating the amount of the overpayment;
  - (b) requiring the person to pay the amount before a stated date (at least 30 days after receiving the notice); and
  - (c) stating that if the person does not pay the amount before the stated date, the Trustee may deduct the amount together with interest at a stated rate from the person's entitlement to a further payment from the Fund.
- (5) The rate of interest is to be decided by the Trustee.
- (6) Interest on the amount is payable from the stated date.
- (7) In rule 17(3):

***False or Misleading Information*** means information that the person giving it:

- (a) knows is false or misleading in a material particular; or
- (b) has omitted something from it, knowing the omission makes the information misleading in a material particular.

## **18 Recovery of unpaid contributions**

- (1) Any amount (including an amount of contribution to the Government Division) that is payable to the Trustee under the *Superannuation (State Public Sector) Act 1990* or the Division Rules may be recovered in a court of competent jurisdiction as a debt due and owing to the Trustee.
- (2) Any amount of contributions (including member or employer contributions that are payable under the governing rules of the Fund) to the Government Division that are unpaid at the time that a person becomes entitled to a benefit may be deducted from any benefits that are payable under the Division Rules before any payment is made to or in respect of that person.

## **19 Appointment of Actuary**

- (1) The Trustee shall from time to time arrange for the appointment of an Actuary to advise it in relation to the Government Division generally and in the particular instances where reference is made in the Division Rules to the advice of the Actuary.
- (2) A person appointed under rule 19(1) must be appointed in compliance with a RSE Licensee Law.

## 20 Actuarial reports

- (1) An investigation and report as to the state and sufficiency of the Government Division shall be made by the Actuary periodically so that there shall not be a period longer than 3 years between successive such investigations.
- (2) Any report given shall include:
  - (a) a statement of Assets of the Government Division;
  - (b) a statement as to any liability for benefit payments not expected to be financed out of the Assets of the Government Division or any future contributions to the Government Division; and
  - (c) any other matters which the Actuary may consider appropriate generally.
- (3) The Trustee must give:
  - (a) a copy of the Actuary's report to:
    - (i) the Queensland Treasurer; or
    - (ii) if required by the SIS Act or a prudential standard made under the SIS Act, APRA; or
  - (b) if a Member asks for a copy or an extract of the report, the copy or extract asked for by the Member.
- (4) The Trustee may also disclose a copy of the Actuary's report, or make a copy of the Actuary's report publicly available, in the way the Trustee considers appropriate.

## 21 Obligations if the Government Division is terminated

- (1) The Trustee may, with the consent of the Queensland Treasurer, terminate the Government Division.
- (2) This rule 21 applies, despite any other provision of the Division Rules, if the Government Division is terminated.
- (3) The Trustee must:
  - (a) decide the day (the *Date of Termination*) the Government Division is terminated;
  - (b) nominate another fund (the *Successor Fund*) which the Trustee is satisfied will confer on Members equivalent rights to the rights the Members have under the Deed and the Division Rules in relation to entitlements to benefits;
  - (c) enter into a written agreement with the trustee of the Successor Fund agreeing that the Successor Fund will confer on Members

equivalent rights to the rights the Members have under the Deed and the Division Rules in relation to entitlements to benefits;

- (d) give written notice to all Members of the Government Division stating the following:
    - (i) the Government Division is terminated;
    - (ii) the reasons the Government Division was terminated;
    - (iii) the details of the benefits and contributions under the Successor Fund, including matters relating to continuity of existing insurance cover for Members; and
    - (iv) the details of the operation of the Successor Fund, including matters relating to claims, made after the Date of Termination, relating to events happening before the Date of Termination;
  - (e) pay all outstanding expenses of the Government Division and make provision for any future expenses;
  - (f) determine an amount, on the advice of the Actuary, which is equal to the actuarial value of all Defined Benefit Members' Defined Benefits at the Date of Termination;
  - (g) transfer the Assets of the Government Division to the Successor Fund; and
  - (h) produce, and audit, a final set of financial statements for the Government Division.
- (4) For section 31(2) of the *Superannuation (State Public Sector) Act 1990*, the Trustee, on the advice of the Actuary, must determine the amount equal to the total of the following amounts:
- (a) an amount equal to the amount determined by the Trustee under rule 21(3)(f) less:
    - (i) any share of the Defined Benefits satisfied by contributions already paid under section 31 (or former section 29, as defined in section 31) of the *Superannuation (State Public Sector) Act 1990*; and
    - (ii) any share of the Defined Benefits satisfied by contributions already paid by the Defined Benefit Members to whom the benefits are payable and Accumulated Interest on the contributions; and
  - (b) an amount equal to the Tax liability payable in relation to the amount mentioned in rule 21(4)(a).

- (5) In this rule 21:

***Accumulated Interest***, on contributions paid by a Defined Benefit Member, means interest credited to the Member's account under the Division Rules that is attributable to the amount of the contributions.

***Defined Benefit Members*** means Members in a Defined Benefit Category under the Division Rules.

***Defined Benefits*** means benefits payable under the Division Rules to Defined Benefit Members.

## **Part 4      Membership**

### **22      Membership categories**

- (1) Each Member belongs to 1 or more of the following categories:
- (a) comprehensive accumulation category;
  - (b) basic accumulation category;
  - (c) general accumulation category;
  - (d) standard defined benefit category;
  - (e) State 58 category;
  - (f) State 72 category;
  - (g) police 68 category;
  - (h) police 74 category;
  - (i) fire category;
  - (j) parliament 70 category;
  - (k) income stream category.
- (2) The comprehensive accumulation, basic accumulation and general accumulation categories are ***Accumulation Categories***.
- (3) The other categories, other than the income stream category, are ***Defined Benefit Categories***.
- (4) A Member for whom contributions are being paid in a Defined Benefit Category is also a Member in the basic accumulation category if there is an amount in an Accumulation Account kept for the Member, or an amount is required under the Division Rules to be paid to an Accumulation Account kept for the Member.

- (5) A Member may not receive Employer contributions, or be required to make Member contributions, for the Member's membership in both an Accumulation Category and a Defined Benefit Category, for the same period, in relation to the same employment.
- (6) Rule 22(5) does not apply to:
  - (a) Employer contributions made for an Employed Member for the Member's membership in the State 72 category or police 74 category and the Member's membership in the basic accumulation category;
  - (b) voluntary contributions made under rule 47(2) for a Member by the Member's Employer, under an arrangement between the Member and the Employer, and Employer contributions made for the Member's membership in the standard defined benefit category;
  - (c) the following contributions made in relation to a New Legislative Assembly Member who receives an additional salary under the *Queensland Independent Remuneration Tribunal Act 2013*, section 42:
    - (i) Employer contributions made under rule 90 for the Member and Employer contributions made for the Member's membership in the standard defined benefit category;
    - (ii) Member contributions made by the Member under section 35 of the Participation Schedule and rule 88; or
  - (d) a Top-Up Amount paid to the Trustee under rule 45 on behalf of a Member by the Member's Employer.

## **23 Initial membership category for new Employed Members**

- (1) This rule 23 states the membership category to which a person who is an Employed Member belongs on becoming a Member of the Government Division (the *Person's Initial Category*).
- (2) If a Membership Notice states only 1 category for which the person is eligible, the Person's Initial Category is the category stated in the Membership Notice.
- (3) If a Membership Notice states more than 1 category for which the person is eligible, the person may choose 1 of the stated categories to be the Person's Initial Category by giving written notice to the Trustee.
- (4) If the person chooses a category under rule 23(3), the Person's Initial Category is the chosen category.
- (5) If the person does not choose a category under rule 23(3) but the Membership Notice states that membership of the Fund is compulsory for the person, the Person's Initial Category is as follows:



- (a) for a Non-Casual Employee:
  - (i) if the person is eligible for the comprehensive accumulation category, that category; or
  - (ii) otherwise, the basic accumulation category;
- (b) for a Casual Employee, the basic accumulation category.

## **24 Initial membership category for new Members other than Employed Members**

On becoming a Member of the Government Division, a person who is not an Employed Member belongs to:

- (a) the general accumulation category; or
- (b) if the person becomes a Member in the income stream category under Chapter 10, the income stream category.

## **25 MySuper Products**

- (1) Despite any other provision of the Division Rules, if the Trustee is authorised and decides to offer a MySuper Product any condition, standard or requirement of RSE Licensee Law which must be satisfied in relation to the MySuper Product is deemed to be included in the Division Rules for so long as it is so required.
- (2) A MySuper Product must have the following characteristics that are specified by section 29TC(1) of the SIS Act:
  - (a) a single diversified investment strategy is to be adopted in relation to assets of the Fund, to the extent that they are attributed to that MySuper Product;
  - (b) all Members who hold a beneficial interest of that MySuper Product are entitled to access the same options, benefits and facilities except to the extent that a benefit is provided by taking out risk insurance;
  - (c) amounts are attributed to Members who hold a beneficial interest of that MySuper Product in a way that does not stream gains or losses that relate to any assets of the Fund to only some of those Members, except to the extent permitted under a lifecycle exception (under section 29TC(2) of the SIS Act);
  - (d) the same process is to be adopted in attributing amounts to Members who hold a beneficial interest of that MySuper Product, except to the extent that a different process is necessary to allow for fee subsidisation by an employer or to comply with the fee cap on low balances under section 99G of the SIS Act;

- (e) if fee subsidisation by an employer is permitted, that subsidisation does not favour one Member who holds a beneficial interest of that MySuper Product and is an employee of a subsidising employer over another such Member who is an employee of that employer;
- (f) the only limitations imposed on the source or kind of contributions made by or on behalf of persons who hold a beneficial interest of that MySuper Product are those permitted under section 29TC(3) of the SIS Act;
- (g) a beneficial interest of that MySuper Product cannot be replaced with a beneficial interest of another class in the Fund, unless:
  - (i) the person who holds the interest consents in writing to that replacement no more than 30 days before it occurs; or
  - (ii) the person who holds the interest has died and the interest is replaced with a beneficial interest of another class in the Fund of a kind, and in the circumstances, prescribed by the SIS Regulations;
- (h) a beneficial interest of that MySuper Product (the *old interest*) cannot be replaced with a beneficial interest (the *new interest*) in another superannuation entity unless:
  - (i) the replacement is permitted, or is required, under a law of the Commonwealth; or
  - (ii) the person who holds the old interest consents in writing to the replacement with the new interest no more than 30 days before it occurs;
- (i) to the extent that assets of the Fund are attributed to that MySuper Product, a pension is not payable out of those assets by the Trustee on the satisfaction of a condition of release of benefits specified in a standard made under section 31(2)(h) of the SIS Act by a person who holds a beneficial interest of that class, unless the payment is derived from a benefit of the kind mentioned in section 62(1)(b)(ii) of the SIS Act provided to the Fund by an insurer;
- (j) no Member who holds a beneficial interest of that MySuper Product is precluded from holding a beneficial interest of another class in the Fund because of that fact; and
- (k) no Member is precluded from holding a beneficial interest of that MySuper Product because the Member holds a beneficial interest of another class in the Fund.

## **Part 5 Transfers between membership categories**

### **Section 1 General**

#### **26 Definitions for Part 5**

In this Part, except so far as the context or subject matter otherwise indicates or requires:

*Category* means a membership category.

*Transfer Amount* has the meaning set out in rule 34 or 35, as applicable.

#### **27 Eligibility to transfer**

A Member may transfer from one Category to another under this Part only if:

- (a) the Member is:
  - (i) an Employed Member;
  - (ii) a Member in the State 72 category and has made an election under section 191(2) of the Participation Schedule; or
  - (iii) a Member in the police 74 category and has made an election under section 299(2) of the Participation Schedule; and
- (b) a Membership Notice states that the Member is eligible for the other Category.

#### **28 Election to transfer**

- (1) A Member may transfer from one Category to another by giving to the Trustee a written election to transfer.
- (2) The election must include an election mentioned in rule 32(3) if:
  - (a) the transfer is from the standard defined benefit category to an Accumulation Category; and
  - (b) the Member is under the age of 55 years.
- (3) This rule 28 applies subject to rule 27 and Section 2.

#### **29 Transfer to basic accumulation category for Members turning 75**

- (1) If an Employed Member turns 75, the Member is transferred to the basic accumulation category.

- (2) This rule 29 applies despite rule 27(b).

**30 Transfer to general accumulation category for Members who are no longer Employed Members**

- (1) This rule 30 applies if:
  - (a) a person is an Employed Member in the basic accumulation category or the comprehensive accumulation category; and
  - (b) there is an amount kept for the person in an Accumulation Account for that Category.
- (2) If the person stops being an Employed Member, the person stops being a Member in the comprehensive accumulation category or basic accumulation category and is transferred to the general accumulation category.
- (3) This rule 30 applies despite rule 27(b).

**31 Transfer to initial Category for Members who again become Employed Members**

- (1) This rule 31 applies to a person who was transferred to the general accumulation category under rule 30(2) if:
  - (a) the person has not stopped being a Member of the Government Division; and
  - (b) the person again becomes an Employed Member.
- (2) On becoming an Employed Member again, the person is transferred to the Category that would be the Person's Initial Category under rule 23 if the person were becoming an Employed Member of the Government Division for the first time.
- (3) This rule 31 applies despite rule 27(b).

**Section 2 Transfer restrictions and effects of transfer**

**32 Accumulation Categories**

- (1) The following applies to a Member who transfers from the comprehensive accumulation category to another Category:
  - (a) any amount in the Member's Accumulation Account is not affected by the transfer;
  - (b) the Member stops being a Member in the comprehensive accumulation category.
- (2) The following applies to a Member who transfers from the basic accumulation category to another Category:

- (a) any amount in the Member's Accumulation Account is not affected by the transfer;
  - (b) the Member stops being a Member in the basic accumulation category.
- (3) If a Member in the standard defined benefit category who is under the age of 55 years transfers from the Category to an Accumulation Category, the Member must elect whether to:
  - (a) transfer an amount calculated under rule 34(4) to the Member's Accumulation Account; or
  - (b) keep the Member's entitlement under section 52(2) of the Participation Schedule.
- (4) If the Member makes an election under rule 32(3)(a), the Member stops being a Member in the standard defined benefit category when the Trustee pays the amount calculated under rule 34(4) to the Member's Accumulation Account.
- (5) If the Member makes an election under rule 32(3)(b), the Member starts to be a Member of the Accumulation Category at the time mentioned in rule 86, but does not stop being a Member of the standard defined benefit category merely because of the transfer.
- (6) If a Member in the State 72 category transfers from the Category to an Accumulation Category, the Member stops being a Member in the State 72 category when the Trustee pays the amount calculated under rule 34(5) or 35(3) to the Member's Accumulation Account.
- (7) If a Member in the police 74 category transfers from the Category to an Accumulation Category, the Member stops being a Member in the police 74 category when the Trustee pays the amount calculated under rule 34(6) or 35(4) to the Member's Accumulation Account.

### **33 Closed Defined Benefit Categories**

Subject to section 34 of the Participation Schedule, a person may not become a Member of, and a Member may not transfer to, a Closed Defined Benefit Category.

### **34 Transfer Amounts**

- (1) Subject to rule 34(2), this rule 34 applies to a Member who:
  - (a) is under the age of 55 years and transfers from the standard defined benefit category to an Accumulation Category and makes an election under rule 32(3)(a);
  - (b) is 55 years or more and transfers from the standard defined benefit category to an Accumulation Category; or

- (c) transfers from the State 72 category or police 74 category to an Accumulation Category.
- (2) This rule 34 does not apply to a Member to whom rule 35 applies.
- (3) On the transfer of the Member to the Accumulation Category, the Trustee must pay the amount stated in this rule 34 (the *Transfer Amount*) to the Member's Accumulation Account.
- (4) The Transfer Amount for a transfer from the standard defined benefit category is:
  - (a) for a Member mentioned in rule 34(1)(a), the amount that would have been credited to the Member's Accumulation Account, on the Transfer Day, if the Member had resigned and made a request under section 52(8) of the Participation Schedule; or
  - (b) for a Member mentioned in rule 34(1)(b), the amount that would have been credited to the Member's Accumulation Account under section 45B of the Participation Schedule, on the Transfer Day, if the Member had retired or otherwise left the service of the employer.
- (5) The Transfer Amount for a transfer from the State 72 category is:
  - (a) if the Member is less than 55 on the Transfer Day, the amount that would have been credited in the Government Division for the Member under section 191(4) of the Participation Schedule if the Member had ceased to be a Member in the State 72 category by resigning on the Transfer Day and had made an election under section 191(2) of the Participation Schedule; or
  - (b) if the Member is at least 55 on the Transfer Day, the following amount, calculated as if the Member had ceased to be a Member in the State 72 category by resigning on the Transfer Day:
    - (i) if the Member is entitled under Chapter 5 of the Participation Schedule to a lump sum, the amount of the lump sum;
    - (ii) if the Member is entitled under Chapter 5 of the Participation Schedule to a pension, the amount of the lump sum to which the Member would be entitled if the Member made an election under section 205 of the Participation Schedule to convert the pension to a lump sum.
- (6) The Transfer Amount for a transfer from the police 74 category is:
  - (a) if the Member is less than 55 on the Transfer Day, the amount that would have been credited in the Government Division for the Member under section 299(4) of the Participation Schedule if the Member had ceased to be a Member in the police 74 category by

resigning on the Transfer Day and had made an election under section 299(2) of the Participation Schedule; or

- (b) if the Member is at least 55 on the Transfer Day, the amount of the lump sum to which the Member would be entitled if the Member had retired on the Transfer Day and had made an election under section 312 of the Participation Schedule to convert to a lump sum the pension to which the Member would be entitled under section 290 or 291 of the Participation Schedule.

- (7) In this rule 34:

*Transfer Day* means the first day for which the Member's employer makes a contribution for the person's membership in the Accumulation Category to which the person is transferring.

### **35 Transfer Amounts for certain Members**

- (1) This rule 35 applies to a Member in the State 72 or police 74 category:
  - (a) on whose account an amount was credited to the Government Division under section 191(4) or 299(4) of the Participation Schedule; and
  - (b) who transfers from the State 72 or police 74 category to an Accumulation Category.
- (2) On the transfer of the Member to the Accumulation Category, the Trustee must pay the amount stated in this rule 35 (the *Transfer Amount*) to the Member's Accumulation Account.
- (3) The Transfer Amount for a transfer from the State 72 category is the amount credited in the Government Division on behalf of the Member under section 191(4) of the Participation Schedule, together with interest, calculated at the rate determined under section 191(9) of the Participation Schedule, for the period from the day the amount was credited in the Government Division to the day of the transfer.
- (4) The Transfer Amount for a transfer from the police 74 category is the amount credited in the Government Division on behalf of the Member under section 299(4) of the Participation Schedule, together with interest, calculated at the rate determined under section 299(10) of the Participation Schedule, for the period from the day the amount was credited in the Government Division to the day of the transfer.

## **Part 6 Death or Disablement Insurance**

### **36 Definitions for Part 6**

In this Part, except so far as the context or subject matter otherwise indicates or requires:

*Death or Disablement Insurance* has the meaning set out in rule 37(1).

*Insured Member* means a Member insured under rule 37(1).

### **37 Provision of Death or Disablement Insurance**

- (1) The Trustee may provide insurance to a Member against death or Disablement of the Member (*Death or Disablement Insurance*).
- (2) The Trustee may enter into a group life assurance policy to provide some or all of the insurance.
- (3) In this rule 37:

*Disablement* means Disablement that is:

- (a) Temporary Disablement;
- (b) Permanent and Partial Disablement; or
- (c) Total and Permanent Disablement.

### **38 Insurance terms**

- (1) The Trustee must decide the terms on which Death or Disablement Insurance is provided.
- (2) The terms of the insurance may, for example, include terms about the following matters:
  - (a) the process for applying for the insurance;
  - (b) the requirements, including any medical requirements, for eligibility to:
    - (i) become an Insured Member; or
    - (ii) increase the level of insurance cover provided to an Insured Member;
  - (c) benefits;
  - (d) the disclosure of relevant information to the Trustee for the Trustee to decide:
    - (i) an issue about the payment of a benefit;
    - (ii) whether the requirements mentioned in rule 38(2)(b) are satisfied; or
    - (iii) another issue relating to the proper conduct of the insurance scheme; and
  - (e) ending a Member's insurance cover.



### **39 Premiums**

Subject to it agreeing otherwise with an Insured Member, the Trustee may deduct premiums for the Member's Death or Disablement Insurance from the Member's Accumulation Account.

### **40 Transitional—Insured Persons under Previous Section 65, 84 or 88**

- (1) This rule 40 applies to a person (the *Insured Person*) who, immediately before 16 December 2013, had insurance under Previous Section 65, 84 or 88.
- (2) The Trustee must continue to provide the insurance to the Insured Person on the same terms.
- (3) However, the terms may be amended at any time after 16 December 2013.
- (4) The Trustee may cancel the Insured Person's insurance only if:
  - (a) under the terms, the person ceases to be insured; or
  - (b) the person has requested the cancellation.
- (5) In this rule 40:

*Previous Section 65, 84 or 88* means section 65, 84 or 88 of the *Superannuation (State Public Sector) Deed 1990* as in force before 16 December 2013.

## **Part 7 Medical and other evidence**

### **41 Persons to give information**

Every Member and every person claiming a benefit or making a withdrawal from an Accumulation Account or in receipt of a pension shall from time to time give the Trustee such information or evidence or such authorisation as may be necessary to obtain that information or evidence, and produce such documents, as the Trustee shall consider to be required for the purpose of the proper administration of the Government Division.

### **42 Medical examinations**

An Employed Member who lodges a claim for a benefit relating to Disablement shall submit to such medical examinations as the Trustee may reasonably direct.

## Part 8 Transfers in or out of the Government Division

### 43 Transfers in

- (1) The Trustee may in its absolute discretion receive from some other superannuation pension or like scheme or fund or from the trustees or administrators or other controlling body thereof or transfer from another Division any moneys in respect of a Member's, or a Prospective Member's, interest in that other scheme or fund or Division or from a life assurance office or from a previous employer of that Member or Prospective Member or from such other source approved by the Trustee.
- (2) If the Trustee receives or transfers an amount for a Member or a Prospective Member under rule 43(1), the Trustee must:
  - (a) pay the amount into the Member's or Prospective Member's Accumulation Account; or
  - (b) if the Member or Prospective Member has applied under rule 120 to start a Superannuation Income Stream, use the amount as Income Stream Funds for the income stream.
- (3) In this rule 43:

*Prospective Member* means a person who has applied to the Trustee to become a Member.

### 44 Transfers out

- (1) A payment made to another superannuation, pension or like scheme or fund under this rule 44 must comply with division 6.4 of the SIS Regulations.
- (2) The Trustee may pay to another superannuation, pension or like scheme or fund or transfer to another Division:
  - (a) for a Member who is not an Employed Member, an amount in the Member's Accumulation Account; or
  - (b) for an Employed Member:
    - (i) an amount in the Member's Accumulation Account that was received under rule 43; or
    - (ii) on the conditions approved by the Trustee, an amount in the Member's Accumulation Account received other than under rule 43.

*Note:*

See also rules 123(2)(c)(ii) and 124(2)(d).

- (3) However, an amount mentioned in rule 44(2)(b)(ii) must not include an amount paid to the Member's Accumulation Account under rule 90(1) if the Member is an Employed Member in the basic accumulation category and also a Member in the State 72 or police 74 category.
- (4) If a Member is transferred from a Unit of the State Public Sector to another entity because of the transfer of a function of the Unit of the State Public Sector to the entity, the Trustee may pay to the entity's superannuation, pension or like scheme or fund or transfer to another Division an amount representing the Member's entitlement under the Government Division as decided by the Trustee on the advice of the Actuary.

## Part 9 Superannuation guarantee shortfall

### 45 Additional contributions to be made by Employer for certain Members

- (1) This rule 45 does not apply for a financial year if a Member and Employer enter into an agreement under rule 91.
- (2) If, in a period, the contributions paid to the Trustee by an Employer of a Member on behalf of the Member is less than the Charge Percentage of the Ordinary Time Earnings paid by the Employer to the Member for the period, the Employer must pay an amount (a **Top-Up Amount**) equal to the difference to the Trustee.
- (3) If the Trustee receives a Top-Up Amount on behalf of a Member, the Trustee must credit the Member's Accumulation Account with the amount.
- (4) In this rule 45:

**Ordinary Time Earnings** means the total of the following:

- (a) earnings for ordinary hours of work, other than any of the following payments made to an employee on the termination of the employee's employment:
  - (i) a payment for unused sick leave; or
  - (ii) an unused annual leave payment, or unused long service leave payment, within the meaning of the *Income Tax Assessment Act 1997* (Cth); and
- (b) amounts for over-award payments, shift loadings or commissions.

## Part 10 Contributions—general

### Section 1 Contributions paid by Queensland Treasurer

#### 46 Contributions to Government Division paid by the Queensland Treasurer, *Superannuation (State Public Sector) Act 1990*, section 31

- (1) The contributions payable under section 31(1)(a) of the *Superannuation (State Public Sector) Act 1990* must be paid when the Defined Benefit Member becomes entitled to the Defined Benefit, regardless of whether or not the Defined Benefit is paid out of the Government Division.
- (2) The contributions payable under section 31(1)(b) of the *Superannuation (State Public Sector) Act 1990* must be paid in accordance with the Participation Deed.
- (3) In this rule 46:

***Defined Benefit***, for a Defined Benefit Member, means a benefit to which the Member is entitled under the Division Rules.

***Defined Benefit Member*** means a Member in a Defined Benefit Category.

### Section 2 Accepting contributions paid by or for a Member

#### 47 Acceptance of contributions

- (1) The Trustee may accept a contribution made by or for a Member under the Division Rules only if the contribution is made in accordance with the SIS Regulation 7.04.
- (2) In addition, the Trustee may in its absolute discretion accept a Voluntary Contribution made by or for a Member.
- (3) If the Trustee accepts a Voluntary Contribution, the contribution must be credited to the Member's Accumulation Account.
- (4) If the Trustee is not permitted to accept a contribution, the Trustee must return the contribution in accordance with the SIS Regulation 7.04(4).
- (5) In this rule 47:

***Voluntary Contribution*** means a contribution that is not required to be made under the Division Rules.

## **Part 11      Miscellaneous**

### **48      Information to Members**

The Trustee shall supply in writing to each Member:

- (a)      on becoming a Member;
- (b)      after the close of each financial year;
- (c)      upon ceasing to be a Member; and
- (d)      at other times required under a RSE Licensee Law;

a statement containing such information as the Trustee considers necessary or desirable to give that Member reasonable knowledge of that Member's entitlements from the Government Division.

### **49      Returns**

- (1)      Each Unit of the State Public Sector which employs a person who might become entitled to a benefit from the Government Division in accordance with the Division Rules is to furnish to the Trustee, in such form and at or within such times as the Trustee directs, returns with respect to such matters as the Trustee directs.
- (2)      A person who:
  - (a)      is an Employee of a Unit of the State Public Sector who might become entitled to a benefit from the Government Division;
  - (b)      was an Employee of a Unit of the State Public Sector who being entitled to a benefit from the Government Division preserved that entitlement; or
  - (c)      is a Member of the Government Division;is to furnish to the Trustee information with respect to such matters concerning that person as the Trustee may require.
- (3)      If a person fails to comply with a requirement under rule 49(2) relevant to establishing the person's entitlement to a benefit, the Trustee must withhold the benefit until the entitlement can be established.

### **50      Barring of claims for compensation**

No Member is entitled to any compensation by reason of the alteration of any benefit payable under the Government Division which may lawfully be made in consequence of any actuarial investigation or otherwise.

## 51 Rounding of monetary amounts

The amount of a contribution or benefit calculated under the Division Rules, when expressed in dollars and cents, must be rounded to the nearest cent.

## Part 12 Particular agreements and court orders under *Family Law Act 1975 (Cth)*

### 52 Definitions for Part 12

In this Part, except so far as the context or subject matter otherwise indicates or requires:

**1999 Cashable Amount**, for a Member, means the amount that is the 1999 cashable amount for the Member under the Chapter for the particular category of Members to which the Member belongs.

*Note:*

For a particular Member's 1999 Cashable Amount, see definition *1999 cashable amount* in section 32 (Definitions for ch 2), section 165 (Interpretation) or section 280 (Interpretation) of the Participation Schedule or definition *1999 Cashable Amount* in rule 85 (Definitions for Chapter 3).

**Agreement or Court Order** means an agreement or court order mentioned in the definition of Entitled Former Spouse.

**Component**, of a Member's Fund Amount, means the Member's 1999 Cashable Amount, Non-Preserved Transfer Amount or Preserved Amount under the Government Division.

**Entitled Former Spouse** means a person who is entitled or conditionally entitled, under an agreement under the *Family Law Act 1975 (Cth)* or a court order under that Act, to payment of an amount from the Government Division.

**Fund Amount** has the meaning set out in rule 54(5).

**Operative Time**, for an Agreement or Court Order, means the operative time, under the *Family Law Act 1975 (Cth)*, part VIIIB, for the Agreement or Court Order.

**Preserved Amount**, for a Member, means the amount that is the Member's preserved amount for the Government Division under the Chapter for the particular category of Members to which the Member belongs.

*Note:*

For a particular Member's Preserved Amount for the Government Division, see section 55A (Preserved amount), section 165A (Preserved amount) or section

280A (Preserved amount) of the Participation Schedule or rule 109 (Preserved amount).

***Splittable Payment*** see the Family Law Act 1975 (Cth), section 90XE.

***Transfer Amount*** has the meaning set out in rule 54(5).

### **53 Calculating Member's entitlement**

The Trustee must calculate a Member's entitlement for an Agreement or Court Order in the way decided by the Trustee on the advice of the Actuary.

### **54 Dealing with Agreement or Court Order**

- (1) This rule 54 applies if the Trustee receives an Agreement or Court Order.
- (2) The Trustee:
  - (a) must, in accordance with the requirements under the Agreement or Court Order, either:
    - (i) pay the Entitled Former Spouse the proportion of the Splittable Payment to which the Entitled Former Spouse is entitled under the Agreement or Court Order effective from the Operative Time; or
    - (ii) transfer the amount to which the Entitled Former Spouse is entitled under the Agreement or Court Order to the Entitled Former Spouse's Accumulation Account effective from the Operative Time; and
  - (b) may take other action necessary to comply with the requirements under the Agreement or Court Order.
- (3) If the Trustee is to act under rule 54(2)(a)(ii) and the Entitled Former Spouse does not have an Accumulation Account, the Trustee must establish an Accumulation Account for the Entitled Former Spouse effective from the Operative Time for the Agreement or Court Order.
- (4) If the Trustee pays the Entitled Former Spouse a proportion of the Splittable Payment under rule 54(2)(a)(i), the Trustee must reduce the Splittable Payment that, other than for the Agreement or Court Order, would have been payable from the Government Division to the Member by the proportion of the Splittable Payment paid to the Entitled Former Spouse.
- (5) If the Trustee transfers an amount to the Entitled Former Spouse's Accumulation Account under rule 54(2)(a)(ii), the Trustee must reduce the amount that, other than for the Agreement or Court Order, would have been payable from the Government Division to the Member (the ***Fund Amount***) by the amount transferred to the Entitled Former Spouse (the ***Transfer Amount***).

- (6) For rule 54(5), the Trustee:
  - (a) must reduce the Member's Fund Amount in the way decided by the Trustee on the advice of the Actuary, subject to rule 54(6)(b); and
  - (b) must reduce each Component of the Member's Fund Amount in equal proportions.

#### **55 How Transfer Amount is dealt with**

- (1) This rule 55 applies in relation to an Entitled Former Spouse who receives a Transfer Amount in relation to a Member.
- (2) Subject to rule 55(3), each part of a Component of the Member's Fund Amount that is transferred, under the Agreement or Court Order, to the Entitled Former Spouse's Accumulation Account is taken to be an amount of that type of Component for the Entitled Former Spouse.
- (3) If a part of the Member's 1999 Cashable Amount is transferred, the part is taken to be a Preserved Amount for the Government Division.

#### **56 Agreement or Court Order for pension or Superannuation Income Stream being paid to a Member**

- (1) This rule 56 applies if the Trustee receives an Agreement or Court Order for a Splittable Payment that, at the Operative Time, is:
  - (a) a pension being paid to a Member under Chapter 4, 5, 6 or 7 of the Participation Schedule, other than an incapacity benefit or incapacity pension; or
  - (b) a Superannuation Income Stream under Chapter 10 whose Agreed Features, within the meaning of rule 115, permit the treatment mentioned in this rule 56.
- (2) The Trustee must:
  - (a) pay the Entitled Former Spouse for the Agreement or Court Order the proportion of the pension or income stream to which the Entitled Former Spouse is entitled under the Agreement or Court Order (the *Spouse's Entitlement*); and
  - (b) reduce the pension or income stream that, other than for the Agreement or Court Order, would be payable to the Member, by the Spouse's Entitlement.
- (3) Subject to rule 56(4), the Trustee must pay the Spouse's Entitlement as a pension or Superannuation Income Stream for the period:
  - (a) starting at the Operative Time; and
  - (b) ending on the day the pension or income stream being paid to the Member is no longer payable to the Member.



- (4) The Trustee must pay the Entitled Former Spouse a pension or Superannuation Income Stream for his or her lifetime (a ***Lifetime Pension***) if the Entitled Former Spouse elects to be paid a Lifetime Pension.
- (5) An election for rule 56(4) must be:
  - (a) in writing; and
  - (b) given to the Trustee within 3 months after the Trustee receives the Agreement or Court Order.
- (6) If the Entitled Former Spouse elects to be paid a Lifetime Pension, it must be worked out in the way decided by the Trustee on the advice of the Actuary.

**57 Effect of Agreement or Court Order on particular benefit**

- (1) This rule 57 applies to a person who:
  - (a) is an Entitled Former Spouse who receives a Transfer Amount in relation to a Member; and
  - (b) after receiving the Transfer Amount, becomes eligible under Chapter 4, 5, 6 or 7 of the Participation Schedule to receive a benefit in the person's capacity as the Member's spouse.
- (2) Despite Chapter 4, 5, 6 or 7 of the Participation Schedule, the person is not entitled to receive the benefit.

**58 Agreement or Court Order does not affect particular Members' benefits**

- (1) This rule 58 applies in relation to a Member whose Fund Amount is reduced under an Agreement or Court Order.
- (2) The reduction does not reduce or otherwise affect any of the following benefits the Member is entitled to under the Government Division:
  - (a) income protection benefit payable under section 50 of the Participation Schedule;
  - (b) incapacity benefit payable under Chapter 4 of the Participation Schedule;
  - (c) incapacity pension payable under Chapter 5 of the Participation Schedule.

## **Part 13      Amounts claimed under the *Bankruptcy Act 1966* (Cth)**

### **59      Benefits affected by a Freezing Notice**

- (1) This rule 59 applies if the Trustee receives a Freezing Notice from the Official Receiver in relation to a benefit of a Member (the *Affected Member*).
- (2) The Trustee must not pay the benefit to the Member or transfer the Member's benefit under rule 44 unless:
  - (a) the payment or transfer is for a purpose under the *Bankruptcy Act 1966* (Cth), section 128E(2);
  - (b) the payment or transfer has the consent of the Official Receiver under *Bankruptcy Act 1966* (Cth), section 128H;
  - (c) there has been a revocation of the Freezing Notice under the *Bankruptcy Act 1966* (Cth), section 128F; or
  - (d) the Freezing Notice has been set aside by a court under the *Bankruptcy Act 1966* (Cth), section 128J.
- (3) The Trustee must give a copy of the Freezing Notice to the Affected Member.
- (4) In this rule 59:

*Freezing Notice* means a superannuation account-freezing notice under the *Bankruptcy Act 1966* (Cth), section 128E(2).

*Official Receiver* means an official receiver under the *Bankruptcy Act 1966* (Cth).

### **60      Amounts deducted under the *Bankruptcy Act 1966* (Cth)**

- (1) This rule 60 applies if:
  - (a) the Trustee receives a notice to pay an amount from a Member's benefit under the *Bankruptcy Act 1966* (Cth), section 139ZQ; or
  - (b) an order for the payment of an amount from a Member's benefit has been made under the *Bankruptcy Act 1966* (Cth), sections 128K or 139ZU.
- (2) The Trustee must deduct the amount from the Member's benefit and pay the amount to the person nominated in the notice or order.

## Part 14 Amounts forfeited under proceeds of crime legislation

### 61 Benefits affected under proceeds of crime legislation

- (1) This rule 61 applies if, on or after 27 January 2012, all or part of a Member's benefit is forfeited (the *Forfeited Amount*) to the Commonwealth or a State under a Forfeiture Law, whether under a court order or otherwise.
- (2) The Trustee must:
  - (a) deduct the Forfeited Amount from the Member's benefit; and
  - (b) pay the Forfeited Amount as required under the Forfeiture Law.
- (3) In this rule 61:

*Forfeiture Law* means a law of the Commonwealth or a State mentioned in the table in SIS Regulation 5.08(1A).

*Note:*

The following sections of the *Criminal Proceeds Confiscation Act 2002* are Forfeiture Laws:

- section 58 (Making forfeiture order)
- section 58A (Forfeiture order relating to external serious crime related activity)
- section 151 (Making forfeiture order)
- Chapter 3, part 5 (Automatic forfeiture).

## Part 15 Binding Death Benefit Nominations

### 62 Definitions for Part 15

In this Part, except so far as the context or subject matter otherwise indicates or requires:

*Binding Death Benefit Nomination* means a notice that complies with the requirements under SIS Regulation 6.17A.

*Eligible Death Benefit*, for a Member, means a benefit that would, on the Member's death, be payable to the Member's Legal Personal Representative or other person approved or decided by the Trustee under any of the following provisions:

- (a) rule 105;

- (b) section 107(3) of the Participation Schedule;
- (c) section 115 of the Participation Schedule;
- (d) section 123(1) and (3) of the Participation Schedule;
- (e) section 124(1) of the Participation Schedule;
- (f) section 141(2) of the Participation Schedule;
- (g) section 155(6) of the Participation Schedule;
- (h) section 185(1) of the Participation Schedule;
- (i) section 191(4), (10) and (12) of the Participation Schedule;
- (j) section 211(7) of the Participation Schedule;
- (k) section 231(3) of the Participation Schedule;
- (l) section 239 of the Participation Schedule;
- (m) section 246(1) and (3) of the Participation Schedule;
- (n) section 247(1) of the Participation Schedule;
- (o) section 262(2) of the Participation Schedule;
- (p) section 294(1) of the Participation Schedule;
- (q) section 299(4) and (11) of the Participation Schedule;
- (r) section 340(6) of the Participation Schedule; or
- (s) rule 122(4).

*Note:*

A Superannuation Income Stream is payable under rule 122(4) only if there is no Reversionary Beneficiary for the income stream.

### **63 Giving Binding Death Benefit Nomination**

A Member may give the Trustee a Binding Death Benefit Nomination for the Member's Eligible Death Benefits.

### **64 Effect of Binding Death Benefit Nomination on Eligible Death Benefits**

- (1) If there is a Binding Death Benefit Nomination in effect for a Member's Eligible Death Benefits, the Eligible Death Benefits must be paid in compliance with the SIS Regulation 6.17A.

- (2) Rule 64(1) applies despite any other provision of the Division Rules providing for payment of an Eligible Death Benefit to the Member's Legal Personal Representative or other person approved or decided by the Trustee.

## **Part 16 Deferred retirement benefit amounts**

### **65 Deferred retirement benefit amount**

- (1) The purpose of this rule 65 is to declare what is a deferred retirement benefit amount.

*Note:*

Under the SIS Regulation 1.04(3A)(d)(ii), a Member who has a deferred retirement benefit amount is taken to be a defined benefit member for the SIS Act, section 20B or part 2C.

- (2) A deferred retirement benefit amount is:
  - (a) an amount mentioned in section 52(2) of the Participation Schedule until it is credited under that subsection; or
  - (b) an amount credited to the Government Division under section 141(2), 191(4), 262(2) or 299(4) of the Participation Schedule until it is paid under that subsection.

## **Part 17 Access on compassionate and severe financial hardship grounds**

### **Section 1 Preliminary**

#### **66 Definitions for Part 17**

In this Part, except so far as the context or subject matter otherwise indicates or requires:

*Accessible Amount*, for a Member, means the total of the following amounts:

- (a) the amount (if any) in the Member's Accumulation Account but, if contributions are being made for the Member's membership in the State 72 or police 74 category, excluding:
  - (i) each amount paid by an Employer under rule 90 (the *First Amount*), less an amount mentioned in rule 102(3) applicable to the First Amount; and

- (ii) earnings under rule 103 on each amount paid by an Employer under rule 90;
- (b) if the Member is a Member in the standard defined benefit category, the Member's Defined Benefit Amount.

**Commonwealth Income Support Agency** means a Commonwealth department or agency responsible for administering a class of Commonwealth Income Support Payments.

**Commonwealth Income Support Payment** has the meaning given by the SIS Regulation 6.01(2).

**Component**, of a Member's Accessible Amount, means an amount mentioned in definition of *Accessible Amount*, paragraph (a) or (b).

**Defined Benefit Amount**, for a Member in the standard defined benefit category, means:

- (a) if the Member has attained the age of 55 years, the amount that would be payable from the Government Division to the Member as a Member in the standard defined benefit category if the Member retires; or
- (b) if the Member is under the age of 55 years and is an Employed Member:
  - (i) the amount that would be credited to the Member's Accumulation Account under section 52 of the Participation Schedule for the Member's current employment if the Member resigns and makes a request under section 52(8) of the Participation Schedule; and
  - (ii) the amount (if any) mentioned in section 52(2) of the Participation Schedule that would be credited to the Member's Accumulation Account for the Member's previous employment if the Member makes a request under section 52(8) of the Participation Schedule; or
- (c) if the Member is under the age of 55 years and is not an Employed Member, the amount mentioned in section 52(2) of the Participation Schedule that would be credited to the Member's Accumulation Account if the Member makes a request under section 52(8) of the Participation Schedule.

**Financial Hardship Payment** has the meaning set out in rule 68(1).

**Severe Financial Hardship Ground** means a ground applying to a Member under rule 69.

## **Section 2 Access on Compassionate Grounds**

### **67 Access to Accessible Amount on Compassionate Grounds**

- (1) This rule 67 applies if under SIS Regulations:
  - (a) a Member applies to the Commonwealth Decision-Maker for payment of the whole, or a part, of the Member's Accessible Amount; and
  - (b) the Commonwealth Decision-Maker decides that the Member is entitled to a release of benefits on Compassionate Grounds.
- (2) The Trustee must pay to the Member the amount approved by the Commonwealth Decision-Maker (the *Approved Amount*).
- (3) If the Approved Amount is less than the Member's Accessible Amount and the Member's Accessible Amount comprises more than 1 Component, the Member may elect the Component that is to be used for paying the Approved Amount to the Member.
- (4) The election must:
  - (a) be made in writing to the Trustee; and
  - (b) state how much of the Approved Amount is to come from each Component of the Member's Accessible Amount.
- (5) If the Member elects for all or part of the Member's Defined Benefit Amount to be used for paying the Approved Amount to the Member, the Trustee must reduce the Member's Defined Benefit Amount by the part of it used for paying the Approved Amount.
- (6) The reduction in the Defined Benefit Amount mentioned in rule 67(5) must be made in the way decided by the Trustee on the advice of the Actuary.

## **Section 3 Access on ground of severe financial hardship**

### **68 Application for access**

- (1) A Member may apply to the Trustee for payment of the whole, or a part, of the Member's Accessible Amount on a Severe Financial Hardship Ground (*Financial Hardship Payment*).
- (2) An application under rule 68(1) must:
  - (a) be made in writing; and
  - (b) if the application relates to only part of the Member's Accessible Amount and the Member's Accessible Amount comprises more than 1 Component, state the Component that is to be used for making the Financial Hardship Payment to the Member.

**69 Access to Accessible Amount on Severe Financial Hardship Ground**

- (1) The Trustee may make a Financial Hardship Payment to the Member only if the Trustee is satisfied a Severe Financial Hardship Ground applies to the Member.
- (2) The payment may only be made as a single lump sum.
- (3) A Severe Financial Hardship Ground applies to a Member if:
  - (a) the Member gives the Trustee a written statement from a Commonwealth Income Support Agency stating:
    - (i) the Member has received Commonwealth Income Support Payments for a continuous period of 26 weeks; and
    - (ii) the Member was receiving the Commonwealth Income Support Payments at the date of the statement; and
  - (b) the Trustee is satisfied the Member cannot meet reasonable and immediate family living expenses.
- (4) Also, for a Member who has reached Preservation Age and 39 weeks or more, a Severe Financial Hardship Ground applies to a Member if:
  - (a) the Member gives the Trustee a written statement from a Commonwealth Income Support Agency stating the Member received Commonwealth Income Support Payments for a cumulative period of 39 weeks after the Member reached Preservation Age; and
  - (b) the Trustee is satisfied the Member was not employed for at least 10 hours a week on the date of the Member's application to the Trustee.
- (5) The date of the statement mentioned in rule 69(3)(a) must not be more than 21 days before the date of the Member's application to the Trustee.
- (6) If an application made under rule 68(2) states that all or part of the Member's Defined Benefit Amount is to be used for making a Financial Hardship Payment to the Member, the Trustee must reduce the Member's Defined Benefit Amount by the part of it used for making the Financial Hardship Payment.
- (7) The reduction in the Defined Benefit Amount mentioned in rule 69(6) must be made in the way decided by the Trustee on the advice of the Actuary.

**70 Limitations on access**

- (1) This rule 70 applies to a payment to a Member on the Severe Financial Hardship Ground stated in rule 69(3).
- (2) The Trustee may pay the Member:



- (a) a minimum amount of the lower of the following:
    - (i) \$1,000; and
    - (ii) the Member's Accessible Amount; and
  - (b) a maximum amount of \$10,000.
- (3) The Trustee may not make a further payment to the Member on the ground within 12 months after the payment.

## **Part 18 Withdrawals from account under taxation legislation**

### **71 Definitions for Part 18**

In this Part, except so far as the context or subject matter otherwise indicates or requires:

**Commissioner** means the commissioner of taxation under the *Income Tax Assessment Act 1997* (Cth).

**Debt Account Discharge Liability**, for a Superannuation Interest, has the meaning set out in the *Taxation Administration Act 1953* (Cth), schedule 1, section 133-120.

**Release Amount** has the meaning set out in rule 72(1)(b).

### **72 Payments under release authority generally**

- (1) This rule 72 applies if the Trustee:
  - (a) is given a release authority under Taxation Legislation for an amount held in a Member's Accumulation Account; and
  - (b) is, because of receiving the release authority, required, under the Taxation Legislation, to pay an amount (the **Release Amount**) to the Commissioner or the Member (the **Proper Recipient**).
- (2) The Trustee must withdraw the Release Amount from the Member's Accumulation Account and pay the amount to the Proper Recipient.

*Note:*

For examples of provisions of Taxation Legislation providing for payment of amounts under a release authority, see:

- the *Income Tax Assessment Act 1997* (Cth), subdivision 292-G
- the *Taxation Administration Act 1953* (Cth), schedule 1, division 135 and former division 96.

- (3) In this rule 72:

**Taxation Legislation** means the Income Tax Assessment Act 1997 (Cth) or the Taxation Administration Act 1953 (Cth).

### **73 Payments under release authority using pension for particular Members**

- (1) This rule 73 applies if:
- (a) under rule 72, the Trustee is required to pay a Release Amount to the Commissioner;
  - (b) the Release Amount relates to the Member's Debt Account Discharge Liability for a Superannuation Interest; and
  - (c) the Member belongs to a Closed Defined Benefit Category and:
    - (i) has elected to take all or part of the benefit payable to the Member for membership of that category in the form of a pension (the **Member's Pension**); or
    - (ii) is receiving an incapacity pension, other than an incapacity pension for a period of sick leave of absence without salary (also the **Member's Pension**).
- (2) The Member may elect that all or part of the Release Amount be paid from the Member's Pension:
- (a) as a lump sum; or
  - (b) at periodic intervals.
- (3) The election must:
- (a) be made in writing to the Trustee; and
  - (b) state the amount that is to be paid from the Member's Pension as mentioned in rule 73(2)(a) or 73(2)(b).
- (4) The amount mentioned in rule 73(3)(b) must be paid from the Member's Pension in the way decided by the Trustee on the advice of the Actuary.
- (5) The maximum amount of the Member's Pension that may be used to pay the Release Amount under this Part is the amount stated under rule 73(3)(b).

### **74 Payments under release authority using Defined Benefit Amount**

- (1) This rule 74 applies if:
- (a) under rule 72, the Trustee is required to pay a Release Amount to the Commissioner;

- (b) the Release Amount relates to the Member's Debt Account Discharge Liability for a Superannuation Interest; and
  - (c) the Member belongs to the standard defined benefit category.
- (2) The Member may elect that all or part of the Release Amount be paid from the Member's Defined Benefit Amount.
- (3) The election must:
  - (a) be made in writing to the Trustee; and
  - (b) state the amount that is to be paid from the Member's Defined Benefit Amount as mentioned in rule 74(2).
- (4) The amount mentioned in rule 74(3)(b) must be paid from the Member's Defined Benefit Amount in the way decided by the Trustee on the advice of the Actuary.
- (5) The maximum amount of the Member's Defined Benefit Amount that may be used to pay the Release Amount under this Part is the amount stated under rule 74(3)(b).
- (6) In this rule 74:  
*Defined Benefit Amount* has the meaning set out in rule 66.

## **Part 19 Superannuation contributions surcharge**

### **75 Definition for Part**

In this Part:

*Surcharge Debt Account*, for a Member, means the surcharge debt account kept for the Member under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (Cth), section 16.

### **76 References to benefits payable to Members**

- (1) In this Part, a reference to a benefit payable under the Division Rules to a Member includes a reference to a benefit payable to someone else who has derived an entitlement to the benefit through the Member.
- (2) However, rule 76(1) does not apply to a benefit payable to a Child in the form of a pension if the Child has derived an entitlement to the pension through the Member.

### **77 Amount to be deducted from benefits**

- (1) If a benefit is payable under the Division Rules to a Member, the Trustee must deduct from the employer-financed component of the benefit an amount equal to the balance of the Member's Surcharge Debt Account.
- (2) This rule 77 applies subject to rules 78 and 79.

**78 Limit on deduction on refund of certain contributions**

- (1) This rule 78 applies if a benefit is payable to:
  - (a) a police 74 Member or State 72 Member as a refund of contributions; or
  - (b) a parliament 70 Member.
- (2) The amount deducted under rule 77 must not be more than the total of the following amounts:
  - (a) 15% of the employer-financed component of the part of the benefit that accrued after 20 August 1996 and before 1 July 2003;
  - (b) 14.5% of the employer-financed component of the part of the benefit that accrued after 30 June 2003 and before 1 July 2004; and
  - (c) 12.5% of the employer-financed component of the part of the benefit that accrued after 30 June 2004 and before 1 July 2005.

**79 Deduction from benefits paid as pension**

- (1) This rule 79 applies if a benefit is payable to a Member in the form of a pension.
- (2) The Trustee must comply with rule 77 by reducing the pension, by an amount equal to the balance of the Member's Surcharge Debt Account, in the way decided by the Trustee on the advice of an Actuary.

**80 Election to take part of pension as a lump sum to meet surcharge liability**

- (1) This rule 80 applies to a Member who:
  - (a) is a former member of the Legislative Assembly who was elected before 17 December 2004;
  - (b) is being paid a benefit in the form of a pension for membership in the parliament 70 category; and
  - (c) is liable to pay a superannuation contributions surcharge under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (Cth), section 10, relating to the benefit.
- (2) The Member may elect to be paid a lump sum instead of a part of the pension.
- (3) The maximum amount that may be paid as a lump sum under the election is the amount of the liability mentioned in rule 80(1)(c).
- (4) The election must be:
  - (a) made in writing to the Trustee; and

- (b) accompanied by a copy of the Assessment stating the amount of the liability mentioned in rule 80(1)(c).
- (5) The Trustee must act on the election by reducing the pension by the amount of the lump sum.
- (6) The reduction must happen in the way decided by the Trustee on the advice of an Actuary.
- (7) In this rule 80:  
*Assessment* means an assessment of superannuation contributions surcharge made by the commissioner of taxation under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (Cth), section 15.

## Part 20 Transitional

### 81 Meaning of Commencement Day

In this Part:

*Commencement Day* means 1 May 2000, being the day on which part 9 of chapter 1 of the *Superannuation (State Public Sector) Deed 1990* commenced.

### 82 Membership categories

The following membership category applied, on the Commencement Day, to a Member who was, immediately before the Commencement Day:

- (a) an accumulation Member or preservation Member, basic accumulation category;
- (b) a defined benefit Member, standard defined benefit category;
- (c) a State 58 Member, State 58 category;
- (d) a State 72 Member, State 72 category;
- (e) a police 68 Member, police 68 category;
- (f) a police 74 Member, police 74 category; and
- (g) a fire Member, fire category.

### 83 Continuation of accounts

- (1) This rule 83 applied to any of the following accounts that, immediately before the Commencement Day, was kept for a Member:
  - (a) a voluntary contribution account;

- (b) a Member's account under rule 102; and
  - (c) a voluntary preservation account.
- (2) On the Commencement Day, the account continued as an Accumulation Account.

## **Chapter 2 Standard defined benefit category**

[Chapter 2 is set out in the Participation Schedule]

## **Chapter 3 Accumulation Categories**

### **Part 1 Preliminary**

#### **84 Application**

This Chapter applies to Members in the comprehensive accumulation category, basic accumulation category or general accumulation category.

#### **85 Definitions for Chapter 3**

In this Chapter, except so far as the context or subject matter otherwise indicates or requires:

***1999 Cashable Amount*** means:

- (a) for a Member who was an Employed Member at 30 June 1999, the amount in the Member's Accumulation Account that would have been payable to the Member at 30 June 1999 if the Member had ceased to be an Employed Member on 30 June 1999 for a reason other than:
  - (i) the Member's death; or
  - (ii) the Member's retirement, before reaching Preservation Age, because of Total and Permanent Disablement; or
- (b) for a Member who ceased to be an Employed Member before 30 June 1999, the amount in the Member's Accumulation Account that would have been payable to the Member, or that the Member could have withdrawn, at 30 June 1999 at the Member's request.

***Employer Contributions*** means contributions made to the Government Division under Part 2, Section 3.

***Member's Accumulated Employer Contributions*** means an amount equal to the Employer Contributions paid for the Member, plus any earnings credited on that amount to the Member's Accumulation Account under rule 103, less any fees, charges and insurance premiums paid from the contributions.

***Member's Accumulated Personal Contributions*** means an amount equal to the Member's personal contributions paid into the Member's Accumulation Account, plus any earnings credited on that amount to the account under rule 103, less any fees, charges and insurance premiums paid for the Member from the contributions.

***Preservation Cashing Condition:***

- (a) for a Member who has never been employed for at least 10 hours per week, means the Member:
  - (i) attaining the age of 65 years;
  - (ii) dying;
  - (iii) becoming Totally and Permanently Disabled;
  - (iv) is a former Temporary Resident who has applied to the Trustee for the release of their benefits and in relation to whom the Trustee is satisfied that the requirements in SIS Regulation 6.20B are satisfied; or
  - (v) has a terminal medical condition within the meaning of the SIS Regulation 6.01A; or
- (b) for another Member, means the Member:
  - (i) permanently retiring from the workforce after reaching Preservation Age;
  - (ii) ceasing an arrangement under which the Member was Gainfully Employed on or after reaching 60 years;
  - (iii) turns 65 years;
  - (iv) dying;
  - (v) becoming Totally and Permanently Disabled;
  - (vi) reaching Preservation Age after the Member has permanently retired from the workforce for a reason other than becoming Totally and Permanently Disabled;
  - (vii) is a former Temporary Resident who has applied to the Trustee for the release of their benefits and in relation to whom the

Trustee is satisfied that the requirements in SIS Regulation 6.20B are satisfied;

- (viii) ceasing to be an Employed Member at a time when the Member's preserved benefits in the Fund are less than \$200;
- (ix) is a lost member within the meaning of the SIS Regulations and the Member's benefit is less than \$200; or
- (x) has a terminal medical condition within the meaning of the SIS Regulation 6.01A.

***Salary:***

- (a) for a Member who is also a police 74 Member, means the rate of payment made by way of fixed remuneration to the Member and does not include an amount paid by way of fee or allowance;
- (b) for a Member who is a New Legislative Assembly Member and has not transferred from the comprehensive accumulation category to the standard defined benefit category under rule 28, means the total of the following:
  - (i) the salary paid to the Member under the *Queensland Independent Remuneration Tribunal Act 2013*, section 41;
  - (ii) any additional salary paid to the Member under the *Queensland Independent Remuneration Tribunal Act 2013*, section 42;
- (c) for a Member who is a New Legislative Assembly Member and has transferred from the comprehensive accumulation category to the standard defined benefit category under rule 28, means any additional salary paid to the Member under the *Queensland Independent Remuneration Tribunal Act 2013*, section 42; or
- (d) otherwise:
  - (i) has the meaning given by Chapter 5, section 165 of the Participation Schedule; but
  - (ii) includes an amount paid by way of fee or allowance that the Governor in Council has decided is to be included in the Member's salary.

*Note:*

See, however, rule 91(2) for the purposes of Salary in rule 90.

***Standard Compulsory Rate***, for an Employed Member, means:



- (a) if a Membership Notice states a standard compulsory rate for the Member as a condition of membership, the stated rate; or
- (b) otherwise, 5%.

## **86 When a person becomes a Member in an Accumulation Category**

- (1) A person becomes a Member in an Accumulation Category when an amount is paid to the person's Accumulation Account for the membership in the category.
- (2) However, if a person who is not a Member under rule 86(1) becomes a Relevant Employee and, at that time, the person's Employer must pay the contributions payable for the employee into the Government Division, the person becomes a Member in an Accumulation Category when the person becomes a Relevant Employee.
- (3) In this rule 86:  
*Relevant Employee* means a person:
  - (a) whose membership of the Fund is the subject of a Membership Notice; or
  - (b) whose Employer is a Standard Employer-Sponsor of the Fund in relation to the Government Division.

## **Part 2 Contributions for Employed Members**

### **Section 1 Application of Part**

#### **87 Application of Part**

This Part applies to Employed Members.

### **Section 2 Employee compulsory contributions**

#### **88 Compulsory contributions by Members in comprehensive accumulation category**

- (1) A Member in the comprehensive accumulation category must make contributions to the Government Division at the following rate of the Member's Salary:
  - (a) for a Member for whom a rate applies under a condition of membership stated in a Membership Notice, that rate;
  - (b) for a Member who nominates a rate under this rule, that rate;
  - (c) otherwise, the Standard Compulsory Rate for the Member.

- (2) A Member is taken to make the contributions required by rule 88(1) if, under an arrangement with the Member's Employer, the contributions are made by the Employer.
- (3) A Member in the comprehensive accumulation category, other than a Member mentioned in rule 88(1)(a), may give the Member's Employer a written notice nominating a rate, other than the Standard Compulsory Rate, at which the Member wishes to make contributions to the Government Division under rule 88(1).
- (4) The nominated rate may only be:
  - (a) if the Member is not a member of the Queensland Police Service and a Membership Notice states, as a condition of the person's membership, a rate or rates that the Member may nominate under this rule, a stated rate;
  - (b) if the Member is a member of the Queensland Police Service, 3%, 4%, 5% or 6%; or
  - (c) otherwise, 2%, 3%, 4% or 5%.

## **89 Deduction of compulsory contributions from Salary**

- (1) The Employer of a Member in the comprehensive accumulation category may deduct from the Member's Salary the contributions required under rule 88.
- (2) The Employer must give to the Trustee the amounts deducted under rule 89(1) at the times, and in the way, the Trustee reasonably requires, having regard to the proper administration of the Government Division.
- (3) If an Employer does not give an amount to the Trustee within the time required under rule 89(2), the Employer must pay interest on the outstanding amount at the rate calculated under rule 89(4).
- (4) The Trustee may calculate an interest rate, for a late payment mentioned in rule 89(3), that reflects the Member's lost earnings because of the late payment.

## **Section 3 Employer Contributions**

### **90 Payment of Employer Contributions**

- (1) On each payday, a Member's Employer must pay an amount equal to the Prescribed Percentage of the Salary paid to the Member on each payday to the Trustee for the Member.
- (2) Rule 90(1) applies subject to rules 47 and 91.
- (3) In this rule 90:

***Employee Contribution Rate***, for a Member in the comprehensive accumulation category, means the rate at which the Member is contributing under rule 88.

***Prescribed Percentage*** means:

- (a) for a Member in the basic accumulation category for whom Employer Contributions are being made, under another Chapter, for the same employment to which the membership in the basic accumulation category relates, nil;
- (b) for a Member in the basic accumulation category who is also a Member in the State 72 or police 74 category, 3%;
- (c) for a Member in the comprehensive accumulation category who is not a member of the Queensland Police Service:
  - (i) if the Employee Contribution Rate is 2%, 9.75%;
  - (ii) if the Employee Contribution Rate is 3%, 10.75%;
  - (iii) if the Employee Contribution Rate is 4%, 11.75%; or
  - (iv) if the Employee Contribution Rate is 5%, 12.75%;
- (d) for a Member in the comprehensive accumulation category who is a member of the Queensland Police Service:
  - (i) if the Employee Contribution Rate is 3%, 12%;
  - (ii) if the Employee Contribution Rate is 4%, 14%;
  - (iii) if the Employee Contribution Rate is 5%, 16%; or
  - (iv) if the Employee Contribution Rate is 6%, 18%; or
- (e) otherwise, the Charge Percentage.

## **91 Agreement on Salary for purposes of Employer Contributions**

- (1) This rule 91 applies if:
  - (a) a Member's Employer pays an amount to the Member's Accumulation Account that is equal to:
    - (i) the lowest prescribed percentage for the Member under rule 90(3), definition of *Prescribed Percentage*, paragraph (c);
    - (ii) the lowest prescribed percentage for the Member under rule 90(3), definition of *Prescribed Percentage*, paragraph (d); or

- (iii) the prescribed percentage for the Member under rule 90(3), definition of *Prescribed Percentage*, paragraph (e); and
  - (b) the total of Employer Contributions payable by the Employer to the Member's Accumulation Account for a financial year would be more than the Concessional Contributions Cap.
- (2) The Member and the Employer may agree on a Salary for the Member for rule 90 that would result in Employer Contributions for the Member for the financial year being equal to the Concessional Contributions Cap.
- (3) The agreement must:
  - (a) be in writing; and
  - (b) apply for a particular financial year.
- (4) A copy of the agreement must be given to the Trustee within 4 months after the beginning of the financial year for which the agreement applies.

## **92 Contributions while Member is on workers' compensation**

- (1) This rule 92 applies while a Member is receiving compensation under the *Workers' Compensation and Rehabilitation Act 2003* instead of Salary paid by an Employer.
- (2) The Employer must pay to the Trustee, on the Member's behalf, the amount payable under rule 90 as if the Member had been engaged in the Member's normal work.
- (3) Rule 92(2) applies subject to rule 91.

## **93 Method of payment**

All payments to be made to the Trustee by an Employer under this Part must be made by such method as the Trustee from time to time directs.

## **Section 4 Tax File Number**

### **94 Tax File Number not given to Trustee within 6 months**

- (1) This rule 94 applies if a Member in the comprehensive accumulation category:
  - (a) is making compulsory contributions to the Government Division other than under an arrangement with the Member's Employer under rule 88(2); and
  - (b) has not given the Trustee details of the Member's Tax File Number.

- (2) The Trustee must transfer the Member to the basic accumulation category if the Member does not give the Trustee details of the Member's Tax File Number within 6 months after becoming a Member.
- (3) If the Trustee transfers the Member to the basic accumulation category under rule 94(2) and the Member later gives the Trustee details of the Member's Tax File Number, the Trustee must transfer the Member back to the comprehensive accumulation category.

## **Part 3 Contributions generally**

### **Section 1 Spouse contributions—splitting amounts**

#### **95 Definitions for Section**

In this Section, except so far as the context or subject matter otherwise indicates or requires:

*Foreign Superannuation Fund* has the meaning set out in the *Income Tax Assessment Act 1997* (Cth), section 995-1(1).

*Splittable Contribution* has the meaning set out in rule 97.

*Spouse* has the meaning set out in rule 96.

*Transfer Amount* has the meaning set out in rule 100(2).

*Untaxed Splittable Contribution* means a contribution made to the Government Division other than a Taxed Splittable Contribution.

#### **96 Meaning of Spouse**

- (1) In this Section:

*Spouse* has the meaning set out in the SIS Act, section 10.
- (2) This rule 96 applies despite the *Acts Interpretation Act 1954*, section 32DA.

#### **97 Meaning of Splittable Contribution**

- (1) In this Section:

*Splittable Contribution* means one of the following contributions made to a Member's Accumulation Account on or after 1 January 2006:

  - (a) a Taxed Splittable Contribution;
  - (b) an Untaxed Splittable Contribution made before 6 April 2007.
- (2) However, each of the following is not a Splittable Contribution:

- (a) an amount paid to a Member's Accumulation Account under rule 90 for an Employed Member in the basic accumulation category who is also a Member in the State 72 or police 74 category;
- (b) an amount that has been transferred into a Member's Accumulation Account under rule 34(3) or 43;
- (c) a lump sum payment made to a Member's Accumulation Account from a Foreign Superannuation Fund.

## 98 Application of Section

This Section does not apply to a Member's interest in the Member's Accumulation Account:

- (a) that is subject to a payment split under the *Family Law Act 1975* (Cth), part VIII B; or
- (b) on which a payment flag under the *Family Law Act 1975* (Cth), part VIII B is operating.

## 99 Maximum amount for Splittable Contributions

- (1) The maximum amount for Taxed Splittable Contributions, in a financial year, is the lesser amount of either:
  - (a) 85% of the amount of Taxed Splittable Contributions made for a Member in the financial year; or
  - (b) the Concessional Contributions Cap.
- (2) However, the amount under rule 99(1) cannot be more than the amount of the Element Taxed in the Fund of the taxable component that would form part of the Superannuation Interest that would be payable if the applicant withdrew the whole amount in the applicant's Accumulation Account at the time of the Trustee giving effect to the application.
- (3) The maximum amount for Untaxed Splittable Contributions, in a financial year, is 100% of the amount of Untaxed Splittable Contributions made for a Member in the financial year.
- (4) However, the amount under rule 99(3) cannot be more than the amount of the Crystallised Segment that would form part of the Superannuation Interest that would be payable if the applicant withdrew the whole amount in the applicant's Accumulation Account at the time of the Trustee giving effect to the application.
- (5) In this rule 99:  
*Crystallised Segment* has the meaning set out in the *Income Tax Assessment Act 1997* (Cth), section 307-225.

**100 Application to transfer an amount into Spouse's Accumulation Account**

- (1) This rule 100 applies to a Member if the Member's Spouse is:
  - (a) less than the Preservation Age; or
  - (b) at least the Preservation Age but not more than 65 years and has not:
    - (i) permanently retired from the workforce after reaching Preservation Age; or
    - (ii) ceased to be an Employed Member on or after reaching 60 years.
- (2) The Member may apply to the Trustee to transfer into the Spouse's Accumulation Account an amount in the Member's Accumulation Account (the ***Transfer Amount***) that is not more than the maximum amount of Splittable Contributions made to the Government Division by or for the Member in the Relevant Financial Year.
- (3) However, the Member may not make an application under rule 100(2) if, in the financial year in which the application is made:
  - (a) the Member has already made an application (the ***First Application***) under this rule relating to the Relevant Financial Year; and
  - (b) the Trustee is considering, or has given effect to, the First Application.
- (4) The Member must state in the application:
  - (a) the part of the Transfer Amount that comprises the Member's Taxed Splittable Contributions; and
  - (b) the part of the Transfer Amount that comprises the Member's Untaxed Splittable Contributions.
- (5) Also the application must include a statement by the Member's Spouse that:
  - (a) the Member's Spouse is less than the Preservation Age; or
  - (b) the Member's Spouse is at least the Preservation Age but not more than 65 years and has not:
    - (i) permanently retired from the workforce after reaching Preservation Age; or
    - (ii) ceased to be an Employed Member on or after reaching 60 years.

- (6) In this rule 100:

***Preservation Age***, for a Spouse of a Member, has the meaning given in rule 1 as if the Spouse were a Member.

***Relevant Financial Year*** means:

- (a) if the whole amount in the Member's Accumulation Account is to be transferred into the Spouse's Accumulation Account, the financial year in which an application is made; or
- (b) otherwise, the last financial year that ended before the application is made.

## **101 Decision on application**

- (1) The Trustee may grant an application made under rule 100 if:
  - (a) the application complies with rule 100;
  - (b) the Trustee has no reason to believe that any statement made under rule 100(5) in relation to the application is untrue; and
  - (c) the Transfer Amount is not more than the maximum amount for Splittable Contributions made by the Member under rule 99.
- (2) If the Trustee grants the application, the Trustee must, within 90 days after the application is made:
  - (a) transfer the Transfer Amount into the Member's Spouse's Accumulation Account; and
  - (b) reduce the Member's Accumulation Account by the Transfer Amount.

## **Section 2 Member's Accumulation Account**

### **102 Member's Accumulation Account**

- (1) The Trustee must keep an account under this rule 102 (an ***Accumulation Account***) for each Member.
- (2) The following amounts must be credited to the Accumulation Account:
  - (a) contributions made for the Member;
  - (b) an amount required to be paid to the Accumulation Account under the Division Rules;
  - (c) any other amount payable to the Member under the Division Rules that the Trustee considers is most appropriately dealt with by payment to the Accumulation Account.
- (3) The following amounts must be debited from the Accumulation Account:



- (a) benefits paid to, or in relation to, the Member;
- (b) reasonable administrative fees and charges decided by the Trustee;

*Note:*

For the fees that may be charged for a MySuper Product, see the SIS Act, sections 29V and 29VA.

- (c) if relevant, a provision for Tax;
- (d) any insurance premiums payable by the Member;
- (e) any other amount payable by the Member under the Division Rules that the Trustee considers is most appropriately dealt with by payment from the Accumulation Account.

### **103 Crediting of earnings**

- (1) The Trustee must credit a Member's Accumulation Account with the amount, decided by the Trustee, that reasonably reflects the after Tax earnings derived from the investment of the amount in the Accumulation Account.
- (2) In deciding the amount, the Trustee must have regard to:
  - (a) the cost of administering all Accumulation Accounts;
  - (b) the charges incurred in the investment of amounts in all Accumulation Accounts;
  - (c) the allocation to, or deduction from, a reserve held for smoothing returns from the investment of amounts in all Accumulation Accounts; and
  - (d) if, under rules established by the Trustee under clause 7.4 of the Deed, Members may choose between 2 or more Investment Portfolios, the Investment Portfolios chosen by the Member for the Accumulation Account.

## **Part 4 Benefits and payments**

### **Section 1 Benefits**

#### **104 Time for payment of benefits**

- (1) Subject to rule 107, this rule 104 applies if a Preservation Cashing Condition for a Member has happened and the Member has applied, in writing, to the Trustee for payment to the Member of the whole, or part, of the amount in the Member's Accumulation Account.

- (2) The Trustee must pay to the Member the amount in the Member's Accumulation Account or, if a lesser amount is requested by the Member, the lesser amount.

#### **105 Persons entitled to payment of benefits**

A benefit payable under this Section must be paid to the Member or, if the Member is dead, to the Member's Legal Personal Representative or to such individual as the Trustee after the receipt of an application for the payment thereof in its sole discretion may determine.

#### **106 Application to be made for benefits**

A Member or individual claiming to be entitled to the benefit of a deceased Member shall make application to the Trustee for the payment of the benefit in such manner and produce such evidence of entitlement to payment of the benefit as the Trustee in its sole discretion may determine.

#### **107 Application for benefit by particular Members**

- (1) This rule 107 applies to an application under this Section for payment of the amount in the Accumulation Account of a Member who:
  - (a) was a Temporary Resident whose visa has ceased to be in effect; and
  - (b) has left Australia.
- (2) The application must be accompanied by:
  - (a) a written statement, from the Commonwealth department in which the *Migration Act 1958* (Cth) is administered, stating the Member:
    - (i) was a Temporary Resident but the Member's temporary visa has ceased to be in effect; and
    - (ii) has left Australia; or
  - (b) if the amount in the Member's Accumulation Account is less than \$5,000:
    - (i) a copy of a visa, or other evidence of a visa, showing the Member was a Temporary Resident but the Member's temporary visa has ceased to be in effect; and
    - (ii) a copy of the Member's passport showing the Member has left Australia.
- (3) For rule 107(2)(a), the statement may be in electronic form.
- (4) The payment may only be made as a single lump sum.

- (5) Rule 107(6) applies to any additional amount payable to the Member under the Division Rules that:
  - (a) is received by the Government Division after payment of the amount in the Member's Accumulation Account; and
  - (b) relates to the Member's employment before the application was made.
- (6) The additional amount must be paid to the Member without the Trustee requiring a further application from the Member for the amount.

#### **108 Transfer of benefits**

- (1) If a benefit is paid to a Member under Chapter 5, section 183(2) or 185 or Chapter 7, section 292(2) or 294 of the Participation Schedule, there must be applied to the payment an amount that is the total of:
  - (a) an amount paid by an Employer under rule 90 (the *First Amount*), less an amount mentioned in rule 102(3) applicable to the First Amount; and
  - (b) interest, under rule 103, on an amount paid by an Employer under rule 90.

#### **109 Preserved amount**

- (1) If a Preservation Cashing Condition for a Member has happened, none of the amount in the Member's Accumulation Account is a preserved amount for the Government Division.
- (2) If a Preservation Cashing Condition for a Member has not happened, each of the following amounts in the Member's Accumulation Account is a preserved amount for the Government Division:
  - (a) either:
    - (i) if the matters mentioned in rule 109(3)(a) and 109(3)(b) apply to the Member, the amount mentioned in rule 109(4); or
    - (ii) otherwise, an amount transferred to the Accumulation Account under rule 34;
  - (b) the amount in excess of the total of:
    - (i) the Member's 1999 Cashable Amount;
    - (ii) a Non-Preserved Transfer Amount received by the Trustee for the Member after 30 June 1999; and
    - (iii) an amount transferred to the Accumulation Account, under another Chapter of the Division Rules, other than as a preserved amount;

- (c) the Transfer Amount paid to the Accumulation Account under rule 35(3), unless, before the Member made an election under rule 28 to transfer from the State 72 category to an Accumulation Category:
    - (i) the Member was a contributor entitled to the payment of an amount calculated under section 182 of the Participation Schedule; and
    - (ii) the Member made an election under section 182 of the Participation Schedule not to take that amount from the Government Division as if the Member were a contributor referred to in section 191(2) of the Participation Schedule; and
  - (d) the Transfer Amount paid to the Accumulation Account under rule 35(4).
- (3) For rule 109(2)(a)(i), the matters are:
- (a) the Member has elected, under rule 32(3)(a), to transfer the amount calculated under rule 34(4) (the *Transferred Amount*) to the Member's Accumulation Account; and
  - (b) the Member:
    - (i) ceases the period of employment in which the election was made on or after attaining the age of 55 years; or
    - (ii) ceases the period of employment in which the election was made as a result of circumstances mentioned in section 49 or 51 of the Participation Schedule.
- (4) Also, for rule 109(2)(a)(i), the amount is the part of the Transferred Amount that is in excess of the Member's 1999 Cashable Amount.
- (5) For rule 109(4), *1999 Cashable Amount* has the meaning given under section 32 of the Participation Schedule.

## **Section 2 Withdrawals from Accumulation Account**

### **110 Compulsory withdrawals on death**

- (1) As soon as practicable after a Member dies, the Trustee must withdraw the amount in the Member's Accumulation Account and pay it to the Member's Legal Personal Representative or another person (an *Appropriate Person*) who applies to the Trustee to be paid the amount and who the Trustee considers appropriate.

*Note:*

See rule 64 for payment if there is a Binding Death Benefit Nomination in effect for the Member.

- (2) However, the Trustee may use the amount as Income Stream Funds for a Superannuation Income Stream if:
  - (a) the Appropriate Person is a Death Benefit Dependant of the Member; and
  - (b) the Appropriate Person has applied under rule 120 to start the income stream.

## **Part 5      Miscellaneous provisions**

### **111    Preservation and portability on ceasing to be an Employed Member**

- (1) If a Member ceases to be an Employed Member and has not been paid benefits under Part 4, Section 1, the amount in the Member's Accumulation Account must be:
  - (a) if the Member elects, transferred within the Superannuation System under rule 44; or
  - (b) otherwise, kept in the Accumulation Account.
- (2) Should the Member so elect in writing subject to this Chapter, the Trustee shall pay to the Member his or her Member's Accumulated Employer Contributions, his or her Eligible Spouse Contributions and, where applicable, his or her Member's Accumulated Personal Contributions.
- (3) Should the Member so elect in writing, the provisions of rule 111(1) shall not apply to his or her Member's Accumulated Personal Contributions that are not preserved amounts.

### **112    Preservation and portability while Member**

- (1) A Member may withdraw all or part of the amount in the Member's Accumulation Account ascertained under rule 102 that was received by the Trustee under rule 43(1).
- (2) The amount mentioned in rule 112(1) does not include an amount that the Trustee has undertaken to pay to the Member only if a Preservation Cashing Condition has been complied with.
- (3) The Trustee may impose reasonable constraints on minimum amounts, times and frequencies of withdrawals, having regard to the proper administration of the Government Division.

**113 Non-public sector accumulation category**

- (1) This rule 113 applies if, immediately before 30 June 2017, a Member of the Government Division was a Member in the non-public sector accumulation category.
- (2) From 30 June 2017, the Member is a Member in the general accumulation category.

**114 QAS accumulation category**

- (1) This rule 114 applies if, immediately before 30 June 2017, a Member of the Government Division was a Member in the QAS accumulation category.
- (2) From 30 June 2017, the Member is a Member in the comprehensive accumulation category.

**Chapter 4 State 58 category**

[Chapter 4 is set out in the Participation Schedule]

**Chapter 5 State 72 category**

[Chapter 5 is set out in the Participation Schedule]

**Chapter 6 Police 68 category**

[Chapter 6 is set out in the Participation Schedule]

**Chapter 7 Police 74 category**

[Chapter 7 is set out in the Participation Schedule]

**Chapter 8 Fire category**

[Chapter 8 is set out in the Participation Schedule]

## Chapter 9 Parliament 70 category

[Chapter 9 is set out in the Participation Schedule]

## Chapter 10 Income stream category

### Part 1 Preliminary

#### 115 Definitions for Chapter

In this Chapter:

*Agreed Features*, for a person's Superannuation Income Stream, means the features, offered by the Trustee under rule 117(1), that the Trustee and person have agreed the income stream will have.

*Defined Benefit Amount*, for a person, means the amount that would be payable from the Government Division to the person as a Member in the standard defined benefit category.

*Preservation Cashing Condition*:

- (a) for a Member in the standard defined benefit category, see section 32 of the Participation Schedule;
- (b) for a Member in an Accumulation Category, see rule 85; or
- (c) for another person, means a Preservation Cashing Condition within the meaning of rule 85, definition *Preservation Cashing Condition* as if:
  - (i) a reference to Member in that definition, other than in paragraphs (b)(viii) and (b)(ix) of that definition, were a reference to person; and
  - (ii) a reference to Member's in paragraphs (b)(viii) and (b)(ix) of that definition were a reference to person's.

#### 116 Meaning of Reversionary Beneficiary

A person is a *Reversionary Beneficiary* for a Member's Superannuation Income Stream if:

- (a) the nomination of a Reversionary Beneficiary is a feature of the income stream;
- (b) the person is a Death Benefit Dependant of the Member;

- (c) the Member has nominated the person, in a way acceptable to the Trustee, to receive the income stream after the death of the Member; and
- (d) the Member has not, at a later time, nominated another person under rule 116(c).

### **117 Features of Superannuation Income Stream**

- (1) The Trustee may offer features in a Superannuation Income Stream that comply with the SIS Act.

*Examples of features:*

- the frequency and the amount of payments for the income stream
  - the period during which the income stream is payable
  - the nomination of a Reversionary Beneficiary
- (2) The Trustee may change the features of a Superannuation Income Stream to comply with the SIS Act.
  - (3) If the Trustee issues a Superannuation Income Stream on the basis that it qualifies as a particular type of pension under the SIS Act, any condition, standard or requirement of the SIS Act that is required to be included in the Division Rules in order for the Superannuation Income Stream to qualify as that particular type of pension under the SIS Act is deemed to be included in the Division Rules.

## **Part 2 Membership**

### **118 When person becomes Member in income stream category**

A person becomes a Member in the income stream category when the Trustee:

- (a) establishes an account for a Superannuation Income Stream for the person and pays the person's Income Stream Funds into the account; or
- (b) uses the person's Income Stream Funds to purchase a Superannuation Income Stream for the person.

### **119 Membership of other categories continues**

- (1) If a Member in an Accumulation Category or a Defined Benefit Category (each the *First Category*) becomes a Member in the income stream category, the Member does not stop being a Member in the First Category.
- (2) This rule 119 applies even if the total amount in the Member's Accumulation Account, or all of the Member's Defined Benefit Amount, is used to pay a Superannuation Income Stream.



## **Part 3 Superannuation Income Streams**

### **120 Application to start Superannuation Income Stream**

- (1) A person may apply to the Trustee to start a Superannuation Income Stream whether or not the person is a Member of the Government Division.
- (2) The application must:
  - (a) be in writing;
  - (b) state what features, offered by the Trustee under rule 117(1), the person wishes the Superannuation Income Stream to have; and
  - (c) state whether the Income Stream Funds for the income stream will come from all or part of:
    - (i) if the person is a Member in an Accumulation Category, the amount in the person's Accumulation Account;
    - (ii) if the person is a Member in the standard defined benefit category and the application is for a Transition to Retirement Income Stream, the person's Defined Benefit Amount;
    - (iii) an amount payable to the person under rule 110 or 122(4) and 122(5);
    - (iv) moneys the Trustee has received for the person under rule 43; or
    - (v) an amount the person has directed, or is proposing to direct, the Trustee to use for the income stream under rule 123(2)(d) or 124(2)(e).

### **121 Establishment of Superannuation Income Stream**

- (1) This rule 121 applies if:
  - (a) a person makes an application under rule 120;
  - (b) for an application for a Transition to Retirement Income Stream:
    - (i) the person has reached Preservation Age; and
    - (ii) a Preservation Cashing Condition for the person has not happened; and
  - (c) for an application for a Retirement Income Stream, a Preservation Cashing Condition for the person has happened, other than the person:

- (i) dying; or
    - (ii) being a former Temporary Resident who has applied to the Trustee for the release of their benefits and in relation to whom the Trustee is satisfied that the requirements in SIS Regulation 6.20B are satisfied; and
  - (d) the Trustee and the person agree on the features, offered by the Trustee under rule 117(1), the person's Superannuation Income Stream will have.
- (2) As soon as practicable after receiving the application, the Trustee must:
- (a) establish an account for the Superannuation Income Stream and pay the person's Income Stream Funds into the account; or
  - (b) use the person's Income Stream Funds to purchase the income stream.
- (3) If the Income Stream Funds for the income stream are taken from the person's Accumulation Account or Defined Benefit Amount, the Trustee must reduce the account or amount by the amount of the Income Stream Funds.
- (4) The reduction of a Defined Benefit Amount under rule 121(3) must be made in the way decided by the Trustee on the advice of the Actuary.
- (5) If the person is an Employed Member in the basic accumulation category and also a Member in the State 72 or police 74 category, the Income Stream Funds for the income stream must not include an amount paid into the person's Accumulation Account under rule 90(1).

## **122 Payment of Superannuation Income Stream**

- (1) A Superannuation Income Stream must be paid to:
- (a) the Member for whom the income stream was established; or
  - (b) if the Member dies and there is a Reversionary Beneficiary for the income stream, the Reversionary Beneficiary.
- (2) However, the Trustee must not pay a Superannuation Income Stream in the form of a pension out of Assets of the Government Division that are attributable to a MySuper Product.
- (3) Rules 122(4) and 122(5) apply if:
- (a) a Member who has a Superannuation Income Stream dies; and
  - (b) there is no Reversionary Beneficiary for the income stream.
- (4) Any remaining Income Stream Funds for the income stream must be paid to the Member's Legal Personal Representative or another person (an

*Appropriate Person*) who applies to the Trustee to be paid the amount and who the Trustee considers appropriate.

*Note:*

See rule 64 for payment if there is a Binding Death Benefit Nomination in effect for the Member.

- (5) However, the Trustee may use the amount, or part of the amount, as Income Stream Funds for a Superannuation Income Stream if:
  - (a) the Appropriate Person is a Death Benefit Dependant of the Member; and
  - (b) the Appropriate Person has applied under rule 120 to start the income stream.

### **123 Commuting Superannuation Income Stream**

- (1) To the extent the Agreed Features for the Superannuation Income Stream permit, a Member who has a Retirement Income Stream may direct the Trustee to commute part of the income stream for a lump sum payment (the *Commuted Amount*).
- (2) The Trustee must, at the direction of the Member, do 1 of the following:
  - (a) if the Member is a Member in an Accumulation Category, transfer the Commuted Amount to the Member's Accumulation Account;
  - (b) if the Member is not a Member in an Accumulation Category:
    - (i) transfer the Member to the general accumulation category; and
    - (ii) transfer the Commuted Amount to the Member's Accumulation Account;
  - (c) pay or transfer the Commuted Amount to:
    - (i) the Member; or
    - (ii) another superannuation or pension scheme or fund, or a similar scheme or fund or another Division; or
  - (d) use the Commuted Amount to start another Superannuation Income Stream.
- (3) The Trustee must adjust the payment of the income stream to take account of the transfer or payment of the Commuted Amount.
- (4) Rule 123(2) applies even if the Commuted Amount came from a Member's Defined Benefit Amount.

## **124 Cancelling Superannuation Income Stream**

- (1) To the extent the Agreed Features for the Superannuation Income Stream permit, a Member who has a Superannuation Income Stream may cancel the income stream by giving written notice to the Trustee.
- (2) If a Superannuation Income Stream is cancelled, the Trustee must, at the direction of the Member, do 1 of the following:
  - (a) if the Member is a Member in an Accumulation Category, transfer any remaining Income Stream Funds for the income stream to the Member's Accumulation Account;
  - (b) if the Member is not a Member in an Accumulation Category:
    - (i) transfer the Member to the general accumulation category; and
    - (ii) transfer any remaining Income Stream Funds for the income stream to the Member's Accumulation Account;
  - (c) if the income stream is a Retirement Income Stream, or is being paid under SIS Regulation 6.21(2)(b), pay any remaining Income Stream Funds for the income stream to the Member;
  - (d) pay or transfer any remaining Income Stream Funds for the income stream to another superannuation or pension scheme or fund, or a similar scheme or fund or another Division; or
  - (e) use any remaining Income Stream Funds for the income stream to start another Superannuation Income Stream.
- (3) Rule 124(2) applies even if the remaining Income Stream Funds for the income stream came from a Member's Defined Benefit Amount.

## **125 Payments to particular Death Benefit Dependants**

Rules 122 to 124 are subject to SIS Regulation 6.21(2B).

## **Part 4 Transitional provisions for *Superannuation (State Public Sector) Amendment of Deed Regulation 2019***

### **126 Definition for Part**

In this Part:

**Commencement** means the commencement of chapter 10 of the *Superannuation (State Public Sector) Deed 1990*, as inserted by the *Superannuation (State Public Sector) Amendment of Deed Regulation 2019*.

*Existing Annuity* has the meaning set out in rule 129(1).

*Existing Pension*, for rule 127, has the meaning set out in rule 127(1) and, for rule 128, has the meaning set out in rule 128(1).

*Former*, for a provision of the *Superannuation (State Public Sector) Deed 1990*, means the provision as in force immediately before the Commencement.

## **127 Existing transition to retirement pensions**

- (1) This rule 127 applied if a Member was, immediately before the Commencement, entitled to be paid a transition to retirement pension (the *Existing Pension*) under chapter 1, Former part 7B of the *Superannuation (State Public Sector) Deed 1990*.
- (2) From the Commencement:
  - (a) the Member became a Member in the income stream category; and
  - (b) the Existing Pension to be paid to the Member was taken to be a Transition to Retirement Income Stream with the same rate and features as the Existing Pension.

## **128 Existing Pensions**

- (1) This rule 128 applied if a Member was, immediately before the Commencement, entitled to be paid a pension (the *Existing Pension*) purchased under Former section 89L of the *Superannuation (State Public Sector) Deed 1990*.
- (2) From the Commencement:
  - (a) the Member became a Member in the income stream category; and
  - (b) the Existing Pension to be paid to the Member was taken to be a Retirement Income Stream in the form of a pension with the same rate and features as the Existing Pension.

## **129 Existing Annuities**

- (1) This rule 129 applied if a Member was, immediately before the Commencement, entitled to be paid an annuity (the *Existing Annuity*) purchased under Former section 89M of the *Superannuation (State Public Sector) Deed 1990*.
- (2) From the Commencement:
  - (a) the Member became a Member in the income stream category; and
  - (b) the Existing Annuity to be paid to the Member was taken to be a Retirement Income Stream in the form of an annuity with the same rate and features as the Existing Annuity.

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## Chapter 1 Definitions and Interpretation

### 1 Definitions

In this participation schedule, except so far as the context or subject matter otherwise indicates or requires—

***accumulation account*** has the same meaning as “Accumulation Account” in rule 1 of Schedule 2 to the Deed.

***accumulation category*** has the same meaning as “Accumulation Category” in rule 1 of Schedule 2 to the Deed.

***actuary*** has the same meaning as “Actuary” in rule 1 of Schedule 2 to the Deed.

***board*** means the Trustee.

***chapter*** has the same meaning as “Chapter” in rule 1 of Schedule 2 to the Deed.

***child*** has the same meaning as “Child” in rule 1 of Schedule 2 to the Deed.

*Note—*

This definition does not apply for chapter 7 in the circumstances mentioned in section 280AA(1).

***consolidated fund*** has the meaning set out in the *Acts Interpretation Act 1954*.

***dependant*** means in relation to a member the spouse of the member and any other person who in the opinion of the board is or was at the relevant date in an interdependency relationship with the member.

***disablement*** has the same meaning as “Disablement” in rule 1 of Schedule 2 to the Deed.

***discontinued scheme*** has the same meaning as “Discontinued Scheme” in rule 1 of Schedule 2 to the Deed.

***discrimination law commencement*** means the commencement of the *Discrimination Law Amendment Act 2002*, part 2.

***division rules*** has the same meaning as “Division Rules” in rule 1 of Schedule 2 to the Deed.

***eligible death benefit*** has the same meaning as “Eligible Death Benefit” in rule 1 of Schedule 2 to the Deed.

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***employed member*** has the same meaning as “Employed Member” in rule 1 of Schedule 2 to the Deed.

***employer*** has the same meaning as “Employer” in rule 1 of Schedule 2 to the Deed.

***index*** means the all groups consumer price index for Brisbane published by the Australian Statistician.

***interdependency relationship*** see the SIS Act, section 10A.

***June index*** means the index for the last quarter of a financial year.

***legal personal representative*** has the same meaning as “Legal Personal Representative” in rule 1 of Schedule 2 to the Deed.

***member*** has the same meaning as “Member” in rule 1 of Schedule 2 to the Deed.

***new Legislative Assembly member*** has the same meaning as “New Legislative Assembly Member” in rule 1 of Schedule 2 to the Deed.

***non-preserved transfer amount*** has the same meaning as “Non-Preserved Transfer Amount” in rule 1 of Schedule 2 to the Deed.

***permanent and partial disablement*** has the same meaning as “Permanent and Partial Disablement” in rule 1 of Schedule 2 to the Deed.

***preservation age*** has the same meaning as “Preservation Age” in rule 1 of Schedule 2 to the Deed.

***preservation cashing condition***—

- (a) for chapter 2, see section 32;
- (b) for chapter 5, see section 165; or
- (c) for chapter 7, see section 280.

***previous spouse***, of a person, means—

- (a) a deceased spouse of the person; or
- (b) a divorced husband or wife of the person; or
- (c) a de facto partner of the person who has separated from the person.

***SIS regulation*** has the same meaning as “SIS Regulations” in rule 1 of Schedule 2 to the Deed.

***tax*** has the same meaning as “Tax” in rule 1 of Schedule 2 to the Deed.

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*temporary disablement* has the same meaning as “Temporary Disablement” in rule 1 of Schedule 2 to the Deed.

*total and permanent disablement* has the same meaning as “Total and Permanent Disablement” in rule 1 of Schedule 2 to the Deed.

*Treasurer* means the Queensland Treasurer.

*unit of the State public sector* has the same meaning as “Unit of the State Public Sector” in rule 1 of Schedule 2 to the Deed.

*year* means a calendar year.

## 2 Interpretation

- (1) This participation schedule forms part of the division rules and must be read in conjunction with the division rules in Schedule 2 to the Deed.
  - (2) The provisions of the chapters that are set out below are a continuation of the provisions of the corresponding chapters of the repealed *Superannuation (State Public Sector) Deed 1990* and use the same chapter and section references as in the repealed *Superannuation (State Public Sector) Deed 1990*, subject to changes necessary to cross-reference any division rules in Schedule 2 to the Deed.
  - (3) In this participation schedule, unless the Trustee otherwise determines or the context requires otherwise—
    - (a) capitalised terms in this participation schedule that are defined in the Deed have the meaning set out in the Deed;
    - (b) a reference to “the scheme” is taken to be a reference to the Fund, and where the context requires, the Government Division that is part of the Fund;
    - (c) a reference to “this deed” is taken to be a reference to the division rules;
    - (d) a reference to “the fund” is a reference to the “Assets of the Government Division” as defined in the division rules in Schedule 2 to the Deed and, where the context requires, the Government Division;
    - (e) a reference to “commencement”, “commencement day”, or any other matter relating to timing or application of a section, division, part or chapter (a *provision*) (or former provision), refers to the commencement, commencement day or the relevant timing or application of the corresponding provision (or former provision) of the repealed *Superannuation (State Public Sector) Deed 1990*;
    - (f) benefits payable under chapter 2 are subject to section 30 of the *Superannuation (State Public Sector) Act 1990*;
-

- (g) a reference to the Crown, the Land Court, the Industrial Conciliation and Arbitration Commission, the Governor in Council, the Premier, the Legislative Assembly and other executive, legislative and judiciary bodies, entities, or offices is taken to be a reference to the relevant body, entity or office of the State of Queensland; and
- (h) where a section refers to a circumstance in which a particular section “had not been enacted”, it is taken to mean a reference to a circumstance in which the corresponding section in this participation schedule did not apply.

## Chapter 2 Standard defined benefit category

### Part 1 Preliminary

#### 31 Application

This chapter applies to members in the standard defined benefit category.

#### 32 Definitions for ch 2

In this chapter, except so far as the context or subject matter otherwise indicates or requires—

*1999 cashable amount* means—

- (a) the amount of a member's benefit that would have been payable to the member at 30 June 1999 under section 49, 51 or 52(1) if the member, on 30 June 1999, ceased to be an employed member; and
- (b) the amount of a member's benefit that would have been payable to the member at 30 June 1999 under section 52(2) to (7), if an event mentioned in section 52(2)(a) happened on 30 June 1999.

*annual compulsory contribution rate* means the compulsory contributions paid in respect of an employed member in a review year divided by the member's annual review date salary, expressed as a percentage.

*annual review date* means 1 July in any year.

*annual review date salary* means the salary as at the annual review date except that where an employed member commences membership other than on an annual review date then the annual review date salary in respect of the period prior to the occurrence of the first annual review date shall be the salary of that member at commencement of membership.

*average rate* means the percentage obtained by dividing the sum of the annual compulsory contribution rates by contributory membership.

*AWOTE* means the amount of Average Weekly Ordinary Time Earnings in Australia published by the Australian Bureau of Statistics.

*compulsory contributions* means the contributions paid in respect of an employed member pursuant to section 35, other than a part of the contributions that is for tax paid under the *Income Tax Rates Act 1986* (Cwlth), section 26(1)(a).

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***contributory membership***, subject to section 54, means the total number of years including any part of a year of all periods during which compulsory contributions have been received or under this chapter taken to have been received in respect of an employed member, but excludes any period of membership in respect of which any benefit other than an income protection benefit, has previously been determined under part 4.

***early retirement*** means retirement which the employer is lawfully entitled to approve and which in the opinion of the board constitutes genuine retirement, occurring at an age less than 55 years.

***final average salary*** or ***FAS*** means the average, having regard to the periods of time for which they were respectively applicable, of the annual review date salaries applicable for the 1 year (or any shorter period where membership is less than 1 year) immediately preceding retirement or the occurrence of any other relevant event.

***final salary*** or ***FS*** means the annual review date salary applicable immediately prior to the occurrence of the relevant event unless the event occurs less than 1 year before the member's 55th birthday in which case the final salary shall be taken to be FAS but limited to the period from the date the member attained age 54 (or later commencement of membership if applicable) to the occurrence of the relevant event.

***income protection benefit*** means a benefit payable under section 50.

***involuntary termination***—

- (a) for a member who is not a new Legislative Assembly member—means lawful, compulsory retrenchment that in the board's opinion is genuine, or lawful non-renewal or termination by the employer of a contract of employment, but does not include dismissal for unsatisfactory job performance, misconduct or other improper behaviour; or
- (b) for a member who is a new Legislative Assembly member—means the member stops being a member of the Legislative Assembly as the result of either of the following—
  - (i) the member being defeated at a general election or by-election for the Legislative Assembly;
  - (ii) if the member is a representative of a recognised political party—the member not standing for re-election as a member of the Legislative Assembly because the political party has not selected the member to stand for re-election.

***membership*** means membership of the scheme.

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***pre-existing condition***, of a member, means a medical condition the signs or symptoms of which existed before the start of the member's contributory membership.

***preservation cashing condition***, for a member, means the member—

- (a) permanently retiring from the workforce after reaching preservation age; or
- (b) dying; or
- (c) becoming totally and permanently disabled; or
- (d) reaching preservation age if the member has, before reaching preservation age, permanently retired from the workforce for a reason other than becoming totally and permanently disabled; or
- (e) having a terminal medical condition.

***review year*** means the period of 12 months commencing on an annual review date except that where a person is not an employed member for the whole of the 12 months then the review year shall be taken to be that period of a financial year for which the person is an employed member.

***salary*** means—

- (a) for a member who is not a new Legislative Assembly member—the remuneration expressed as an annual figure that, in the opinion of the board, is permanent, excluding, unless determined otherwise by the Governor in Council, any sum paid by way of fees or allowances, other than the allowance paid to a member who is a teacher based on the number of pupils attending the school in which the teacher is employed; or
- (b) for a member who is a new Legislative Assembly member—the annual salary paid to the member under the *Queensland Independent Remuneration Tribunal Act 2013*, section 41.

***smoothed earning rate*** means a rate of interest, decided by the board after receiving appropriate advice, that reasonably reflects the after tax earnings derived from the investment of member contributions to the fund, having regard to—

- (a) the cost of administering the fund; and
- (b) the charges incurred in the investment of member contributions; and
- (c) the allocation to, or deduction from, any reserve held for smoothing returns from the investment of member contributions.

***standard compulsory rate***, for an employed member, means—

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- (a) if a notice under section 10(1) of the *Superannuation (State Public Sector) Act 1990* states a standard compulsory rate for the member as a condition of membership—the stated rate; or
- (b) otherwise—5%.

***terminal medical condition*** see the SIS regulation, regulation 6.01A.

### **33 Commencement of membership**

- (1) A person's membership commences—
  - (a) in the case of a person whose membership is declared by notice under section 13(1) of the Act to be compulsory—
    - (i) on the day the person became required to contribute as an employed member; or
    - (ii) on the day on which the person became a person mentioned in the notice;

whichever is the earlier; and

- (b) in the case of a person whose membership is declared by notice under section 13(1) of the Act to be discretionary, on such day as in the circumstances of the case the board determines to be fair and equitable.
- (2) In this section—

***notice under section 13(1) of the Act*** means a notice under repealed section 13(1) of the *Superannuation (State Public Sector) Act 1990* as in force before the repeal of the section.

### **34 Continuity of membership when changing employers**

The membership of a member in the standard defined benefit category continues in the circumstances specified in section 16 of the *Superannuation (State Public Sector) Act 1990*.

## **Part 2 Member contributions**

### **35 Member compulsory contributions**

- (1) Contributions must be made for each employed member of an amount that is a percentage of the member's annual review date salary as follows—
    - (a) for a member for whom a percentage applies under a condition of membership stated in a notice under section 10(1) of the *Superannuation (State Public Sector) Act 1990*—that percentage;
-

- (b) for a member who is a member of the Queensland Police Service— a percentage within the range of 3% to 9% as nominated by the member under subsection (4);
  - (c) for any other member—a percentage within the range of 2% to 8% as nominated by the member under subsection (4).
- (2) Subsection (1) does not apply to an employed member who has, in relation to the member's current employment, transferred to an accumulation category under chapter 1 of the division rules in Schedule 2 to the Deed, part 5, and made an election under rule 32(3)(b) of the division rules in Schedule 2 to the Deed.
  - (3) In the absence of special arrangements negotiated between the board and the particular member, where an employed member is absent from the service of the employer without pay, contributions to the scheme shall be suspended until the member's pay recommences.
  - (4) An employed member, other than a member mentioned in subsection (1)(a), may nominate the rate of contribution to be made provided that any nomination is to be made by notice in writing to the employer upon such conditions as the board may instruct from time to time having regard to the proper administration of the scheme.
  - (5) Where an employed member, other than a member mentioned in subsection (1)(a), fails to make a nomination the rate of contribution shall be the standard compulsory rate.
  - (6) The employer shall adjust the contributions to be paid to the board in respect of an employed member in accordance with changes in the annual review date salary of the member and the contribution rate nominated under subsection (4).
  - (7) Notwithstanding subsections (1) to (6), benefits payable under this deed shall be calculated on the average rate of contributions paid in respect of an employed member and the board is not required to pursue any member or employer in respect of any shortfall in contributions paid to the board.

### **36      Average rate in excess of the standard compulsory rate**

Where the average rate of contributions in respect of an employed member at an annual review date is in excess of the standard compulsory rate, any excess shall be credited towards the member's accumulation account.

### **37      Contributions in excess of the maximum rate**

- (1) Where the average rate of contributions for an employed member is less than the standard compulsory rate, the board shall not allow compulsory contributions in excess of—
    - (a) in the case of a member who is a member of the Queensland Police Service—9% of the member's salary; or
    - (b) in the case of any other member—8% of the member's salary;
-

to be made in respect of the member to make up part or all of the shortfall other than for the purpose of correcting what are, in the opinion of the board, minor discrepancies.

- (2) The board may allow the additional contributions to be deducted from the member's accumulation account.
- (3) This section does not apply to a member if the rate of contributions for the member is a rate that applies under a condition of membership stated in a notice under section 10(1) of the *Superannuation (State Public Sector) Act 1990*.

### **39      Compulsory contributions after benefit determined**

Where a total and permanent disablement benefit or a terminal medical condition benefit has been credited to an employed member's accumulation account but the member has not ceased employment with the employer, any further compulsory contributions paid by the member must be credited towards the member's accumulation account.

### **40      Authority to deduct contributions**

- (1) Subject to subsection (2), the employer is authorised to deduct such contributions as are required by section 35 from the employed member's salary and shall forward to the board the contributions paid by each member in such manner and at such times as the board shall instruct.
- (2) Subsection (1) does not apply to contributions constituting amounts that are required to be paid to the Treasurer under section 29(1) of the *Superannuation (State Public Sector) Act 1990*.
- (3) If any contribution is not in the hands of the board within the time specified the board may determine that interest shall accrue on that contribution at a rate determined by the board while the contribution remains outstanding, and, if the board does so determine, interest shall so accrue and become payable by the relevant employer to the board and upon payment shall become part of the fund.

## **Part 4                      Benefits**

### **Division 1                Preliminary**

#### **44      Member's compulsory contribution benefit**

- (1) The employed member's compulsory contribution benefit shall be the sum of that member's annual compulsory contribution accruals.
  - (2) An annual compulsory contribution accrual shall be a percentage determined in accordance with the following formula—
-

$$\frac{\text{annual compulsory contribution rate}}{\text{standard compulsory rate}} \times \text{compulsory contribution benefit \% in schedule 1 applicable to that member}$$

#### 45 Member's basic benefit

- (1) The employed member's basic benefit shall be the sum of that member's annual basic benefit accruals.
- (2) The annual basic benefit accrual shall be a percentage determined in accordance with the following formula—

$$A \times B$$

where—

*A* is that part of the annual review year during which compulsory contributions have been received, or under this deed taken to have been received, in respect of a member.

*B* is the basic benefit % in schedule 1 applicable to that member.

#### 45A Member's prospective membership benefit

- (1) An employed member's prospective membership benefit is the amount calculated using the following formula—

$$AP \times PM$$

where—

*AP* means the applicable percentage stated in schedule 1 for the benefit.

*PM* means the member's prospective membership.

- (2) If compulsory contributions have not been received for an employed member for 2 years, or a longer period of not more than 3 years the board considers to be just and equitable in the circumstances, the member is not entitled to a prospective membership benefit until compulsory contributions are again received.

- (3) In this section—

*prospective membership*, for an employed member, means the period expressed in years and any part of a year from the relevant day to the member's 55th birthday.

*relevant day* means—

- (a) for an employed member who has died—the day the member died;  
or

- (b) for an employed member who has a total and permanent disablement—the day the member became totally and permanently disabled; or
- (c) for an employed member who has a terminal medical condition—the day the terminal medical condition started to exist in relation to the member.

## **Division 2 Benefits generally**

*Note—*

See also section 30 of the *Superannuation (State Public Sector) Act 1990* in relation to adjustments of particular multiples in particular circumstances.

### **45B Benefit on age retirement**

Where an employed member retires or otherwise leaves the service of the employer on or after the member's 55th birthday the board shall credit to the member's accumulation account a percentage of final average salary comprised of—

- (a) the member's compulsory contribution benefit; and
- (b) the member's basic benefit.

### **46 Benefit on total and permanent disablement**

- (1) Where an employed member becomes totally and permanently disabled before attaining the age of 55 years the board shall credit to the member's accumulation account a percentage of final salary comprised of—
    - (a) the member's compulsory contribution benefit; and
    - (b) the member's prospective membership benefit; and
    - (c) the member's basic benefit.
  - (2) An employed member who is eligible to receive a prospective membership benefit may elect but not later than 3 months after the board has made its determination under subsection (1), to convert the entitlement credited to the member's accumulation account in respect of the amounts referred to in subsection (1)(a) to (c) (including any interest accrued thereon) to an annual pension.
  - (3) The annual pension shall be payable from the date of the board's determination and shall be the product of—
    - (a) FS; and
    - (b) 75%; and
-

- (c) the ratio of the percentage determined in subsection (1) and—
  - (i) in the case of an employed member who is a member of the Queensland Police Service— 857.5%; or
  - (ii) in the case of any other employed member—735%.
- (4) However, the maximum annual pension payable is 75% of FS.
- (5) The annual pension is to be indexed under section 53.
- (6) The board may reduce or suspend the pension provided for in subsection (2) where the recipient—
  - (a) engages in any business or occupation on the recipient's own account; or
  - (b) is employed.
- (7) Upon the death of a former employed member who had been receiving a pension under subsection (2) above within a period of less than 5 years since the pension commenced to be paid, there shall be credited to the accumulation account of that former employed member an amount determined in accordance with the following formula—  
**(5—period in years and any part of a year pension has been paid for) x current annual rate of pension**

#### **47      Benefit on terminal medical condition**

- (1) Subsection (2) applies if—
  - (a) a terminal medical condition starts to exist in relation to an employed member before the member reaches the age of 55 years; and
  - (b) the member claims the terminal medical condition benefit while the terminal medical condition exists in relation to the member.
- (2) The board must credit to the member's accumulation account the amount determined as for total and permanent disablement as provided for in section 46(1).

#### **48      Benefit on death**

- (1) If an employed member dies before reaching the age of 55 years, the board must credit to that member's accumulation account the amount determined as for total and permanent disablement as provided for in section 46(1).
  - (2) If an employed member dies, the board must pay for each child of the member a pension of \$137.41 a fortnight indexed under section 53.
  - (3) Subsection (2) applies regardless of the member's age at the time of death.
-

- (4) Subsection (5) applies if—
    - (a) a person has been paid a benefit under section 46(1) for a total and permanent disablement; and
    - (b) the disablement was caused by a medical condition (the *primary medical condition*); and
    - (c) the person dies within 1 year after the day of payment of the benefit; and
    - (d) in the opinion of the board, the death was caused by—
      - (i) the primary medical condition; or
      - (ii) a medical condition related to the primary medical condition.
  - (5) The board must pay for each child of the person a pension of \$137.41 a fortnight, indexed under section 53.
  - (6) Subsection (7) applies if—
    - (a) a terminal medical condition existed in relation to a person who was an employed member; and
    - (b) either—
      - (i) the person has been paid a benefit under section 47(2) for the terminal medical condition; or
      - (ii) the person was ineligible to be paid a benefit under section 47(2) because of the person's age when the terminal medical condition started to exist; and
    - (c) the person dies; and
    - (d) in the opinion of the board, the death was caused by—
      - (i) the terminal medical condition; or
      - (ii) a medical condition related to the terminal medical condition.
  - (7) The board must pay for each child of the person a pension of \$137.41 a fortnight indexed under section 53.
  - (8) Subsection (7) applies regardless of the person's age at the time of death.
  - (9) Whilst a child is under 18 years of age the pension shall be paid to the person who in the opinion of the board has for the time being the care and control of the child.
-



#### **48A Higher benefit under ss 46–48 for certain members**

Despite sections 46, 47 and 48, the board may provide a member with a benefit in the case of total and permanent disablement, a terminal medical condition or death that is higher than the benefit under section 46, 47 or 48 if—

- (a) the member transferred to the scheme from another superannuation or pension scheme or fund or a similar scheme or fund (the *previous scheme or fund*) under an arrangement between the board and the member's employer; and
- (b) under the previous scheme or fund, the benefit payable to the member in the case of death or total and permanent disability was higher than the benefit under section 46, 47 or 48; and
- (c) under the arrangement, the board agreed to provide the member with a benefit at least equal to the benefit under the previous scheme or fund.

#### **48B Only 1 benefit payable under ss 46–48**

- (1) If a member is eligible to claim a benefit under sections 46 and 47, the member may only claim a benefit under 1 of those sections.
- (2) To remove any doubt, it is declared that section 48(1) and (2) does not apply if a member claims a benefit under section 46 or 47.

#### **49 Benefit on permanent and partial disablement**

Where an employed member becomes permanently and partially disabled before attaining the age of 55 years the board shall credit to the member's accumulation account a percentage of final salary comprised of—

- (a) the member's compulsory contribution benefit; and
- (b) the member's basic benefit.

#### **50 Income protection benefit**

- (1) The board must pay an employed member a pension equal to 75% of final salary if—
  - (a) the member becomes temporarily disabled; and
  - (b) the member has been absent from duty on sick leave without salary for—
    - (i) a continuous period of 14 days, whether or not working days;  
or

- (ii) a lesser period the board considers to be just and equitable in the circumstances; and
  - (c) either—
    - (i) the member has contributory membership of 5 years or more; or
    - (ii) the member has contributory membership of less than 5 years and in the board’s opinion the temporary disablement was not related to a pre-existing condition.
  - (1A) However, subsection (1) does not apply if the member is entitled to be absent from duty on sick leave with salary.
  - (1B) Also, if the member was in part-time employment at the start of the sick leave, the pension to which the member is entitled under subsection (1) must be multiplied by the membership ratio calculated for the member under section 66(2).
  - (1C) If compulsory contributions have not been received for an employed member for 2 years, or a longer period of not more than 3 years the board considers to be just and equitable in the circumstances, the member is not entitled to a pension under this section until compulsory contributions are again received.
  - (2) The pension shall be indexed in accordance with section 53.
  - (3) The board may reduce or suspend the pension provided for in subsection (1) where the recipient—
    - (a) engages in any business or occupation on the recipient’s own account; or
    - (b) is employed; or
    - (c) is in receipt of workers’ compensation.
  - (4) For the purpose of calculating an annual compulsory contribution accrual in respect of any year in which the employed member was in receipt of an income protection benefit, the employed member shall be taken to have contributed at the standard compulsory rate in respect of the period for which the income protection benefit was paid, together with the period of 14 days without salary (or such lesser period as the board may have determined in that regard) prior to the payment of that benefit.
  - (5) Subsection (6) applies if—
    - (a) an employed member has, for a total of 2 years, received an income protection benefit for a temporary disablement; and
    - (b) the disablement was caused by a medical condition (the *primary medical condition*).
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- (6) The member is not entitled to receive any further income protection benefit for the disablement if, in the opinion of the board, the disablement—
  - (a) continues to be, or is again, caused by the primary medical condition; or
  - (b) is caused by a medical condition related to the primary medical condition.
- (6A) If the board credits an amount to an employed member's accumulation account under section 46(1) or 47(2), the member is not entitled to receive any further income protection benefit.
- (7) This section applies to an employed member regardless of the member's age.
- (8) This section does not apply to an employed member who is—
  - (a) a member of the Queensland Police Service; or
  - (b) a new Legislative Assembly member; or
  - (c) a magistrate.
- (9) In this section—

*magistrate* includes an acting magistrate within the meaning of the *Magistrates Act 1991*.

## **51 Benefit on involuntary termination or early retirement**

In the case of involuntary termination or early retirement of an employed member there shall be credited to that member's accumulation account a percentage of final salary comprised of—

- (a) the member's compulsory contribution benefit; and
- (b) the member's basic benefit.

## **52 Benefits on withdrawal**

- (1) Where a member ceases to be an employed member (the *withdrawal event*), or continues to be an employed member but transfers to an accumulation category under chapter 1 of the division rules in Schedule 2 to the Deed, part 5, and makes an election under rule 32(3)(b) of the division rules in Schedule 2 to the Deed (also the *withdrawal event*), and is not entitled to any other benefit under this deed arising from the member's most recent period as an employed member, there shall be credited to that member's accumulation account a benefit equal to the amount of the member's compulsory contributions, accumulated with interest at the applicable smoothed earning rates, compounded annually.
  - (2) The board shall credit to the accumulation account of a member, being a member whose accumulation account has been credited with a benefit
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under subsection (1), an amount determined in accordance with subsection (3) on the occurrence of the earliest of—

- (a) the 55th birthday of that member; or
- (b) the death of that member; or
- (c) the total and permanent disablement of that member; or
- (d) the day a terminal medical condition started to exist in relation to that member.

(2A) Subsection (2) applies subject to subsection (9).

- (3) The amount referred to in subsection (2) shall consist of the sum of 2 components which shall be calculated in accordance with subsections (4) to (6).
  - (4) For the purposes of subsection (3)—
    - (a) final salary shall be determined on the basis that the relevant event is the withdrawal event; and
    - (b) ***indexed final salary*** means the final salary, indexed from the date the withdrawal event occurred in accordance with subsection (7).
  - (5) The first component of the amount shall be the member's basic benefit of indexed final salary.
  - (6) The second component is the percentage of indexed final salary obtained by subtracting from the members' compulsory contribution benefit the amount (converted into a percentage of final salary) paid to the member's accumulation account under subsection (1).
  - (7) For the purposes of this section, indexed final salary is the greater of the following amounts—
    - (a) the final salary multiplied by the relevant amount for the quarter occurring 2 quarters before that in which the applicable event in subsection (2) occurred, divided by the relevant amount for the quarter occurring 2 quarters before the quarter in which the withdrawal event occurred;
    - (b) the final salary.
  - (8) Before any of the events mentioned in subsection (2) happens, a member who has had a benefit credited under subsection (1) may ask the board, in writing, to credit the member's entitlement under this chapter to the member's accumulation account.
  - (9) If a member makes a request under subsection (8)—
    - (a) the board must—
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- (i) calculate the member's entitlement on the advice of the actuary; and
    - (ii) credit the member's entitlement under the request; and
  - (b) subsection (2) does not apply.
- (10) In this section—
- relevant amount**, for a quarter, means—
- (a) if an AWOTE is published for the quarter—the AWOTE; or
  - (b) otherwise—the amount decided by the board, on the advice of the actuary, as being equivalent to the amount the AWOTE would have been, if an AWOTE were published for the quarter.

### 53      **Indexation of pensions**

- (1) This section applies to a pension payable to a person under section 46, 48 or 50 during a financial year if the pension was payable to the person immediately before the start of the financial year.
  - (2) As soon as practicable after the start of the financial year, the board must reassess the amount of the pension and either increase it or maintain it at the same level as in the previous financial year, as follows—
    - (a) if the June index for the previous financial year is higher than the last adjustment index for the pension, the pension must be increased by the percentage increase between the 2 indexes;
    - (b) otherwise, the pension remains the same.
  - (3) If the pension is increased under the reassessment, the pension is payable to the person at the increased level from the first pay period that falls entirely in the month of August in the financial year.
  - (4) A percentage increase between 2 indexes under subsection (2)(a) must be calculated to 1 decimal place.
  - (5) In this section—

**last adjustment index**, for a pension, means—

    - (a) if the pension has ever been increased under this section—the June index for the financial year immediately before the financial year in which the pension was last increased under this section; or
    - (b) otherwise—the June index for the financial year immediately before the financial year in which the pension started being payable.

**pay period**, for a pension, means the fortnightly period in relation to which each pension payment is payable under this part.
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**54      [Deleted]**

**55AA    Benefit on employed member aged at least 65**

The board must pay to a member's accumulation account the amount of the benefit to which the member is entitled under this chapter if—

- (a) the member is at least 65 years and asks the board in writing to make the payment; or
- (b) the member—
  - (i) was, on 1 July 2004, at least 75 years; and
  - (ii) is not employed for at least 30 hours per week; or
- (c) the member turns 75 after 1 July 2004.

**55A      Preserved amount**

- (1) If a preservation cashing condition for a member has happened, none of a benefit payable to the member is a preserved amount for the scheme.
- (2) Subject to subsection (1), the amount in a member's benefit that is a preserved amount for the scheme is as follows—
  - (a) for a member's benefit under section 49, 51 or 52(1)— the amount of the benefit that is in excess of the total of—
    - (i) the member's non-preserved transfer amount received by the board after 30 June 1999; and
    - (ii) the member's 1999 cashable amount;
  - (b) for a member's benefit under section 52(2) to (7)—
    - (i) if the member has not reached 55 years—the whole amount of the benefit; or
    - (ii) otherwise—the amount of the benefit that is in excess of the member's 1999 cashable amount;
  - (c) for a member's benefit under section 52(9)(a)—the whole amount of the benefit.

*Note—*

For the preserved amount for a member who transfers from the standard defined benefit category to an accumulation category, and makes an election under rule 32(3)(a) of the division rules in Schedule 2 to the Deed, see rule 109 of the division rules in Schedule 2 to the Deed.

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**55B Minimum benefit payable**

- (1) This section applies despite any other provision of this deed.
- (2) A member is entitled to the member's minimum benefit as worked out under the SIS regulation, division 5.2, if the member—
  - (a) stops being an employed member, or a contributor; or
  - (b) transfers to an accumulation category under rule 34 of the division rules in Schedule 2 to the Deed.

**Part 5 Crown contributions**

**58 Crown contributions for temporary disablement**

In accordance with section 31 of the *Superannuation (State Public Sector) Act 1990*, the Treasurer shall pay to the fund for payment out of the fund each income protection benefit under this chapter.

**Part 6 Miscellaneous**

**64 Salary reduction**

- (1) This section applies if—
  - (a) an employed member's annual review date salary for a year of membership of the scheme is less than for a previous year or years of membership; and
  - (b) the board, after consulting the actuary and having regard to the reduction in salary and benefits that occurred and to the length of time the member received the higher salary, decides in its discretion that an additional amount to compensate wholly or partly for the reduction in salary should be paid to the member's accumulation account.
- (2) The board must pay the additional amount to the member's accumulation account.

**66 Members in part-time employment**

- (1) An employed member who has been in the part-time employment of an employer during a period of membership shall, for the purposes of this deed, be taken to always be part-time for that period of membership.
  - (2) For the purposes of this section, a membership ratio means the proportion, expressed as a percentage, that the fixed ordinary time hours of work required by the terms and conditions of employment of an employed member employed part-time bears to the ordinary time hours of work that
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would have been so required of the member had the member been employed at all times in that position on a full-time basis.

- (3) The hours worked by the employed member working on a part-time basis shall exclude any hours that the member is occasionally or recurrently required to work, or is bound by the terms and conditions of the member's employment to work at particular times, in addition to the number of ordinary time hours required of the member normally.
- (4) Except where an employed member is in receipt of a benefit under section 50, the salary of an employed member employed on a part-time basis shall be taken to be the salary that would be payable had that member been employed on a full-time basis in that position.
- (5) The compulsory contributions to be paid in respect of an employed member pursuant to part 2 shall be calculated as a product of the member's salary, the contribution rate applicable under that part and the membership ratio of the member.
- (6) When the annual basic benefit accrual is calculated according to section 45(2), it is additionally to be multiplied by the aggregate of the membership ratios for that review year having regard to the periods of time for which they were respectively applicable.
- (7) Subject to subsection (8), any prospective membership benefit shall be calculated according to section 45A, and shall additionally be multiplied by the aggregate of the membership ratios of the employed member, having regard to the periods of time for which they were respectively applicable, for the whole of that member's period of contributory membership.
- (8) Where a person who was an employed member employed on a part-time basis for any period became, and continued to the time that person ceased to be an employed member as, an employed member employed on a full-time basis, the amount credited in respect of that member under section 46(1) shall not be less than it would have been had that person first become an employed member at the time that person became an employed member employed on a full-time basis.

## **Part 7                      Transitional provisions**

**66A    [Deleted]**

**66B    [Deleted]**

**66BA [Deleted]**

**66C    Transitional—prospective membership benefit for death or total and permanent disablement before 16 December 2013**

- (1) This section applies if—
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- (a) before the commencement, an employed member died or became totally and permanently disabled before turning 55; and
  - (b) benefits payable to the member under previous sections 46 to 48 have not been fully paid out at the commencement.
- (2) Previous sections 46 to 48 continue to apply in relation to the member as if the amendment regulation had not been made.
- (3) In this section—

*amendment regulation* means the *Superannuation (State Public Sector) Amendment of Deed Regulation (No. 4) 2013*.

*commencement* means the commencement of this section.

*previous sections 46 to 48* mean sections 46, 47 and 48 of the *Superannuation (State Public Sector) Deed 1990* as in force before the commencement.

**66D [Deleted]**

**66E Transitional—benefit for terminal medical condition existing before 1 July 2020**

- (1) This section applies to an employed member if—
- (a) a terminal medical condition started to exist in relation to the member before the commencement; and
  - (b) on the commencement—
    - (i) the terminal medical condition still exists in relation to the member; and
    - (ii) the member has not reached the age of 55 years.
- (2) Section 47 applies to the member in relation to the terminal medical condition.

**66F [Deleted]**

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## Chapter 4 State 58 category

### Part 1 Preliminary

#### 92 Definitions for ch 4

- (1) In this chapter, except so far as the context or subject matter otherwise indicates or requires—

*age for retirement* means the age of 65 years.

*contributor* means an officer who contributes under this chapter to the fund.

*incapacity* means any mental or bodily infirmity by reason whereof an officer is unfit to discharge or incapable of discharging the duties of his or her office efficiently.

*involuntary termination of employment* means the termination of a contract of employment by the Crown or other authority (howsoever described) which employs a contributor without the consent of the contributor other than termination by dismissal on the ground of misconduct or incapacity or retrenchment in accordance with arrangements approved by the Governor in Council.

*net earning rate of the fund* means the rate of interest as determined by the board, from time to time, on the advice of the actuary which rate, at the time it is determined, reasonably reflects the after tax earnings of the fund (on a long-term basis) derived from the investment of contributors' contributions to the fund, having regard to administrative costs of the fund, the costs of death and incapacity benefits and the charges incurred in the investment of those contributions.

*officer* means—

- (a) a State 58 member; or
- (b) a person, or a member of a class of person, declared, under a notice under section 10(1) of the *Superannuation (State Public Sector) Act 1990*, to be eligible for membership of the scheme in the State 58 category.

*person in receipt of benefit* means a person who is in receipt of annuity benefit or incapacity benefit under this chapter and includes a person who, but for an election under section 126, would be entitled to annuity benefit.

*repealed Act* means the *Public Service Superannuation Act 1912*.

*retired*, in relation to employment as an officer, means retired or required to retire from that employment by the public service commissioner or by

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the person or authority other than the public service commissioner thereunto authorised by law.

*salary* means the payment made to an officer by way of fixed remuneration for the officer's services, unless otherwise determined by the Governor in Council on the recommendation of the public service commissioner, but does not include any sums paid to an officer by way of fees or allowances, except that in the case of officers employed as teachers the term includes any sum paid to any such officer as an allowance varying with the number of pupils attending the school in which such officer is employed.

- (2) Where a contributor makes an election as is mentioned in section 110(2)(d) to retire from employment as an officer before the day on which the contributor would attain the age for retirement and the contributor voluntarily resigns from employment by reason of such election the contributor shall be deemed for the purposes of this chapter to have been retired from that employment.
- (3) Notwithstanding any other provision of this chapter, where the employment of a contributor as an officer ceases at any time after the contributor has attained the age of 55 years otherwise than by reason of death or having been retired or permitted to retire on the ground of incapacity then, for the purposes of this chapter, the contributor shall be deemed to have elected to retire and to have voluntarily resigned from employment at the time when the employment ceased.
- (4) A reference in this chapter to a period expressed in years shall, where appropriate, be read as including a reference to a period expressed in years together with a fraction of a year being a fraction consisting of a completed whole month or 2 or more such months.

#### **92A Meaning of *widow* for ch 4—before discrimination law commencement**

In this chapter—

*widow*, in relation to a person who has died before the discrimination law commencement and was at the date of his death a contributor or person in receipt of benefit, means a woman—

- (a) who was legally married to the deceased person at the date of his death and, in the case of the death of a person in receipt of benefit, at the date of his attaining the age of 65 years or of his earlier final retirement; or
  - (b) who was not legally married to the deceased person at the date of his death but who, for a continuous period of 3 years at the least immediately preceding that date terminated by the death or, in the case of the death of a person in receipt of benefit, for a continuous period of 3 years at the least immediately preceding the date of his attaining the age of 65 years or of his earlier final retirement, had ordinarily lived in a connubial relationship with him and who, in
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the opinion of the board, was wholly or substantially dependent on him at the date of his death.

**92B Meaning of *widow* for ch 4—from discrimination law commencement**

- (1) This section applies for this chapter if a contributor or a person in receipt of benefit dies on or after the discrimination law commencement.
  - (2) A person is the *widow* of a contributor if the person was the contributor's spouse on the day the contributor died.
  - (3) A person is the *widow* of a person in receipt of benefit if the person was the spouse of the person in receipt of benefit—
    - (a) on the day the person in receipt of benefit died; and
    - (b) on whichever of the following days is relevant—
      - (i) if the person in receipt of benefit retired before reaching the age for retirement—the day the person in receipt of benefit retired;
      - (ii) if the person in receipt of benefit did not retire before reaching the age for retirement—the day the person in receipt of benefit reached the age for retirement.
  - (4) For this section, the gender of the person is not relevant.
  - (5) For this section, the spouse of a person on the day the person died includes a de facto partner of the person on the day of the death only if the person and the de facto partner lived together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA—
    - (a) for a continuous period of at least 2 years ending on the day of the death; or
    - (b) for a shorter period ending on the day of the death, if the circumstances of the de facto relationship of the person and the de facto partner evidenced a clear intention that the relationship be a long-term, committed relationship.
  - (6) Subsection (5) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).
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## Part 2 Contributions

### Division 1 Contributions by officers

#### 93 Commencement of contributions

- (1) Subject to this chapter, every person who is an officer shall contribute to the fund until the last day of the fortnightly pay period preceding the day on which the officer attains the age of 65 years or employment as an officer sooner ceases.
  - (2) **Contributions to be paid periodically**

The contribution to be made by a contributor to the fund shall be payable periodically at such intervals as may be prescribed and shall be deducted from the salary payable to the contributor accordingly.
  - (3) Until some other periodical interval is prescribed such contribution shall be payable by and be deducted from the salary of the contributor fortnightly.
  - (4) All deductions made from the salaries of officers in respect of contributions to the fund shall be credited thereto.
  - (5) Any amount of the contributions and additional payments prescribed by section 100(6) to be made by a contributor not paid by deduction from the contributor's salary as prescribed by subsections (2) and (3) shall be paid in such manner as the board directs and, if directed by the board, may be deducted from the contributor's salary in addition to the deductions from the contributor's salary as prescribed by subsections (2) and (3) but the board may determine that any such amount not so deducted and not otherwise recovered by the board be recovered by reduction of the amount of benefit payable upon a claim made by or derived from the contributor, whereupon any such amount of contribution shall be deemed not to be due and unpaid.
  - (6) Notwithstanding subsections (2) to (5), the board may recover by action as for a debt any amount of the contributions or additional payments to be made by a contributor which is due and unpaid.
  - (7) For the purposes of subsections (5) and (6), the amount of any unpaid contributions and additional payments shall be the aggregate of the amount thereof due and unpaid and of the interest thereon which would have accrued to the fund and the consolidated fund had the same been duly paid.
  - (8) Where the contributions and additional payments to be made by a contributor are in arrears to the extent prescribed as respects amount or time, or both, the board may determine all rights of the contributor to benefits under this chapter, and thereupon shall pay to the contributor a sum equal to the aggregate of contributions and additional payments, whether paid or in arrears, payable by the contributor to the fund or the consolidated fund, to the date of such determination accumulated in respect only of contributions payable by the contributor to the fund at the
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rate of 1.25% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound reduced by the aggregate of the amount of the arrears of contributions and additional payments and of the interest thereon which would have accrued to the fund or the consolidated fund (at the rate at which earnings would have accrued to the fund) had the same been duly paid.

*Editor's note—*

*Superannuation Acts Amendment Act 1987* was assented to on 23 April 1987.

- (9) Where a person ceased to be an officer within the meaning of section 92 but before the expiration of 1 month after so ceasing again becomes such an officer, the person may, where the board so approves (whether subject to conditions or unconditionally) on the written application of that person, be permitted to contribute to the fund in respect of the period between so ceasing to be an officer and again becoming an officer and where with the approval of the board a person is permitted to contribute to the fund under this subsection that person shall, for the purposes of this chapter be deemed to be and to have been an *officer* within the meaning of section 92 during the period in respect of which the person so contributes and this chapter shall apply in relation to the person accordingly.

## **Division 2            Scale of units**

### **94    Salary for the purposes of this division**

- (1) In this division—  
*salary*, in relation to an officer, means the fortnightly salary of that officer.
- (2) The fortnightly salary of an officer who is paid salary at a rate other than a fortnightly rate of salary shall be ascertained as prescribed.
- (3) Different such prescriptions may be made in respect of officers included in different classes of officers.

### **95    Scale of units of annuity, incapacity, and, in the case of male officers, assurance benefits**

- (1) Subject to this chapter, contributions by an officer shall be in respect of units of annuity, units of incapacity and, in the case of a male officer, units of assurance benefits as respectively defined by sections 111, 113 and 116, and the number of units of those benefits respectively in respect of which an officer shall contribute is the number specified in schedule 2, column 2 opposite to the salary group in which his or her salary falls.
- (2) Where, at the time when an officer becomes a contributor, he or she has attained the age of 40 years, but is under the age of 60 years, he or she shall contribute to the fund—
- (a) unless he or she is entitled to elect and elects as prescribed by paragraph (b)—such a sum as will provide units of benefits to the
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- number specified in schedule 2, column 2 opposite to the salary group within which his or her salary falls; or
- (b) if the sum specified in paragraph (a) exceeds the rate of 5% of his or her salary such sum (being a sum which will provide units of benefits to a number specified in column 2) not less than 5% of that salary and not exceeding the sum specified in paragraph (a) as he or she may, not later than 6 months after the date on which he or she becomes a contributor, elect to contribute.
- (3) If the salary of a contributor is increased and, by reason of that increase, falls within a salary group in schedule 2, column 1 higher than the salary group in which it fell prior to the increase, the following provisions shall apply—
- (a) if the officer has attained the age of 40 years, but is under the age of 60 years, and is contributing for the number of units corresponding to the salary group within which his or her salary fell immediately prior to the increase—he or she shall increase the amount of his or her contribution to—
    - (i) unless he or she is entitled to elect and elects as prescribed by subparagraph (ii)—such a sum as will provide units of benefits to the number specified in column 2 opposite to the salary group within which his or her increased salary falls; or
    - (ii) if the sum specified in subparagraph (i) exceeds the rate of 5% of that increased salary—such sum (being a sum which will provide units of benefits to a number specified in column 2) not less than 5% of that increased salary and not exceeding the sum specified in subparagraph (i) as he or she may, not later than 6 months after the date on which his or her salary is increased, elect to contribute;
  - (b) if the officer has attained the age of 40 years, but is under the age of 60 years, and is not contributing for the number of units corresponding to the salary group within which his or her salary fell immediately prior to the increase—he or she shall increase the amount of his or her contribution to—
    - (i) unless he or she is entitled to elect and elects as prescribed by subparagraph (ii)—such sum as will add to the number of units for which he or she is contributing the maximum number of additional units for which he or she could have contributed if he or she had been a contributor to whom paragraph (a) applies; or
    - (ii) if the sum specified in subparagraph (i) exceeds the rate of 5% of that increased salary—such sum (being a sum which will provide units of benefits to a number specified in column 2) not less than 5% of that increased salary and not exceeding the sum specified in subparagraph (i) as he or she may, not later
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than 6 months after the date on which his or her salary is increased, elect to contribute;

- (c) if the officer has attained the age of 60 years he or she may elect to increase the amount of his or her contribution to such a sum as will provide units of benefits under this chapter to a number not exceeding the number specified in column 2 opposite to the salary group in which his or her increased salary falls, but unless he or she so elects not later than 6 months after the date on which his or her salary is increased, he or she shall not be entitled or required to increase his or her contribution by reason of such increase in salary;
  - (d) however, an officer to whom paragraph (c) applies shall not, in respect of any increase in salary, be entitled or permitted to increase the amount of his or her contribution so as to add to the number of units for which he or she was contributing immediately prior to that increase additional units in excess of the number prescribed in relation to that increase by such scale;
  - (e) in all other cases—the contributor shall increase the amount of his or her contribution to such a sum as will provide units of benefits to the number specified in column 2 opposite to the salary group within which his or her increased salary falls.
- (4) Any increased contribution payable in pursuance of subsection (3)(a), (b) or (e) is payable as from the first day of the periodical interval at which contributions to the fund are prescribed to be made next after the date—
- (a) upon which the contributor's salary is increased; or
  - (b) from which the contributor's salary is increased;
- whichever is the later.
- (5) Any increased contribution payable in pursuance of subsection (3)(c) and (d) is payable as from the first day of the periodical interval at which contributions to the fund are prescribed to be made next after the date of the election.
- (6) For the purposes of this division where the salary of an officer falls within the salary group, exceeding \$450.20 set out in schedule 2, column 1, the number ascertained in accordance with the formula in column 2 set opposite that salary group shall, with respect to that officer, be deemed to be the number specified in column 2 opposite to the salary group within which his or her salary falls.
- (7) For the purposes of the application at any time in relation to a contributor of the formula in schedule 2, column 2 opposite to the salary group, exceeding \$450.20 in column 1—

A denotes the number of times (disregarding any fraction less than 1) by which the fortnightly salary of the contributor exceeds the sum of \$450.20 by the sum of \$6.38.

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- (8) For the purposes of contributions of officers in accordance with schedule 2 as inserted by the *Public Service Superannuation Act Amendment Act 1969*, the salary of every officer who is a contributor at the commencement of that Act shall be deemed increased on and from the date of that commencement from the maximum salary within the salary group in column 1 opposite to the number in column 2 that was the number specified in schedule 2, column 2 immediately before the commencement of the *Public Service Superannuation Act Amendment Act 1969* opposite to the salary group in which his or her salary fell immediately before the commencement of that Act and this chapter shall apply accordingly.

*Editor's note—*

*Public Service Superannuation Act Amendment Act 1969* commenced 30 December 1969 (see 1969 No. 19s 2).

## **96 When officer may voluntarily increase contribution**

- (1) Any officer who is not contributing to the fund for units of benefits to the number thereof specified in schedule 2 opposite to the salary group within which his or her salary falls may, subject to this section, elect to increase the amount of his or her contribution.
- (2) Such an election may be to contribute for any further number of units of benefits up to, but not exceeding, the difference between—
- (a) the number thereof specified in schedule 2 opposite to the salary group in which the salary of the officer making the election falls; and
  - (b) the number thereof for which such officer is contributing;

but an officer shall not be entitled or permitted to increase, pursuant to such an election, the officer's contribution to the fund for incapacity benefit or assurance benefit to a number of units thereof in excess of the number or increased number of units of annuity benefit for which the officer is a contributor or, as the case may be, would become a contributor pursuant to such election.

- (3) Unless exempted by the board therefrom an officer shall, before at any time increasing the amount of contribution to the fund under this section, be medically examined by a medical practitioner.
- (4) An officer shall not at any time increase the amount of his or her contribution to the fund under this section if, after considering the report of the medical practitioner, the board is not satisfied that the health and physical condition of such officer are such as would justify the officer being then accepted as a contributor.
- (5) Any increased contribution under this section shall, subject to subsection (4), be payable as from the first day of the periodical interval at which contributions to the fund are prescribed to be made next after the date when the board accepts as a contributor under this section the officer making the election.
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**97 Power of board to exempt etc. from contributing**

- (1) According as the circumstances of any case in its opinion warrant, the board may exempt an officer wholly or partly from the requirement imposed upon the officer by this chapter to contribute or at any time to increase the amount of the officer's contribution to the fund, or the board may defer (either for a period specified by it or without specifying any period) such requirement in respect of either such contribution or any increase in the amount thereof.
  - (2) When the board specifies the period for which it defers the contribution or any increased contribution required by this chapter to be paid by an officer, then upon the expiration of that period (or of any extension thereof which it is hereby declared the board may grant) that officer shall, unless the board wholly or partly exempts the officer from so doing, pay to the fund the contribution or increased contribution then required in the officer's case by this chapter.
  - (3) When the board does not specify the period for which it defers the contribution or any increased contribution required by this chapter to be paid by an officer, the board may at any later time determine that deferment and thereupon, unless the board wholly or partly exempts the officer from so doing, the officer concerned shall pay to the fund the contribution or increased contribution then required in the officer's case by this chapter.
  - (4) In the case of any officer (including an officer to whom subsection (2) or (3) applies) partly exempted by the board from making the contribution or any increased contribution required in the officer's case by this chapter, the payment which the officer would be otherwise required to make shall be reduced by the amount of the exemption.
  - (5) Where a contributor satisfies the board that adequate provision has been made for himself, herself and his or her family, or that continued contributions for the number of units for which the contributor is contributing will cause the contributor undue hardship, or that for any other reason which the board deems adequate the contributor should be permitted to surrender units, the board may permit the contributor to surrender some or all of the units of benefits under this chapter for which the contributor is contributing.
  - (6) The sum equal to the aggregate of all amounts paid by the contributor in respect of units of annuity benefit, incapacity benefit and assurance benefit surrendered under subsection (5) accumulated at the rate of 1.25% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound shall be paid to the contributor.
  - (7) The units surrendered by a contributor under subsection (5) shall be—
    - (a) in a case where the contributor is contributing under section 96, or that section as applied by section 155, for units of benefit—those units if the contributor nominates those units as the units to be so surrendered;
    - (b) in a case other than one referred to in paragraph (a)— those units for which the contributor last began to contribute.
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**98 Officer reduced in salary**

- (1) Where the salary of a contributor has been reduced and by reason of that reduction falls within a salary group in schedule 2, column 1 lower than the salary group in which it would fall if it had not been reduced, the contributor may elect to reduce the number of units in respect of which he or she shall contribute to a number not being less than the number of units appropriate to the salary group to which his or her salary has been reduced, and the sum equal to the aggregate of all amounts paid by him or her in respect of units of annuity benefit, incapacity benefit and assurance benefit, in excess of the reduced number of units accumulated at the rate of 1.25% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound shall be paid to him or her.
- (2) A contributor electing under this section shall surrender first the unit or units for which he or she last began to contribute.
- (3) The benefits (save the additional assurance benefit in respect of children) payable under this chapter in respect of units respectively of annuity benefit, incapacity benefit and assurance benefit included in the number of units in excess of the number appropriate to the salary group to which the salary of a contributor has been reduced shall, whilst the unit continues to be a unit in excess of the number appropriate to the salary group in which the salary of the contributor falls for the time being, be reduced to 35% of the rates thereof which, save for this subsection, apply under this chapter.

**99 Units of benefits to be contributed for in equal numbers**

- (1) At all times units (including units to which division 4 applies) respectively of annuity benefit, incapacity benefit and, in the case of a male contributor, assurance benefit, shall be contributed for in equal numbers and accordingly a contributor shall not be allowed to contribute at any time for more units of one such benefit than of another.
- (2) This section applies subject to section 103(3) and parts 4 and 5.

**100 Period for which contributions are to continue**

- (1) Except as prescribed by this section, an officer shall continue to contribute as prescribed to the fund until the last day of the fortnightly pay period last preceding the day on which—
  - (a) he or she ceases to be an officer; or
  - (b) he or she attains the age for retirement; or
  - (c) his or her service as an officer, ascertained as prescribed by section 176 of chapter 5 equals 42 years and 6 months;

whichever first occurs, and except as aforesaid, shall continue to pay contribution, as for a period of service, without reduction in respect of any period of leave or absence from duty.

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- (2) Where absence from duty referred to in subsection (1), other than with leave of absence without salary by reason of incapacity, is for a continuous period of 14 days or more (whether or not working days) the officer shall, unless the officer elects pursuant to subsection (3), in addition to continuing to contribute to the fund as provided by subsection (1) pay to the consolidated fund, in respect of the period of absence, the amounts that the officer's employer would be required to pay for the officer under section 29 of the *Superannuation (State Public Sector) Act 1990*, but for the absence.
  - (3) A contributor who would be required to pay contribution to the consolidated fund pursuant to subsection (2) may elect in writing furnished to the board not to pay contributions to the fund in respect of the period of absence whereupon—
    - (a) contribution to the fund in respect of the contributor shall cease to be payable in respect of the period of absence; and
    - (b) the board shall waive the payments to the consolidated fund that would be required by that subsection to be made by the contributor; and
    - (c) the benefits to which the contributor or the contributor's dependants may become entitled under this chapter shall be reduced by such amounts as are determined by the actuary and approved by the board.
  - (4) The Governor in Council may waive the requirement under subsection (2) to make payments to the consolidated fund either unconditionally or upon such terms and conditions as the Governor in Council determines, either in a particular case or in respect of a class of case, and such waiver shall be given effect.
  - (5) Where an officer has been absent from duty with leave of absence without salary by reason of incapacity for a continuous period of 14 days (whether or not working days) the officer's liability to pay contributions to the fund under this chapter shall be suspended for the whole of the period that the officer has been or continues to be so absent but if the officer resumes employment as an officer contributions shall again become payable by the officer.
  - (6) A contributor who, pursuant to subsection (1) or (2), is required to pay contributions to the fund and to make payment to the consolidated fund in respect of a period of absence from duty—
    - (a) shall, before commencing the period of absence, pay to the fund and to the consolidated fund the total amount of contributions and payments that the contributor is so required to pay; or
    - (b) shall, before commencing the period of absence, make arrangements satisfactory to the board for payment of the total amount of contributions and payments that the contributor is so required to pay.
  - (7) Where a contributor to whom subsection (6) applies does not comply with subsection (6)(a) or (b) the benefits to which the contributor or the
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contributor's dependants may become entitled under this chapter may be reduced by such amounts as are determined by the actuary and approved by the board.

### 101 Refund of excess contributions

Where a contributor has paid to the fund contributions in excess of those prescribed by this chapter, the board shall refund to the contributor such sum of money in respect of those contributions as is determined by the actuary and approved by the board.

## Division 3 Scale of contributions by officers

### 102 Contributions according to scale graduated by age at commencement

- (1) The amount of contribution which shall be paid periodically by an officer in respect respectively of annuity, incapacity and, in the case of a male officer, assurance benefits, shall, except where otherwise provided in this chapter, be based upon—
  - (a) the number of units; and
  - (b) sex; and
  - (c) the age at which the officer commences to contribute for each unit.
- (2) The amount of the contributions shall be ascertained—
  - (a) with respect to units for which the officer commenced to contribute before the commencement of the *Public Service Superannuation Act Amendment Act 1969*, or for which the officer commences to contribute after that commencement by reason of section 95(8), in accordance with—
    - (i) in the case of male officers—schedule 3, part 1; or
    - (ii) in the case of female officers—schedule 3, part 2; or
  - (b) with respect to units for which the officer commences to contribute after the said commencement (save units for which the officer commences to contribute after that commencement by reason of section 95(8))—in accordance with schedule 4.

- (3) For the purpose of subsection (4)—

***hypothetical fortnightly contribution*** means the fortnightly contribution, as at 1 January 1973, that would have been payable by a contributor in respect of the units of benefit (in this section called the ***said units of benefit***) for which he or she is a contributor under this chapter as at that date (including any units of whole life and endowment assurance, but excluding any units of benefit that were effected pursuant to section 96 after 1 October 1972 and any reserve units of benefit) if—

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- (a) each (if any) of the said units of benefit that was taken up pursuant to section 96 had been effected immediately before the date of its becoming a unit of benefit in respect of which an election might be made under the said section; and
- (b) each (if any) of the said units of benefit in respect of which any fortnightly contributions have been commuted by payment of a lump sum had not been so commuted;

but where neither paragraph (a) or (b) is applicable to the case in question means the fortnightly contribution as at 1 January 1973 that is payable by a contributor in respect of the said units of benefit.

- (4) A contributor whose hypothetical fortnightly contribution exceeds the sum equal to 13% of his or her fortnightly salary as at 1 January 1973 may, by application in writing to the board prior to 1 March 1973, have the actual fortnightly contribution that he or she is paying as at that firstmentioned date in respect of the said units of benefit reduced by whichever is the lesser of—
  - (a) the fortnightly contribution that is payable by the contributor as at the said 1 January; and
  - (b) one-third of the excess of the hypothetical fortnightly contribution over the sum equal to 13% of such fortnightly salary.
- (5) Any reduction in the actual fortnightly contribution under subsection (4) shall apply retrospectively from the first due date for the payment of the contributor's fortnightly contributions after 1 January 1973.
- (6) Notwithstanding subsections (1) to (5), on and from the day that is the first payday in July 1988 for the contributor concerned the amount of a contributor's contributions payable in accordance with those provisions immediately before that day shall be reduced by 1.5% of the amount of salary to which the contributor was entitled as at 31 December 1972.
- (7) In no case shall a contributor be entitled to a payment by reason of the reduction in the amount of contribution.

## **Division 4 Reserve units of benefits**

### **103 Contribution for reserve units**

- (1) A contributor who is contributing to the fund for units of benefits to the number thereof specified in schedule 2 opposite to the salary group within which his or her salary falls, may, from time to time, elect to contribute to the fund for 1 or more reserve units of benefits in accordance with this division.
  - (2) The number of reserve units respectively of annuity benefit, incapacity benefit and, in the case of a male contributor, assurance benefit for which a contributor may elect to contribute at any time pursuant to subsection (1)
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together with the number of reserve units in respect of which he or she has already made an election under that subsection shall not exceed 12.

- (3) An officer who is a contributor to the fund under part 5 may elect to contribute pursuant to this division for reserve units of annuity benefit only.
- (4) Contributions for a reserve unit of benefit—
  - (a) shall be—
    - (i) with respect to units for which the officer commenced to contribute before the commencement of the *Public Service Superannuation Act Amendment Act 1969*, in accordance with—
      - (A) in the case of male officers—schedule 3, part 1; or
      - (B) in the case of female officers—schedule 3, part 2; or
    - (ii) with respect to units for which the officer commences to contribute after the said commencement—in accordance with schedule 4; and
  - (b) shall be payable as from the first day of the periodical interval at which contributions to the fund are prescribed to be made next after the date when the board accepts the contributor's election to contribute for that reserve unit of benefit.
- (5) Unless exempted by the board therefrom an officer shall, before at any time contributing or increasing the amount of his or her contribution for reserve units of benefits under this division, be medically examined by a medical practitioner.
- (6) An officer shall not at any time increase under this division the amount of his or her contributions to the fund if after considering the report of the medical practitioner, the board is not satisfied that the health and physical condition of such officer are such as would justify his or her being then accepted as a contributor.

#### **104 When reserve units become ordinary units of benefits**

Where a contributor—

- (a) who is contributing for 1 or more reserve units of benefits pursuant to this division; and
- (b) who becomes required or entitled to contribute for additional units of benefits under this chapter (other than this division);

does not increase the amount of his or her contributions to the fund by such sum as is sufficient to provide, in accordance with schedule 3 applicable to the particular case, the additional units of benefits, such number of reserve units of benefits up to but not exceeding the number of such units for which he or she is contributing pursuant to this division as is equal to the difference between—

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- (c) the number of units of benefits specified in schedule 2 opposite to the salary group within which the contributor's salary falls; and
- (d) the number thereof (other than reserve units of benefits) for which such officer is contributing;

shall cease to be reserve units of benefits to which this division applies and shall become units of benefits for which the contributor is contributing under this chapter (other than this division) the contribution for which shall continue to be the contribution the contributor was making to the fund therefor immediately before the units of benefits so ceased to be reserve units.

#### **105 Contributor may discontinue contribution for reserve units**

- (1) Subject to subsection (2) a contributor who is contributing for 1 or more reserve units of benefit may, subject to section 99, elect to discontinue his or her contributions in respect of any or all of those units, in which case he or she shall be paid from the fund the sum equal to the aggregate of all amounts paid by him or her in respect of units of annuity benefit, incapacity benefit and assurance benefit for which he or she has so elected to discontinue his or her contributions accumulated at the rate of 1.25% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.
- (2) A contributor shall not make an election pursuant to subsection (1) if the effect of that election is that the contributor thereafter contributes for a number of units (including reserve units) of annuity benefit that is less than the number of units (including reserve units) respectively of incapacity benefit or assurance benefit for which he or she then contributes.

#### **106 Benefits payable on reserve units**

- (1) Where a contributor contributes for reserve units of benefit pursuant to this division the benefits payable under this chapter in respect of all reserve units respectively of annuity benefit, incapacity benefit and assurance benefit for which the contributor is contributing for the time being (but not including units of such benefit which have ceased pursuant to section 104 to be reserve units of benefits) shall, whilst they continue to be reserve units, be 35% of the rates thereof which would apply under this chapter if those reserve units were units of benefit for which the contributor was contributing within the number appropriate to the salary group in which the salary of the contributor falls for the time being.
  - (2) In the case of a contributor who is continued in his or her employment as an officer after attaining the age of 65 years, benefits payable in respect of reserve units of annuity shall be payable to the contributor on attaining the age of 65 years and shall be at the same rate as that to which the contributor would be entitled if the contributor had ceased to be an officer on attaining the age of 65 years.
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**107 Payment of lump sum on ceasing to contribute**

- (1) A contributor who is contributing for 1 or more reserve units of benefit pursuant to this division who ceases to be a contributor for that—
- (a) he or she was retired by reason of incapacity from his or her employment as an officer before attaining the age of 65 years; or
  - (b) the contributor voluntarily resigned from his or her employment as an officer after attaining the age of 60 years but before attaining the age of 65 years; or
  - (c) he or she attained the age of 65 years;

shall be entitled, subject in the case of a person referred to in paragraph (a) to his or her satisfying the board as required by section 136, by notice in writing lodged with the board to elect to be paid, in respect of all or any of the number of reserve units of annuity benefit and—

- (d) in the case of a male contributor—assurance benefit; and
- (e) in the case of a contributor to whom paragraph (a) applies—incapacity benefit;

in respect of which but for the election he or she would be entitled to receive benefit pursuant to section 106, the sum prescribed by this section.

- (2) Notice of election under subsection (1) shall be lodged with the board—
- (a) in the case of a contributor retired by reason of incapacity from his or her employment before attaining the age of 65 years—before the expiration of a period of 1 month commencing on the date of retirement; and
  - (b) in the case of an officer who voluntarily resigns from his or her employment after he or she has attained the age of 60 years but before attaining the age of 65 years— before the expiration of a period of 1 month commencing on the date on which his or her resignation takes effect; and
  - (c) in any other case—before the expiration of a period of 1 month commencing on the date on which the contributor attains the age of 65 years.

- (3) Where a contributor who is contributing pursuant to this division for 1 or more reserve units respectively of annuity benefit, incapacity benefit and assurance benefit ceases to be a contributor for a reason other than a reason specified in subsection (1) there shall be paid to him or her, or, if he or she has died, to his or her legal personal representative or other person approved by the board from the fund the sum prescribed by this section in respect of all reserve units respectively of annuity benefit, incapacity benefit and, save where the contributor ceases to be a contributor by reason of death before attaining the age of 65 years leaving the contributor
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surviving a widow, assurance benefit for which he or she was contributing to the fund pursuant to this division at the time when he or she ceased to be a contributor (but not including units of such benefit which have ceased pursuant to section 104 to be reserve units of benefits).

- (4) The sum to be paid in respect of the number of reserve units of the benefits in question ascertained in accordance with subsections (1) to (3) shall be equal to—
  - (a) in the case of a contributor who ceased to be a contributor on account of death or retirement by reason of incapacity or voluntary resignation in terms of section 160 or attainment of the age of 65 years—such amount as is determined by the actuary and approved by the board; and
  - (b) in any case to which paragraph (a) does not apply—the aggregate of all amounts (accumulated at the rate of 1.25% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound) contributed by the contributor in question in respect of such number of reserve units of annuity benefit, incapacity benefit and assurance benefit.
- (5) Upon payment of the sum specified in subsection (4) all reserve units of benefit in respect of which the sum is paid shall be deemed to have been commuted by the contributor.

## **Part 3 Benefits and payments**

### **Division 1 Benefits transferred to accumulation account**

#### **109 Accumulation account**

If a benefit is payable under this chapter to a member, other than by way of a pension, the board must credit the member's accumulation account with the amount of the benefit.

### **Division 2 Annuity benefit**

#### **110 When entitlement to annuity benefit accrues**

- (1) Every contributor to whom this section applies shall be entitled to annuity benefit on attaining the age of 65 years or, in the case of a contributor who makes an election as is mentioned in subsection (2)(d) to retire before the day on which the contributor would attain the age for retirement, on retirement.
  - (2) This section applies to every contributor—
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- (a) who, by reason of incapacity, is retired from his or her employment as an officer before attaining the age of 65 years and is receiving an incapacity benefit immediately before attaining that age; or
- (b) who is retired or permitted to retire from his or her employment as an officer on attaining the age of 65 years; or
- (c) who is continued in his or her employment as an officer after attaining the age of 65 years; or
- (d) who after the commencement of the *Superannuation Acts Amendment Act 1974 (No. 2)*, part 3, elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement.

*Editor's note—*

*Superannuation Acts Amendment Act (No. 2) 1974*, part 3 commenced 30 October 1974 (see 1974 No. 66).

## 111 Units of annuity benefit

- (1) Subject to subsections (2) and (3) and to part 4, division 4, the unit of annuity benefit is at the rate of \$3.84 per fortnight.
- (2) In respect of a contributor who is continued in his or her employment as an officer after attaining the age of 65 years the unit of annuity benefit is at the rate of \$1.34 per fortnight whilst he or she is so continued.
- (3) Where a contributor to whom section 110 applies makes after the commencement of the *Superannuation Acts Amendment Act (No. 2) 1974*, part 3, an election as is mentioned in section 110(2)(d) to retire before the day on which the contributor would attain the age for retirement, the unit of annuity benefit is at the rate per fortnight ascertained in accordance with the formula—

$$R = 3.84 \left( 1 - \frac{t}{45} \right)$$

- (4) In subsection (3)—

**R** means the fortnightly rate expressed in dollars to the nearest cent of each unit of benefit.

**t** means the remainder obtained by subtracting from 65 the contributor's age (expressed in years and complete months) as at the date of retirement.

- (5) **Amount of annuity benefit**

Subject to this chapter, a contributor shall be entitled to receive annuity benefit according to the number of units for which he or she was contributing on attaining the age of 65 years or, in the case of a contributor retired, by reason of incapacity or an election as is mentioned in section 110(2)(d), from his or her employment as an officer before attaining that age, the number of units for which he or she was contributing when so retired.

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## **Division 3                      Incapacity benefit**

### **112    When entitlement to incapacity benefit accrues**

- (1) Save as otherwise prescribed by subsections (3) to (5) and by section 114, every contributor to whom this section applies shall be entitled to incapacity benefit for the period prescribed in his or her case by this section.
- (2) This section applies to every contributor or person—
  - (a) in respect of any period of such sick leave of absence without salary exceeding 2 weeks not including the first 2 weeks thereof, by reason of incapacity, from his or her employment as an officer, being such a period approved by the person or authority thereunto authorised by law; or
  - (b) if retired—by reason of incapacity, from his or her employment as an officer, in respect of the period from his or her retirement and thereafter, subject to the continuance of incapacity, until he or she attains the age of 65 years, or until his or her re-employment as an officer, whichever occurs first;

and in either case subject to the contributor or person in question satisfying the board as required by section 136.

- (3) A person shall not be entitled to incapacity benefit under this chapter in respect of incapacity due to wilful action on the part of such person for the obtaining of such benefit.
- (4) If by reason of incapacity to which this subsection applies a contributor is retired from employment as an officer, he or she shall be entitled to be paid the sum equal to the aggregate of all amounts paid by him or her in respect of units of annuity benefit, incapacity benefit and assurance benefit under this chapter accumulated at the rate of 1.25% per annum compound, and, in the case of a contributor to whom part 4 applies, the surrender value in respect of contributions paid by him or her to the fund for assurance benefit under and within the meaning of the repealed Act but, save such payment, such retirement shall determine all his or her right and interest in respect of benefits for which he or she was a contributor.
- (5) A contributor or person shall not continue to receive incapacity benefit under this chapter in respect of any incapacity after recovering therefrom, it being hereby declared that upon recovery the entitlement to the benefit shall cease and determine.

### **113    Units of incapacity benefit**

- (1) Subject to part 4, division 4, the unit of incapacity benefit is at the rate of \$3.84 per fortnight.
  - (2) Subject to this chapter, a contributor shall be entitled to receive incapacity benefit according to the number of units for which he or she is contributing at the commencement of any period of sick leave of absence without salary in respect of which he or she is entitled to incapacity benefit, or
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when he or she is retired, by reason of incapacity, from his or her employment as an officer, as the case may be.

#### **114 Application to commute incapacity benefit**

- (1) A person who, after the passing of the *Superannuation Acts Amendment Act 1984*, is retired or permitted to retire from employment as an officer by reason of incapacity and is entitled to receive an incapacity benefit may, subject to this section, apply in writing to the board to convert into a lump sum payment the whole of his or her incapacity benefit entitlement under this chapter.

*Editor's note—*

*Superannuation Acts Amendment Act 1984* was assented to on 27 February 1984.

- (2) A person who is or was prior to his or her retirement a contributor under the *State Service Superannuation Act 1972* or a State 72 member is not entitled to elect under subsection (1) to convert into a lump sum payment his or her entitlement to incapacity benefit under this chapter unless he or she also elects to convert into a lump sum payment the whole of his or her entitlement to an incapacity pension under chapter 5.
- (3) An application under subsection (1)—
  - (a) shall be made before the expiration of a period of 6 months after the date on which the entitlement to the incapacity benefit arises or arose; and
  - (b) shall be effective only if, in the board's opinion, the applicant is medically competent to make the application; and
  - (c) shall be made in respect of all the units of incapacity benefit including any excess units to which section 147 applies and any reserve unit of incapacity benefit for which he or she contributed other than a reserve unit of incapacity benefit in respect of which he or she has elected to receive payment of the sum prescribed by section 107.
- (4) A person who under subsection (1) duly makes an application that is approved by the board shall be paid from the fund a sum determined by the actuary and approved by the board and his or her entitlement to an incapacity benefit under this chapter ceases.

### **Division 4 Assurance benefit**

#### **115 Entitlement to assurance benefit**

- (1) Every person to whom this section applies is entitled to the payment of a lump sum by way of assurance benefit.
  - (2) Subsection (1) applies to the following persons—
    - (a) the widow of a contributor who dies before attaining the age for retirement or, except in a case to which section 121(1)(b) applies, if
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- there be no widow, the legal personal representative of the contributor or other individual approved by the board;
- (b) the widow of a person who was in receipt of annuity benefit under this chapter immediately before his death, if the person—
    - (i) had reached the age for retirement; or
    - (ii) had retired before reaching the age for retirement because of incapacity or an election to retire under section 110(2)(d);
  - (c) the widow of a person who—
    - (i) before the passing of the *Superannuation Acts Amendment Act 1984*—
      - (A) had reached the age for retirement; or
      - (B) had retired before reaching the age for retirement because of incapacity or an election to retire under section 110(2)(d); and
    - (ii) has commuted for a lump sum the whole of the annuity benefit to which the person was entitled under this chapter;
  - (d) the widow of a person retired by reason of incapacity from his employment as an officer who at the date of his death was entitled to or, but for the operation of section 139(5) and (6), would have been entitled to an incapacity benefit under this chapter and who dies before attaining the age for retirement.
- (3) In this section reference to a widow shall be construed as reference to a widow of a person who dies on or after the coming into operation of this section.
- (4) In subsection (2)(a) reference to a legal personal representative or other individual approved by the board shall be construed as reference to such a representative of or other individual so approved in respect of a contributor who dies on or after the passing of the *Superannuation Acts Amendment Act 1987*.

## 116 Units of assurance benefit

The value of a unit of assurance benefit shall be ascertained—

- (a) where entitlement thereto is derived through a contributor who dies in service before attaining the age of 60 years—in accordance with schedule 5; or
  - (b) where entitlement thereto is derived through a contributor who dies in service upon or after attaining the age of 60 years but before attaining the age of 65 years—in accordance with schedule 6; or
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- (c) where entitlement thereto is derived through a person who immediately before his death was entitled to a pension under this chapter or who, but for the operation of section 139(5), or an application under section 126, would be entitled to a pension under this chapter, other than a person who has retired pursuant to an election referred to in section 110(2)(d)—in accordance with the formula—

$$A = B \times \frac{C}{D}$$

where—

*A* means the amount payable in respect of each unit of benefit, expressed in dollars and cents to the nearest cent.

*B* means the factor set forth in schedule 7 opposite the age of the person's widow at the widow's nearest birthday as at the day of the person's death.

*C* means the fortnightly amount of the pension to which the person through whom the entitlement is derived was, immediately before his death, entitled under this chapter or, as the case may be, would have been entitled under this chapter but for the operation of section 139(5) and (6) or an application under section 126.

*D* means the fortnightly amount of pension to which the person through whom the entitlement is derived became entitled upon his retirement; or

- (d) where entitlement thereto is derived through a person who retired pursuant to an election referred to in section 110(2)(d)—in accordance with the formula—

- (i) where the retirement occurred on or after 30 October 1974 and before 1 April 1978—

$$A = \frac{B \times C \times (1 - 0.06t)}{D}$$

or

- (ii) where the retirement occurred on or after 1 April 1978—

$$A = \frac{B \times C \times \left(1 - \frac{t}{45}\right)}{D}$$

where—

*A* means the amount payable in respect of each unit of benefit expressed in dollars and cents to the nearest cent.

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**B** means the factor set forth in schedule 7 opposite the age of the person's widow at the widow's nearest birthday as at the day of the person's death.

**C** means the fortnightly amount of pension to which the person through whom the entitlement is derived was, immediately before his death, entitled under this chapter or, as the case may be, would have been entitled under this chapter but for an application under section 126.

**D** means the fortnightly amount of pension to which the person through whom the entitlement is derived became entitled upon his retirement.

**t** means the remainder obtained by subtracting from 65 the age (expressed in years and complete months) as at the date of his retirement of the person through whom the entitlement is derived.

### **117 Extent of assurance benefit**

- (1) Subject to this chapter, a widow to whom section 115 applies is entitled to receive assurance benefit according to the number of units for which the person through whom the entitlement is derived was contributing immediately before he ceased to be a contributor.
- (2) Where a person who, on or after the passing of the *Superannuation Acts Amendment Act 1984*, attains the age for retirement or retires pursuant to an election referred to in section 110(2)(d) and has commuted (pursuant to division 7 or part 4, division 8) for a lump sum the whole or a part of the annuity benefit to which he became entitled under this chapter, his widow is not entitled to receive assurance benefit in respect of the number of units of assurance benefit equal to the number of units of annuity benefit that have been commuted.
- (3) Where a contributor or pensioner dies and is survived by more than 1 widow, the amount payable under this section is that which would be payable if there were but 1 widow and the amount is payable to those widows in such proportions as the board determines having regard to their respective needs and to such other matters as it considers relevant.

### **118 Widow's right to substitute pension for assurance benefit**

- (1) Subject to this section, a widow to whom section 115(1) applies may elect not to receive assurance benefit for 1 or more units of assurance benefit but to receive in lieu thereof a widow's pension.
  - (2) The rate of widow's pension for each unit of assurance benefit to which the election relates shall be \$2.56 per fortnight except in the following cases—
    - (a) where the value of each unit of assurance benefit to which the widow is entitled is ascertained as prescribed by section 116(c)—the rate per fortnight of widow's pension for each unit of assurance benefit shall be ascertained in accordance with the formula—
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$$R = 2.56 \times \frac{A}{B}$$

where—

**A** means the fortnightly amount of pension to which the person through whom the widow's entitlement is derived was immediately before his death entitled under this chapter or would have been entitled under this chapter but for the operation of section 139(5) and (6) or an application under section 126.

**B** means the fortnightly amount of pension to which the person through whom the widow's entitlement is derived became entitled upon his retirement.

**R** means the fortnightly rate of pension for each unit of assurance benefit, expressed in dollars and cents to the nearest cent;

(b) where the value of each unit of assurance benefit to which the widow is entitled is ascertained as prescribed by section 116(d)—the rate per fortnight of widow's pension for each unit of assurance benefit shall be ascertained in accordance with the formula—

(i) where the retirement of the person through whom the widow's entitlement is derived occurred on or after 30 October 1974 and before 1 April 1978—

$$R = \frac{2.56 \times A \times (1 - 0.06t)}{B}$$

(ii) where the retirement of the person through whom the widow's entitlement is derived occurred on or after 1 April 1978—

$$R = \frac{2.56 \times A \times \left(1 - \frac{t}{45}\right)}{B}$$

where—

**A** means the fortnightly amount of pension to which the person through whom the widow's entitlement is derived was, immediately before his death, entitled under this chapter or would have been entitled under this chapter but for an application under section 126.

**B** means the fortnightly amount of pension to which the person through whom the widow's entitlement is derived became entitled upon his retirement.

**R** means the fortnightly rate of pension for each unit of assurance benefit, expressed in dollars and cents to the nearest cent.

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*t* means the remainder obtained by subtracting from 65 the age (expressed in years and complete months) as at the date of his retirement of the person through whom the widow's entitlement is derived.

- (3) An election under subsection (1)—
  - (a) shall be in writing; and
  - (b) shall be made within 6 months after the date on which the entitlement to the assurance benefit arises; and
  - (c) shall specify the number of units of assurance benefit in respect of which the elector desires to substitute a widow's pension.
- (6) A widow who again becomes widowed shall not be entitled to a pension under this section if an amount becomes payable to the widow under section 115 or under section 185 of chapter 5 in the event of her so becoming widowed unless she elects as prescribed to forgo entitlement to that amount to which she is entitled under either of those sections or under both of those sections if she is entitled under both sections.
- (7) An election under subsection (6)—
  - (a) shall be in writing; and
  - (b) shall be made within 6 months after the date on which the widow so becomes widowed.
- (8) If a person was entitled to a pension under this section but, under section 118(4) of the *Superannuation (State Public Sector) Deed 1990* as in force before the commencement day, the pension stopped being payable—
  - (a) subject to subsection (6), the person's entitlement to a pension under this section resumes from the commencement day; and
  - (b) if subsection (6) applies to the person, the person may make an election under subsection (6) within 6 months after the commencement day.
- (9) In this section—

**commencement day** means the day subsection (8) commences.

### **119 Entitlement of widow of person on staff of agent-general**

- (1) Notwithstanding the provisions of this chapter a widow of a person who was employed on the staff of the agent-general and who was liable—
  - (a) to pay tax under the law of the United Kingdom relating to the tax on incomes; or
  - (b) to contribute for national insurance including graduated pensions under the law of the United Kingdom relating to national insurance;

shall not be entitled to the payment of an amount pursuant to section 115 but shall be entitled to the payment of a widow's pension as if the widow

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were a widow entitled to the payment of an amount pursuant to that section and had duly elected under section 118 not to receive any part of that amount but to receive a widow's pension in lieu thereof—

- (c) where section 161 is relevant to the case—in accordance with that section; or
  - (d) in any other case—in accordance with section 118.
- (2) This section shall not apply to a widow of a person who, at the date of commencement of the *Superannuation (Miscellaneous Acts) Amendment Act 1991*, section 2.5 was employed on the staff of the agent-general and was a contributor.

*Editor's note—*

*Superannuation (Miscellaneous Acts) Amendment Act 1991*, section 2.5 commenced 11 May 1991 (see proc pubd gaz 4 May 1991 p 73).

## **Division 5 Additional assurance benefit for children**

### **120 Children entitled to additional assurance benefit**

- (1) Subject to this chapter, additional assurance benefit shall be payable in respect of every child to whom this section applies until the child ceases to be a child under this deed.
  - (2) This section applies to every child of—
    - (a) a person—
      - (i) who, having attained the age for retirement before the passing of the *Superannuation Acts Amendment Act 1984*, has died before, on or after the passing of that Act or who, having retired before the passing of that Act by reason of an election mentioned in section 110(2)(d), has died before, on or after the passing of that Act or who has died on or after the passing of that Act and was a contributor or was receiving annuity benefit or incapacity benefit immediately before his death; and
      - (ii) who when he died or ceased to be a contributor was contributing for not less than 4 units of assurance benefit under this chapter; or
    - (b) a deceased or divorced wife of a person referred to in paragraph (a) who has died before the discrimination law commencement, except the child of a divorced wife that is not the issue of that person; or
    - (c) the widow of a person referred to in paragraph (a) except a child born after the passing of the *Superannuation Acts Amendment Act 1984* and the death of that person that is not the issue of that person; or
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- (d) a previous spouse of a person mentioned in paragraph (a), who has died on or after the discrimination law commencement, other than—
  - (i) a child of a divorced wife who is not the issue of the person; or
  - (ii) a child of a de facto partner who has separated from the person, who is not the issue of the person.
- (3) This section also applies to a child of a person if—
  - (a) the person has converted into a lump sum, under section 114, a benefit to which the person was entitled because of an incapacity; and
  - (b) the incapacity was caused by a medical condition (the *primary medical condition*); and
  - (c) the person dies within 1 year after the day of payment of the benefit; and
  - (d) in the opinion of the board, the death was caused by—
    - (i) the primary medical condition; or
    - (ii) a medical condition related to the primary medical condition; and
  - (e) when the person stopped being a contributor, the person was contributing for at least 4 units of assurance benefit under this chapter.

#### **121 Amount of additional assurance benefit**

- (1) In respect of each child, other than a child mentioned in section 120(3), the amount of additional assurance benefit shall be—
    - (a) if a person who, in the case, is or was a widow entitled to assurance benefit pursuant to division 4 is living—at the rate of \$50 per fortnight adjusted in accordance with the cost of living adjustment provided for in section 133 from and including the first pay-period that occurs wholly in August 1987; and
    - (b) in any case other than a case to which paragraph (a) applies, including the case of a child who at the passing of the *Superannuation Acts Amendment Act 1984* was entitled to additional assurance benefit under the *Public Service Superannuation Act 1958*, section 36(1)(b)—at a rate in accordance with the following table in respect of each unit of assurance benefit for which the person through whom the entitlement to additional assurance benefit arose or arises was contributing when he died or otherwise ceased to be a contributor—
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**Table**

1 child	\$2.56 per fortnight
2 or more children	\$3.84 per fortnight divided by the number of children in respect of each child.

(2) However, each child who is entitled to additional assurance benefit under subsection (1)(b) shall be paid a fortnightly rate so that, when that rate is added to any rate of pension to which the child is entitled under chapter 5, the total rate payable shall be at least equal to twice the rate that the child would have been paid had the child been a case to which subsection (1)(a) applies.

(2A) The amount of additional assurance benefit for a child mentioned in section 120(3) is the amount mentioned in subsection (1)(a).

**(3) Payment of additional assurance benefit**

Unless the board otherwise determines, the additional assurance benefit shall be paid in a case to which subsection (1)(a) applies, to the person who is or was the widow referred to therein and, in any other case, to the guardian of the child.

(3A) For a child mentioned in section 120(3), the additional assurance benefit must be paid to the guardian of the child.

(4) In any case where the board deems necessary for the better support and education of the child concerned the additional assurance benefit, or any part thereof, shall be paid to such individual as the board determines.

(5) Where by reason of the death of a contributor or a person in receipt of benefit the only entitlement derived through him is an entitlement to an additional assurance benefit arising on or after the passing of the *Superannuation Acts Amendment Act 1984* and before the passing of the *Superannuation Acts Amendment Act 1987* the amount of benefit payable in respect of the child or, if there are 2 or more children who derive the entitlement, in respect of all of them shall equal at the least the amount that would be payable in respect of 1 child (being a child deriving his or her entitlement through the contributor or person in receipt of benefit) under this section for a period of 5 years calculated at the rate at which a pension was payable in respect of 1 child (being a child deriving his or her entitlement through that contributor or person in receipt of benefit) at the date when the entitlement to the additional assurance benefit commenced.

(6) Where by reason of the death of a contributor or a pensioner the only entitlement derived through him is an entitlement to an additional assurance benefit arising on or after the passing of the *Superannuation Acts Amendment Act 1987* and the amount of benefit paid in respect of the child or, if there are 2 or more children who derive the entitlement, in respect of all of them (disregarding for the purpose of calculating that amount any increase in the rate of benefit payable since the time when the entitlement commenced) is less than the amount that would have been payable under section 115 to the widow of the person through whom the

entitlement is derived, had he left a widow upon his death, there shall be paid to such persons as are approved by the board, in equal shares if more than 1, the difference between the 2 amounts hereinbefore referred to in this subsection.

## **Division 6 Surrender values and refunds of contributions for annuity and assurance benefits**

### **122 Endowment payment in lieu of units of assurance benefit**

A contributor who on or after the passing of the *Superannuation Acts Amendment Act 1984* attains the age for retirement or retires before attaining that age by reason of an election mentioned in section 110(2)(d) and—

- (a) who commutes for a lump sum all or any of the units of annuity benefit for which he was contributing immediately before he ceased to be a contributor, is entitled, in addition to the payment of the lump sum for which he has commuted and to annuity benefit (if any), to an amount determined by the actuary and approved by the board in respect of each unit of assurance benefit for which he was so contributing up to and including the number of units of annuity benefit in respect of which he has commuted for a lump sum and he shall be paid from the fund in respect of the assurance benefit for which he was so contributing a sum equal to that amount multiplied by a number equal to the number of units of annuity benefit in respect of which he has commuted but not exceeding the number of units of assurance benefit for which he was so contributing; or
- (b) who, being a person through whom there is at the time he ceases to be a contributor no person who would derive an assurance benefit upon his death, either—
  - (i) does not commute as referred to in paragraph (a); or
  - (ii) was contributing at the time he ceased to be a contributor for a number of units of assurance benefit in excess of the number of units of annuity benefit in respect of which he has commuted as referred to in paragraph (a);

is entitled, in addition to annuity benefit and to the payment (if any) to which he is entitled under paragraph (a), to an amount determined by the actuary and approved by the board in respect of each unit of assurance benefit for which he was contributing immediately before he ceased to be a contributor or, as the case may be, in respect of each of those excess units of assurance benefit and he shall be paid from the fund a sum equal to that amount multiplied by a number equal to the number of units of assurance benefit for which he was so contributing or, as the case may be, by a number equal to the number of those excess units of assurance benefit.

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**123 Refunds of annuity benefit contributions**

- (1) If and when a person ceases to be a contributor before attaining the age of 65 years otherwise than by reason of an election as is mentioned in section 110(2)(d), the person or, if the person died, the person's legal personal representative or other individual approved by the board shall be paid from the fund a sum equal to the aggregate of all amounts contributed by the person to the fund in respect of units of annuity benefit for which the person was then contributing accumulated at the rate of 1.25% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.
- (2) Subsection (1) does not apply to a person who is retired or permitted to retire from employment as an officer by reason of incapacity and who satisfies the board as required by section 136 or to a person referred to in section 155(6) who dies.
- (3) When a person over the age of 65 years who has been a contributor and who when the person died was entitled to receive annuity benefit under this chapter, dies before the person has been in receipt of such benefit for a period of 3 years the person's legal personal representative or other individual approved by the board shall be entitled to be paid from the fund the amount by which the aggregate of all payments from the fund in respect of units of annuity benefit under this chapter in respect of which the person was entitled to the receipt of annuity benefit when the person died that would have been paid if the person had been in receipt of such annuity benefit for a period of 3 years exceeds the aggregate of all such payments that had been paid to the person before the person died.
- (4) For the purposes of subsection (3)—
  - (a) it shall be deemed that the annuity benefit that would have been received by the person during any unexpired portion of the period of 3 years subsequent to the person's death shall be at the rate of \$3.84 per fortnight per unit of annuity benefit; and
  - (b) section 133 shall be disregarded in calculating entitlement under subsection (3).
- (5) Subsections (3) and (4) applies to a contributor who makes an election as is mentioned in section 110(2)(d) to retire before the day on which the contributor would attain the age for retirement as if in the contributor's case a reference in subsection (3) to 'the age of 65 years' were a reference to the contributor's age at the date of retirement pursuant to such election and as if the reference in subsection (4)(a) 'the rate of \$3.84' were a reference to the rate ascertained in the contributor's case in accordance with the formula prescribed in section 111(3).

**124 Refunds of incapacity benefit contributions**

- (1) If and when a person ceases to be a contributor before attaining the age of 65 years the person or, if the person has died, the person's legal personal representative or other individual approved by the board, shall be paid
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from the fund a sum equal to the aggregate of all sums contributed by the person to the fund in respect of units of incapacity benefit for which the person was then contributing accumulated at the rate of 1.25% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.

- (2) This section does not apply to a person retired, by reason of incapacity, or an election as is mentioned in section 110(2)(d), from employment as an officer.

## **125 Refund of assurance benefit contributions**

If and when a person ceases to be a contributor before attaining the age for retirement other than by reason of—

- (a) his death; or
- (b) his retirement from employment as an officer on the ground of incapacity; or
- (c) his retirement from employment as an officer pursuant to an election referred to in section 110(2);

he shall be paid from the fund a sum equal to the aggregate of all amounts contributed by him to the fund in respect of units of assurance benefit for which he was contributing accumulated at the rate of 1.25% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.

## **Division 7 Commutation of annuity benefit**

### **126 Application to commute**

- (1) Subject to this division, a contributor or other person may apply in writing to the board to commute for the lump sum ascertained in accordance with this division the annuity benefit payable in respect of all or any of the units of annuity benefit (including any excess unit to which section 146 applies but not including any reserve unit of benefit in respect of which he or she may elect to receive payment of the sum prescribed by section 107) for which he or she was contributing—
    - (a) on attaining the age of 65 years; or
    - (b) in the case of a contributor retired by reason of incapacity from his or her employment as an officer before attaining the age of 65 years—when so retired; or
    - (c) in the case of a contributor who voluntarily resigns from his or her employment as an officer after he or she has attained the age of 60 years but before attaining the age of 65 years or makes an
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election as is mentioned in section 110(2)(d) to retire before the day on which the contributor would attain the age for retirement—on the date of his or her resignation or, as the case may be, retirement.

- (2) The application shall be made—
  - (a) in the case of a contributor retired by reason of incapacity from his or her employment before attaining the age of 65 years—before the expiration of a period of 1 month commencing on the date on which he or she attains that age; and
  - (b) in the case of a contributor who voluntarily resigns from his or her employment after he or she has attained the age of 60 years but before attaining the age of 65 years or makes an election as is mentioned in section 110(2)(d) to retire before the day on which the contributor would attain the age for retirement—before the expiration of a period of 1 month commencing on the date on which his or her resignation or, as the case may be, retirement takes effect; and
  - (c) in any other case—before the expiration of a period of 1 month commencing on the date on which the contributor attains the age of 65 years.
- (3) The board shall not proceed with an application under subsection (1) by a person to whom subsection (2)(a) applies (other than a person who at the date of the application is being continued in his or her employment as an officer) unless the applicant has produced evidence of good health at the time of the application satisfactory to the board.
- (4) A person to whom subsection (1)(b) applies who makes an application under subsection (1) shall produce evidence of his or her state of health at the time of the application satisfactory to the board and in determining the lump sum payable under this section due weight shall be given to that evidence.
- (5) The provisions of section 123(1) do not apply to a person to whom subsection (1)(c) applies in relation to any units of annuity benefit in respect of which he or she is paid a lump sum pursuant to this section.

## **127 Persons not entitled to commute**

- (1) This division does not apply to a contributor who—
    - (a) having attained the age of 59 years and 9 months at the date of commencement of the *Public Service Superannuation Act Amendment Act 1969*—elects, after the expiration of a period of 3 months commencing on that date, to increase the amount of his or her contribution under section 96, or that section as applied by section 155, and is accepted by the board as a contributor under the section under which the election is made; or
    - (b) not being a person to whom paragraph (a) applies—elects, after the said date of commencement and after having attained the age
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of 60 years, to increase his or her contribution under section 96, or that section as applied by section 155, and is accepted by the board as a contributor under the section under which the election is made; or

- (c) voluntarily resigns from his or her employment after he or she has attained the age of 60 years but before attaining the age of 65 years or makes an election as is mentioned in section 110(2)(d) to retire before the day on which the contributor would attain the age for retirement and who—
  - (i) has elected to increase the amount of his or her contributions under section 96, or that section as applied by section 155, and has been accepted by the board as a contributor under the section under which the election is made; or
  - (ii) has been permitted under section 129 to commute the contribution for any benefits under this chapter other than a commutation by way of a single premium of the contribution for units of benefits under this chapter effected under section 95 by reason of an increase in the salary of the contributor;

after the expiration of the period of 3 months commencing on the date of commencement of the *Public Service Superannuation Act Amendment Act 1969* and—

- (iii) during the period of 5 years immediately preceding such resignation or, as the case may be, retirement; or
  - (iv) where the resignation or, as the case may be, retirement takes effect within the period of 5 years and 3 months after the date of commencement of the *Public Service Superannuation Act Amendment Act 1969*—during such part only of that period of 5 years as occurs after the expiration of a period of 3 months commencing on the said date of commencement.
- (2) Where a contributor prior to resignation or retirement has duly surrendered all the units of benefits for which the contributor is contributing under section 96, or that section as applied by section 155, the contributor shall, for the purposes of this section, be deemed not to have elected to increase the amount of his or her contributions under section 96 or that section as applied by section 155.

## **128 Ascertainment of lump sum payable**

- (1) Subject to this section, the amount of the lump sum that a contributor or other person is entitled to be paid in respect of any application under section 126 is such amount as is determined by the actuary as the actuarial reserve of the units of annuity benefit to which the application relates and approved by the board.
  - (2) In the case of a contributor who is continued in his or her employment as an officer after attaining the age of 65 years and who makes an
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application under section 126, the lump sum that is payable is such amount as is determined by the actuary and approved by the board as the actuarial reserve of the units of annuity benefit to which the application relates no regard being had in determining the lump sum to which the officer is entitled under this division to any amount or proportion in respect of the units of annuity benefit in question prescribed by this chapter to be payable by the Crown.

- (3) In addition to the lump sum payable under subsection (2) there is payable to a contributor to whom that subsection applies on retiring or being retired from his or her employment as an officer, a sum of such amount as is determined by the actuary and approved by the board as being attributable, as at the date on which the retirement takes effect, to the amount or proportion of the units of annuity benefit in respect of which the lump sum was payable under subsection (2) that would have become payable by the Crown under this chapter if the application under section 126 had not been made.
  - (4) In the case of a contributor who voluntarily resigns, pursuant to section 160, from employment after he or she has attained the age of 60 years but before attaining the age of 65 years, for the purposes of determining the lump sum that is payable under this division each unit of annuity benefit in respect of which he or she makes an application under section 126 shall be deemed to provide a benefit at such rate per fortnight as may be determined by the actuary and approved by the board.
  - (5) In the case of a contributor who, after the commencement of the *Superannuation Acts Amendment Act (No. 2) 1974*, part 3, makes an election as is mentioned in section 110(2)(d), for the purposes of determining the lump sum that is payable under this division each unit of annuity benefit in respect of which he or she makes an application under section 126 shall be taken to provide a benefit ascertained in accordance with the formula prescribed by section 111(3).
  - (6) In determining the lump sum payable under this division—
    - (a) with respect to units the subject of an application under section 126 for which the contributor commenced to contribute before the commencement of the *Public Service Superannuation Act Amendment Act 1969* or for which the contributor commenced to contribute after that commencement by reason of section 95(8)—no regard shall be had to any increased benefit to which the applicant may have become entitled in relation thereto if the application had not been made; and
    - (b) with respect to units the subject of an application under section 126 for which the contributor commenced to contribute after the commencement of the *Public Service Superannuation Act Amendment Act 1969* (save units for which the contributor commenced to contribute after that commencement by reason of section 95(8))—no regard shall be had to any part of the increased benefit to which the applicant may have become entitled in relation thereto if the application had not been made that the actuary appointed pursuant to the division rules in Schedule 2 to the Deed
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determines, with the approval of the board, to be attributable to the amount or proportion of those units of annuity benefit that would have become payable by the Crown under this chapter if the application had not been made.

- (7) Any right conferred by this division on any contributor or other person does not derogate from any right conferred by section 151, but a person is not entitled to be paid a lump sum under more than 1 such provision in respect of the same unit of annuity benefit.

## **Division 8                    General provisions respecting benefits**

### **129    Right to prepay contributions**

- (1) The board may permit a contributor to commute the contribution for benefits under this chapter, or any of them, payable by the contributor in respect of any future period by payment of a lump sum of such amount as shall be determined by the actuary and approved by the board.
- (2) Where a contributor has commuted wholly or in part any contributions under this chapter attributable to a period within the 10 years immediately preceding the age for retirement the contributor is, upon the contributor's application therefor made to the board prior to the date of retirement, entitled to be paid from the fund in respect of the contributions so commuted and attributable to such part of that period as commences on the date of the contributor's application or a date specified by the contributor in the contributor's application (whichever is the later date) and expires at the termination of that period such sum of money as is determined by the actuary and approved by the board.
- (3) Where a contributor who elects to retire at any time within the period of 10 years immediately preceding the day on which the contributor would attain the age for retirement has commuted wholly or in part any contributions under this chapter attributable to any period after the date of retirement and has not been paid under subsection (2) a sum of money in respect of the whole of the contributions so commuted the contributor is, in addition to any benefit entitlement under this chapter, entitled to be paid from the fund such sum of money in respect of such contributions as is determined by the actuary and approved by the board, due allowance being made for any sum of money that has been paid under subsection (2) in respect of such contributions.

### **130    Benefits payable for life except in case of children**

- (1) Except where otherwise provided in this chapter, annuity benefit or assurance benefit shall be payable during the life of the person entitled thereto.
  - (2) Additional assurance benefit in respect of any child shall be payable until the child ceases to be a child under this deed or sooner dies.
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(3) **Payment of benefit instalments**

Benefits shall as far as practicable be paid fortnightly or, if so determined by the board, periodically at other intervals.

**131 Payment to person other than the beneficiary**

- (1) Where in the opinion of the board payment of any benefit, refund of contributions or other payment under this chapter should be made to a person other than the person to whom the same is prescribed to be payable, the board may authorise payment to such firstmentioned person accordingly.
- (2) This section does not apply to an eligible death benefit payable to a person under rule 64 of the division rules in Schedule 2 to the Deed.

**132 Commencement of benefits**

Subject to this chapter, where under this chapter an officer becomes liable, or elects, to contribute for any units or additional units, the officer shall be a contributor in respect of those units or additional units as from the date as from which the contribution or additional contribution therefor is payable and not earlier, but if any benefit becomes payable to or in respect of that contributor before the officer has actually commenced to make contributions or additional contributions there shall, as determined by the board, be deducted from payments of benefit such contributions as are due by the officer in respect of those units or additional units.

**133 Indexation of pensions—general**

- (1) This section applies to a pension payable to a person during a financial year under this chapter if the pension was payable to the person immediately before the start of the previous financial year.
  - (2) As soon as practicable after the start of the financial year, the board must reassess the amount of the pension and either increase it or maintain it at the same level as in the previous financial year, as follows—
    - (a) if the June index for the previous financial year is higher than the last adjustment index for the pension, the pension must be increased by the percentage increase between the 2 indexes;
    - (b) otherwise, the pension remains the same.
  - (3) If the pension is increased under the reassessment, the pension is payable to the person at the increased level from the first pay period that falls entirely in the month of August in the financial year.
  - (4) A percentage increase between 2 indexes under subsection (2)(a) must be calculated to 1 decimal place.
  - (5) In this section—  
*last adjustment index*, for a pension, means—
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- (a) if the pension has ever been increased under this section—the June index for the financial year immediately before the financial year in which the pension was last increased under this section; or
- (b) otherwise—the June index for the financial year immediately before the financial year in which the pension started being payable.

*pay period*, for a pension, means the fortnightly period in relation to which each pension payment is payable under this part.

*pension* means a benefit payable to a person under this chapter that has not been commuted to a lump sum.

### 133A Indexation of pensions—part of a year

- (1) This section applies to a pension payable to a person under this chapter during a financial year (*year 2*) if the pension started being payable to the person during the previous financial year (*year 1*).
- (2) As soon as practicable after the start of year 2, the board must reassess the amount of the pension and either increase it or maintain it at the same level as in year 1, as follows—
  - (a) if the June index for year 1 is higher than the June index for the financial year before year 1 (*year 0*), the pension must be increased by the amount calculated under the following formula—

$$\frac{I\% \times M \times B}{12}$$

- (b) otherwise, the pension remains the same.
- (3) If the pension is increased under the reassessment, the pension is payable to the person at the increased level from the first pay period that falls entirely in the month of August in year 2.
- (4) In this section—

*B* means the amount of the pension immediately before the reassessment.

*I%* means the percentage increase between the June index for year 0 and the June index for year 1, calculated to 1 decimal place.

*M* means the number of whole months in year 1 for which the pension is payable.

*pay period*, for a pension, means the fortnightly period in relation to which each pension payment is payable under this part.

*pension* means a benefit payable to a person under this chapter that has not been commuted to a lump sum.

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**134 Adjustment of pension where entitlement follows a former entitlement**

- (1) Where on or after 1 July 1974 a person becomes entitled to a pension under a provision of division 1 or 2 (in this section called the *subsequent pension*) and the person was, immediately before becoming so entitled, entitled to a pension under such a provision (in this section called the *former pension*) and has not since becoming entitled to the former pension resumed employment as an officer, the pension to which the person is entitled is a pension calculated in accordance with the formula—

$$P = A \times \frac{B}{C}$$

- (2) In subsection (1)—

*A* means the fortnightly amount of the pension that would have been payable to the person but for this section.

*B* means the fortnightly amount of the former pension that was payable under this chapter to the person immediately before becoming entitled to the subsequent pension.

*C* means the fortnightly amount of the former pension that was payable to the person on the person becoming entitled thereto.

*P* means the fortnightly amount of the pension payable to the person.

**135 Variation of entitlement to adjustment**

- (1) Where in the opinion of the board a person in receipt of a benefit under this chapter would be prejudicially affected by an increase in the person's benefit under section 133 the board may determine—

- (a) that such person receive no increase in benefit under that section; or  
(b) that such person receive an increase in benefit less than that provided for by that section;

and the determination shall be given effect according to its terms notwithstanding that section.

- (2) The board may revoke or vary a determination under subsection (1).  
(3) In the event of a revocation of a determination the amount of the benefit to which the determination related shall, as from the date of the revocation, be the same as if that determination had not been made.  
(4) In the event of a variation of a determination the amount of the benefit to which the determination relates shall, as from the date of the variation, be in accordance with the determination as so varied.  
(5) Unless it is otherwise determined by the board, for the purpose of determining the amount of benefit payable under section 116, 120 or 134 all determinations made under subsection (1) and variations made under subsection (2) shall be disregarded and the person in receipt of benefit
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shall be deemed to have been receiving, immediately before the person's death or, as the case may be, immediately before becoming entitled to the subsequent pension referred to in section 134, the amount of benefit that would have been payable to the person had no such determination been made.

### **136 Entitlement to receive incapacity benefit**

Before a person—

- (a) who is retired or permitted to retire as an officer by reason of incapacity; or
- (b) who has been absent from duty with leave of absence without salary by reason of incapacity for a continuous period of 14 days (whether or not working days);

is entitled to payment of an incapacity benefit or to payment from the fund of a sum on account of incapacity the person shall satisfy the board that the incapacity is such as to render the person unfit to discharge or incapable of discharging the duties of office efficiently and, in the case referred to in paragraph (a), that the incapacity is likely to be permanent.

### **137 Enlargement of benefits to level of benefits under ch 5**

Despite this chapter, in respect of a contributor who retires, commences a period of sick leave of absence without salary or dies after the passing of the *Superannuation Acts Amendment Act 1987* the value of a unit of annuity, incapacity or assurance benefit, other than a reserve unit or an excess unit referred to in section 98 is—

- (a) the value thereof determined as prescribed by this chapter; or
- (b) the value determined in accordance with the provisions of chapter 5 that provide for contributor's pension, incapacity pension or, as the case may be, benefits upon contributor's death payable pursuant to that chapter, as if the contributor's salary as at 31 December 1972 were the contributor's final average salary, within the meaning of that chapter, divided by the number specified in schedule 2, column 2 set opposite the fortnightly salary range, specified in schedule 2, column 1, in which the contributor's salary fell as at 31 December 1972;

whichever is the greater.

### **138 Proof of continued incapacity**

- (1) Any person who is in receipt of incapacity benefit, shall whilst the person continues to be in receipt of incapacity benefit, give as prescribed such notifications and certificates relating to the person's continued incapacity as shall be prescribed and submit for medical examination when and so often as the board requires to any medical practitioner or medical practitioners approved by the board.
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- (2) If at any time a person defaults in complying with any requirement of this section, the board may discontinue the payment to the person of incapacity benefit until the person remedies the default to its satisfaction.

**139 Incapacity beneficiary restored to health may be recalled to service**

- (1) If in the opinion of the board the health of any person who is in receipt of incapacity benefit and who has not attained the age of 65 years has been restored to such an extent as to enable the person to perform duties as an officer, the board shall so inform the person, body or authority by whom that person is or was employed as an officer, to the intent that the person, body or authority so informed shall—
  - (a) in the case of the person in receipt of incapacity benefit being absent from duty with leave of absence without salary—instruct that person to resume employment with the person or it forthwith; or
  - (b) in the case of the person in receipt of incapacity benefit having had the person's employment terminated by reason of the incapacity—take all practicable steps to find employment for that person as an officer in the person's or its employment.
- (2) If—
  - (a) in the case of a person in receipt of incapacity benefit being absent from duty with leave of absence without salary—the board has pursuant to subsection (1) informed the person, body or authority by whom that person is employed as an officer as prescribed by that subsection and that person has not resumed such duty; or
  - (b) in a case referred to in subsection (1)(b)—employment referred to in that paragraph is offered to the person in receipt of incapacity benefit at a rate of salary at least equal to the rate of salary then payable in respect of the office held by the person at the time the person became eligible for the incapacity benefit and the person fails to accept that employment;

the board may cancel that person's incapacity benefit and thereupon it shall cease to be payable.

- (3) Where the board cancels a person's incapacity benefit it shall forthwith inform the person in writing of the cancellation.
  - (4) Where a person's incapacity benefit is cancelled under subsection (2) neither that person nor any other person claiming through the person, either immediately or at any future time, shall be entitled to any payment or further payment from the fund by way of any benefit for which that person was contributing to the fund but that person shall be paid from the fund a sum equal to the total amount of the person's contributions to the fund accumulated from 1 July 1990 at the net earning rate of the fund compound less an amount certified by the actuary to be attributable to the provisions of incapacity benefit.
  - (5) If at any time it appears to the board that any person who is in receipt of incapacity pension—
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- (a) engages in—
  - (i) any business or occupation on the person's own account; or
  - (ii) employment, not being employment by virtue whereof the person is an officer receiving salary at least equal to the rate referred to in subsection (2); or
- (b) receives compensation under the *Workers' Compensation and Rehabilitation Act 2003*;

the board may suspend payment of the incapacity pension.

- (6) For the period for which payment of an incapacity pension is suspended under subsection (5) the person concerned shall not be entitled to or receive any incapacity pension from the fund unless the board directs that the person be paid for that period or such part thereof as the board determines, the whole of the incapacity pension or such part thereof as the board considers reasonable.

#### **140 Contribution by retired incapacity beneficiaries upon re-employment**

If a person who has been retired, by reason of incapacity, from employment as an officer and who is in receipt of incapacity benefit again becomes an officer, the period during which the person was retired shall not, for this chapter, be deemed to be a break in the continuity of his or her service as an officer, and accordingly the officer shall be deemed to be a contributor and contributions to the fund shall again become payable by the person under this chapter.

#### **141 Postponement of payment of refunds**

- (1) Notwithstanding the provisions of section 123, 124 or 125, where a contributor, before attaining the age for retirement, ceases to be an officer by reason of—
  - (a) resignation before attaining the age of 55 years; or
  - (b) the termination of employment as an officer before attaining the age of 55 years, otherwise than on account of misconduct; or
  - (c) being retired or permitted to retire on the ground of incapacity, where the contributor has not satisfied the board as required by section 136;

and the contributor makes an election pursuant to section 191 of chapter 5 the contributor shall by reason of the contributor having made that election be deemed to have elected not to take from the fund the sums referred to in sections 123, 124 and 125.

- (2) Where an election is, pursuant to subsection (1), deemed to have been made there shall be credited in the fund on account of the elector the amount to which the contributor would have been entitled had the
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contributor ceased to be an officer by way of retrenchment duly effected in accordance with relevant arrangements approved by the Governor in Council, until, subject to subsection (3)—

- (a) the contributor attains the age of 55 years; or
- (b) the contributor satisfies the board that the contributor suffers a permanent incapacity by reason whereof the contributor is unfit to discharge or incapable of discharging duties as an officer efficiently; or
- (c) the contributor informs the board in writing that the contributor no longer desires his or her election made under section 191 of chapter 5 to operate; or
- (d) the contributor dies;

whereupon the prescribed amount shall be paid to the contributor or to his or her legal personal representative, as the case requires.

- (3) Where a person who is deemed pursuant to subsection (1) to have elected as prescribed by that subsection again becomes a contributor the prescribed amount credited in the fund on the contributor's account under this section shall be added to the prescribed amount credited in the fund on the contributor's account under section 191 of chapter 5 and shall be applied in the manner prescribed by that section.

- (4) In subsections (2) and (3)—

***prescribed amount***, so far as it relates to the amount that is to be paid pursuant to subsection (2) or that is to be applied pursuant to subsection (3), means—

- (a) where the elector has informed the board in writing that the elector no longer desires his or her election made under section 191 of chapter 5 to operate, the sums which the elector would have been entitled to be paid pursuant to sections 123, 124 and 125 had the elector not been deemed to have elected as prescribed by subsection (1) together with interest that has accrued since the date on which the elector ceased to be an officer and that is properly attributable to those sums; and
  - (b) in any other case—the amount credited on account of the elector pursuant to subsection (2), together with interest for the period since the date on which the elector ceased to be an officer.
- (5) For purposes of subsection (4), interest shall be calculated at such rate as is determined by the board, from time to time, on the advice of the actuary which rate, at the time it is determined, is to reasonably reflect the after tax earnings of the fund (on a long-term basis) derived from the investment of contributors' contributions, having regard to costs incurred in investing and administering the fund.
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## Part 4 Transitional provisions

### Division 1 Interpretation

#### 142 Conversion value of units of annuity benefit and incapacity allowance under the repealed Act

Except as otherwise provided in this chapter, a unit of annuity benefit or of incapacity allowance under the repealed Act shall be taken into account as 3 units of annuity benefit or as 3 units of incapacity benefit, as the case may be, under this chapter.

#### 143 Application of pt 4

- (1) This part applies to every officer required by this chapter to contribute to the fund whose employment as an officer (whether on probation or otherwise) commenced before 1 April 1959, and who immediately before that date was contributing under the repealed Act for annuity benefit thereunder.
- (2) In this part—  
*officer* means an officer to whom this part applies.

### Division 2 Contributions for annuity benefit by officers

#### 144 Officer to make equivalent contribution for annuity benefits

- (1) Subject to this division, every officer shall, whilst the officer is required by this chapter to contribute to the fund, contribute thereto for 3 units of annuity benefit in respect of every unit of annuity benefit under the repealed Act for which the officer was contributing thereunder.
  - (2) In respect of every 3 units of annuity benefit under this chapter to which subsection (1) applies, an officer (instead of contributing in accordance with schedule 3) shall make to the fund the contribution prescribed under the repealed Act in respect of the unit of annuity benefit thereunder in relation to which subsection (1) requires the officer to contribute for the 3 units in question of annuity benefit under this chapter.
  - (3) In respect of a number of units of annuity benefit under this chapter for which an officer is required to contribute according to schedule 2 in excess of the aggregate of 3 units of annuity benefit under this chapter for each unit of annuity benefit under the repealed Act for which—
    - (a) an officer under the age of 40 years on 1 April 1959, was contributing, on and from that date that officer shall contribute for all units so in excess of that aggregate according to schedule 3.
  - (4) Such reduced amount of contribution shall, in the case of an officer who, on the date when the contribution commences, has attained the age of 61 years nearest birthday, be at such monthly rate as would, if the officer continued to contribute until the officer attained the age of 65 years,
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amount to the aggregate of one-half of the contribution in respect of a period of 5 years payable, upon the basis of the age of 60 years nearest birthday, according to schedule 3.

- (5) Whilst the aggregate of 3 units of annuity benefit under this chapter for each unit of annuity benefit under the repealed Act exceeds the number of units of annuity benefit under this chapter for which an officer is for the time being entitled and required to contribute according to schedule 2, the officer shall not be entitled or required to contribute for units of annuity benefit under this chapter in excess of that aggregate.
- (6) In calculating for the purposes of this section any reduced rate of contribution in respect of a unit of annuity benefit, any fraction of a cent shall count as a cent.

### **Division 3 Contributions for incapacity benefit by officers**

#### **145 Officer to make equivalent contribution for incapacity benefit**

- (1) Subject to this division, every officer shall, whilst the officer is required by this chapter to contribute to the fund, contribute thereto for 3 units of incapacity benefit in respect of every unit of incapacity allowance under the repealed Act for which the officer was contributing thereunder.
  - (2) In respect of every 3 units of incapacity benefit under this chapter to which subsection (1) applies, an officer (instead of contributing in accordance with schedule 3) shall make to the fund the contribution prescribed under the repealed Act in respect of the unit of incapacity allowance thereunder in relation to which subsection (1) requires him or her to contribute for the 3 units in question of incapacity benefit under this chapter.
  - (3) In respect of a number of units of incapacity benefit under this chapter for which an officer is required to contribute according to schedule 2 in excess of the aggregate of 3 units of incapacity benefit under this chapter for each unit of incapacity allowance under the repealed Act for which—
    - (a) an officer under the age of 40 years on 1 April 1959, was contributing, on and from that date that officer shall contribute for all units so in excess of that aggregate according to schedule 3.
  - (4) Whilst the aggregate of 3 units of incapacity benefit under this chapter for each unit of incapacity allowance under the repealed Act exceeds the number of units of incapacity benefit under this chapter for which an officer is for the time being entitled and required to contribute according to schedule 2, the officer shall not be entitled or required to contribute for units of incapacity benefit under this chapter in excess of that aggregate.
  - (5) Whilst an officer is, pursuant to this part, contributing for units of incapacity benefit under this chapter in excess of the number of units of annuity benefit under this chapter for which the officer is contributing, the officer shall not be entitled or permitted to increase his or her contribution
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in respect of incapacity benefit under this chapter unless, being thereunto entitled under this chapter, the officer increases his or her contribution under this chapter in respect of annuity benefit so that the officer is contributing for the same number of units respectively of annuity benefit and of incapacity benefit.

## **Division 4                      Amounts respectively of annuity benefits and incapacity benefits**

### **146    Annuity benefit**

- (1) Every officer who when the officer attains the age of 65 years is contributing (or, in the case of an officer retired, by reason of incapacity, before attaining that age, when so retired was contributing) for units of annuity benefit under this chapter in excess of the number thereof for which that officer is then (or was when the officer was so retired before attaining that age) required to contribute according to schedule 2 shall, in respect of those excess units, be entitled to receive annuity benefit at the rate per unit of \$1.34 per fortnight and no more at all times during the continuance of the officer's entitlement to receive annuity benefit under this chapter and irrespective of whether or not the officer's employment as an officer is continued or discontinued.
- (2) This section shall apply to a contributor who makes an election as is mentioned in section 110(2)(d) to retire before the day on which the contributor would attain the age of 65 years as if—
  - (a) a reference to 'the age of 65 years' were a reference to the contributor's age at the date of retirement by reason of such election; and
  - (b) a reference to 'the rate per unit of \$1.34 per fortnight' were a reference to a rate per unit per fortnight calculated by the actuary and approved by the board.

### **147    Incapacity benefit**

Every officer who when retired, by reason of incapacity, from his or her employment as an officer, or when granted sick leave of absence without salary from such employment, is contributing for units of incapacity benefit under this chapter in excess of the number thereof for which he or she is then required to contribute according to schedule 2 shall, in respect of those excess units, be entitled to receive incapacity benefit at the rate per unit of \$1.34 per fortnight and no more during the continuance of his or her entitlement to receive incapacity benefit under this chapter by reason of such retirement or sick leave of absence without salary, as the case may be.

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**Division 5                      Other benefits under the repealed Act**

**148      Contribution for assurance benefit under the repealed Act**

- (1) An officer may, and it is hereby declared is entitled to, maintain the amount of the assurance benefit payable at death or, as the case may be, payable at the age of 65 years or prior death for which he was contributing under the repealed Act immediately prior to 1 April 1959, by continuing to make to the fund the contributions required by the repealed Act to be made by him thereto in respect of that amount.
  - (2) An officer may elect to discontinue, as from 1 April 1959, or as from any later date, the whole or any part (being a sum contributed in respect of a unit or units of the benefit) of such contribution.
  - (3) An officer shall be paid from the fund the full actuarial reserve then held in respect of every unit of the benefit to which this section applies which he has duly elected to surrender as from a day not later than 30 September 1959.
  - (4) In respect of any unit of such benefit surrendered by him as from any later date he shall be paid from the fund the then surrender value thereof as determined by the actuary and approved by the board calculated on an actuarial basis.
  - (5) According as the officer continues to contribute for the whole or part only thereof, payment shall be made from the fund in respect of the benefit when it becomes payable.
  - (6) To the extent necessary to give operation and effect to this section, the provisions of the repealed Act with respect to the benefit thereunder called therein assurance benefit shall, notwithstanding the repeal thereof, be deemed to be in force.
  - (7) A contributor who makes an election as is mentioned in section 110(2)(d) to retire before the day on which he would attain the age for retirement and who is on his retirement maintaining an amount of benefit under the repealed Act called therein assurance benefit (whether payable at death or payable at the age of 65 years or prior death) may apply, not later than 1 month after the date of his retirement, to the board to convert the same to a benefit payable on his retirement, and the board may convert the same accordingly on such terms and conditions as may be determined by the actuary and approved by the board.
  - (8) Except as prescribed by subsection (7), such a contributor shall not be entitled to apply, whether on his retirement or thereafter, for any conversion of such a benefit under the repealed Act.
  - (9) Where a benefit under the repealed Act mentioned in subsection (7) is not converted pursuant to this subsection, the amount thereof which shall be payable at the death or, as the case may be, at the age of 65 years or prior death of the contributor shall be such amount as is calculated by the actuary and approved by the board.
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**Division 6 Medical certificates**

**149 When evidence of good health required**

Notwithstanding anything in this chapter—

- (a) an officer who has made an application to contribute voluntarily for any benefit under the repealed Act which has not been approved by the board; or
- (b) an officer whose right or entitlement to contribute in respect of any compulsory unit of annuity benefit under the repealed Act has, at any time, been rejected or deferred; or
- (c) an officer who has attained the age of 40 years on 1 April 1959; shall not be entitled or required or permitted to contribute under this chapter—
- (d) for a number of units of annuity benefit in excess of the aggregate of 3 such units for each unit of annuity benefit under the repealed Act for which the officer was contributing; or
- (e) for a number of units of incapacity benefit in excess of the aggregate of 3 such units for each unit of incapacity allowance under the repealed Act for which the officer was contributing; or
- (f) for any assurance benefit;

unless and until the officer produces evidence of good health satisfactory to the board or is exempted from so doing by the board.

**Division 7 [Deleted]**

**Division 8 Commutation of benefits**

**151 Benefits which may be commuted**

- (1) Subject to this section an officer or other person may apply in writing to the board to commute for the lump sum prescribed by this section—
    - (a) units of annuity benefit under the repealed Act for which the person was contributing immediately prior to 1 April 1959, and whereto the person's right and interest are preserved and continued by this chapter; or
    - (b) units of assurance benefit payable at death under the repealed Act for which the person was contributing immediately prior to 1 April 1959, and whereto the person's right and interest are preserved and continued by this chapter; or
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- (c) in the case of an officer—units of annuity benefit under this chapter for which the officer's contribution is, pursuant to section 144, related to a unit of annuity benefit under the repealed Act.
- (2) The application shall be made—
  - (a) in the case of an officer or other person who attained the age of 65 years before 1 April 1959, and who on that date is being continued in employment within 3 months—after that date; and
  - (b) in any other case—within 1 month after the officer or person in question attains the age of 65 years.
- (3) The board may refuse the application or may approve it in whole or in part.
- (4) The amount of the lump sum to be paid in respect of any application shall be such amount as is determined by the actuary and approved by the board.
- (5) For the purposes of this section—
  - (a) a unit of annuity benefit under the repealed Act shall be deemed to provide a benefit at the rate of \$100 per annum; and
  - (b) a unit of assurance benefit payable at death under the repealed Act shall be deemed to provide a benefit of \$400; and
  - (c) a unit of annuity benefit under this chapter shall be deemed to provide a benefit at the rate of \$35 per annum.

## **152 Conversion of assurance benefit payable at death**

- (1) An officer or person may at any time elect to convert any units of assurance benefit payable at death under the repealed Act to units of assurance benefit payable at age 65 years or prior death under the repealed Act.
- (2) The terms of such a conversion shall be such as are determined by the actuary and approved by the board.
- (3) For this chapter an officer or person shall be deemed to have been contributing immediately prior to 1 April 1959, for any units of assurance benefit payable at age 65 years or prior death under the repealed Act which he obtains by conversion pursuant to this section.

## **153 Limit of commutation or variation of benefits**

Except as prescribed by this chapter, no commutation or other variation whatsoever of any benefit under this chapter or of any benefit under the repealed Act the right whereto is preserved and continued by this chapter shall be permitted in any circumstances whatsoever.

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## Part 5 Voluntary contribution for annuity benefit

### 154 Application of this part

- (1) This part applies to any and every officer—
  - (a) with respect to whom the board is not satisfied, whether under this chapter or the corresponding provisions of the repealed Act, that the health and physical condition of such officer are such as to justify the officer being accepted as a contributor; or
  - (b) who, being an officer to whom section 149 applies, or pursuant to the corresponding provisions of the repealed Act, has failed to produce evidence of good health satisfactory to the board and has not been exempted from so doing by the board.

- (2) In this part—

*further annuity benefit* means any units of annuity benefit in excess of the aggregate of 3 units of annuity benefit under this chapter for each unit of annuity benefit under the repealed Act for which an officer to whom part 4 applies was contributing.

*officer* means an officer to whom this part applies.

### 155 Voluntary contribution for annuity benefit or further annuity benefit

- (1) Any officer, contribution by whom to the fund is limited under this chapter, or the repealed Act, notwithstanding such limitation but subject to this part—
    - (a) may elect to contribute to the fund for further annuity benefit under this chapter; and
    - (b) if the officer so elects—may become such a contributor in accordance with the election.
  - (2) Such an election may be to contribute for further annuity benefit not exceeding the total number of units thereof for which the officer concerned would be entitled or required or permitted to contribute save for the limitation imposed in the officer's case under this chapter or the repealed Act.
  - (3) An officer thereunto electing shall contribute to the fund in accordance with the officer's election on and from a date to be determined by the board and thereafter until he or she attains the age of 65 years or his or her employment as an officer is sooner terminated by death, resignation or otherwise.
  - (4) With respect to annuity benefit, the provisions, save of section 96(3) and (4) apply to an officer who has elected under this part to contribute to the fund for further annuity benefit.
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- (5) Section 100(5) shall not apply to contributions payable by an officer to the fund pursuant to his or her election under this part unless the officer has been a contributor for a period of at least 10 years.
- (6) In the case of an officer who—
  - (a) dies before attaining the age for retirement; or
  - (b) is retired or permitted to retire from employment as an officer by reason of incapacity and satisfies the board as required by section 136;

section 110 does not apply with respect to any further annuity benefit for which the officer has elected under this section to contribute but the officer or, in the case of an officer who has died, the officer's widow or, if there be no widow, the legal personal representative or other individual approved by the board is entitled to be paid from the fund a sum equal to 3.5 times the total amount of the officer's contributions to the fund under this section.

- (7) The provisions of this chapter, other than this part, applicable with respect to contributions, benefits and payments in respect of annuity benefit thereunder shall, subject to this part, apply with respect to contributions, benefits and payments in respect of further annuity benefit contributed for by any officer as prescribed by this part.

#### **156 Annuity to widow**

- (1) An officer who contributes under this part for annuity benefit or further annuity benefit until the officer attains the age of 65 years may, within 3 months after attaining such age, apply to the board to convert into annuities payable respectively to himself or herself during the officer's lifetime and upon the officer's death to the officer's widow during the widow's lifetime such annuity benefit or further annuity benefit.
  - (2) Such officer may apply to have included in such conversion any assurance benefit under the repealed Act whereto the officer is entitled.
  - (3) The widow of any officer shall not be paid annuity benefit pursuant to this section unless the marriage to the officer took place before the officer attained the age of 65 years or, if the officer was retired by reason of incapacity from employment as an officer before the officer attained that age, before such retirement.
  - (4) The annuity benefit payable to the widow pursuant to the conversion under this section shall be one-half that payable to the applicant, and the actuarial value at the date of conversion as determined by the actuary and approved by the board of the respective fortnightly amounts of those annuities shall be equivalent to the equivalent value at the date of conversion of the benefit or further benefit contributed for under this part and of the assurance benefit under the repealed Act (if any) which have been converted.
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**157 When limited contributor may become full contributor**

- (1) Upon application in that behalf by an officer who is contributing under this part for annuity benefit or further annuity benefit and upon production by such officer to the board of evidence of good health satisfactory to the board, the board shall accept such person as a contributor to the fund as if the employment by virtue whereof the person is an officer had begun on the date when the person produced such evidence to the board.
- (2) However, in respect of all benefits for which the person is contributing to the fund on the date when the person produces such evidence such an officer (instead of contributing in accordance with schedule 3) shall continue to make to the fund the contribution therefor then being made by the person.

**Part 6 Miscellaneous**

**158 When officer may continue to contribute after resignation**

- (1) Where any officer or the officers included in any class of officers voluntarily resigns or resign from employment as such, the Governor in Council may approve of such officer or officers continuing to contribute after such resignation for all benefits, save (unless otherwise expressly specified by the Governor in Council) incapacity benefit, under this chapter for which that officer or those officers respectively was or were contributing before such resignation.
  - (2) Subject to and in terms of the approval by the Governor in Council, an officer or every officer included in any class of officers, as the case may be, may continue to contribute for any benefit under this chapter under, subject to, and in accordance with the provisions of this chapter applicable to contribution by the officer immediately prior to resignation, for the benefit in question and any benefit in respect whereof the officer so continues to contribute shall, subject to subsections (4) and (5), become payable and be paid as prescribed by this chapter.
  - (3) In the case of an approval under subsection (1) in relation to a class of officers that class may be specified in any matter whereby it is sufficiently identified and without naming any of the officers included therein.
  - (4) In respect of benefits under this chapter for which an officer to whom subsections (1) and (3) apply continues, pursuant to this section, to contribute under this chapter (unless the Governor in Council specifically approves payment in full as prescribed by this chapter of all benefits for which the officer has continued to contribute) the amount of the unit of annuity benefit, of incapacity benefit (in any case where the Governor in Council specifically approves continuance of contribution for that benefit) and of assurance benefit respectively under this chapter, and in respect of all additional assurance benefit under this chapter (but not including any benefit or payment payable pursuant to part 3, division 6) the prescribed amounts thereof, shall be reduced to 35% of the sums which, save for this
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subsection and subsection (5), would be payable in respect thereof under this chapter.

- (5) However, the amount of the unit of annuity benefit or of incapacity benefit under this chapter shall not by reason of this section be reduced to less than the rate of \$1.34 per fortnight.

**160 Entitlement to superannuation benefits on voluntary resignation at or after age 60**

- (1) Subject to this section—
- (a) a contributor—
    - (i) who voluntarily resigns from employment as an officer after the contributor has attained the age of 60 years and before the contributor has attained the age for retirement; and
    - (ii) who has duly elected as prescribed by subsection (18); and
    - (iii) is upon resignation entitled to be paid from the fund annuity benefit in respect of each unit thereof for which the contributor was contributing as at the date of resignation at a rate per annum determined by the actuary and approved by the board; or
  - (b) where a person entitled to be paid annuity benefit pursuant to paragraph (a) dies leaving a widow whose marriage to the person had occurred before or whose connubial relationship with the person had commenced before the resignation upon which the annuity benefit became payable under paragraph (a)—the widow is entitled to be paid from the fund assurance benefit in respect of each unit thereof for which that person was contributing as at the date of resignation as determined by the actuary and approved by the board.
- (2) A widow entitled to assurance benefit under subsection (1)(b) may elect not to receive assurance benefit for 1 or more units thereof but to receive in lieu thereof a widow's pension at a rate per fortnight determined by the actuary and approved by the board.
- (3) An election under subsection (2)—
- (a) shall be in writing; and
  - (b) shall be made within 6 months after the date on which the entitlement to assurance benefit arises; and
  - (c) shall specify the number of units of assurance benefit in respect of which the elector desires to substitute a widow's pension.
- (4) In respect of each child who in relation to a contributor referred to in subsection (1)(a) is a child to whom section 120 applies the amount of additional assurance benefit shall be at a rate per fortnight determined by
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the actuary and approved by the board in lieu of the amount prescribed by section 121(1).

- (6) This section does not entitle a widow to derive assurance benefit from more than 1 contributor and where but for this subsection the widow would be so entitled the widow shall be deemed to derive the widow's sole entitlement to assurance benefit from the contributor through whom the widow would derive the greatest entitlement to assurance benefit.
  - (7) Every contributor mentioned in subsection (1)(a) who on resignation is unmarried or a widower shall be entitled to be paid from the fund, in respect of each unit of assurance benefit for which the contributor was contributing on the contributor's resignation, a sum calculated by the actuary and approved by the board.
  - (8) A contributor mentioned in subsection (1)(a) who, pursuant to section 148, is on the contributor's resignation maintaining an amount of benefit under the repealed Act called therein assurance benefit (whether payable at death or payable at the age of 65 years or prior death) may apply, not later than 1 month after the date of resignation, to the board to convert same to a benefit payable on resignation, and the board may convert same accordingly upon such terms and conditions as may be determined by the actuary and approved by the board.
  - (9) Except as prescribed by subsection (8), such a contributor shall not be entitled to apply, whether on resignation or thereafter, for any conversion of such a benefit under the repealed Act.
  - (10) Where a benefit under the repealed Act mentioned in subsection (9) is not converted as provided by subsection (9), the amount thereof which shall be payable at the death or, as the case may be, at the age of 65 years or prior death of the contributor shall be such amount as is calculated by the actuary and approved by the board.
  - (11) Sections 123(3) and (4) and 146 apply to a contributor mentioned in subsection (1)(a) as if, in the contributor's case, references in those subsections to the age of 65 years were references to the contributor's age at the date of the voluntary resignation by reason whereof the contributor became entitled to be paid annuity benefit.
  - (12) In respect of excess units of annuity benefit mentioned in section 146 the entitlement to receive annuity benefit shall be at a rate per annum calculated by the actuary and approved by the board.
  - (13) In respect of units of annuity benefit mentioned in section 151(1), a contributor mentioned in subsection (1)(a) may apply to the board to commute for a lump sum payment the annuity benefit payable under this section.
  - (14) The application shall be made to the board not later than 1 month after the date of resignation.
  - (15) The board may refuse the application or may grant it in whole or in part.
  - (16) The amount of the lump sum to be paid in respect of any application under subsection (13) shall be such amount as is determined by the actuary and approved by the board.
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- (17) Except as prescribed by subsections (13) to (16), commutation of annuity benefit payable by virtue of this section shall not be allowed in any circumstances whatsoever.
- (18) A contributor shall not be entitled under this section to be paid from the fund any annuity benefit unless not later than 1 month after the date of the contributor's resignation the contributor shall have furnished to the board a notice in writing stating—
  - (a) that the contributor has voluntarily resigned from employment as an officer and the date from which such resignation takes or took effect; and
  - (b) that the contributor elects to be paid annuity benefit under this chapter.
- (19) The provisions of sections 123(1) and (2), 124 and 125 do not apply to a contributor who, pursuant to such an election, is entitled to be paid from the fund annuity benefit.
- (20) This section shall not have any application after the commencement of the *Superannuation Acts Amendment Act (No. 2) 1974*, part 3 save in respect of a contributor who voluntarily resigned in pursuance of this section before that commencement and to persons deriving entitlement through such contributor whether before or after the said commencement.
- (21) Subsection (22) applies if a person was entitled to a pension under this section but, under section 118(4) of the *Superannuation (State Public Sector) Deed 1990* as in force before the commencement day, the pension stopped being payable.
- (22) Subject to subsection (6), the person's entitlement to a pension under this section resumes from the commencement day.
- (23) In this section—  
*commencement day* means the day section 118(8) commences.

## **161 Benefits upon retirement before age 60**

- (1) Notwithstanding any other provision of this chapter, where a contributor elects to retire from employment as an officer at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age of 60 years, then the contributor is entitled to be paid from the fund in respect of each unit of annuity benefit for which the contributor was contributing as at the date of retirement—
    - (a) in the case of a male contributor—the amount set forth in schedule 8, part 1 opposite the age in years and completed months as at the date of retirement set forth in schedule 8, part 1; or
    - (b) in the case of a female contributor—the amount set forth in schedule 8, part 2 opposite the age in years and completed months as at the date of retirement.
  - (2) A contributor entitled to the payment of an amount pursuant to subsection (1) may elect not to receive that amount or a part of that amount and to
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receive in lieu a pension on and from the date following the day of retirement calculated in accordance with the formula—

$$P = \frac{A \times C}{B}$$

(3) In subsection (2)—

*A* means the amount to which the contributor is entitled pursuant to subsection (1).

*B* means—

- (a) in the case of a male contributor—the factor set forth in schedule 9, part 1 opposite the age in years and completed months as at the date of retirement;
- (b) in the case of a female contributor—the factor set forth in schedule 9, part 2 opposite the age in years and completed months as at the date of retirement.

*C* means a fraction that is the equivalent of the percentage of the amount of entitlement that the contributor elects to convert to a pension.

*P* means the fortnightly amount of pension.

(4) An election under subsection (2)—

- (a) shall be in writing; and
- (b) shall be made within 1 month after the date of the contributor's retirement; and
- (c) shall specify the percentage of the amount of entitlement in respect of which the elector desires to substitute a pension.

(5) The provisions of section 122 apply in relation to a contributor to whom subsection (1) applies with the modifications specified in the following table—

**Table**

<b>Expression modified</b>	<b>Modification</b>
'section 110(2)(d)'	to be read as 'section 161'
'commutes for a lump sum'	to be read as 'receives a lump sum in respect of'
'for which he has commuted'	to be omitted
'commuted for'	to be read as 'received'



‘commuted’ last mention in paragraph (a) to be read as ‘received a lump sum’

‘not commute’ to be read as ‘not receive a lump sum’

‘commuted’ in paragraph (b) to be read as ‘received a lump sum’.

- (6) Section 115(1) applies to a widow of a contributor to whom subsection (1) applies to the extent that the contributor was in receipt of a pension pursuant to an election made by the contributor pursuant to subsection (2).
  - (7) The amount of assurance benefit to which a widow of such a contributor is entitled shall be an amount determined by the actuary and approved by the board.
  - (8) The rate per fortnight of pension that a widow may, pursuant to section 118, receive in lieu of assurance benefit derived through a contributor to whom subsection (1) applies shall be a rate determined by the actuary and approved by the board.
  - (9) A contributor to whom subsection (1) applies who, pursuant to section 148, is, on retirement, maintaining an amount of benefit under the repealed Act (in this section called *assurance benefit*) may apply to the board within 1 month after the date of the contributor’s retirement to convert that benefit to a benefit payable on retirement and the board may convert that benefit accordingly upon such terms and conditions as are determined by the actuary and approved by the board.
  - (10) Where a benefit under the repealed Act referred to in subsection (9) that could be converted as provided by that subsection is not converted, the amount thereof payable at the death or at the age of 65 years or prior death of the contributor shall be such amount as is determined by the actuary and approved by the board.
  - (11) Section 123(3) and (4) apply to a contributor who has duly made an election pursuant to subsection (2) as if the reference therein to ‘the age of 65 years’ were a reference to the contributor’s age at the date of retirement and the reference to ‘the rate of \$3.84 per fortnight per unit of annuity benefit’ were a reference to the rate of pension calculated in accordance with subsection (2).
  - (12) Section 146(1) applies to a contributor to whom subsection (1) applies as if the reference therein to ‘the age of 65 years’ were a reference to the contributor’s age at the date of retirement and the reference to ‘annuity benefit at the rate per unit of \$1.34 per fortnight and no more’ were a reference to such amount as is determined by the actuary and approved by the board.
  - (13) Sections 123(1) and (2), 124(1) and 125 do not apply to a contributor to whom subsection (1) applies.
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**162 Benefits upon retrenchment, involuntary termination etc.**

- (1) Where a contributor ceases to be an officer—
- (a) by way of retrenchment duly effected in accordance with arrangements approved by the Governor in Council in relation to contributors of the class of that contributor; or
  - (b) by way of involuntary termination of employment other than by way of dismissal for misconduct or on the ground of incapacity;

the contributor is entitled to the payment of an amount calculated in accordance with the formula—

$$A = \frac{B \times C}{D} [1 - .02(55 - E)]$$

- (2) In subsection (1)—

*A* means the amount payable.

*B* means the benefit to which the contributor would have been entitled had the contributor retired upon attaining the age of 55 years.

*C* means the period expressed in years for which the contributor has contributed to the fund to the date of retrenchment or involuntary termination other than by way of dismissal for misconduct or on the ground of incapacity.

*D* means the period expressed in years for which the contributor would have contributed to the fund had the contributor retired upon attaining the age of 55 years.

*E* means the contributor's age expressed in years and completed months at the date on which the contributor ceases to be an officer.

**163 Question as to incapacity etc. determined by board on medical practitioner's report**

Whenever any question arises under this chapter as to the incapacity of a contributor or other person who is in receipt of incapacity benefit, or as to whether in any case incapacity is due to wilful action on the part of the contributor or other person concerned for the purpose of obtaining incapacity benefit, the question shall be determined by the board (whether before or after the retirement of the contributor) upon consideration of a report from a medical practitioner or medical practitioners appointed by the board.

**164 Requirements as respects medical examinations**

- (1) Notwithstanding anything to the contrary contained in this chapter and subject to sections 136 and 138, where any person, officer or contributor is required by or under this chapter—
- (a) to be medically examined by a medical practitioner; or

(b) to produce any medical evidence;

then a medical examination is to be made by, or, as the case requires medical evidence is to be obtained from, such medical practitioner as the board may appoint in that behalf (whether by naming the medical practitioner or by reference to the holder for the time being of any office), and a report of the medical examination or, as the case may be, the medical evidence is to be furnished by the medical practitioner or holder of the office to the board or, if the board so specifies, then to the person or authority specified.

(2) However, where permitted by this chapter and without derogating from the board's discretion to accept or to refuse to accept the result of that further medical examination or that further medical evidence, the person, officer or contributor may have a further medical examination made or, as the case requires, further medical evidence obtained from some other medical practitioner.

**164A [Deleted]**

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## Chapter 5 State 72 category

### Part 1 Preliminary

#### 165 Interpretation

- (1) In this chapter, except so far as the context or subject matter otherwise indicates or requires—

*1958 Act* means the repealed *Public Service Superannuation Act 1958*.

*1972 Act* means the repealed *State Service Superannuation Act 1972*.

*1999 cashable amount* means—

- (a) the amount of a contributor's benefit that would have been payable to the contributor at 30 June 1999 under section 181, 182 or 191(1) if the contributor had, on 30 June 1999, ceased to be employed or engaged by a unit of the State public sector; and
- (b) the amount of a contributor's benefit that would have been payable to the contributor at 30 June 1999 under section 191(4) if an event mentioned in section 191(4)(a) happened on 30 June 1999.

*age for retirement* means the age of 65 years.

*child's pension* means a pension payable under part 3, division 4.

*continuing contributor* means a contributor who immediately before the commencement of the 1972 Act was a contributor under the 1958 Act and who on the said commencement continued to be a contributor under the 1958 Act and includes—

- (a) a person to whom section 171(3) relates who having been a contributor under the *1958 Act* or an Act repealed by that Act again becomes an officer after the commencement of the *1972 Act*.

*contributor* means an officer who contributes under this chapter to the fund and includes—

- (a) an officer who is required to contribute thereto but has not commenced his or her contributions;
- (b) an officer who has ceased to contribute thereto by reason of his or her age or incapacity.

*contributor for category A benefits* means a contributor whose contributions to the fund entitle the contributor, in addition to any other benefits to which the contributor may be entitled under this chapter, to an incapacity pension irrespective of the contributor's length of service.

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**contributor for category B benefits** has the meaning assigned to that expression by section 167(2) and includes a contributor deemed to be such under section 167(3).

**contributor's pension** means a pension that is payable under this chapter to a contributor other than an incapacity pension.

**final average increase in salary**, in relation to a continuing contributor, means the amount by which—

- (a) the contributor's final average salary exceeds—
- (b) the fortnightly salary that the member would have received during the year immediately preceding the contributor's attaining the age for retirement or the contributor's earlier retirement from or death in service had the contributor's salary remained constant at the rate in force at the date immediately before the commencement of the *1972 Act* or, where the contributor is a person to whom section 171(3) relates, the rate in force at the date when the contributor was retired on the grounds of incapacity as mentioned in that subsection.

**final average salary** means—

- (a) in relation to a contributor who, on or after the passing of the *Superannuation Acts Amendment Act 1984*, attains the age for retirement or earlier retires from employment as an officer otherwise than by retiring or being retired on grounds of incapacity and who, after the passing of that Act and during the 2 years immediately preceding the contributor's attaining the age for retirement or the contributor's earlier retirement, has received 1 or more increases in salary other than an increase in salary that, in the board's opinion, is due to a variation in or a general ruling affecting an award or industrial agreement under the *Industrial Relations Act 2016*, or is a flow-on from such a variation or general ruling, or is a regular increment to which the contributor is entitled under the terms and conditions of the contributor's employment the final average salary ascertained in accordance with section 166; or
- (b) in relation to any other contributor—the average fortnightly salary received by the contributor during the year immediately preceding the contributor's attaining the age for retirement or the contributor's earlier retirement from or death in employment as an officer.

**incapacity** means any mental or bodily infirmity by reason whereof an officer is unfit to discharge or incapable of discharging the duties of office efficiently.

**incapacity pension** means a pension that is payable under this chapter to a contributor who before attaining the age for retirement is retired or permitted to retire on the grounds of incapacity not due to wilful action on the part of such person for the obtaining of such pension or that is payable under this chapter to a contributor in respect of any period of leave of

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absence without salary for longer than 2 weeks, by reason of incapacity, from the contributor's employment as an officer and who, in either case, has satisfied the board as required by section 199.

***involuntary termination of employment*** means the termination of a contract of employment by the Crown or other authority (howsoever described) which employs a contributor without the consent of the contributor other than termination by dismissal on the ground of misconduct or incapacity or retrenchment in accordance with arrangements approved by the Governor in Council.

***net earning rate of the fund*** means the rate of interest as determined by the board, from time to time, on the advice of the actuary which rate, at the time it is determined, reasonably reflects the after tax earnings of the fund (on a long-term basis) derived from the investment of contributors' contributions to the fund, having regard to administrative costs of the fund, the costs of death and incapacity benefits and the charges incurred in the investment of those contributions.

***officer*** means—

- (a) a State 72 member; or
- (b) a person, or a member of a class of person, declared, under a notice under section 10(1) of the *Superannuation (State Public Sector) Act 1990*, to be eligible for membership of the scheme in the State 72 category.

***pensioner*** means a person who is entitled to a pension under this chapter and includes a person who, but for an election under section 205, would be entitled to such a pension.

***preservation cashing condition***, for a contributor, means the contributor—

- (a) permanently retiring from the workforce after reaching preservation age; or
- (b) dying; or
- (c) becoming permanently incapacitated; or
- (d) reaching preservation age if the contributor has, before reaching preservation age, permanently retired from the workforce for a reason not mentioned in paragraph (c).

***relict's pension*** means a pension payable under part 3, division 3.

***retired***, in relation to employment as an officer, means retired or required to retire from that employment.

***salary*** means—

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- (a) in relation to an officer appointed as a member of the Land Court or a commissioner of the Industrial Conciliation and Arbitration Commission on or after the passing of the *Superannuation Acts Amendment Act 1984* and who is to be deemed to be an officer, the rate of payment that would have been made to the officer by way of fixed remuneration for the officer's services had the officer remained in the position held by the officer as an officer immediately before the officer's appointment as such a member or commissioner; and
- (b) in relation to any other officer, the rate of payment made to the officer by way of fixed remuneration for the officer's services, unless otherwise determined by the Governor in Council;

and does not include any sum paid by way of fees or allowances except, in the case of an officer employed as a teacher, a sum paid to the officer as an allowance based on the number of pupils attending the school in which the officer is employed.

*service* means any period during which a person contributes, whether before or after the commencement of the *1972 Act*, to the fund under this chapter, chapter 4 or any Act repealed by the *1958 Act* and includes—

- (a) any period in respect of which the person is or was required to contribute thereto and before the first of the person's contribution is or was paid to the fund; and
- (b) any period during which contribution to the fund is or was suspended under section 170 of this chapter or section 100 of chapter 4; and
- (c) in the case of a continuing contributor—any unbroken period during which the person was employed by or under the Crown or a person or authority referred to in section 92 of chapter 4, definition *officer* immediately before becoming a contributor under chapter 4.

*spouse*—

- (a) for part 3, division 3—see section 184A; or
  - (b) for part 3, division 4—see section 187A.
- (2) For the purposes of subsection (1), definition *service*—
- (a) where a person having been retired or permitted to retire from the person's employment as an officer and having been in receipt of an incapacity pension under this chapter or incapacity benefit under chapter 4 or incapacity allowance preserved and continued by chapter 4, again becomes an officer—the period during which the person was so absent shall be deemed to comprise part of the person's service; and
  - (b) where a person has received a refund of the person's contribution to the fund whether under this chapter or, in relation to annuity benefit, under chapter 4 or any Act repealed by the *1958 Act* and has
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subsequently recommenced contributing to the fund—the person’s employment before the date on which the person recommenced shall be deemed not to comprise part of the person’s service except where the person has received the refund in connection with having made an election under section 191(2); and

- (c) in the case of a continuing contributor whose employment as specified in paragraph (c) of the definition was in the opinion of the board, broken only by the continuing contributor’s employment with a public authority prescribed by the Minister for the purposes of this paragraph—the period of employment as firstmentioned in this paragraph shall be deemed not to have been broken by the employment with the public authority but shall not include any period during which the continuing contributor was employed with the public authority.
- (3) For the purpose of ascertaining the final average salary of a person who is a pensioner or has died in service as an officer the salary received by that person during the period of 1 year immediately preceding the person’s attaining the age for retirement or the person’s earlier retirement from or death in service shall include any increase in salary of a position held by the person at any time during that period or, in the case of a member of the Land Court or a commissioner of the Industrial Conciliation and Arbitration Commission who is deemed to be an officer, in the salary that by definition is the person’s salary for the purposes of this chapter, being an increase that takes effect from a date within that period.
- (4) For the purposes of subsection (1), definition *final average salary*, a reference to the period of 1 year immediately preceding attaining the age for retirement or earlier retirement from or death in service shall, in the case of a contributor whose length of service at the time of retirement or death is less than 1 year be read as a reference to the contributor’s actual period of service.
- (5) For the purposes of subsection (1), definition *final average increase in salary*, a reference to the period of 1 year immediately preceding attaining the age for retirement or earlier retirement from or death in service shall be a reference to a period after the commencement of the *1972 Act* and shall in the case of a continuing contributor whose length of service after the commencement of the *1972 Act* at the time of retirement or death is less than 1 year, be read as a reference to the contributor’s actual period of service after the said commencement.
- (6) A reference in this chapter to a period expressed in years shall, where appropriate, be read as including a reference to a period expressed in years together with a fraction of a year being a fraction consisting of a completed whole month or 2 or more such months.
- (7) Where at any time during the period of 1 year immediately preceding the time of attaining the age for retirement or earlier retirement from or death in service a contributor has been absent on leave of absence on less than full pay the contributor’s final average salary or the contributor’s final average increase in salary shall be calculated as if the contributor continued to receive full pay during the whole of that period.
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- (8) Where a person ceases to be an officer within the meaning of subsection (1) but before the expiration of 1 month after ceasing again becomes such an officer, the person may, where the board so approves (whether subject to conditions or unconditionally) on the written application of that person, be permitted to contribute to the fund in respect of the period between the person so ceasing to be an officer and the person again becoming an officer and where with the approval of the board a person is permitted to contribute to the fund under this subsection that person shall, for the purposes of this chapter be deemed to be and to have been an *officer* within the meaning of subsection (1) during the period in respect of which the person so contributes and this chapter shall apply in relation to the person accordingly.
- (9) An application under subsection (8) shall be made within 3 months after the person again becomes an officer.
- (10) Notwithstanding any other provision of this chapter, where the employment of a contributor as an officer ceases at any time after the contributor has attained the age of 55 years otherwise than by reason of the contributor's death or having been retired or permitted to retire on the ground of incapacity then, for the purposes of this chapter, the contributor shall be deemed to have elected to retire at the time when the employment ceased.

#### **165AA Meaning of *relict* for ch 5—before discrimination law commencement**

In this chapter, except so far as the context or subject matter otherwise indicates or requires—

*relict* means, in relation to a person who has died before the discrimination law commencement and was at the date of death a contributor or pensioner—

- (a) a person who was legally married to the deceased person at the date of death and, in the case of a deceased pensioner, at the date of the deceased pensioner's attaining the age for retirement or the deceased person's earlier final retirement from employment as an officer; and
  - (b) a person who, for a continuous period of 3 years at the least immediately preceding the date of death of the deceased person or, in the case of a deceased pensioner, for a continuous period of 3 years at the least immediately preceding the date of the deceased pensioner's attaining the age for retirement or of the deceased pensioner's earlier final retirement, had ordinarily lived in a connubial relationship with the deceased person, and who in the board's opinion was wholly or substantially dependent on the deceased person at the date of death.
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**165AB Meaning of *relict* for ch 5—from discrimination law commencement**

- (1) This section applies for this chapter if a contributor or a pensioner dies on or after the discrimination law commencement.
- (2) The *relict* of a contributor who has died means, except so far as the context or subject matter otherwise indicates or requires, a person who was the contributor's spouse on the day the contributor died.
- (3) The *relict* of a pensioner who has died means, except so far as the context or subject matter otherwise indicates or requires, a person who was the pensioner's spouse—
  - (a) on the day the pensioner died; and
  - (b) on whichever of the following days is relevant—
    - (i) if the pensioner retired before reaching the age for retirement—the day the pensioner retired;
    - (ii) if the pensioner did not retire before reaching the age for retirement—the day the pensioner reached the age for retirement.
- (4) For this section, the gender of the contributor, pensioner or relict is not relevant.
- (5) For this section, the spouse of a person on the day the person died includes a de facto partner of the person on the day of the death only if the person and the de facto partner lived together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA—
  - (a) for a continuous period of at least 2 years ending on the day of the death; or
  - (b) for a shorter period ending on the day of the death, if the circumstances of the de facto relationship of the person and the de facto partner evidenced a clear intention that the relationship be a long-term, committed relationship.
- (6) Subsection (5) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).

**165A Preserved amount**

- (1) If a preservation cashing condition for a contributor has happened, none of a benefit payable to the contributor is a preserved amount for the scheme.
  - (2) Subject to subsection (1), the amount in a contributor's benefit that is a preserved amount for the scheme is as follows—
    - (a) for a contributor's benefit under section 181, 182 or 191(1)—the amount of the benefit that may be taken as a lump sum that is in excess of the contributor's 1999 cashable amount;
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- (b) for a contributor's benefit under section 191(4)—
  - (i) if the contributor has not reached 55 years—the whole amount of the benefit; or
  - (ii) otherwise—the amount of the benefit that is in excess of the contributor's 1999 cashable amount.

**166 Ascertainment of certain final average salaries**

- (1) Where a contributor, on or after the passing of the *Superannuation Acts Amendment Act 1984*, retires from employment as an officer otherwise than by retiring or being retired on the ground of incapacity and has received t increase(s) in salary (where t is a positive whole number) being any prescribed increase or increases in salary received by the contributor on or after the passing of that Act and during the 2 years immediately preceding attaining the age for retirement or earlier retirement, the contributor's final average salary shall be ascertained in accordance with the formula—

if t = 1

$$FAS_t = A + \left[ (B_t - A) \frac{n_t}{24} \right]$$

if it is greater than 1

$$FAS_t = FAS_{t-1} + \left[ (B_t - B_{t-1}) \frac{n_t}{24} \right]$$

where—

*A* means the contributor's final average salary had the contributor not received any prescribed increases in salary.

*B<sub>t</sub>* means the contributor's final average salary had the contributor received the t<sup>th</sup> prescribed increase in salary for the period of 1 year immediately preceding attaining the age for retirement or earlier retirement from employment as an officer.

*FAS<sub>t</sub>* means the final average salary after t prescribed increase(s) in salary to be ascertained.

*n<sub>t</sub>* represents the number of whole months from the date on which the contributor received the t<sup>th</sup> prescribed increase in salary until the day immediately preceding the day the contributor attained the age for retirement or earlier retirement from employment as an officer.

- (2) For the purposes of subsection (1) an increase in salary is a prescribed increase in salary if it is one such that pursuant section 165, definition *final average salary*, paragraph (a) a final average salary is to be ascertained in accordance with this section.

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## Part 2 Contributions

### 167 Obligation of officers to contribute to the fund

- (1) An officer must contribute to the fund under this part.
  - (1A) An officer is taken to contribute to the fund under this part if contributions are made by the officer's employer under an arrangement with the employer.
  - (2) For this chapter, a person is a *contributor for category B benefits* if, under section 209, the person is ineligible to become a contributor for category A benefits under this chapter.
  - (3) A continuing contributor who is a contributor to the fund under chapter 4, part 5 only shall be deemed to be a contributor for category B benefits under this chapter and shall contribute under this chapter to the fund for such benefits as are referred to in section 180.
  - (4) If, at any time after a person becomes a contributor the person furnishes evidence to the satisfaction of the board that the person's health and physical condition are such as to justify the person being accepted as a contributor for category A benefits, the person is entitled to become such a contributor—
    - (a) where the person furnishes the evidence within 6 months after becoming an officer who is required under this chapter to contribute to the fund—on the date on which the person became such an officer; and
    - (b) where the person furnishes the evidence after the expiration of 6 months after becoming an officer who is required under this chapter to contribute to the fund—on the date on which the board accepts the evidence furnished to it or such earlier date as the board in a particular case determines, being a date not earlier than the date on which the person became such an officer.
  - (5) Except where it is otherwise expressly provided by this chapter, where a contributor is absent from duty for any period without salary or on a salary less than full salary the contributor shall continue to contribute to the fund during that period at the rate at which the contributor would have been required to contribute to it if the contributor had continued to receive full salary in respect of that period.
  - (6) Where absence from duty referred to in subsection (5), other than with leave of absence without salary by reason of incapacity, is for a continuous period of 14 days or more (whether or not working days) the contributor shall, unless the contributor elects pursuant to subsection (7), in addition to continuing to contribute to the fund as provided by subsection (5) pay to the consolidated fund, in respect of the period of absence, the amounts that the contributor's employer would be required to pay for the contributor under section 29 of the *Superannuation (State Public Sector) Act 1990*, but for the absence.
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- (7) A contributor who would be required to pay contribution to the consolidated fund pursuant to subsection (6) or a contributor for category B benefits who is absent from duty with leave of absence without salary by reason of incapacity and who has not completed 10 years service at the commencement of such absence may elect in writing furnished to the board not to pay contributions to the fund in respect of the period of absence whereupon—
  - (a) contribution to the fund in respect of the contributor shall cease to be payable in respect of the period of absence; and
  - (b) the board shall waive the payments to the consolidated fund (if any) that would be required by that subsection to be made by the contributor; and
  - (c) the benefits to which the contributor or the contributor's dependants may become entitled under this chapter shall be reduced by such amounts as are determined by the actuary and approved by the board.
- (8) The Governor in Council may waive the requirement under subsection (6) to make payments to the consolidated fund either unconditionally or upon such terms and conditions as the Governor in Council determines, either in a particular case or in respect of a class of case, and such waiver shall be given effect.
- (9) Subject to the express provision of this chapter, any election to contribute or further contribute under this chapter shall be made before the expiration of 6 months after the officer becomes so eligible and where an officer being thereunto entitled does not elect within the prescribed time in which the officer may so elect, to contribute or further contribute under this chapter to the fund the officer is not obliged and shall not be permitted to so contribute or further contribute under this chapter to the fund.

#### **168 Commencement and cessation of contributions**

- (1) The contributions under this chapter of an officer who must contribute under an election made under this chapter commence from the day the election is made or a later day decided by the board.
  - (2) An officer's contributions cease to be payable on the last day of the fortnightly pay period last preceding the day on which—
    - (a) the officer ceases to be an officer; or
    - (b) the officer attains the age for retirement; or
    - (c) the officer's service as an officer, ascertained as prescribed by section 176, equals 42 years and 6 months;whichever first occurs.
  - (3) An officer does not stop being a member in the State 72 category merely because the officer's contributions cease to be payable under subsection (2).
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- (4) If an officer's contributions cease to be payable under subsection (2)(b) or (c) but the officer continues to be an employed member, the officer starts being a member in the comprehensive accumulation category on the day after the day the contributions cease to be payable.

## **169 Time and manner of paying contributions**

- (1) Except as otherwise expressly provided in this chapter, the contributions of an officer shall be payable periodically from the officer's salary at such intervals and in such manner as may be prescribed and shall be deducted from salary payable to the officer accordingly, and, until otherwise prescribed, shall be payable by the officer and deducted fortnightly from the officer's salary.
    - (1A) The contributions of an officer are taken to be paid from the officer's salary if the contributions are made by the officer's employer under an arrangement with the employer.
  - (2) Deductions pursuant to this section shall be made by the person or authority by whom the officer is employed or having by law supervision or control in relation to the officer's employment and forwarded to the board fortnightly for payment into the fund.
  - (3) The deductions shall be made for the first time in each case on the first payday occurring after the contributions in respect of which they are to be made commence, as provided by section 168(1), and the full amount of all deductions so made shall be credited to the fund.
  - (4) A contributor who, pursuant to section 167(5) or (6), is required to pay contributions to the fund and to make payment to the consolidated fund in respect of a period of absence from duty—
    - (a) shall, before commencing the period of absence, pay to the fund and to the consolidated fund the total amount of contributions and payments that the contributor is so required to pay; or
    - (b) shall, before commencing the period of absence, make arrangements satisfactory to the board for payment of the total amount of contributions and payments that the contributor is so required to pay.
  - (5) Where a contributor to whom subsection (4) applies does not comply with subsection (4)(a) or (b) the benefits to which the contributor or the contributor's dependants may become entitled under this chapter may be reduced by such amounts as are determined by the actuary and approved by the board.
  - (6) Where a contributor—
    - (a) is on leave of absence without pay; or
    - (b) is on sick leave on less than full pay; or
    - (c) for any reason (other than any misconduct or default on the contributor's part) is receiving remuneration at a rate less than the rate of pay for the time being applicable to the contributor's position;
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the board, on the application of the contributor, may permit the contributor to defer the contributor's contributions and other payments required by section 167(5) and (6) to be made by the contributor for such period as the board may approve, subject to such conditions as to the future payment of the contributor's contributions and such other payments as the board may impose (including conditions as to the payment of interest, at such rate (if any) as is determined by the board, on the contributions and such other payments so deferred) and, failing such an application, the contributor shall contribute to the fund at the times and in the manner prescribed.

- (7) Any amount of the contributions and additional payments prescribed by this chapter or chapter 4 to be made by a contributor not paid by deduction from the contributor's salary as prescribed by subsections (1) to (3) shall, subject to subsection (4), be paid in such manner as the board directs and, if directed by the board, may be deducted from the contributor's salary in addition to the deductions from salary as prescribed by subsections (1) to (3) but—
    - (a) the board may waive payment thereof wholly or in part; or
    - (b) the board may determine that any such amount not so deducted and not otherwise recovered by the board be recovered by reduction of the amount of benefit payable upon a claim made by or derived from the contributor, whereupon any such amount of contribution shall be deemed not to be due and unpaid.
  - (8) Where the board has exercised the power conferred by subsection (7)(b) the benefits from the fund to which the contributor concerned or any person deriving a benefit through the contributor is entitled shall be reduced by the amount in respect of which the power is exercised and the amount of interest that would have accrued to the fund and the consolidated fund (at the rate at which earnings would have accrued to the fund) had the contributions and additional payments been duly paid.
  - (9) The board may, where any amount of the contributions prescribed by this chapter or chapter 4 to be made by a contributor is not paid by deduction from the contributor's salary as prescribed by subsections (1) to (3), reduce the benefits to which the contributor or the contributor's dependants may become entitled under this chapter by such amounts as are determined by the actuary and approved by the board.
  - (10) Before reducing benefits in accordance with subsection (9), the board is to—
    - (a) supply in writing to the contributor a statement containing details of the amount of the contributions that is due and unpaid and the reduction in benefits that will result if the amount is not paid; and
    - (b) give the contributor a reasonable time after receipt of the statement in which to pay, or arrange payment of, the amount due and unpaid.
  - (11) Notwithstanding subsections (1) to (10), the board may recover by action as for a debt any amount of the contributions and additional payments to be made by a contributor which is due and unpaid.
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- (12) For the purposes of subsections (7), (8), (9) and (11), the amount of any unpaid contributions and additional payments shall be the aggregate of the amount thereof due and unpaid and of interest thereon which would have accrued to the fund and the consolidated fund (at the rate at which earnings would have accrued to the fund) had the same been duly paid unless the board waives such interest wholly or in part.
- (13) Where the contributions and additional payments to be made by a contributor are in arrears to the extent prescribed as respects amount or time, or both, the board may determine all rights of the contributor to benefits under this chapter, and thereupon shall pay to the contributor a sum of money equal to the amount of the contributions and additional payments, whether paid or in arrears, payable by the contributor under this chapter to the fund or the consolidated fund to the date of such determination accumulated on and after the passing of the *Superannuation Acts Amendment Act 1984* at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound reduced by the aggregate of the amount of the arrears of contributions and additional payments and of the interest thereon which would have accrued to the fund or the consolidated fund (at the rate at which earnings would have accrued to the fund) had the same been duly paid unless the board waives such interest wholly or in part.
- (14) Except where it is otherwise provided by this chapter, a contributor—
- (a) shall continue to contribute as prescribed to the fund until the contributor attains the age for retirement or the contributor's employment as an officer is sooner terminated by earlier retirement, death, resignation or otherwise howsoever; and
  - (b) shall, in respect of a period of leave or absence, with or without salary, pay contribution, as for a period of service, without reduction.

## **170 Suspension of contribution**

- (1) Where an officer has been absent from duty with leave of absence without salary by reason of incapacity for a continuous period of 14 days (whether or not working days) the officer's liability to pay contributions to the fund under this chapter shall be suspended for the whole of the period that the officer has been or continues to be so absent but if the officer resumes employment as an officer contributions shall again become payable.
- (2) Subsection (1) does not apply to a contributor—
- (a) who has not satisfied the board as required by section 199; or
  - (b) in respect of whom the board has made a determination under section 201(2); or
  - (c) who, being a contributor for category B benefits, has not completed 10 years service at the commencement of the period of absence in question unless the board has made a determination in respect of the contributor under section 210.
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**171 Rates of contribution**

- (1) The amount of the contributions of a continuing contributor (not being an officer to whom subsection (3) relates) which shall be paid by the contributor periodically in addition to the amount of contributions payable by the contributor to the fund under chapter 4 shall be a sum calculated at the prescribed rate per centum of the amount by which the amount of the contributor's salary as at 30 June 1978 varied, in the first fortnightly pay period occurring wholly in the November of each year, to the prescribed rate per centum of the amount by which the amount of the contributor's salary as at 1 October last preceding exceeds the amount of the contributor's salary on the commencement of the *1972 Act*.
- (2) The amount of the contributions of an officer (not being an officer to whom subsection (3) relates) who became an officer on or after the commencement of the *1972 Act* or who was an officer on the commencement of the *1958 Act*, but is not a continuing contributor, which shall be paid by the officer periodically, shall be a sum calculated at the prescribed rate per centum of the amount of the officer's salary as at 30 June 1978 (or in the case of an officer who commences to contribute after that date as at the date on and from which that officer commences to contribute) varied, in the first fortnightly pay period occurring wholly in the November of each year, to the prescribed rate per centum of the amount of the officer's salary as at 1 October last preceding if the officer was at that date a contributor.
- (3) The contributions of an officer who—
  - (a) becomes an officer on or after the commencement of the *1972 Act*; and
  - (b) immediately before becoming an officer is in receipt of or eligible to receive an incapacity pension under this chapter or incapacity benefit under chapter 4 or incapacity allowance preserved and continued by the *1958 Act*;

that shall be paid by the officer periodically shall be, in addition to the contributions (if any) to the fund payable by the officer under chapter 4, the sum calculated at the prescribed rate per centum—

- (c) where the officer was an officer to whom subsection (2) applied before the officer was retired on the ground of incapacity—of the amount of the officer's salary as at the date he or she again becomes an officer varied, in the first fortnightly pay period occurring wholly in the November of each year, to the prescribed rate per centum of the amount of the officer's salary as at 1 October last preceding if he or she was at that date an officer; or
  - (d) in any other case—of the amount by which the amount of the officer's salary as at the date he or she again becomes an officer varied, in the first fortnightly pay period occurring wholly in the November of each year, to the prescribed rate per centum of the amount by which the amount of the officer's salary as at 1 October last preceding (if he or she was at that date an officer) exceeds the
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amount of the officer's salary at the time when the officer was so retired or at 31 December 1972 whichever is the earlier.

- (4) A contributor who made an election under section 24(4) of the *1972 Act* to increase the rate of his or her contributions must continue to contribute to the fund under this chapter at the rate decided by the board under section 24(4) of the *1972 Act* in addition to the rate prescribed by this chapter (other than this subsection).
  - (5) A contributor who made an election under section 24(4A) of the *1972 Act* to increase the rate of his or her contributions must continue to contribute to the fund under this chapter at the rate decided by the board under section 24(4A) of the *1972 Act* in addition to the rate prescribed by this chapter (other than this subsection).
  - (6) Where, by reason that an officer becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1987* and after the officer has attained the age of 22 years and 6 months, the length of the officer's service, ascertained for the purpose of calculating the pension to be paid to the officer under this chapter, if the officer attains the age for retirement, will not amount to 42 years and 6 months, the officer may elect, within a period of 2 months after he or she becomes an officer to increase the rate of the officer's contribution and the board may determine that the additional rate of the contributions that, but for this subsection, would have been payable by the officer shall be a sum calculated at such rate as the board, after consultation with the actuary, may determine, being a rate which, having regard to the fact that payments by the Crown will be in relation only to contributions by the officer that would be payable but for this subsection, will enable the length of service for the purpose of calculating the pension to be paid to the officer under this chapter to be regarded as the length of service ascertained in accordance with the board's determination under subsection (8) but not exceeding a maximum of 42 years and 6 months, and thereupon the officer shall be deemed to be required to contribute to the fund at the rate so determined in addition to the rate prescribed by this chapter (other than this subsection).
  - (7) A contributor who made an election under section 24(5) of the *1972 Act* to increase the rate of his or her contributions must continue to contribute to the fund under this chapter at the rate decided by the board under section 24(5) of the *1972 Act* in addition to the rate prescribed by this chapter (other than this subsection).
  - (8) Where the board has made a determination under subsection (4), (5), (6) or (7) in relation to an officer, the board may determine that, for the purpose of calculating the pension to be paid to the officer under part 3, the officer's length of service as an officer shall be regarded as being equal to the officer's actual length of service ascertained in accordance with this chapter plus such additional length of service as the board, after consultation with the actuary, may determine and thereupon this chapter shall apply to the officer accordingly.
  - (9) Where the board has made a determination under subsection (4), (5), (6) or (7) upon the election of an officer and the contributor satisfies the board that payment of such additional rate of the contribution by the officer is
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causing the officer undue hardship, the board may cancel its determination or vary the same by reducing, with the approval of the actuary, the additional rate of contributions to be paid by the contributor.

- (10) Where in respect of a contributor the board, pursuant to subsection (9), cancels a determination under subsection (4), (5), (6) or (7), any determination under subsection (8) in respect of additional length of service of the contributor shall likewise be cancelled and cease to apply to or in respect of the contributor and the board shall make to the contributor a refund of such part of the contributor's contributions to the fund pursuant to subsection (4), (5), (6) or (7) as the actuary determines is justified having regard to the reduced liability of the fund.
  - (11) Where in respect of a contributor the board pursuant to subsection (9) varies a determination under subsection (4), (5), (6) or (7), it shall make an appropriate variation of its consequential determination under subsection (8) of additional length of service in respect of the contributor and this chapter shall apply as if the determinations as so varied were at all relevant times the determinations originally made on the election of the contributor and the board shall make to the contributor a refund of such part of the contributor's contributions pursuant to subsection (4), (5), (6) or (7) as the actuary determines is justified having regard to the reduced liability of the fund.
  - (12) Except in the case of a contributor referred to in section 198, where the salary of a contributor is reduced to a rate less than the rate upon which contributions are, for the time being, calculated, the contributor shall thereupon, except as aforesaid, contribute to the fund in relation to the reduced rate of the contributor's salary and the board shall make to the contributor a refund of such part of the contributor's contributions to the fund as the actuary determines is justified having regard to the reduced liability of the fund, by reason of the reduction in salary, in respect of the prospective entitlement of the officer to benefits under this chapter and thereupon for the purpose of calculating the contributor's entitlement to benefits under this chapter the contributor's rate of salary in respect of any period before the time the contributor's salary was reduced shall be deemed not to have been in excess of the rate to which the contributor's salary was so reduced.
  - (13) Where a contributor has paid to the fund contributions in excess of those prescribed by this chapter, the board shall refund to the contributor such sum of money in respect of those contributions as is determined by the actuary and approved by the board.
  - (14) If an officer made an election under section 24(4) of the *1972 Act* before the commencement of the *Superannuation Acts Amendment Act (No. 2) 1974* and was a contributor at that commencement, the additional contribution under the election must be adjusted by the board as if that subsection as amended by that Act was in force at the date of the election.
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**172 Provision for female contributors to contribute for benefits under pt 4, divs 2 and 3**

- (1) This section applies to a female contributor who made an election under section 24A of the *1972 Act* and became entitled to increase the rate of her contribution to the fund sufficient to secure for her the benefits provided for by part 4, divisions 2 and 3 of the *1972 Act*.
- (2) The additional rate of contribution payable by the contributor continues to be the rate decided by the board under section 24A(3) of the *1972 Act*.
- (3) If in relation to a contributor by whom an additional rate of contribution is payable pursuant to this section the board makes a determination under section 171(9) that cancels or varies a board's determination made under section 171(4), (5), (6) or (7) in relation to that contributor, the additional rate of contribution payable by the contributor pursuant to this section shall be adjusted, having regard to that cancellation or variation, the ascertainment of the contributor's length of service for the purposes of this section shall be adjusted accordingly and the board shall make to the contributor a refund of such part of her contributions to the fund pursuant to this section as the actuary determines is justified, having regard to the reduced liability of the fund.

**173 Further provisions re contributions**

- (1) In this part—  
*salary*, in relation to an officer, means—
    - (a) the fortnightly salary of the officer; or
    - (b) where the periodic interval at which the officer's contribution to the fund is deducted from the officer's salary is based upon a period other than a fortnight the salary of the officer for that period.
  - (2) The fortnightly, or other periodic salary, of an officer who is paid salary at a rate other than a fortnightly rate or, as the case may be, other periodic rate shall be ascertained as prescribed and different such prescriptions may be made in respect of the officers included in different classes of officers.
  - (3) Where the salary of a contributor is varied and the variation takes effect on or from a date earlier than the date prescribed under section 171(1), (2) or (3) as the date at which the salary is determined for the purpose of calculating the amount of contribution payable, the salary as so varied shall be the salary applicable for such purpose.
  - (4) For the purposes of section 171 the prescribed rate shall be—
    - (a) in the case of a male contributor or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—
      - (i) who has attained the age of 20 years but has not attained the age of 25 years at the said time—4%; and
      - (ii) who has attained the age of 25 years but has not attained the age of 35 years at the said time—4.5%; and
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- (iii) who has attained the age of 35 years at the said time—5%; and
- (b) in the case of a female contributor who was a contributor immediately before the passing of the *Superannuation Acts Amendment Act 1984*—
  - (i) who has attained the age of 20 years but has not attained the age of 25 years at the said time—3.25%;
  - (ii) who has attained the age of 25 years but has not attained the age of 35 years at the said time—3.75%;
  - (iii) who has attained the age of 35 years at the said time—4.25%.

#### **174 When officer may continue to contribute after resignation**

- (1) Where any officer or the officers included in any class of officers voluntarily resigns or resign from employment as such, the Governor in Council may approve of such officer or officers continuing to contribute after such resignation for all benefits, save (unless otherwise expressly specified by the Governor in Council) incapacity pension under this chapter for which that officer or those officers respectively was or were contributing before such resignation.
  - (2) Subject to and in terms of the approval by the Governor in Council, an officer or every officer included in any class of officers, as the case may be, may continue to contribute for any benefit (other than incapacity pension unless otherwise expressly specified by the Governor in Council) under this chapter under, subject to, and in accordance with the provisions of this chapter applicable to contribution by him or her immediately prior to his or her resignation, for the benefit in question and any benefit in respect whereof he or she so continues to contribute shall, subject to subsection (5) become payable and be paid as prescribed by this chapter subject to such modifications as may be specified in the approval.
  - (3) However, the final average salary or the final average increase in salary of a person who continues to contribute under this section after resignation, shall be ascertained in relation to a period immediately preceding the person's resignation.
  - (4) In the case of an approval under subsection (1) in relation to a class of officers that class may be specified in any manner whereby it is sufficiently identified and without naming any of the officers included therein.
  - (5) In respect of benefits under this chapter for which an officer to whom subsection (1) applies continues, pursuant to this section, to contribute under this chapter (unless the Governor in Council specifically approves payment in full as prescribed by this chapter of all benefits for which the officer has continued to contribute) the amount of the benefits (not including any refund of contributions or any benefit attributable to the additional rate of contribution made under section 171(4)) payable pursuant to part 3 shall be reduced to two-sevenths of the amount which, save for this subsection, would be payable in respect thereof under this chapter.
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## **Part 3 Benefits and payments**

### **Division 1 Benefits transferred to accumulation account**

#### **175 Accumulation account**

If a benefit is payable under this chapter to a member, other than by way of a pension, the board must credit the member's accumulation account with the amount of the benefit.

### **Division 2 Contributors' pensions and other benefits**

#### **176 Calculation of service**

For the purpose of calculating the pension to be paid to a contributor under this division—

- (a) any service as an officer, before attaining the age of 20 years shall be disregarded in ascertaining the contributor's length of service;
- (b) where the contributor's length of service as an officer after having due regard to the provisions of paragraph (a), exceeds 42 years and 6 months—the contributor's length of service shall be deemed to be 42 years and 6 months;
- (c) where the contributor is a person in relation to whom a determination has been made by the board under section 171(8)—the contributor's length of service shall, unless otherwise expressly provided by this chapter, be deemed to be the length of service ascertained in accordance with the board's determination;
- (d) any reduction in benefits determined by the actuary and approved by the board in respect of contributors to whom sections 167(7) and 169(4) and (5) apply shall be taken into account.

#### **177 Rights of contributors for category A benefits**

- (1) Where a contributor for category A benefits (other than a continuing contributor)—
    - (a) retires on attaining the age for retirement; or
    - (b) elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement; or
    - (c) before attaining the age for retirement, is retired or permitted to retire on the ground of incapacity not due to wilful action on the contributor's part for the obtaining of any benefit under this chapter and satisfies the board as required by section 199;
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the contributor is entitled to a pension calculated in accordance with the provisions of this section.

- (2) Except as otherwise expressly provided in this section the pension to be paid to a contributor to whom subsection (1) relates is a fortnightly sum calculated in accordance with the formula—

$$P = \frac{A \times 3B}{170} + \frac{A \times 3F}{200}$$

where—

*A* means the final average salary of the contributor.

*B* means the contributor's length of service, expressed in years, accumulated before 1 July 1988.

*F* means the contributor's length of service, expressed in years, accumulated on and from 1 July 1988 or, in the case of a contributor who becomes entitled to an incapacity pension, that would have been accumulated on and from that date had the contributor continued to be an officer until the contributor attained the age for retirement.

*P* means the fortnightly amount of that pension.

- (3) For the purpose of calculating the pension to be paid to a contributor to whom subsection (1)(c) relates, the contributor's length of service shall be calculated as if the contributor had continued to be an officer until the day on which the contributor would have attained the age for retirement.
- (4) Where a contributor (not being a contributor who has made an election under section 171(4)), after attaining the age for retirement, continues to be an officer the contributor is entitled—
- (a) on attaining the age for retirement to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement; and
  - (b) on retiring or being retired from employment as an officer to an increase in the pension payable under paragraph (a), which shall then become payable at the rate of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement.
- (5) Where a contributor who, before the commencement of the *Superannuation Acts Amendment Act 1976*, has made an election under section 171(4), after attaining the age for retirement, continues to be an officer the contributor is entitled—
- (a) on attaining the age for retirement—
    - (i) to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have been entitled under this section if section 171(4) had not been enacted and
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the contributor had retired on attaining the age for retirement;  
and

- (ii) to a pension determined by the board upon the advice of the actuary being a pension based upon the additional contributions made by the officer under section 171(4); and
- (b) on retiring or being retired from employment as an officer to an increase in the pension payable under paragraph (a), which shall then become payable at the rate of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement.

*Editor's note—*

*Superannuation Acts Amendment Act 1976* commenced 16 December 1976 (see 1976 No. 82 s 3(1)).

- (6) Where a contributor who makes an election under section 171(5) or (6), after attaining the age for retirement, continues to be an officer, the contributor is entitled—
- (a) on attaining the age for retirement—
    - (i) to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have been entitled under this section if section 171(5) or (6) had not been enacted and the contributor had retired on attaining the age for retirement; and
    - (ii) to a pension determined by the board upon the advice of the actuary being a pension based upon the additional contributions made by the officer under section 171(5) or (6); and
  - (b) on retiring or being retired from employment as an officer to an increase in the pension payable under paragraph (a)(i), which shall then become payable at the rate of pension to which the contributor would have been entitled under this section if section 171(5) or (6) had not been enacted and the contributor had retired on attaining the age for retirement.
- (7) An officer who—
- (a) becomes a contributor after the passing of the *Superannuation Acts Amendment Act 1978*; and
  - (b) makes an election under section 171(5) or (6); and
  - (c) elects to retire before his or her service, ascertained as prescribed by section 176, amounts to 42 years and 6 months;

is entitled to a pension in respect of the additional service determined under section 171(8), calculated in accordance with the formula—

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$$P = A \left( \frac{3N}{170} \times \frac{M}{C} \right)$$

if the officer became a contributor before 1 July 1988 or in accordance with the formula—

$$P = A \left( \frac{3N}{200} \times \frac{M}{C} \right)$$

if the officer became a contributor on or after 1 July 1988;

where—

**A** means the final average salary of the contributor.

**C** means the length of service, expressed in years, which the contributor would have had if the contributor had continued as an officer until the contributor attained the age for retirement, not exceeding 42 years and 6 months.

**M** means the contributor's length of service, expressed in years, as at the time of retirement, not exceeding 42 years and 6 months.

**N** means the additional length of service determined by the board under section 171(8).

**P** means the fortnightly amount of the pension payable to the contributor;

in addition to the pension to which the contributor would have been entitled if the contributor had not made the election.

*Editor's note—*

*Superannuation Acts Amendment Act 1978* was assented to on 2 June 1978.

- (8) In respect of any period of sick leave of absence without salary for longer than 2 weeks, by reason of incapacity, from employment as an officer, not being in respect of incapacity due to wilful action on the part of the contributor for the obtaining of such benefit, and being such leave of absence approved by the person or authority authorised by law to approve such leave, a contributor for category A benefits (other than a continuing contributor) who satisfies the board as required by section 199 is entitled after the expiration of the first 2 weeks of such leave of absence to a pension at the rate of the pension to which he or she would have been entitled under this section if he or she had been retired, or permitted to retire, at the commencement of such period of leave on the ground of incapacity not due to wilful action on his or her part for the obtaining of such benefit.
  - (9) The rate of the pension to which a contributor is entitled under this section shall not, in any case, exceed a rate equal to three-quarters of the final average salary of the contributor.
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**178 Rights of continuing contributors for category A benefits**

- (1) Where a continuing contributor for category A benefits—
  - (a) retires on attaining the age for retirement; or
  - (b) elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement; or
  - (c) before attaining the age for retirement, is retired or permitted to retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this chapter and satisfies the board as required by section 199;

the contributor is entitled to a pension calculated in accordance with the provisions of this section.

- (2) Except as otherwise expressly provided in this section, the pension to be paid to a contributor to whom subsection (1) relates, in addition to the benefits to which the contributor may be entitled under chapter 4, is a fortnightly sum calculated in accordance with the formula—

$$P = \frac{A \times 3B}{170} + \frac{A \times 3F}{200}$$

where—

*A* means the final average increase in salary of the contributor.

*B* means the contributor's length of service, expressed in years, accumulated before 1 July 1988.

*F* means the contributor's length of service, expressed in years, accumulated on and from 1 July 1988 or, in the case of a contributor who becomes entitled to an incapacity pension, that would have been accumulated on and from that date had the contributor continued to be an officer until he or she attained the age for retirement.

*P* means the fortnightly amount of that pension.

- (3) For the purpose of calculating the pension to be paid to a continuing contributor for category A benefits to whom subsection (1)(c) relates, the contributor's length of service shall be calculated as if the contributor had continued to be an officer until the day on which the contributor would have attained the age for retirement.
- (4) Where a continuing contributor for category A benefits, after attaining the age for retirement, continues in employment as an officer, the contributor is entitled, in addition to any benefits to which the contributor may be entitled under chapter 4—
  - (a) on attaining the age for retirement—to a pension calculated at the rate of two-sevenths of the pension to which the contributor would

have been entitled under this section if the contributor had retired on attaining the age for retirement; and

- (b) on retiring or being retired from employment as an officer—to an increase in the pension payable under paragraph (a), which shall then become payable at the rate of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement.
- (5) In respect of any period of sick leave of absence without salary for longer than 2 weeks, by reason of incapacity, from employment as an officer, not being in respect of incapacity due to wilful action on the part of the contributor for the obtaining of such benefit, and being such leave of absence approved by the person or authority authorised by law to approve such leave, a continuing contributor for category A benefits who satisfies the board as required by section 199 is, in addition to the benefits to which the contributor may be entitled under chapter 4, entitled after the expiration of the first 2 weeks of such leave of absence to a pension at the rate of the pension to which the contributor would have been entitled under this section if the contributor had been retired, or permitted to retire, at the commencement of such period of leave on the ground of incapacity not due to wilful action on his or her part for the obtaining of such benefit.
- (6) The rate of the pension to which a contributor is entitled under this section shall not, in any case, exceed a rate equal to three-quarters of the final average increase in salary of the contributor.

#### **179 Rights of contributors for category B benefits**

- (1) This section does not apply to or in relation to a contributor for category B benefits who is a continuing contributor.
- (2) Where a contributor for category B benefits—
  - (a) before attaining the age for retirement is retired or permitted to retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this chapter and satisfies the board as required by section 199; and
  - (b) has completed less than 10 years service at the time of retirement;

the contributor is entitled to be paid out of the fund a sum equal to  $3\frac{1}{2}$  times the total amount of the contributor's contributions (other than any additional contributions payable under section 171(4), (5) or (6) or under section 172) to the fund under this chapter and—

- (c) in the case of additional contributions payable under section 171(4)—a sum equal to  $2\frac{6}{7}$  times the total amount of any such additional contributions;
  - (d) in the case of additional contributions payable under section 171(5) or (6)—a sum equal to the total amount of any such additional contributions;
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- (e) in the case of additional contributions payable under section 172—such sum as is determined by the actuary and approved by the board.
- (3) Where a contributor for category B benefits—
- (a) retires on attaining the age for retirement; or
  - (b) elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement; or
  - (c) before attaining the age for retirement, is retired or permitted to retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this chapter, satisfies the board as required by section 199 and has completed at least 10 years service; or
  - (d) continues to be an officer after attaining the age for retirement; or
  - (e) retires or is retired from employment as such after continuing employment as an officer after attaining the age for retirement;

the contributor is entitled to the same pension as the pension that would have been payable to the contributor if the contributor had been a contributor for category A benefits.

- (4) In respect of any period of sick leave of absence without salary for longer than 2 weeks, by reason of incapacity, from employment as an officer, not being in respect of incapacity due to wilful action on the part of the contributor for the obtaining of such benefit and being leave of absence approved by the person or authority authorised by law to approve such leave, a contributor for category B benefits who satisfies the board as required by section 199 and who has completed at least 10 years service before the commencement of such leave of absence is entitled after the expiration of the first 2 weeks of such leave of absence to the pension that would be payable to the contributor if the contributor had been a contributor for category A benefits.
- (5) For the purposes of this section, additional service determined by the board under section 171(8) shall be disregarded.

### **180 Rights of continuing contributors who are contributors for category B benefits**

- (1) This section does not apply to or in relation to a contributor for category B benefits who is not a continuing contributor.
  - (2) Where a contributor for category B benefits—
    - (a) before attaining the age for retirement is retired or permitted to retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this chapter and satisfies the board as required by section 199; and
    - (b) has completed less than 10 years service at the time of retirement;
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the contributor is entitled, in addition to the benefits to which the contributor may be entitled under chapter 4, to be paid out of the fund a sum equal to 3½ times the total amount of the contributor's contributions to the fund under this chapter.

- (3) Where a contributor for category B benefits—
- (a) retires on attaining the age for retirement; or
  - (b) elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement; or
  - (c) before attaining the age for retirement from service, is retired or permitted to retire on the ground of incapacity not due to wilful action on his or her part for the obtaining of any benefit under this chapter, satisfies the board as required by section 199 and has completed at least 10 years service; or
  - (d) continues to be an officer after attaining the age for retirement; or
  - (e) retires or is retired from employment as such after continuing employment as an officer after attaining the age for retirement;

the contributor is entitled in addition to any benefits to which the contributor may be entitled under chapter 4 to the same pension as the pension that would have been payable to the contributor if the contributor had been a continuing contributor for category A benefits.

- (4) In respect of any period of sick leave of absence without salary for longer than 2 weeks, by reason of incapacity, from his or her employment as an officer, not being in respect of incapacity due to wilful action on the part of the contributor for the obtaining of such benefit and being leave of absence approved by the person or authority authorised by law to approve such leave, a contributor for category B benefits who satisfies the board as required by section 199 and who has completed at least 10 years service before the commencement of such leave of absence is, in addition to the benefits to which the contributor may be entitled under chapter 4, entitled after the expiration of the first 2 weeks of such leave of absence to the pension that would be payable to the contributor if the contributor had been a contributor for category A benefits.
- (5) For the purposes of this section, additional service determined by the board under section 171(8) and service before becoming a contributor shall be disregarded.

## **181 Benefits upon retirement before age 60**

- (1) Notwithstanding any other provision of this chapter, where a contributor elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age of 60 years, the contributor is entitled to the payment of an amount calculated in accordance with the formula—
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$$A = B \times C \times E \left( \frac{3D}{170} + \frac{3F}{200} \right)$$

where—

**A** means the amount payable.

**B** means—

- (a) in the case of a continuing contributor—the final average increase in salary of the contributor; or
- (b) in the case of any other contributor—the final average salary of the contributor.

**C** means—

- (a) in the case of a male contributor or a female contributor who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—the factor 313; or
- (b) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—the factor 339.

**D** means the length of service of the contributor, expressed in years and ascertained as prescribed by section 176, accumulated before 1 July 1988.

**E** means the factor set forth in schedule 14 opposite the age in years and completed months as at the date of retirement set forth in that schedule.

**F** means the contributor's length of service, expressed in years and ascertained as prescribed by section 176, accumulated on and from 1 July 1988.

- (2) Where a contributor to whom subsection (1) applies has acquired an additional length of service pursuant to section 171(8), then, for the purpose of calculating the contributor's benefits in accordance with the formula expressed in subsection (1), such additional length of service shall be multiplied by the factor  $\frac{M}{C}$  where—

**C** means—

- (a) in the case of a contributor who became a contributor after the passing of the *Superannuation Acts Amendment Act 1978*—the length of service, expressed in years, which the contributor would have had if the contributor had continued as an officer until the contributor attained the age for retirement, not exceeding 42 years and 6 months; or
- (b) in the case of a contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1978*—the length of service, expressed in years, which the contributor would

have had if the contributor had continued as an officer until the contributor attained the age of 60 years.

**M** means the contributor's length of service, expressed in years, as at the time of retirement.

- (3) A contributor entitled to the payment of an amount pursuant to subsection (1) may elect not to receive that amount or a part of that amount and to receive in lieu a pension on and from the date following the day of the contributor's retirement calculated in accordance with the formula—

$$P = \frac{A \times C}{B}$$

where—

**A** means the amount to which the contributor is entitled pursuant to subsection (1) or pursuant to that subsection and subsection (2).

**B** means—

- (a) in the case of a male contributor, or a female contributor who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—the factor set forth in schedule 15, part 1 opposite the age in years and completed months as at the date of retirement set forth in that part of that schedule;
- (b) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—the factor set forth in schedule 15, part 2 opposite the age in years and completed months as at the date of retirement set forth in that part of that schedule.

**C** means a fraction that is the equivalent of the percentage of the amount of entitlement that the contributor elects to convert to a pension.

**P** means the fortnightly amount of pension.

- (4) An election under subsection (3)—
- (a) shall be in writing; and
- (b) shall be made within 1 month after the date of the contributor's retirement; and
- (c) shall specify the percentage of the amount of entitlement in respect of which the elector desires to substitute a pension.
- (5) A male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and who is a contributor to whom subsection (1) applies, is entitled, to the extent that the contributor does not elect pursuant to subsection (3), in addition to the benefits prescribed by subsection (1) to an amount determined by the actuary and
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approved by the board having regard to the period for which the contributor contributed to the fund before the passing of that Act.

**182 Benefits upon retrenchment, involuntary termination etc.**

Where a contributor ceases to be an officer—

- (a) by way of retrenchment duly effected in accordance with arrangements approved by the Governor in Council in relation to contributors of the class of that contributor; or
- (b) by way of involuntary termination of employment other than by way of dismissal for misconduct or on the ground of incapacity;

the contributor is entitled to the payment of an amount calculated in accordance with the formula—

$$A = \frac{B \times C}{D} [1 - .02(55 - E)]$$

where—

*A* means the amount payable.

*B* means the benefit to which the contributor would have been entitled under section 181 had the contributor accumulated as a contributor length of service, ascertained as described by section 176, to the age of 55 years and had retired upon attaining that age.

*C* means the contributor's length of service, expressed in years, after attaining the age of 20 years or becoming a contributor, whichever is later, as at the time of retrenchment or involuntary termination other than by way of dismissal for misconduct or on the grounds of incapacity.

*D* means the length of service expressed in years which the contributor would have had after attaining the age of 20 years or becoming a contributor, whichever is later, had the contributor continued as a contributor until attaining the age of 55 years.

*E* means the contributor's age expressed in years and completed months at the date on which the contributor ceases to be an officer;

or to elect not to take that amount from the fund as if the contributor were a contributor referred to in section 191(2).

**183 Construction of pension benefit formula in certain cases and transfer of funds**

- (1) Sections 177, 178, 179, 180 and 181 apply subject to this section.
- (2) In the case of—
  - (a) a contributor who, before attaining the age for retirement is retired or permitted to retire on the ground of incapacity not due to wilful



action on his or her part for the obtaining of any benefit under this chapter and satisfies the board as required by section 199;

the formula prescribed by any provision of section 177(2), 177(7), 178(2) or 181(1) shall be read and construed as if the expression ' $\frac{3}{200}$ ' therein were the expression ' $\frac{3}{170}$ '.

- (3) If a benefit is paid to a contributor mentioned in subsection (2) or a benefit is paid to a contributor under section 185, the amount of the contributor's accumulated employer contributions under chapter 3 of the division rules in Schedule 2 to the Deed must be applied to the fund's proportion of the benefit.

### **Division 3 Benefits upon contributor's death**

#### **184A Meaning of *spouse* for div 3**

In this division—

*spouse*, of a person who is a relict, means the contributor or pensioner as a result of whose death the person became a relict.

#### **185 Entitlement to benefit**

- (1) Subject to subsections (3) and (5), in respect of—
- (a) a male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*; or
  - (b) a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 172; or
  - (c) a contributor who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984* and who when he or she died was—
    - (i) a contributor for category A benefits; or
    - (ii) a contributor for category B benefits and had completed at least 10 years service;

a relict of the contributor or, except in a case to which section 188(3)(b) applies, if there be no relict, the legal personal representative of the contributor or other individual approved by the board is entitled to the payment of an amount calculated—

- (d) where the contributor had not attained the age of 60 years—in accordance with the formula—
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$$A = \frac{B \times C \times 3D}{170}$$

where—

*A* means the amount payable.

*B* means—

- (i) in the case of a continuing contributor—the final average increase in salary of the contributor; or
- (ii) in the case of any other contributor—the final average salary of the contributor.

*C* means the factor set forth in schedule 11 opposite the age in years of the contributor as at the date of his or her death.

*D* means the length of service, expressed in years and ascertained as prescribed by section 176, which the contributor would have had if he or she had continued as an officer until the age of 60 years and had thereupon died;

- (e) where the contributor had attained the age of 60 years—in accordance with the formula—

$$A = \frac{B \times C \times 3D}{170}$$

where—

*A* means the amount payable.

*B* means—

- (i) in the case of a continuing contributor—the final average increase in salary of the contributor; or
- (ii) in the case of any other contributor—the final average salary of the contributor.

*C* means the factor set forth in schedule 12 opposite the age in years and completed months of the contributor as at the date of his or her death.

*D* means the length of service, expressed in years and ascertained as prescribed by section 176, of the contributor as at the date of his or her death, not exceeding 42 years and 6 months.

- (2) Subject to subsections (3) and (5) a relict of—

- (a) a male pensioner who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* and who immediately before becoming eligible for a pension was—
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- (i) a contributor for category A benefits; or
  - (ii) a contributor for category B benefits and had completed at least 10 years service; or
- (b) a male pensioner who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of his death was entitled or, but for the operation of section 202, would have been entitled to a pension from the fund and who immediately before becoming eligible for a pension was—
- (i) a contributor for category A benefits; or
  - (ii) a contributor for category B benefits and had completed at least 10 years service; or
- (c) a female pensioner who—
- (i) became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*; or
  - (ii) became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 172;
- and who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of her death was entitled or, but for the operation of section 202, would have been entitled to a pension from the fund and who immediately before becoming eligible for a pension was—
- (iii) a contributor for category A benefits; or
  - (iv) a contributor for category B benefits and had completed at least 10 years service;

is entitled to the payment of an amount calculated in accordance with the formula—

$$A = B \times C$$

where—

**A** means the amount payable.

**B** means the fortnightly amount of pension to which his or her spouse was entitled or, but for the operation of section 202, would have been entitled immediately before his or her death or, in the case of a spouse who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* whose entitlement to a contributor's pension had ceased or had been reduced by reason of an election under section 205, would have been entitled immediately before

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his or her death if he or she had not made the election and, where the spouse was an officer who had not retired, as if he or she had retired.

**C** means the factor set forth in schedule 13 opposite the age at nearest birthday of the relict as at the date of the spouse's death.

- (3) A relict—
- (a) of a male contributor for category B benefits who attained the age for retirement before the passing of the *Superannuation Acts Amendment Act 1984* and who died in service; or
  - (b) of a male former contributor for category B benefits who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984*;

being a contributor or former contributor who at the time of his retirement or attaining the age for retirement (whichever event first occurred) had completed at least 10 years service but less than 20 years service and who immediately before his death was entitled to a pension under section 179(3) or 180(3) is entitled to payment of an amount calculated in accordance with the formula—

$$A = B \times C \times \frac{D}{20}$$

where—

**A** means the amount payable.

**B** means the fortnightly amount of pension that the contributor would have been receiving or for which the contributor would have been eligible immediately before the contributor's death if the contributor had retired upon attaining the age for retirement and had not made an election under section 205 or, in the case of a former contributor, the fortnightly amount of pension that—

- (a) where the former contributor's entitlement to a contributor's pension had ceased or been reduced by reason of an election under section 205—he or she would have been entitled to receive immediately before his or her death if he or she had not made the election; or
- (b) in any other case—the former contributor was receiving or for which he or she was eligible immediately before his or her death.

**C** means the factor set forth in schedule 13 opposite the age at nearest birthday of the relict as at the date of her spouse's death.

**D** means the length of service, expressed in years, of the contributor or former contributor as at the date of his attaining the age for retirement or his retirement, whichever event first occurred.

- (4) Where the contributor or pensioner through whom entitlement to an amount is derived under this section is or was a male continuing
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contributor immediately before he finally ceased to contribute to the fund the entitlement to an amount under this section is in addition to the benefits (if any) derived through the contributor or pensioner under chapter 4.

- (5) Where the contributor or pensioner through whom entitlement to an amount is derived under this section is or was a female continuing contributor who had increased the rate of her contribution to the fund pursuant to section 172 an amount shall be payable to the relict or other person entitled to an amount under this section (other than this subsection) determined by the actuary and approved by the board in lieu of the amount prescribed by subsection (1) or (2).
- (6) For the purposes of subsection (1), (2) or (3), other than for the purpose of subsection (1), definition **D**, additional service determined by the board under section 171(8) shall be disregarded.
- (7) Where a contributor or pensioner dies and is survived by more than 1 relict—
  - (a) the amount payable under this section is that which would be payable if there were but 1 relict; or
  - (b) in the case where the deceased contributor was a person who contributed for category B benefits and had less than 10 years service—the benefit provided for by section 191 shall be in such amount as would be payable if there were but 1 relict;

and the amount or benefit is payable to those relicts in such proportions as the board determines having regard to their respective needs and to such other matters as it considers relevant.

- (8) In this section—

**relict** means a relict of a contributor or pensioner who dies on or after the commencement of the *Superannuation (Public Employees Portability and Acts Amendment) Act 1985*, section 20.

*Editor's note—*

*Superannuation (Public Employees Portability and Acts Amendment) Act 1985*, section 20 commenced 4 May 1985 (see proc pubd gaz 4 May 1985 p 307).

- (9) The benefit prescribed by subsection (1) to accrue in the absence of a relict of a contributor shall be taken to accrue only in respect of a contributor who dies on or after the passing of the *Superannuation Acts Amendment Act 1987*.
- (10) In this section—

**pensioner**, in subsection (2)(a), does not include a person who was retired or permitted to retire on the grounds of incapacity and has made an election under section 205.

## 186 Relicts' right to substitute pension for entitlement

- (1) Subject to this section, a relict entitled to the payment of an amount pursuant to section 185 may elect not to receive that amount or a part of that amount and to receive in lieu a relict's pension on and from the date
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following the day of his or her spouse's death calculated in accordance with the formula—

- (a) in the case of the relict—
- (i) of a male contributor for category B benefits who attained the age for retirement before the passing of the *Superannuation Acts Amendment Act 1984* and who died in service; or
  - (ii) of a male former contributor for category B benefits who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984*;

being a contributor or former contributor who at the time of his retirement or attaining the age for retirement (whichever event first occurred) had completed at least 10 years service but less than 20 years service and who immediately before his death was entitled to a pension under section 179(3) or 180(3)—

$$P = B \times C \times \frac{D}{20} \times .667$$

where—

**B** means the fortnightly amount of pension that the contributor would have been receiving or for which the contributor would have been eligible immediately before the contributor's death if the contributor had retired upon attaining the age for retirement and had not made an election under section 205 or, in the case of a former contributor, the fortnightly amount of pension that—

- (i) where the former contributor's entitlement to a contributor's pension had ceased or been reduced by reason of an election under section 205—the former contributor would have been entitled to receive immediately before his or her death if the former contributor had not made the election; or
- (ii) in any other case—the former contributor was receiving or for which the former contributor was eligible immediately before his or her death.

**C** means a fraction that is the equivalent of the percentage of the amount of entitlement in respect of which the relict desires to substitute a relict's pension.

**D** means the length of service, expressed in years, of the contributor or former contributor as at the time of attaining the age for retirement or retirement whichever first occurred.

**P** means the fortnightly amount of relict's pension;

- (b) in any other case—

$$P = B \times C \times .667$$

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where—

**B** means—

- (i) in the case of a relict of a contributor—the fortnightly amount of pension that would have been payable to the contributor if he or she had retired and become eligible for an incapacity pension immediately before his or her death; or
- (ii) in the case of a relict of a pensioner—the fortnightly amount of pension to which his or her spouse was entitled or, but for the operation of section 202, would have been entitled immediately before his or her death or, in the case of a spouse who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* and whose entitlement to a contributor's pension had ceased or had been reduced by reason of an election under section 205, would have been entitled immediately before his or her death if he or she had not made the election and, where the spouse was an officer who had not retired, as if the spouse had retired.

**C** means a fraction that is the equivalent of the percentage of the amount of entitlement in respect of which the relict desires to substitute a relict's pension.

**P** means the fortnightly amount of relict's pension.

- (2) An election under subsection (1)—
  - (a) shall be in writing; and
  - (b) shall be made within 6 months after the date on which the entitlement to payment of the amount to the relict arises; and
  - (c) shall specify the percentage of the amount of entitlement in respect of which the elector desires to substitute a relict's pension.
- (3) This section does not apply to the relict of—
  - (a) a person who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*; or
  - (b) a female who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 172;

unless in the board's opinion the relict was wholly financially dependent upon the deceased person immediately before his or her death.

- (4) For the purposes of subsection (3) a relict shall be taken to be wholly financially dependent notwithstanding that he or she is in receipt of an income that in the board's opinion is insufficient to maintain for the relict a reasonable standard of living.
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- (7) A relict who again becomes widowed shall not be entitled to a pension under this section if an amount becomes payable to the relict under section 185 in the event of his or her so becoming widowed unless the relict elects as prescribed to forgo entitlement to that amount and, in the case of a widowed female, to any benefit to which she is entitled pursuant to section 115 in the event of her so becoming widowed.
- (8) An election under subsection (7)—
  - (a) shall be in writing; and
  - (b) shall be made within 6 months after the date on which the relict so becomes widowed.
- (9) For the purposes of subsection (1), other than definition D, additional service determined by the board under section 171(8) shall be disregarded.
- (10) Where the contributor or pensioner through whom entitlement to an amount is derived under section 185 is or was a female continuing contributor who had increased the rate of her contribution to the fund pursuant to section 172, a relict's pension shall be payable to the relict, where the relict elects as prescribed by subsection (2), at a rate determined by the actuary and approved by the board in lieu of the rate prescribed by subsection (1).
- (11) If a person was entitled to a pension under this section but, under section 186(5) of the *Superannuation (State Public Sector) Deed 1990* as in force before the commencement day, the pension stopped being payable—
  - (a) subject to subsection (7), the person's entitlement to a pension under this section resumes from the commencement day; and
  - (b) if subsection (7) applies to the person, the person may make an election under subsection (7) within 6 months after the commencement day.
- (12) In this section—

*commencement* day means the day subsection (11) commences.

**187 Entitlement of relict of person on staff of Agent-General for Queensland**

- (1) Notwithstanding the provisions of this chapter a relict of a person who was employed on the staff of the Agent-General for Queensland and who was liable—
  - (a) to pay tax under the law of the United Kingdom relating to tax on incomes; or
  - (b) to contribute for national insurance including graduated pensions under the law of the United Kingdom relating to national insurance;

shall not be entitled to the payment of an amount pursuant to section 185 but shall be entitled to the payment of a relict's pension as if he or she were a relict entitled to the payment of an amount pursuant to that section and

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had duly elected under section 186 not to receive any part of that amount but to receive a relict's pension in lieu thereof in accordance with section 186.

- (2) This section shall not apply to a relict of a person who, at the date of commencement of section 3.13 of the *Superannuation (Miscellaneous Acts) Amendment Act 1991* was employed on the staff of the Agent-General for Queensland and was a contributor.

*Editor's note—*

*Superannuation (Miscellaneous Acts) Amendment Act 1991*, section 3.13 commenced 11 May 1991 (see proc pubd gaz 4 May 1991 p 73).

## **Division 4 Children's pensions**

### **187A Meaning of spouse for div 4**

- (1) In this division—
- spouse* of a contributor or pensioner who has died before the discrimination law commencement—
- (a) means a person who—
- (i) was the contributor's or pensioner's husband or wife; or
- (ii) although not married to the contributor or pensioner, lived with the contributor or pensioner on a genuine domestic basis as the contributor's or pensioner's husband or wife; but
- (b) does not include a person who permanently lived separately and apart from the contributor or pensioner.
- (2) This section applies despite the *Acts Interpretation Act 1954*, section 32DA(6).

### **188 Child's pension—when payable**

- (1) A pension is payable under this chapter in respect of every child to whom this section applies until he or she ceases to be a child.
- (2) This section applies to the following children—
- (a) every child of a male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*;
- (b) every child of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had not increased the rate of her contribution to the fund pursuant to section 172 where in the opinion of the board the child was wholly dependent on the contributor when she died;
- (c) every child of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and
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had increased the rate of her contribution to the fund pursuant to section 172;

- (d) every child of a contributor who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984* and who when the contributor died was—
  - (i) a contributor for category A benefits; or
  - (ii) a contributor for category B benefits and had completed at least 10 years service;
- (e) every child of a deceased male pensioner who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984*, other than a pensioner retired on account of incapacity who has made an election under section 205, and who, immediately before becoming eligible for a pension, was—
  - (i) a contributor for category A benefits; or
  - (ii) a contributor for category B benefits and had completed at least 10 years service;
- (f) every child of a deceased male pensioner who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of his death was entitled to or, but for the operation of section 202, would have been entitled to a pension from the fund and who, immediately before becoming eligible for a pension, was—
  - (i) a contributor for category A benefits; or
  - (ii) a contributor for category B benefits and had completed at least 10 years service;
- (g) every child of a deceased female pensioner who—
  - (i) became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*; or
  - (ii) became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 172;

and who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of her death was entitled to or, but for the operation of section 202, would have been entitled to a pension from the fund and who, immediately before becoming eligible for a pension was—

- (iii) a contributor for category A benefits; or
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- (iv) a contributor for category B benefits and had completed at least 10 years service;
- (h) every child of a relevant female pensioner who—
  - (i) being other than a person retired on account of incapacity who has made an election under section 205, retired before the passing of the *Superannuation Acts Amendment Act 1984*; or
  - (ii) retired after the passing of the *Superannuation Acts Amendment Act 1984* and at the date of her death was entitled to or, but for the operation of section 202, would have been entitled to a pension from the fund;

where in the opinion of the board the child was wholly dependent on the pensioner when she died.

- (2A) This section also applies to a child of a person if—
    - (a) the person has converted into a lump sum, under section 205, a benefit to which the person was entitled because of an incapacity; and
    - (b) the incapacity was caused by a medical condition (the ***primary medical condition***); and
    - (c) the person dies within 1 year after the day of payment of the benefit; and
    - (d) in the opinion of the board, the death was caused by—
      - (i) the primary medical condition; or
      - (ii) a medical condition related to the primary medical condition; and
    - (e) if the person is a relevant female pensioner—the child was, in the opinion of the board, wholly dependent on the person when the person died.
  - (3) Subject to subsections (3A), (6) and (7), a child's pension that is payable under subsection (1) is payable—
    - (a) where the relict of the person through whom the child's pension is derived under subsection (2) is living—at the rate of \$50 per fortnight adjusted in accordance with the cost of living adjustment provided for in section 192 from and including the first pay period that occurs wholly in August 1987; and
    - (b) in any case other than a case to which paragraph (a) applies—at a rate equal to a percentage in accordance with the following table of—
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- (i) in the case of a child of a contributor who dies before attaining the age for retirement—the pension that would have been payable to the contributor if the contributor had retired and become eligible for an incapacity pension immediately before the contributor’s death;
- (ii) in the case of a child of a contributor who has continued in employment as an officer after attaining the age for retirement—the pension that would have been payable to the contributor immediately before the contributor’s death if the contributor had retired on attaining the age for retirement;
- (iii) in the case of a child of a person who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* whose entitlement to a contributor’s pension had ceased or had been reduced by reason of an election under section 205—the pension that would have been payable to that person immediately before the person’s death if the person had not made the election and, in the case of an officer who had not retired, as if the person had retired;
- (iv) in any other case—the pension payable to the person through whom the entitlement to the child’s pension is derived immediately before his or her death—

**Table**

1 child	66.7%
2 or more children	100% divided by the number of children in respect of each child.

- (3A) A child’s pension payable to a child mentioned in subsection (2A) is payable at the rate mentioned in subsection (3)(a).
- (4) However, each child who is entitled to a pension under subsection (3)(b) shall be paid a fortnightly rate of pension so that, when that rate is added to any rate of benefit to which he or she is entitled under chapter 4, the total rate payable shall be at least equal to twice the fortnightly rate of pension that he or she would have been paid had he or she been a case to which subsection (3)(a) applies.
- (5) The cases to which subsections (3) and (4) apply includes the case of a child’s pension payable immediately before the passing of the *Superannuation Acts Amendment Act 1987*.
- (6) Where a contributor or former contributor for category B benefits who had completed at least 10 years service but less than 20 years service attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984*, the child’s pension payable to a child who derives his or her entitlement through that contributor or former contributor shall, in lieu of the pension to which but for this subsection he

or she would have been entitled, be a pension calculated in accordance with the formula—

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

where—

**A** means the fortnightly amount of the pension that would have been payable to the child but for this subsection.

**B** means the length of service (expressed in years) of the contributor or former contributor as at the time of attaining the age for retirement or retirement, whichever first occurred.

**P** means the fortnightly amount of the pension payable to the child.

- (7) Where a contributor for category B benefits retires before attaining the age for retirement and at the time of retirement has completed at least 10 years service, a child who derives his or her entitlement to pension through that contributor is entitled to the same pension as the pension that would have been payable to him or her if the contributor had been a contributor for category A benefits.
  - (8) Where by reason of the death of a contributor or a pensioner the only entitlement derived through him or her is an entitlement to a child's pension arising on or after the passing of the *Superannuation Acts Amendment Act 1984* and before the passing of the *Superannuation Acts Amendment Act 1987* the amount of pension payable in respect of the child or, if there are 2 or more children who derive the entitlement, in respect of all of them shall equal at the least the amount that would be payable in respect of 1 child (being a child deriving his or her entitlement through that contributor or pensioner) under this section for a period of 5 years calculated at the rate at which a pension was payable in respect of 1 child (being a child deriving his or her entitlement through that contributor or pensioner) at the date when the entitlement to the pension in question commenced.
  - (9) Where by reason of the death of a contributor or a pensioner the only entitlement derived through him or her is an entitlement to a child's pension arising on or after the passing of the *Superannuation Acts Amendment Act 1987* and the amount of pension payable in respect of the child or, if there are 2 or more children who derive the entitlement, in respect of all of them (disregarding for the purpose of calculating that amount any increase in the rate of pension payable since the time when the entitlement arose) is less than the amount that would have been payable under section 185 to the relict of the person through whom the entitlement is derived, had he or she left a relict upon his or her death, there shall be paid to such persons as are approved by the board, in equal shares if more than 1, the difference between the 2 amounts hereinbefore referred to in this subsection.
  - (10) For the purposes subsections (2)(a) to (g), (6) and (7), additional service determined by the board under section 171(8) shall be disregarded.
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- (11) A child who is entitled under subsection (3)(a) or (3A) to payment of a child's pension in respect of him or her shall not be entitled to additional assurance benefit under chapter 4.
- (12) In this section—
- relevant female pensioner* means a deceased female pensioner who—
- (a) became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*; and
  - (b) had not increased the rate of her contribution to the fund under section 172; and
  - (c) when the pensioner attained the age for retirement or retired, was—
    - (i) a contributor for category A benefits; or
    - (ii) a contributor for category B benefits and had completed at least 10 years service.

### **189 Commencement and cessation of children's pensions**

- (1) A child's pension commences on the date of the day following the event by virtue of which it becomes payable as provided in section 188 and ceases to be payable on—
- (a) the child (not being a child to whom subsection (2) relates) attaining the age of 18 years; or
  - (b) the death of the child;
- whichever first happens.
- (2) In the case of a child who is receiving, in the opinion of the board, full-time education at a school, college, or university, the child's pension ceases to be payable—
- (a) when the child attains the age of 25 years; or
  - (b) when the child ceases to receive, in the opinion of the board, full-time education at a school, college, or university;
- whichever first happens.
- (2A) In the case of a child with a disability, the child's pension commences on the date of the day following the event by virtue of which it becomes payable as provided in section 188 and ceases to be payable on—
- (a) the child no longer having the disability; or
  - (b) the death of the child;
- whichever first happens.
- (3) Where—
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- (a) a child's pension has ceased pursuant to subsection (1) or (2); and
- (b) no amount has been paid in accordance with section 188(8) or (9); and
- (c) the board is satisfied that the child concerned is receiving full-time education at a school, college or university at any time before the child has attained the age of 25 years;

the board may reinstate the child's pension at the rate at which it would have been payable if it had not ceased, whereupon the pension shall be payable subject to subsection (2).

#### **190 Persons to whom a child's pension is payable**

- (1) A child's pension shall be paid to the relict (if any) of the contributor or pensioner in relation to whom it is payable, or, if there is no relict, to the guardian of the child, unless the board in any case otherwise determines.
- (2) The board may at any time pay to the guardian of a child or to such other person as the board determines, or expend for a child's benefit, any pension or sum of money payable in respect of that child under this chapter.

### **Division 5 Refund of contributions**

#### **191 Refund of contributions**

- (1) Where a contributor, before attaining the age for retirement, ceases to be an officer by reason of—
  - (a) resignation prior to attaining the age of 55 years; or
  - (c) dismissal; or
  - (d) being retired or permitted to retire on the ground of incapacity that is due to wilful action on his or her part for the obtaining of benefits under this chapter; or
  - (e) being retired or permitted to retire on the ground of incapacity where the contributor has not satisfied the board as required by section 199;

the contributor is entitled to be paid from the fund a sum of money equal to the total amount of the contributor's contributions to the fund under this chapter and any payments made by the contributor to the consolidated fund, such contributions or payments being accumulated on and after the passing of the *Superannuation Acts Amendment Act 1984* at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound, and, subject to subsections (2) to (4) is not entitled to any other benefit under this chapter.

- (2) Where a contributor, before attaining the age for retirement, ceases to be an officer by reason of—
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- (a) resignation before attaining the age of 55 years; or
- (b) termination of employment as an officer before attaining the age of 55 years, otherwise than on account of misconduct; or
- (c) being retired or permitted to retire on the ground of incapacity, where the contributor has not satisfied the board as required by section 199;

and the contributor has been a contributor for a period of 12 months at the least, the contributor may elect as prescribed not to take from the fund that part of the benefit prescribed by subsection (1) that is attributable to the contributor's contributions to the fund.

- (3) An election under subsection (2)—
  - (a) shall be in writing furnished to the board; and
  - (b) shall be made within 3 months after the date on which the contributor so ceases to be an officer.
- (4) Where an election is duly made under subsection (2), there shall be credited in the fund on account of the elector an amount equal to the amount to which the contributor would have been entitled had the contributor ceased to be an officer by way of retrenchment duly effected in accordance with relevant arrangements approved by the Governor in Council, until, subject to subsections (5) and (6)—
  - (a) the contributor attains the age of 55 years; or
  - (b) the contributor satisfies the board that the contributor suffers a permanent incapacity by reason whereof the contributor is unfit to discharge or incapable of discharging duties as an officer efficiently; or
  - (c) the contributor informs the board in writing that the contributor no longer desires his or her election to operate; or
  - (d) the contributor dies;

whereupon the prescribed amount shall be paid to the contributor or to the contributor's legal personal representative, as the case requires.

- (5) If a person who has made an election under subsection (2) again becomes an officer and elects under this subsection to again become a contributor within 3 months of again becoming an officer, the prescribed amounts shall be applied to the purchase by that person of benefit entitlements—
    - (a) in respect of a period of service equal to the period during which the person had contributed to the fund after the person's 20th birthday and before the person made the election; and
    - (b) in respect of any additional period of service as determined by the actuary having regard to any of the prescribed amount credited on the person's account that is attributable to contributions paid in excess of those prescribed by section 173;
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as approved by the board, having regard to the rates at which benefits would have accrued to that person had the person not ceased to be an officer.

- (6) Where a person to whom subsection (5)(b) applies again ceases to be an officer in any circumstance prescribed by subsection (2) and does not make an election under that subsection the benefit to which the person shall on that occasion be entitled under subsection (1) in respect of the prescribed amount applied pursuant to subsection (5)(b) shall be in such amount as is determined by the actuary and approved by the board, notwithstanding the provisions of subsection (1).
- (7) If a person who has made an election under subsection (2)—
  - (a) again becomes an officer; and
  - (b) does not make an election under subsection (5);

the prescribed amount is to be applied in obtaining benefits for the person under chapter 2.

- (8) In subsections (4), (5), (6) and (7)—

***prescribed amount*** means—

- (a) where the elector has informed the board in writing that the elector no longer desires his or her election to operate—the sum which the elector would have been entitled to be paid pursuant to subsection (1) had the elector not made the election under subsection (2), less the amount already paid on the elector's account as benefit under subsection (1), together with interest that has accrued since the date on which the elector ceased to be an officer and that is properly attributable to that sum less that amount; and
  - (b) in any other case—the amount credited on account of the elector pursuant to subsection (4), together with interest for the period since the date on which the elector ceased to be an officer.
- (9) For the purposes of subsection (8), interest shall be calculated at such rate as is determined by the board, from time to time, on the advice of the actuary which rate, at the time it is determined, is to reasonably reflect the after tax earnings of the fund (on a long-term basis) derived from the investment of contributors' contributions, having regard to costs incurred in investing and administering the fund.
  - (10) In the event of the death, before attaining the age for retirement, of a contributor whose death does not give rise to an entitlement under division 2 or 3 or under subsection (12) the board shall pay a sum equal to the total amount of the contributor's contributions to the fund under this chapter and any payments made by the contributor to the consolidated fund, such contributions or payments being accumulated on and after the passing of the *Superannuation Acts Amendment Act 1984* at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound, to the legal personal representative of the contributor or,
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if the board considers it desirable to do so, to another individual as the board may determine.

- (11) For the purposes of subsections (1) and (10) a contributor who, before the passing of the *Superannuation Acts Amendment Act 1989*, had made payments to the State Service Superannuation Additional Benefits Fund, which fund was abolished by that Act, shall be deemed to have made those payments to the consolidated fund.

*Editor's note—*

*Superannuation Acts Amendment Act 1989* was assented to on 5 May 1989.

- (12) Where a contributor for category B benefits dies before attaining the age for retirement and at the time of death has completed less than 10 years service and, in the case of a female who became such a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had not increased the rate of her contributions pursuant to section 172, leaves children who in the board's opinion were wholly dependent on the contributor when she died, then the relict of the contributor or, if there be no relict, the legal personal representative of the contributor or other individual approved by the board is entitled to be paid out of the fund a sum equal to 3½ times the total amount of the contributor's contributions to the fund under this chapter, other than any additional contributions under section 171(4), (5) or (6) or 172, and—
- (a) in the case of additional contributions paid under section 171(4)—a sum equal to  $2\frac{6}{7}$  times the total amount of such additional contributions;
  - (b) in the case of additional contributions paid under section 171(5) or (6)—a sum equal to the total amount of such additional contributions accumulated from 1 July 1990 at the net earning rate of the fund compound;
  - (c) in the case of additional contributions paid under section 172—such sum as is determined by the actuary and approved by the board.
- (13) Where the contributor is a continuing contributor entitlements under this section are in addition to entitlements (if any) of or in relation to the contributor under chapter 4.
- (14) For the purposes of subsection (3) additional service determined by the board under section 171(8) shall be disregarded.

## **Division 6                      Adjustment of pensions**

### **192      Indexation of pensions—general**

- (1) This section applies to a pension payable to a person during a financial year under this chapter if the pension was payable to the person immediately before the start of the previous financial year.
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- (2) As soon as practicable after the start of the financial year, the board must reassess the amount of the pension and either increase it or maintain it at the same level as in the previous financial year, as follows—
- (a) if the June index for the previous financial year is higher than the last adjustment index for the pension, the pension must be increased by the percentage increase between the 2 indexes;
  - (b) otherwise, the pension remains the same.
- (3) If the pension is increased under the reassessment, the pension is payable to the person at the increased level from the first pay period that falls entirely in the month of August in the financial year.
- (4) A percentage increase between 2 indexes under subsection (2)(a) must be calculated to 1 decimal place.
- (5) In this section—
- last adjustment index*, for a pension, means—
- (a) if the pension has ever been increased under this section—the June index for the financial year immediately before the financial year in which the pension was last increased under this section; or
  - (b) otherwise—the June index for the financial year immediately before the financial year in which the pension started being payable.

*pay period*, for a pension, means the fortnightly period in relation to which each pension payment is payable under this part.

### **192A Indexation of pensions—part of a year**

- (1) This section applies to a pension payable to a person under this chapter during a financial year (*year 2*) if the pension started being payable to the person during the previous financial year (*year 1*).
- (2) As soon as practicable after the start of year 2, the board must reassess the amount of the pension and either increase it or maintain it at the same level as in year 1, as follows—
- (a) if the June index for year 1 is higher than the June index for the financial year before year 1 (*year 0*), the pension must be increased by the amount calculated under the following formula—

$$\frac{I\% \times M \times B}{12}$$

- (b) otherwise, the pension remains the same.
- (3) If the pension is increased under the reassessment, the pension is payable to the person at the increased level from the first pay period that falls entirely in the month of August in year 2.
- (4) In this section—

*B* means the amount of the pension immediately before the reassessment.

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*I%* means the percentage increase between the June index for year 0 and the June index for year 1, calculated to 1 decimal place.

*M* means the number of whole months in year 1 for which the pension is payable.

*pay period*, for a pension, means the fortnightly period in relation to which each pension payment is payable under this part.

### **193 Variation of entitlement to adjustment**

- (1) Where in the opinion of the board a pensioner would be prejudicially affected by an increase in his or her pension under section 192 the board may determine—
  - (a) that the pensioner receive no increase in pension under that section;  
or
  - (b) that the pensioner receive an increase in pension less than that provided for by that section;

and the determination shall be given effect according to its terms notwithstanding that section.

- (2) The board may revoke or vary a determination under subsection (1).
- (3) In the event of a revocation of a determination the amount of the pension to which the determination related shall, as from the date of the revocation, be the same as if the determination had not been made.
- (4) In the event of a variation of a determination the amount of the pension to which the determination relates shall, as from the date of the variation, be in accordance with the determination as so varied.
- (5) Unless it is otherwise determined by the board, for the purpose of determining the rate of pension payable under section 185 or 188 all determinations made under subsection (1) and variations made under subsection (2) shall be disregarded and the pensioner shall be deemed to have been receiving, immediately before the pensioner's death, the amount of pension that would have been payable to the pensioner had no such determination been made.

## **Division 7 General provisions as to pensions**

### **194 Duration of pensions**

Except as otherwise expressly provided, a pension under this chapter is payable during the life of the pensioner, and is payable as from the date of the death or retirement by virtue of which it becomes payable.

### **195 Time and manner of payment of pensions**

Pensions shall be paid in fortnightly instalments or if so determined by the board, periodically at other intervals.

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**196 Payment to person other than the beneficiary**

- (1) Where in the opinion of the board payment of any pension, refund of contributions or other payment under this chapter should be made to a person other than the person to whom the same is prescribed to be payable, the board may authorise payment to such firstmentioned person accordingly and the receipt of that person is a complete discharge to the board for the amount so paid.
- (1A) Subsection (1) does not apply to an eligible death benefit payable to a person under rule 64 of the division rules in Schedule 2 to the Deed.
- (2) Where a person has received a payment under this chapter or chapter 4 and it is subsequently discovered that, owing either to some miscalculation or mistake of fact for which the person is not responsible, the payment was in excess of the amount properly payable, the board may—
  - (a) waive repayment; or
  - (b) allow repayment to be made on such terms as the board thinks just;of the whole or any part of that excess payment or may write off the whole or any part thereof, if, in the opinion of the board, its repayment would cause undue hardship or the enforcement of the repayment thereof would be inequitable.
- (3) Where a person has received a payment under this chapter or chapter 4 and it is subsequently discovered that, by reason of a mistake, the amount of the payment is in excess of the amount properly payable to that person, the board may write off the whole or any part of the excess amount so paid if it is satisfied that the excess amount or that part is irrecoverable or that the enforcement of the repayment by that person of the excess amount or that part would impose undue hardship on that person or would, in all the circumstances of the case, be inequitable.

**197 Commencement of benefits**

Subject to this chapter, where in pursuance of this chapter any officer becomes liable or elects to contribute for any pension benefits or additional such benefits the officer shall be a contributor in respect of those benefits or additional benefits as from the date as from which the contribution or additional contribution therefor is payable and not earlier, but if any benefit becomes payable to or in respect of that contributor before he or she has actually commenced to make contributions or additional contributions there shall, as determined by the board, be deducted from payments of benefits such contributions as are due by him or her in respect of those benefits or additional benefits.

**198 Provision for incapacity entitlement of contributor reduced in salary by redeployment**

- (1) Where a contributor's salary is reduced as a consequence of action taken by the contributor's employer for redeployment of the contributor, which, in the board's opinion, is due to the incapacity of the contributor, then, if
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the board so approves and subject to such conditions as the board in its absolute discretion may determine, the contributor shall be deemed to be in receipt of salary at the rate that would be payable to the contributor had the contributor remained in the position held by the contributor as an officer immediately before the contributor's redeployment.

- (2) The board may determine that a contributor, such as is deemed to be in receipt of salary as prescribed by subsection (1), is entitled to payment of incapacity pension at a rate and for a period determined by the board but not exceeding the rate of incapacity pension to which the contributor would have been entitled had the contributor retired on the ground of incapacity immediately before the date of the contributor's redeployment.

### **199 Entitlement to receive incapacity pension**

Before a person—

- (a) who is retired or permitted to retire as an officer by reason of incapacity; or
- (b) who has been absent from duty with leave of absence without salary by reason of incapacity for a continuous period of 14 days (whether or not working days);

is entitled to payment of an incapacity pension or to payment from the fund of a sum on account of incapacity the person shall satisfy the board that the incapacity is such as to render the person unfit to discharge or incapable of discharging the duties of office efficiently and, in the case referred to in paragraph (a), that the incapacity is likely to be permanent.

### **200 Proof of continued incapacity**

- (1) Any person who is in receipt of incapacity pension, shall whilst the person continues to be in receipt of incapacity pension, give as prescribed such notifications and certificates relating to the person's continued incapacity as shall be prescribed and submit himself or herself for medical examination when and so often as the board requires to any medical practitioner or medical practitioners approved by the board.
- (2) If at any time a person defaults in complying with any requirement of this section, the board may discontinue the payment to the person of incapacity pension until the person remedies the default to its satisfaction.

### **201 Failure of incapacity pensioner restored to health to resume employment affects entitlement**

- (1) If in the opinion of the board the health of any person who is in receipt of incapacity pension and who has not attained the age for retirement has been restored to such an extent as to enable the person to perform duties as an officer efficiently, the board shall so inform the person, body or authority by whom that person is or was employed as an officer, to the intent that the person, body or authority so informed shall—
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- (a) in the case of the person in receipt of incapacity pension being absent from duty with leave of absence without salary—instruct that person to resume employment with the person, body or authority forthwith; or
  - (b) in the case of the person in receipt of incapacity pension having had the person's employment terminated by reason of the incapacity—take all practicable steps to find employment for that person as an officer in the person's, body's or authority's employment.
- (2) If—
- (a) in the case of a person in receipt of incapacity pension being absent from duty with leave of absence without salary—the board has pursuant to subsection (1) informed the person, body or authority by whom that person is employed as an officer as prescribed by that subsection and that person has not resumed such duty;
  - (b) in a case referred to in subsection (1)(b)—employment referred to in that paragraph is offered to the person in receipt of incapacity pension at a rate of salary at least equal to the rate of salary then payable in respect of the office held by the person at the time the person became eligible for the incapacity pension and the person fails to accept that employment;

the board may cancel that person's incapacity pension and thereupon it shall cease to be payable.

- (3) Where the board cancels a person's incapacity pension it shall forthwith inform the person in writing of the cancellation.
- (4) Where a person's incapacity pension is cancelled under subsection (2) neither that person nor any other person claiming through the person, either immediately or at any future time, shall be entitled to any payment or further payment from the fund by way of any benefit for which that person was contributing to the fund but that person shall be paid from the fund a sum equal to the total amount of the person's contributions accumulated from 1 July 1990 at the net earning rate of the fund compound to the fund less an amount certified by the actuary to be attributable to the provision of incapacity pension.
- (5) Subsection (4) shall not be construed to prevent a person whose incapacity pension has been cancelled under subsection (2) or any other person claiming through the person from becoming entitled to any benefits for which that person contributes to the fund after the person has again become an officer and a contributor.

## **202 Incapacity pension may be suspended**

- (1) If at any time it appears to the board that any person who is in receipt of incapacity pension—
    - (a) engages in—
      - (i) any business or occupation on the person's own account; or
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- (ii) employment, not being employment by virtue whereof the person is an officer receiving salary at least equal to the rate referred to in section 201(2); or
- (b) receives compensation under the *Workers' Compensation and Rehabilitation Act 2003*;

the board may suspend payment of the incapacity pension.

- (2) For the period for which payment of an incapacity pension is suspended under subsection (1) the person concerned shall not be entitled to or receive any incapacity pension from the fund unless the board directs that the person be paid for that period or such part thereof as the board determines, the whole of the incapacity pension or such part thereof as the board considers reasonable.

### **203 Contribution by retired incapacity pensioners upon re-employment**

If a person who has been retired, by reason of incapacity, from employment as an officer and who is in receipt of incapacity pension again becomes an officer, the period during which the person was retired shall not, for the purposes of this chapter, be deemed to be a break in the continuity of the person's service, and accordingly the officer shall be deemed to be a contributor and contributions to the fund shall again become payable by the person in accordance with this chapter.

### **204 Right to prepay contributions**

- (1) The board may permit a contributor to commute wholly or in part any existing contribution under this chapter, payable by the contributor in respect of any future period, by payment of a lump sum of such amount as shall be determined by the actuary and approved by the board.
- (2) Where a contributor who elects to retire at any time within the period of 10 years immediately preceding the day on which the contributor would attain the age for retirement, has commuted wholly or in part any contributions under the division rules attributable to any period after the date of the contributor's retirement the contributor is, in addition to any entitlement under this chapter, entitled to be paid from the fund such sum of money in respect of such contribution as is determined by the actuary and approved by the board.

## **Division 8 Conversion of pension entitlement into a lump sum payment**

### **205 Right of contributor to convert pension into a lump sum**

- (1) A person who is or was prior to his or her retirement a contributor may, subject to this section elect to convert into a lump sum payment his or her pension entitlement under this chapter, other than an entitlement to an
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incapacity pension on account of absence from duty with leave of absence without salary by reason of incapacity—

- (a) as to the whole thereof—in the case of an entitlement to an incapacity pension; or
  - (b) as to the whole or any part thereof—in the case of an entitlement to a contributor's pension.
- (2) A person who is or was prior to his or her retirement a continuing contributor is not entitled to elect under subsection (1) to convert into a lump sum payment his or her entitlement to an incapacity pension under this chapter unless he or she also elects to convert into a lump sum payment the whole of his or her entitlement to incapacity benefit under chapter 4.
  - (3) A contributor who, after the commencement of the *1972 Act*, made an election under section 171(4) that has not been cancelled may not make an election under this section in relation to any part of the contributor's pension entitlement under this chapter unless the contributor has contributed in accordance with that subsection for not less than 5 years before such pension entitlement arises or would have been so contributing but for a commutation of contributions pursuant to section 204.
  - (4) Subsection (3) does not apply in relation to a contributor of a description referred to in the subsection who before the passing of the *Superannuation Acts Amendment Act 1984* was retired or permitted to retire on the ground of incapacity.
  - (5) An election under this section—
    - (a) shall, in the case of a contributor who elects to retire from employment as an officer within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement, be made before the expiration of the period of 1 month after the contributor's retirement; and
    - (b) shall, in the case of a contributor who retires on or after attaining the age for retirement, be made before the expiration of a period of 1 month after the contributor attains the age for retirement; and
    - (c) shall, in the case of a person who is entitled to payment of an incapacity pension, be made before the expiration of a period of 6 months after the date on which the entitlement to the pension arises or arose or after the passing of the *Superannuation Acts Amendment Act 1984*, whichever period is the later to expire and shall be effective only if, in the board's opinion, the elector is medically competent to make the election; and
    - (d) shall, in any case, be made by notice in writing given to the board (the *contributor's notice of election*).
  - (6) In the case of an election under this section made in respect of a pension entitlement, other than an entitlement to an incapacity pension, the notice of election shall specify the percentage of the elector's pension entitlement that the elector desires to convert into a lump sum.
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- (7) Where a contributor retires from employment as an officer on attaining the age for retirement or within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement and duly elects to convert a specified percentage (other than 100%) of the contributor's entitlement to a contributor's pension—
- (a) the contributor shall be paid from the fund—
    - (i) in the case of a male contributor or of a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*, (other than a contributor for category B benefits who has had less than 10 years service)—a sum equal to that specified percentage of the amount of the contributor's fortnightly pension entitlement under this chapter multiplied by the factor set forth in schedule 10, part 1, column 2 opposite the age in years and complete months as at the date of retirement set forth in column 1; or
    - (ii) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*, (other than a contributor for category B benefits who has had less than 10 years service)—a sum equal to that specified percentage of the amount of her fortnightly pension entitlement under this chapter multiplied by the factor set forth in schedule 10, part 2, column 2 opposite the age in years and complete months as at the date of retirement set forth in column 1; and
  - (b) the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage.
- (8) Where a contributor retires from employment as an officer on attaining the age for retirement or within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement and duly elects to convert the whole of the contributor's entitlement to a contributor's pension—
- (a) the contributor shall be paid from the fund—
    - (i) in the case of a male contributor or of a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*, (other than a contributor for category B benefits who has had less than 10 years service)—a sum equal to the amount of his or her fortnightly pension entitlement under this chapter multiplied by the factor set forth in schedule 10, part 1, column 2 opposite the age in years and complete months as at the date of retirement set forth in column 1; or
    - (ii) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*, (other than a contributor for category B benefits who has
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had less than 10 years service)—a sum equal to the amount of her fortnightly pension entitlement under this chapter multiplied by the factor set forth in schedule 10, part 2, column 2 opposite the age in years and complete months as at the date of retirement set forth in column 1; and

- (b) his or her entitlement to a contributor's pension under this chapter ceases.
- (9) Where a contributor (other than one who has made an election under section 171(4) or (5)) who has attained the age for retirement, has duly elected under this section and has continued in employment as an officer, the contributor shall, in lieu of the lump sum payment from the fund to which the contributor would have been entitled under subsection (7) or (8), be entitled to be paid from the fund—
- (a) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert a specified percentage (other than 100%) of the contributor's entitlement to a contributor's pension—
    - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times that specified percentage of two-sevenths of the amount of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement; or
    - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times that specified percentage of two-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement; and
    - (iii) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
    - (iv) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement multiplied by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;
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and the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage; or

- (b) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert the whole of his or her entitlement to a contributor's pension—
  - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times the amount of two-sevenths of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement; or
  - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times the amount of two-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement; and
  - (iii) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to five-sevenths of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
  - (iv) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement multiplied by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;

and his or her entitlement to a contributor's pension under this chapter ceases.

- (10) Where a contributor (being a contributor who has made an election under section 171(4)) who has attained the age for retirement, has duly elected under this section and has continued in employment as an officer, the contributor shall, in lieu of the lump sum payment from the fund to which the contributor would have been entitled under subsection (7) or (8), be entitled to be paid from the fund—
    - (a) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to
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convert a specified percentage (other than 100%) of the contributor's entitlement to a contributor's pension—

- (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 177(5)(a)(i); or
  - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 177(5)(a)(i); or
  - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 261 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 177(5)(a)(ii); or
  - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 287 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 177(5)(a)(ii); and
  - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement and section 171(4) had not been enacted and that specified percentage of 65% of the pension attributable to section 171(4) that would have been payable if he or she had retired on attaining the age for retirement, multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
  - (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement and section 171(4) had not been enacted and that specified percentage of 65% of the pension attributable to section 171(4) that would have been payable if she had retired on attaining the age for retirement multiplied by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;
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and the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage; or

- (b) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert the whole of his or her entitlement to a contributor's pension—
    - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times the amount of his or her fortnightly pension entitlement referred to in section 177(5)(a)(i); or
    - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times the amount of her fortnightly pension entitlement referred to in section 177(5)(a)(i); or
    - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 261 times the amount of his or her fortnightly pension entitlement referred to in section 177(5)(a)(ii); or
    - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 287 times the amount of her fortnightly pension entitlement referred to in section 177(5)(a)(ii); and
    - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to five-sevenths of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement and section 171(4) had not been enacted and 65% of the pension attributable to section 171(4) that would have been payable if he or she had retired on attaining the age for retirement, multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
    - (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement and section 171(4) had not been enacted and 65% of the pension attributable to section 171(4) that would have been payable if she had retired on attaining the age for retirement, multiplied by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;
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and his or her entitlement to a contributor's pension under this chapter ceases.

- (11) Where a contributor (being a contributor who has made an election under section 171(5)) who has attained the age for retirement, has duly elected under this section and has continued in employment as an officer, the contributor shall, in lieu of the lump sum payment from the fund to which the contributor would have been entitled under subsection (7) or (8), be entitled to be paid from the fund—
- (a) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert a specified percentage (other than 100%) of the contributor's entitlement to a contributor's pension—
    - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 177(6)(a)(i); or
    - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 177(6)(a)(i); or
    - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 261 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 177(6)(a)(ii); or
    - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 287 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 177(6)(a)(ii); and
    - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement and section 171(5) had not been enacted multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
    - (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to that specified percentage of five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement and section 171(5) had not been enacted, multiplied
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by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;

and the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage; or

- (b) in the case of a contributor (other than a contributor for category B benefits who has had less than 10 years service) who elects to convert the whole of his or her entitlement to a contributor's pension—
- (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 261 times the amount of his or her fortnightly pension entitlement referred to in section 177(6)(a)(i); or
  - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 287 times the amount of her fortnightly pension entitlement referred to in section 177(6)(a)(i); or
  - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 261 times the amount of his or her fortnightly pension entitlement referred to in section 177(6)(a)(ii); or
  - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 287 times the amount of her fortnightly pension entitlement referred to in section 177(6)(a)(ii); and
  - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as an officer, a sum equal to five-sevenths of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement and section 171(5) had not been enacted multiplied by such factor not exceeding 261 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
  - (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as an officer, a sum equal to five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement and section 171(5) had not been enacted, multiplied by such factor not exceeding 287 as the actuary determines having regard to her age at the time she retires or is retired;

and his or her entitlement to a contributor's pension under this chapter ceases.

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- (12) Notwithstanding subsections (1) to (11), where any of those subsections is to be applied in respect of a contributor whose length of service, expressed in years and ascertained as prescribed by section 176, is 42 years and 6 months at the least—
- (a) any factor prescribed by that subsection to be used as a multiplier for the purposes of the subsection (not being a factor to which paragraph (b) refers) shall be not less than the factor set forth in column 2 of the part of the schedule prescribed by the subsection opposite the age, in years and complete months, that was the contributor's age, in years and complete months, when the contributor's length of service (so ascertained) amounted to 42 years and 6 months; and
  - (b) any multiplier being 261 or 287 or a factor to be determined by the actuary not exceeding 261 or 287 prescribed by that subsection to be used for the purposes of that subsection shall not be that so prescribed but shall be—
    - (i) where the multiplier is 261 or the factor is not to exceed 261—that factor set forth in schedule 10, part 1; or
    - (ii) where the multiplier is 287 or the factor is not to exceed 287—that factor set forth in schedule 10, part 2;opposite the age, in years and complete months, that was the contributor's age, in years and complete months, when the contributor's length of service (so ascertained) amounted to 42 years and 6 months.
- (13) A person who is or was a contributor for category B benefits and has had less than 10 years service and who duly elects to convert the whole or a part of the person's entitlement to a contributor's pension shall be entitled to the same payment from the fund as the person would be entitled to under subsection (7), (8), (9), (10) or (11), according to the person's circumstances, had the person been a contributor for category A benefits except that the factor by which the amount of the person's fortnightly pension entitlement is to be multiplied for the purpose of the relevant subsection shall be such factor as the actuary determines on the basis of evidence as to the person's state of health produced under subsection (16), not exceeding the factor that under the relevant subsection would have been applicable in the person's case had the person been a contributor for category A benefits.
- (14) Where a contributor becomes entitled to an incapacity pension (other than a pension payable under this chapter in respect of any period of leave of absence from employment as an officer without salary for longer than 2 weeks by reason of incapacity) after the passing of the *Superannuation Acts Amendment Act 1984* and while entitled to receive payment thereof duly elects under this section he or she shall be paid from the fund a sum equal to the amount that would have been payable from the fund—
- (a) had the contributor died on the date of his or her retirement from employment as an officer on the grounds of incapacity; and
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- (b) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had not increased the rate of her contribution to the fund pursuant to section 172—had the contributor increased the rate of her contribution to the fund pursuant to that section;

less the amount of pension that he or she has been paid in respect of the period subsequent to the date of his or her retirement or the date of approval of his or her retirement, whichever date is the later, to the exclusion of any other entitlement he or she might otherwise have had under this section and his or her entitlement to an incapacity pension under this chapter thereupon ceases.

- (15) Subsection (14) applies whether the date from which the retirement of a contributor who is retired or permitted to retire after the passing of the *Superannuation Acts Amendment Act 1987* takes effect is before or after the passing of that Act.
- (16) A person who is or was a contributor for category B benefits and has less than 10 years service and who duly elects to convert the whole or a part of the person's entitlement to a contributor's pension shall produce to the board evidence of his or her state of health at the time of the election satisfactory to the board and in determining the lump sum payable from the fund under this section to the person due weight shall be given to that evidence.

## **206 Endowment benefit in lieu of relict's pension**

A male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and who on or after the passing of that Act attains the age for retirement or retires within the period of 5 years immediately preceding the day on which the contributor would attain that age and duly elects under section 205 otherwise than in respect of an incapacity pension, other than a contributor for category B benefits who has not completed 10 years service at the time of retirement or of attaining the age for retirement whichever is the earlier, is entitled, in addition to the benefits prescribed by that section, to an amount determined by the actuary and approved by the board having regard to the period for which the contributor contributed to the fund before the passing of that Act.

## **Part 5 Miscellaneous**

### **209 Medical examinations**

- (1) Every person who on or after the commencement of the *1972 Act* becomes an officer and every officer mentioned in section 3(1)(b) of the *1972 Act* shall, before being accepted as a contributor for category A benefits, furnish to the board evidence satisfactory to the board as to his or her health and physical condition.
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- (2) A person referred to in subsection (1) shall not contribute to the fund as a contributor for category A benefits if the board is not satisfied that the health and physical condition of that person are such as to justify being accepted as such a contributor.
- (3) Notwithstanding anything to the contrary contained in this chapter and subject to sections 199 and 200, where any person, officer or contributor is required by or under this chapter—
  - (a) to be medically examined by a medical practitioner; or
  - (b) to produce any medical evidence;

then the medical examination is to be made by, or, as the case requires, medical evidence is to be obtained from such medical practitioner as the board may appoint in that behalf (whether by naming the medical practitioner or by reference to the holder for the time being of any office), and a report of the medical examination or, as the case may be, the medical evidence is to be furnished by the medical practitioner or holder of the office to the board or, if the board so specifies, then to the person or authority specified.

- (4) However, where permitted by this chapter and without derogating from the board's discretion to accept or to refuse to accept the result of that further medical examination or that further medical evidence, the person, officer or contributor may have a further medical examination made or, as the case requires, further medical evidence obtained from some other medical practitioner.

## **210 Conversion from category B to category A benefits in certain cases**

Where the death, retirement by reason of incapacity or absence on sick leave without salary of a contributor for category B benefits or the reason for the lump sum payable under section 205 to a contributor for category B benefits being less than that which would have been payable to the contributor had the contributor been a contributor for category A benefits, being a contributor—

- (a) who has had less than 10 years service; and
- (b) in respect of whom medical evidence has been submitted to and accepted by the board that warrants the contributor being such a contributor;

is not, in the board's opinion, related to the reason that warrants the contributor being a contributor for category B benefits, the board may determine that benefits payable by it on account of the contributor's death, retirement or, as the case may be, absence shall be such as if the contributor had been a contributor for category A benefits, whereupon the benefits shall be payable accordingly.

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**211 Rectification of contributor's status falsely induced**

- (1) Where a person has been accepted as a contributor for category A benefits and it subsequently appears to the board that the contributor has suppressed or failed to fully disclose information concerning the contributor's health or physical condition, the board may determine—
    - (a) where the person is still a contributor—that the contributor cease to be a contributor for category A benefits and that the contributor be a contributor for category B benefits and be deemed to have been a contributor for category B benefits on and from the date of his or her acceptance as a contributor; or
    - (b) where the person is no longer a contributor—that the contributor be deemed never to have been a contributor for category A benefits but to have been a contributor for category B benefits on and from the date of his or her acceptance as a contributor.
  - (2) Where a contributor has made an election under section 172 that has been accepted by the board and it subsequently appears to the board that she has suppressed or failed to fully disclose information concerning her health or physical condition the board may determine—
    - (a) where she is still a contributor—that she cease to contribute for benefits provided by additional contributions payable under section 172 and that she contribute for the benefit for which she was contributing at the time she made the election; or
    - (b) where she is no longer a contributor—that she be deemed never to have made additional contributions payable under section 172 but to have always been a contributor for the benefits for which she was contributing at the time she made the election.
  - (3) A person in respect of whom the board's determination is made under subsection (1) shall become and be or, as the case may be, shall be deemed to have been a contributor for category B benefits according to the tenor of the board's determination.
  - (4) A person in respect of whom the board's determination is made under subsection (2) shall become and be or, as the case may be, shall be deemed to have been a contributor for benefits according to the tenor of the board's determination.
  - (5) Where payment under this chapter, by way of pension or a lump sum, has been made or, by way of pension, is being made to or on account of a person in respect of whom the board has made a determination under subsection (1) or (2) in any case in an amount to which he or she is not entitled under this chapter, having regard to such determination, the board may—
    - (a) recover from him or her by action in a court of competent jurisdiction as a debt due and owing to the board the difference between the payment made and the amount to which he or she would have been entitled under this chapter as a contributor according to the tenor of the board's determination; and
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- (b) deduct from moneys that may at any time become payable under this chapter to or on account of him or her the difference between the payment made and the amount to which he or she would have been entitled under this chapter as a contributor according to the tenor of the board's determination; and
- (c) in the case of a pensioner—
  - (i) order that his or her pension be cancelled forthwith (whereupon his or her entitlement to a pension under this chapter shall cease) and, if he or she is no longer a contributor, may further order—
    - (A) that no other payment, to which he or she would be entitled under this chapter if the further order had not been made, be made to him or her or on his or her account; or
    - (B) that any other such payment be made to him or her or on his or her account only to an extent determined by the board;

(whereupon his or her entitlement under this chapter to any other such payment shall cease or, as the case may be, be reduced accordingly); or
  - (ii) order that his or her pension be reduced forthwith to a rate determined by the board (whereupon his or her entitlement under this chapter to a pension shall be reduced accordingly);

and any such order shall be given effect and complied with.

- (6) The provisions of this section apply in respect of a person who at the passing of the *Superannuation Acts Amendment Act 1984* has ceased to be a contributor as well as in respect of a person who at such passing is or thereafter becomes a contributor.
- (7) Where a determination referred to in subsection (2)(a) has been made the contributor or, if she has died, her legal personal representative shall be entitled to a refund of additional contributions paid by her under section 172 accumulated at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.

## **212 Calculation of benefits based on contributions of officers**

- (1) Where in this chapter provision is made for the refund of, or for benefits based wholly or in part on, an officer's contributions, those contributions include all contributions paid by the officer up to the date of attaining the age for retirement or earlier retirement or death, as the case may be, together with any contributions that the officer may be required or permitted to pay and that are paid by the officer or on the officer's behalf, after that date, but subject to the deduction of any contributions previously refunded to the officer.
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- (2) Where such a provision relates to a contributor who has retired and has been re-employed, the contribution shall, subject to the express provisions of this chapter, be calculated only from the date of the last re-employment of the contributor.

### **213 No interest on certain payments**

- (1) Interest is payable on a lump sum payment made out of the fund only if—
  - (a) the payment of interest on the payment is authorised by this chapter; or
  - (b) the board determines that interest is payable on the payment.
- (2) If the board makes a determination under subsection (1)(b), the board must also determine the rate of interest.

### **213A [Deleted]**

## **Part 6 Application of chapter 4**

### **214 Application of chapter 4**

- (1) Subject to subsection (4), no person shall be entitled or required or permitted to contribute for units of benefits under chapter 4 other than—
    - (a) the units of benefits for which the person was contributing immediately before the commencement of the *1972 Act*; and
    - (b) units of benefits for which the person was before the commencement of the *1972 Act* required to contribute to the fund by reason of an increase of the person's salary but for which on the said commencement the person had not commenced to contribute; and
    - (c) units of benefits in respect of which, being thereunto authorised or entitled under the *1958 Act* before the commencement of the *1972 Act*, the person makes or has made an election (whether before or after the commencement of the *1972 Act*) within the time prescribed therefor by the *1958 Act* or, where no time is so prescribed, before the said commencement but for which on the said commencement he had not commenced to contribute; and
    - (d) where an officer who is a contributor to the fund under chapter 4, Part 5, produces to the board evidence of good health satisfactory to the board, units of incapacity benefit and, in the case of a male officer, units of assurance benefit (being units for which but for this section he would have been eligible or required to contribute under section 157 of chapter 4) for which the officer elects to contribute within 6 months after becoming entitled so to do but not so that the number of units of incapacity benefit, and, in the case of a male officer, units of assurance benefit respectively for which as a result of the election he will be a contributor will exceed the number of
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units of annuity benefit for which he was a contributor immediately before the election.

- (2) With respect to units of benefits for which an officer is entitled to elect to contribute pursuant to subsection (1)(d), the board may waive compliance with section 99 of chapter 4 to such extent as it deems fit in the circumstances of the case and the rate of salary of the officer shall be deemed to be the rate of the officer's salary in force immediately before the commencement of the *1972 Act*.
- (3) Nothing in this section precludes the board from exercising its powers and functions under chapter 4 in relation to contribution by an officer for units of benefits under chapter 4 to which subsection (1)(b), (c) or (d) or (4) relates.
- (4) At any time before the expiration of a period of 6 months commencing on the commencement of the *1972 Act*, a continuing contributor may make any election under and in accordance with section 22A of the *1958 Act* that the continuing contributor was eligible to make immediately before the commencement of the *1972 Act* and subject to the said section the continuing contributor may increase his or her contribution to the fund accordingly.
- (5) Where the time prescribed by the *1958 Act* not later than which an officer may make an election under section 22 of the *1958 Act* in respect of units of benefits expired on the day immediately before the commencement of the *1972 Act*, such units of benefits shall be deemed to be units of benefits in respect whereof a continuing contributor may make an election pursuant to subsection (4).
- (6) The obligation to contribute to the fund under chapter 4 by a continuing contributor shall be in respect of—
  - (a) the units of benefits and other benefits for which the continuing contributor was contributing under the *1958 Act* immediately before the commencement of the *1972 Act*; and
  - (b) units of benefits referred to in subsection (1)(b), (c) or (d) for which the continuing contributor commences to contribute under chapter 4 after the commencement of the *1972 Act*; and
  - (c) the units of benefits under chapter 4 in respect whereof the contributor increases his or her contribution to the fund pursuant to subsection (4);

and, subject to chapter 4, is at the rates of contribution prescribed by the *1958 Act* immediately before the commencement of the *1972 Act*.

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## Chapter 6 Police 68 category

### Part 1 Preliminary

#### 215 Interpretation

- (1) In this chapter, except so far as the context or subject matter otherwise indicates or requires—

*age for retirement* of a member of the police force means 60.

*contributor* means a member of the police force who contributes under this chapter to the fund.

*incapacity* means a mental or bodily infirmity by reason whereof a member of the police force is unfit to discharge or incapable of discharging the duties of the member's office efficiently.

*member of the police force* means—

- (a) a police 68 member; or
- (b) a person, or a member of a class of person, declared under a notice under section 10(1) of the *Superannuation (State Public Sector) Act 1990*, to be eligible for membership of the scheme in the police 68 category.

*net earning rate of the fund* means the rate of interest as determined by the board, from time to time, on the advice of the actuary which rate, at the time it is determined, reasonably reflects the after tax earnings of the fund (on a long-term basis) derived from the investment of contributors' contributions to the fund, having regard to administrative costs of the fund, the costs of death and incapacity benefits and the charges incurred in the investment of those contributions.

*person in receipt of benefit* means—

- (a) a person who receives an annuity benefit or incapacity benefit under this chapter; or
- (b) a person who would have been entitled to receive an annuity benefit if the benefit had not been commuted under part 3, division 7.

*repealed provisions* means the provisions repealed on the commencement of the *Police Superannuation Act 1968*, section 3.

*Editor's note—*

*Police Superannuation Act 1968*, section 3 commenced 7 July 1969 (see 1968 No. 58 s 1(2)).

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**retired**, in relation to employment as a member of the police force, means retired from that employment or required to retire from that employment by the Governor in Council or by the commissioner of the police service.

**salary** means the rate of payment made by way of fixed remuneration to a member of the police force and does not include any sum paid by way of fee or allowance.

**spouse**, for part 3, division 5—see section 242A.

**widow** for parts 2 and 3—see section 215A.

- (2) A reference in this chapter to a period expressed in years shall, where appropriate, be read as including a reference to a period expressed in years together with a fraction of a year being a fraction consisting of a completed whole month or 2 or more such months.
- (3) Notwithstanding any other provisions of this chapter, where the employment of a contributor as a member of the police force ceases at any time after the contributor has attained an age that is within 5 years immediately preceding the day on which he or she would attain the age for retirement otherwise than by reason of his or her death or having been retired or permitted to retire on the ground of incapacity then, for the purposes of this chapter, the contributor shall be deemed to have elected to retire at the time when the employment ceased.
- (4) In determining the age of a person for the purposes of this chapter the time at which that person attains a particular age expressed in years shall be the commencement of the relevant anniversary of the date of the person's birth.

### **215A Meaning of widow of certain persons for pts 2 and 3**

- (1) This section applies to parts 2 and 3.
  - (2) The **widow**, of a contributor who has died on or after the discrimination law commencement, means a person who was the contributor's spouse on the day the contributor died.
  - (3) The **widow**, of a person in receipt of benefit who has died on or after the discrimination law commencement, means a person who was the spouse of the person in receipt of benefit—
    - (a) on the day the person in receipt of benefit died; and
    - (b) on whichever of the following days is relevant—
      - (i) if the person in receipt of benefit retired before reaching the age for retirement—the day the person in receipt of benefit retired;
      - (ii) if the person in receipt of benefit did not retire before reaching the age for retirement—the day the person in receipt of benefit reached the age for retirement.
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- (4) For this section, the gender of the contributor, person in receipt of benefit or widow is not relevant.
- (5) For this section, the spouse of a person on the day the person died includes a de facto partner of the person on the day of the death only if the person and the de facto partner lived together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA—
  - (a) for a continuous period of at least 2 years ending on the day of the death; or
  - (b) for a shorter period ending on the day of the death, if the circumstances of the de facto relationship of the person and the de facto partner evidenced a clear intention that the relationship be a long-term, committed relationship.
- (6) Subsection (5) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).

## **Part 2 Contributions**

### **Division 1 Contributions by members of the police force**

#### **216 Commencement of contributions**

- (1) Subject to this chapter, every person who is a member of the police force shall contribute to the fund until the last day of the fortnightly pay period preceding the day on which the person attains the age for retirement or the person's employment as a member of the police force sooner ceases.
  - (2) Notwithstanding subsection (1), a member who is contributing for units of benefit effected at ages over 55 years 6 months shall contribute to the fund in respect of those units in accordance with the tables of contributions contained in schedules 18 and 19.
  - (3) The contribution to be made by a contributor to the fund shall be payable periodically at such intervals as may be prescribed and shall be deducted from the salary payable to the contributor accordingly.
  - (4) Until some other periodical interval is prescribed such contribution shall be payable by and be deducted from the salary of the contributor fortnightly.
  - (5) All deductions made from the salaries of members of the police force in respect of contributions to the funds shall be credited thereto.
  - (6) Any amount of the contributions and any additional payment prescribed by section 223(2) to be made by a contributor not paid by deduction from the contributor's salary as prescribed by subsection (3) shall be paid in such manner as the board directs and, if directed by the board, may be
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deducted from the contributor's salary in addition to the deductions from the contributor's salary as prescribed by subsection (3).

- (7) Notwithstanding subsections (1) to (6), the board may recover by action as for a debt any amount of the contributions or any additional payment to be made by a contributor which is due and unpaid.
  - (8) For the purposes of subsections (6) and (7), an amount of unpaid contribution or other payment includes interest on the amount calculated at the rate at which earnings would have accrued to the fund had the amount been paid to the fund.
  - (9) If a contribution or other payment payable by a contributor is unpaid (the *unpaid amount*), the board may determine the rights of the contributor to benefits under this chapter.
  - (10) If the board makes a determination under subsection (9), the board must pay to the contributor an amount equal to the amount of all contributions (accumulated at the applicable rate) and other payments payable by the contributor under this chapter to the day of determination less the unpaid amount and interest on the unpaid amount calculated at the rate at which earnings would have accrued to the fund had the amount been paid to the fund.
  - (11) Where a person ceases to be a member of the police force but before the expiration of 1 month after so ceasing again becomes such a member, the person may, where the board so approves (whether subject to conditions or unconditionally) on the application in writing of that person, be permitted to contribute to the fund in respect of the period between the person so ceasing to be a member of the police force and the person again becoming such a member and where a person is permitted to contribute to the fund under this subsection that person shall for the purposes of this chapter be deemed to be and to have been a member of the police force during the period in respect of which the member so contributes and this chapter shall apply in relation to the member accordingly.
  - (12) In subsection (10)—  
*applicable rate* means—
    - (a) in relation to a period ending on or before 22 April 1987—1.25% per year compound; or
    - (b) in relation to a period starting on or after 23 April 1987 and ending on or before 30 June 1990—5% per year compound; or
    - (c) in relation to a period starting on or after 1 July 1990—the net earning rate of the fund compound.
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## **Division 2                    Scale of units**

### **217     Salary for the purposes of this division**

- (1) In this division—  
*salary* in relation to a member of the police force means the fortnightly salary of that member of the police force.
- (2) The fortnightly salary of a member of the police force who is paid salary at a rate other than a fortnightly rate of salary shall be ascertained as prescribed.
- (3) Different such prescriptions may be made in respect of members of the police force in different classes of members of the police force.

### **218     Scale of units of annuity, incapacity and assurance benefits**

- (1) Subject to this chapter, contributions by a member of the police force shall be in respect of units of annuity, units of incapacity and, in the case of a male member of the police force, units of assurance benefits as respectively defined by sections 235, 237 and 240, and the number of units of those benefits respectively in respect of which a member of the police force shall contribute is the number specified in column 2 of the scale contained in schedule 16 opposite to the salary group within which his or her salary falls.
  - (2) Where, at the time when a member of the police force becomes a contributor, he or she has attained the age of 35 years, but is under the age of 55 years, he or she shall contribute to the fund—
    - (a) unless he or she is entitled to elect and elects as prescribed by paragraph (b)—such a sum as will provide units of benefits to the number specified in column 2 of the scale contained in schedule 16 opposite to the salary group within which his or her salary falls; or
    - (b) if the sum specified in paragraph (a) exceeds the rate of 5¾% of his or her salary—such sum (being a sum which will provide units of benefits to a number specified in the said scale) not less than 5¾% of that salary and not exceeding the sum specified in paragraph (a) as he or she may, not later than 6 months after the date on which he or she becomes a contributor, elect to contribute.
  - (3) If the salary of a contributor is increased and, by reason of that increase, falls within a salary group in column 1 of the scale contained in schedule 16 higher than the salary group in which it fell prior to the increase, the following provisions shall apply—
    - (a) if the member of the police force has attained the age of 35 years but is under the age of 55 years, and is contributing for the number of units corresponding to the salary group within which his or her salary fell immediately prior to the increase—he or she shall increase the amount of his or her contribution to the fund to—
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- (i) unless he or she is entitled to elect and elects as prescribed by subparagraph (ii)—such a sum as will provide units of benefits to the number specified in column 2 of such scale opposite to the salary group within which his or her increased salary falls; or
    - (ii) if the sum specified in subparagraph (i) exceeds the rate of  $5\frac{3}{4}\%$  of that increased salary—such sum (being a sum which will provide units of benefits to a number specified in such scale) not less than  $5\frac{3}{4}\%$  of that increased salary and not exceeding the sum specified in subparagraph (i) as he or she may, not later than 6 months after the date on which his or her salary is increased, elect to contribute;
  - (b) if the member of the police force has attained the age of 35 years, but is under the age of 55 years, and is not contributing for the number of units corresponding to the salary group within which his or her salary fell immediately prior to the increase—he or she shall increase the amount of his or her contribution to the fund to—
    - (i) unless he or she is entitled to elect and elects as prescribed by subparagraph (ii)—such sum as will add to the number of units for which he or she is contributing the maximum number of additional units for which he or she could have contributed if he or she had been a contributor to whom paragraph (a) applies; or
    - (ii) if the sum specified in subparagraph (i) exceeds the rate of  $5\frac{3}{4}\%$  of that increased salary—such sum (being a sum which will provide units of benefits to a number specified in the said scale) not less than  $5\frac{3}{4}\%$  of that increased salary and not exceeding the sum specified in subparagraph (i) as he or she may, not later than 6 months after the date on which his or her salary is increased, elect to contribute;
  - (c) if the member of the police force has attained the age of 55 years—he or she may, subject to paragraph (d), elect to increase the amount of his or her contribution to such a sum as will provide units of benefits under this chapter to a number not exceeding the number specified in column 2 of the scale contained in schedule 16 opposite to the salary group in which his or her increased salary falls, but unless he or she so elects not later than 6 months after the date on which his or her salary is increased, he or she shall not be entitled, save as provided by section 219, or required to increase his or her contribution by reason of such increase in salary;
  - (d) a member of the police force to whom paragraph (c) applies shall not, in respect of any increase in salary, be entitled or permitted under that paragraph to increase the amount of his or her contribution so as to add to the number of units for which he or she was contributing immediately prior to that increase additional units in
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excess of the number prescribed in relation to that increase by such scale;

- (e) in all other cases—the contributor shall increase the amount of his or her contribution to such a sum as will provide units of benefits to the number specified in column 2 of the scale contained in schedule 16 opposite to the salary group within which his or her increased salary falls.
- (4) Any increased contribution payable in pursuance of subsection (3)(a), (b) or (e) is payable as from the first day of the periodical interval at which contributions to the fund are prescribed to be made next after the date—
    - (a) upon which the contributor’s salary is increased; or
    - (b) from which the contributor’s salary is increased, whichever is the later.
  - (5) Any increased contribution payable in pursuance of subsection (3)(c) is payable as from the first day of the periodical interval at which contributions to the fund are prescribed to be made next after the date of the election.
  - (6) For the purposes of this division where the salary of a member of the police force falls within the salary group ‘exceeding \$450.20’ set out in column 1 of the scale contained in schedule 16, the number ascertained in accordance with the formula in column 2 of that scale set opposite that salary group shall, with respect to that member, be deemed to be the number specified in column 2 of that scale opposite to the salary group within which his or her salary falls.
  - (7) For the purposes of the application at any time in relation to a contributor of the formula in column 2 of the scale contained in schedule 16 opposite to the salary group ‘exceeding \$450.20’ in column 1 of that scale—

A denotes the number of times (disregarding any fraction less than 1) by which the fortnightly salary of the contributor exceeds the sum of \$450.20 by the sum of \$6.38.
  - (8) For the purposes of contributions for units of benefits by members of the police force in accordance with the scale contained in schedule 16, the salary of every member who is a contributor at the commencement of the *Police Superannuation Act Amendment Act 1970* shall be deemed increased on and from the date of that commencement from the maximum salary within the salary group in column 1 of the said scale opposite to the number in column 2 of the said scale that was the number specified in column 2 of the scale contained in schedule 17 opposite to the salary group in which his or her salary fell immediately before the commencement of the *Police Superannuation Act Amendment Act 1970* and this chapter shall apply accordingly.

*Editor’s note—*

*Police Superannuation Act Amendment Act 1970* commenced 4 January 1971 (see 1970 No. 37 s 2).

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**219 When member of police force may voluntarily increase contribution**

- (1) Any member of the police force who is not contributing to the fund for units of benefits to the number thereof specified in the scale contained in schedule 16 opposite to the salary group within which his or her salary falls may, subject to this section, elect to increase the amount of his or her contribution.
- (2) Such an election may be to contribute for any further number of units of benefits up to, but not exceeding, the difference between—
  - (a) the number thereof specified in the said scale opposite to the salary group in which the salary of the member of the police force making the election falls; and
  - (b) the number thereof for which such member of the police force is contributing.
- (3) Unless exempted by the board therefrom a member of the police force shall, before at any time increasing the amount of his or her contribution to the fund under this section, be medically examined at his or her own expense by a medical practitioner.
- (4) A member of the police force shall not at any time increase the amount of his or her contribution to the fund under this section if, after considering the report of the medical practitioner, the board is not satisfied that the health and physical condition of such member of the police force are such as would justify his or her being then accepted as a contributor.
- (5) Any increased contribution under this section shall be payable as from the first day of the periodical interval at which contributions to the fund are prescribed to be made next after the date when the board accepts as a contributor under this section the member of the police force making the election.

**220 Power to board to exempt etc. from contributing**

- (1) According as the circumstances of any case in its opinion warrant, the board may exempt a member of the police force wholly or partly from the requirement imposed upon him or her by this chapter to contribute, or at any time to increase the amount of his or her contribution, to the fund, or the board may defer (either for a period specified by it or without specifying any period) such requirement in respect of either such contribution or any increase in the amount thereof.
  - (2) When the board specifies the period for which it defers the contribution or any increased contribution required by this chapter to be paid by a member of the police force, then upon the expiration of that period (or of any extension thereof which it is hereby declared the board may grant) that member of the police force shall, unless the board wholly or partly exempts him or her from so doing, pay to the fund the contribution or increased contribution then required in his or her case by this chapter.
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- (3) When the board does not specify the period for which it defers the contribution, or any increased contribution, required by this chapter to be paid by a member of the police force, the board may at any later time determine that deferment and thereupon, unless the board wholly or partly exempts him or her from so doing, the member of the police force concerned shall pay to the fund the contribution or increased contribution then required in his or her case by this chapter.
- (4) In the case of any member of the police force (including a member of the police force to whom subsection (2) or (3) applies) partly exempted by the board from making the contribution or any increased contribution required in his or her case by this chapter, the payment which he or she would be otherwise required to make shall be reduced by the amount of the exemption.
- (5) Where a contributor satisfies the board that adequate provision has been made for the contributor and, in the case of a male contributor, his family, or that continued contributions for the number of units for which he or she is contributing will cause him or her undue hardship, or that for any other reason which the board deems adequate he or she should be permitted to surrender units, the board may permit the contributor to surrender some or all of the units of benefits under this chapter for which he or she is contributing.
- (6) The sum equal to the aggregate of all amounts paid by the contributor in respect of units of annuity benefit, incapacity benefit and assurance benefit surrendered under subsection (5) accumulated at the rate of 1¼% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound shall be paid to the contributor.
- (7) The units surrendered by a contributor under subsection (5) shall be—
  - (a) in a case where the contributor is contributing under section 219 for units of benefit—those units if the contributor nominates those units as the units to be surrendered; or
  - (b) in a case other than one referred to in paragraph (a)—those units for which the contributor last began to contribute.

## **221 Member reduced in salary**

- (1) Where the salary of a contributor has been reduced and by reason of that reduction falls within a salary group in column 1 of the scale contained in schedule 16 lower than the salary group in which it would fall if it had not been reduced, the contributor may elect to reduce the number of units in respect of which he or she shall contribute to a number not being less than the number of units appropriate to the salary group to which his or her salary has been reduced, and the sum equal to the aggregate of all amounts paid by him or her in respect of units of annuity benefit, incapacity benefit and assurance benefit, in excess of the reduced number of units accumulated at the rate of 1¼% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of
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5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound shall be paid to him or her.

- (2) A contributor electing under subsection (1) shall surrender first the unit or units for which he or she last began to contribute.
- (3) The benefits (save the additional assurance benefit in respect of children) payable under this chapter in respect of units respectively of annuity benefit, incapacity benefit and assurance benefit included in the number of units in excess of the number appropriate to the salary group to which the salary of a contributor has been reduced shall, whilst the unit continues to be a unit in excess of the number appropriate to the salary group in which the salary of the contributor falls for the time being, be reduced to 35% of the rates thereof which, save for this subsection, apply under subsection (1) respectively of sections 235, 237 and 240.

## **222 Units of benefits to be contributed for in equal numbers**

At all times units (including units to which division 4 applies) respectively of annuity benefit, incapacity benefit and, in the case of a male contributor, assurance benefit, shall be contributed for in equal numbers and accordingly a contributor shall not be allowed to contribute at any time for more units of 1 such benefit than of another.

## **223 Period for which contributions are to continue**

- (1) A member shall continue to contribute as prescribed to the fund until the last day of the fortnightly pay period last preceding the day on which—
  - (a) he or she ceases to be a member; or
  - (b) he or she attains the age for retirement; or
  - (c) his or her service as a member, ascertained as prescribed by section 289 of chapter 7 equals 42 years and 6 months;

whichever first occurs, and except as aforesaid, shall continue to pay contribution, as for a period of service, without reduction in respect of any period of leave or other absence from duty.

- (2) Where absence from duty referred to in subsection (1), other than sick leave of absence without pay, is for a continuous period of 14 days or more (whether or not working days) a contributor shall, unless the contributor elects pursuant to subsection (3) in addition to continuing to contribute to the fund as provided by subsection (1), pay to the consolidated fund for the period, an amount determined by the Treasurer.
  - (3) A contributor who would be required to pay amounts to the consolidated fund under subsection (2) may elect in writing furnished to the board not to pay contributions to the fund in respect of the period of absence whereupon—
    - (a) contribution to the fund in respect of the contributor shall cease to be payable in respect of the period of the contributor's absence; and
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- (b) the board shall waive the additional payments to the consolidated fund that would be required by subsection (2) to be made by the contributor; and
  - (c) the benefits to which the contributor or the contributor's dependants may become entitled under this chapter shall be reduced by such amounts as are determined by the actuary and approved by the board.
- (4) The Governor in Council may waive the requirement under subsection (2) to make additional payments to the consolidated fund either unconditionally or upon such terms and conditions as the Governor in Council determines, either in a particular case or in respect of a class of case, and such waiver shall be given effect.
- (5) Where a contributor is absent from duty without pay or at less than full salary, the board may, upon his or her application, permit the contribution in respect of the period of such absence to be made to the fund in such manner as respects periodical amounts or times of payment, or both, as the board approves.
- (6) A contributor who, pursuant to subsection (1) or (2), is required to pay contributions to the fund and to make additional payments to the fund in respect of a period of absence from duty—
- (a) shall, before commencing the period of absence, pay to the fund the total amount of contributions and payments that the contributor is so required to pay; or
  - (b) shall, before commencing the period of absence, make arrangements satisfactory to the board for payment of the total amount of contributions and additional payments that the contributor is so required to pay.
- (7) Where a contributor to whom subsection (6) applies does not comply with paragraph (a) or (b) of that subsection the benefits to which the contributor or the contributor's dependants may become entitled under this chapter may be reduced by such amounts as are determined by the actuary and approved by the board.

## **224 Refund of excess contributions**

Where a contributor has paid to the fund contributions in excess of those prescribed by this chapter, the board shall refund to the contributor such sum of money in respect of those contributions as is determined by the actuary and approved by the board.

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### **Division 3                    Scale of contributions by members of the police force**

#### **225        Contributions according to scale graduated by age at commencement**

- (1) The amount of contribution which shall be paid periodically by a member of the police force in respect respectively of annuity, incapacity and, in the case of a male member of the police force, assurance benefits, shall, except where otherwise provided in this chapter, be based upon—
  - (a) the number of units; or
  - (b) sex; or
  - (c) the age at which the member of the police force commences to contribute for each unit; or
  - (d) provision by contributors as to 35% of benefits payable from the fund pursuant to sections 235(1), 237(1), 240 and 244(1) and (2);

and shall, except where otherwise provided in this chapter, be in accordance with, in the case of male members of the police force, the table of contributions contained in schedule 19, part 1 and, in the case of female members of the police force, the table of contributions contained in schedule 19, part 2.

- (2) In respect of units of benefits for which a member of the police force who is a contributor at the commencement of the *Police Superannuation Act Amendment Act 1970* commenced to contribute before that commencement (including reserve units of benefits and any units of benefits for which the contributor contributed by way of commutation of contributions by payment of a lump sum pursuant to section 252 or by way of a single premium pursuant to section 60 of the repealed *Police Superannuation Act 1968* or towards the provision of which the contributor is deemed by section 265 to have contributed by way of a single premium), the contributor shall, on and from the said commencement, pay at the periodical interval prescribed by or under section 216 a contribution the amount of which shall, except where otherwise provided by this chapter, be—
  - (a) in respect of units of benefits (not being units for which the contributor contributed by way of commutation of contributions by payment of a lump sum pursuant to section 252 or by way of a single premium pursuant to section 60 of the repealed *Police Superannuation Act 1968* or towards the provision of which the contributor is deemed by section 265 to have contributed by way of a single premium)—the sum of—
    - (i) such amount ascertained in accordance with, in the case of male members of the police force, the table of contributions

contained in schedule 18, part 1 and, in the case of female members of the police force, the table of contributions contained in schedule 18, part 2 as would provide the units of benefits; and

- (ii) the amount of the difference between such amount, ascertained in accordance with the applicable table of contributions contained in schedule 19 as if the contributor had commenced to contribute for the units on the date of commencement of the *Police Superannuation Act Amendment Act 1970*, as would provide the units of benefits and such amount, ascertained in accordance with the applicable table of contributions contained in schedule 18 as if the contributor had commenced to contribute for the units on the date of the said commencement, as would provide the units of benefits; and
  - (b) in respect of units of benefits (not being units to which paragraph (a) relates)—the amount of the difference specified in paragraph (a)(ii) where a reference to units of benefits in that subparagraph is read as a reference to units of benefits to which this paragraph relates.
- (3) Subsection (4) applies to a member of the police force—
- (a) who is a contributor at the commencement of the *Police Superannuation Act Amendment Act 1970*; and
  - (b) who before that commencement was a contributor; and
  - (c) who had not attained the age of 45 years before the said commencement.
- (4) In respect of units of benefits (being units to which subsection (2) applies) towards the provision of which provision is deemed by section 265 to have been made by way of a single premium or for which contribution by way of a single premium pursuant to section 60 of the repealed *Police Superannuation Act 1968*, a contributor to whom this subsection applies may, by notice in writing lodged with the board, elect to commute the increase in contributions for all, or such lesser number as the contributor may specify in the notice, of such units of benefits arising by reason of being required to contribute therefor in accordance with subsection (2) by payment of a lump sum of such amount as shall be determined by the actuary and approved by the board.
- (5) A contributor who in accordance with an election pays the lump sum specified in subsection (4) in relation to the case shall be deemed to have contributed for the units of benefits the subject of the election in accordance with subsection (2).
- (6) An election may not be made under subsection (4) more than 30 days after the commencement of the *Police Superannuation Act Amendment Act 1970*.
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(7) Nothing in section 218 shall be read as limiting the amount of the contribution payable by a contributor under this section.

(8) For the purpose of subsection (9)—

*hypothetical fortnightly contribution* means the fortnightly contribution, as at 1 January 1975, that would have been payable by a contributor in respect of the units of benefit (the *said units of benefit*) for which he or she is a contributor under this chapter as at that date (excluding any units of benefit that were effected pursuant to section 219 after 1 August 1974 and any reserve units of benefit) if—

(a) each (if any) of the said units of benefit that was taken up pursuant to section 219 had been effected immediately before the date of its becoming a unit of benefit in respect of which an election might be made under section 219; and

(b) each (if any) of the said units of benefit in respect of which any fortnightly contributions have been commuted by payment of a lump sum had not had the contribution in respect thereof so commuted;

but where neither paragraph (a) or (b) is applicable to the case in question means the fortnightly contribution as at 1 January 1975 that is payable by a contributor in respect of the said units of benefit.

(9) A contributor whose hypothetical fortnightly contribution exceeds the sum equal to 15%, or, in case of a contributor whose age for retirement is 65 years, 13%, of his or her fortnightly salary as at 1 January 1975 may, by application in writing to the board prior to 1 March 1975, have the actual fortnightly contribution that is payable by him or her as at that firstmentioned date in respect of the said units of benefit reduced by whichever is the lesser of—

(a) the fortnightly contribution that is payable by the contributor as at the said 1 January; and

(b) one-third of the excess of the hypothetical fortnightly contribution over the sum equal to 15%, of such fortnightly salary.

(10) Any reduction in the actual fortnightly contribution under subsection (9) shall apply retrospectively on and from the first due date for the payment of the contributor's fortnightly contributions after 1 January 1975.

## **226 Reduction in contributors' contribution in 1988**

(1) Notwithstanding the provisions of section 225, on and from the day that is the first payday in July 1988 for the contributor concerned the amount of a contributor's contributions payable in accordance with those provisions immediately before that day shall be reduced by 1.5% of the amount of salary to which the contributor was entitled as at 31 December 1974.

(2) In no case shall a contributor be entitled to a payment by reason of the reduction in the amount of the contributor's contribution.

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## **Division 4 Reserve units of benefits**

### **227 Contribution for reserve units**

- (1) A contributor who is contributing to the fund for units of benefits to the number thereof specified in the scale contained in schedule 16 opposite to the salary group within which his or her salary falls, may, from time to time, elect to contribute to the fund for 1 or more reserve units of benefits in accordance with this division.
- (2) The number of reserve units respectively of annuity benefit, incapacity benefit and, in the case of a male contributor, assurance benefit for which a contributor may elect to contribute at any time pursuant to subsection (1) together with the number of reserve units in respect of which he or she has already made an election under that subsection shall not exceed 12.
- (3) Contributions for a reserve unit of benefit—
  - (a) shall be in accordance with, in the case of a male member of the police force, the table of contributions contained in schedule 19, part 1 and, in the case of a female member of the police force, the table of contributions contained in schedule 19, part 2; and
  - (b) shall be payable as from the first day of the periodical interval at which contributions to the fund are prescribed to be made next after the date on which the contributor elects to contribute for that reserve unit of benefit.
- (4) Unless exempted by the board therefrom a member of the police force shall, before at any time contributing or increasing the amount of his or her contributions for reserve units of benefits under this division, be medically examined at his or her own expense by a medical practitioner.
- (5) A member of the police force shall not at any time increase under this division the amount of his or her contributions to the fund if after considering the report of the medical practitioner, the board is not satisfied that the health and physical condition of such member of the police force are such as would justify his or her being then accepted as a contributor.

### **228 When reserve units become ordinary units of benefits**

Where a contributor—

- (a) who is contributing for 1 or more reserve units of benefits pursuant to this division; and
- (b) who becomes required or entitled to contribute for additional units of benefits under the provisions of this chapter (other than this division);

does not increase the amount of his or her contributions to the fund by such sum as is sufficient to provide, in accordance with the appropriate rates of contributions applicable to the particular case under this chapter, the

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additional units of benefits, such number of reserve units of benefits up to but not exceeding the number of such units for which the contributor is contributing pursuant to this division as is equal to the difference between—

- (c) the number of units of benefits specified in the scale contained in schedule 16 opposite to the salary group within which the contributor's salary falls; and
- (d) the number thereof (other than reserve units of benefits) for which such member of the police force is contributing;

shall cease to be reserve units to which this division applies and shall become units of benefits for which the contributor is contributing under the provisions of this chapter (other than this division) the contribution for which shall continue to be the contribution that the contributor was making to the fund therefor immediately before the units of benefits so ceased to be reserve units.

## **229 Contributor may discontinue contribution for reserve units**

A contributor who is contributing for 1 or more reserve units of benefits may, subject to section 222, elect to discontinue his or her contributions in respect of all or any of those units in which case he or she shall be paid from the fund the sum equal to the aggregate of all amounts paid by him or her in respect of units or annuity benefit, incapacity benefit and assurance benefit for which he or she has so elected to discontinue his or her contributions accumulated at the rate of 1¼% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.

## **230 Benefits payable on reserve units**

- (1) Where a contributor contributes for reserve units of benefit pursuant to this division, the benefits payable under this chapter in respect of all reserve units respectively of annuity benefit, incapacity benefit and assurance benefit for which the contributor is contributing for the time being (not being units of such benefit which have ceased pursuant to section 228 to be reserve units of benefits) shall, whilst they continue to be reserve units, be 35% of the rates thereof which would apply under this chapter if those reserve units were units of benefit for which the contributor was contributing within the number appropriate to the salary group in column 1 of the scale contained in schedule 16 in which the salary of the contributor falls for the time being.
  - (2) In the case of a contributor who is continued in his or her employment as a member of the police force after attaining the age for retirement, benefits payable in respect of reserve units of annuity shall be payable to the contributor on attaining this age and shall be at the same rate as that to which the contributor would be entitled if the contributor had ceased to be a member on attaining the age for retirement.
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**231 Payment of lump sum on ceasing to contribute**

- (1) A contributor who is contributing for 1 or more reserve units of benefits pursuant to this division who ceases to be a contributor for that—
  - (a) he or she was retired by reason of incapacity from his or her employment as a member of the police force before attaining the age for retirement; or
  - (b) he or she attained the age for retirement or retires from service by reason of an election referred to in section 234(2)(d);

shall be entitled by notice in writing lodged with the board to elect to be paid, in respect of all or any of the number of reserve units of annuity benefit and, in the case of a male contributor, assurance benefit and, in the case of a contributor to whom paragraph (a) applies, incapacity benefit, in respect of which but for the election he or she would be entitled to receive benefit pursuant to section 230, the sum prescribed by this section.

- (2) Notice of election under subsection (1) shall be lodged with the board—
    - (a) in the case of a contributor retired by reason of incapacity from his or her employment before attaining the age for retirement—before the expiration of a period of 1 month commencing on the date of his or her retirement; or
    - (b) in any other case—before the expiration of a period of 1 month commencing on the date on which the contributor attains the age for retirement or retires from service by reason of an election referred to in section 234(2)(d), as the case may be.
  - (3) Where a contributor who is contributing pursuant to this division for 1 or more reserve units respectively of annuity benefit, incapacity benefit and assurance benefit ceases to be a contributor for a reason other than a reason specified in subsection (1) there shall be paid to him or her, or, if he or she has died, to his or her legal personal representative or other individual approved by the board from the fund the sum prescribed by this section in respect of all reserve units respectively of annuity benefit, incapacity benefit and, save where the contributor ceases to be a contributor by reason of death before attaining the age for retirement leaving the contributor surviving a widow, assurance benefit for which he or she was contributing to the fund pursuant to this division at the time when he or she ceased to be a contributor (not being units of such benefit which have ceased pursuant to section 228 to be reserve units of benefits).
  - (4) The sum prescribed by this section to be paid in respect of the number of reserve units of the benefits in question shall be a sum equal to—
    - (a) in the case of a contributor who ceased to be a contributor on account of death or retirement by reason of incapacity or attainment of the age for retirement or retirement from service by reason of an election referred to in section 234(2)(d)—such amount as shall be determined by the actuary and approved by the board; or
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- (b) in any case to which paragraph (a) does not apply—the aggregate of all amounts (accumulated at the rate of 1¼% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound) contributed by the contributor in question in respect of such number of reserve units of annuity benefit, incapacity benefit and assurance benefit.
- (5) Upon payment of the sum specified in subsection (4) all reserve units of benefit in respect of which the sum is paid shall be deemed to have been commuted by the contributor.

## **Part 3 Benefits and payments**

### **Division 1 Benefits transferred to accumulation account**

#### **233 Accumulation account**

If a benefit is payable under this chapter to a member, other than by way of a pension, the board must credit the member's accumulation account with the amount of the benefit.

### **Division 2 Annuity benefit**

#### **234 When entitlement to annuity benefit accrues**

- (1) Every contributor to whom this section applies shall be entitled to annuity benefit on attaining the age for retirement or, in the case of a contributor who makes an election as is mentioned in subsection (2)(d) to retire before the day on which he or she would attain the age for retirement, on his or her retirement.
  - (2) This section applies to every contributor—
    - (a) who, by reason of incapacity, is retired from his or her employment as a member of the police force before attaining the age for retirement and is receiving an incapacity benefit immediately before attaining that age; or
    - (b) who is retired or permitted to retire from his or her employment as a member of the police force on attaining the age for retirement; or
    - (c) who is continued in his or her employment as a member of the police force after attaining the age for retirement; or
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- (d) who elects to retire at any time within the period of 5 years immediately preceding the day on which he or she would attain the age for retirement.

### 235 Units of annuity benefit

- (1) Subject to subsections (2) and (3), the unit of annuity benefit is at the rate of \$3.84 per fortnight.
- (2) In respect of a contributor who is continued in his or her employment as a member of the police force after attaining the age for retirement the unit of annuity benefit is at the rate of \$1.34 per fortnight whilst he or she is so continued.
- (3) Where a contributor makes an election as is mentioned in section 234(2)(d) to retire before the day on which the contributor would attain the age for retirement, the unit of annuity benefit is at the rate per fortnight ascertained in accordance with the formula—

$$R = \frac{K}{100} \left( 1 - \frac{t}{40} \right) 3.84$$

where—

*K* means 85 + 3 (age at retirement in years and complete months—55).

*R* means the fortnightly rate expressed in dollars to the nearest cent of each unit of benefit.

*t* means the remainder obtained by subtracting from 60 the contributor's age as at the time of retirement (expressed in years).

- (4) Subject to this chapter, a contributor shall—
- (a) be entitled to receive annuity benefit according to the number of units for which he or she was contributing on attaining the age for retirement; or
- (b) in the case of a contributor retired, by reason of incapacity or an election as is mentioned in section 234(2)(d), from his or her employment as a member of the police force before attaining that age—the number of units for which he or she was contributing when so retired.

## Division 3 Incapacity benefit

### 236 When entitlement to incapacity benefit accrues

- (1) Save as otherwise prescribed by subsections (3), (5) and (6) every contributor to whom this section applies is entitled to incapacity benefit for the period prescribed in his or her case by this section.
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- (2) This section applies to every contributor or person if retired, by reason of incapacity, from his or her employment as a member of the police force, in respect of the period from his or her retirement and thereafter, subject to the continuance of incapacity, until he or she attains the age at which he or she would have retired if he or she had continued to be a member of the police force in the rank or grade held by him or her at his or her retirement, or until his or her re-employment as a member of the police force, whichever occurs first.
- (3) A person shall not be entitled to incapacity benefit under this chapter in respect of incapacity due to wilful action on the part of such person for the obtaining of such benefit.
- (4) If by reason of incapacity to which subsection (3) applies a contributor is retired from employment as a member of the police force, he or she shall be entitled to be paid the sum equal to the aggregate of all amounts paid by him or her in respect of units of annuity benefit, incapacity benefit and assurance benefit under this chapter accumulated at the rate of 1¼% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound, but, save such payment, such retirement shall determine all his or her right and interest in respect of benefits for which he or she was a contributor.
- (5) A contributor or person shall not continue to receive incapacity benefit under this chapter in respect of any incapacity after recovering therefrom, it being hereby declared that upon recovery the entitlement to the benefit shall cease and determine.
- (6) Before a person is entitled to an incapacity benefit that person is to satisfy the board that the incapacity is such as to render that person permanently unfit to discharge efficiently or permanently incapable of discharging efficiently the duties of that person's office.

### **237 Units of incapacity benefit**

- (1) The unit of incapacity benefit is at the rate of \$3.84 per fortnight.
- (2) Subject to this chapter, a contributor shall be entitled to receive incapacity benefit according to the number of units for which he or she is contributing when he or she is retired, by reason of incapacity, from his or her employment as a member of the police force.

### **238 Application to commute incapacity benefits**

- (1) A person who, after the passing of the *Superannuation Acts Amendment Act 1984*, is retired or permitted to retire from employment as a member of the police force by reason of incapacity and is entitled to receive an incapacity benefit may apply in writing to the board to convert into a lump sum payment the whole of his or her incapacity benefit entitlement under this chapter.
  - (2) A person to whom subsection (1) applies who is or was prior to his or her retirement a police 74 member is not entitled to elect under subsection (1) to convert into a lump sum payment his or her entitlement to incapacity
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benefit under this chapter unless he or she also elects to convert into a lump sum payment the whole of his or her entitlement to an incapacity pension under chapter 7.

- (3) An application under subsection (1)—
  - (a) must be made within 6 months after the day the entitlement to the incapacity benefit arises; and
  - (b) shall be effective only if, in the board's opinion, the applicant is medically competent to make the application; and
  - (c) shall be made in respect of all the units of incapacity benefit and any reserve unit of incapacity benefit for which he or she contributed other than a reserve unit of incapacity benefit in respect of which he or she has elected to receive payment of the sum prescribed by section 231.
- (4) A person who under subsection (1) duly makes an application that is approved by the board shall be paid from the fund a sum determined by the actuary and approved by the board and his or her entitlement to an incapacity benefit under this chapter ceases.

## **Division 4                      Assurance benefit**

### **239      Entitlement to assurance benefit**

- (1) Every person to whom subsection (2) or (2B) applies is entitled to the payment of a lump sum by way of assurance benefit.
  - (1A) Subsection (2) applies to the widow of a person only if the person has died before the discrimination law commencement.
  - (2) This subsection applies to the following persons—
    - (a) the widow of a contributor who dies before attaining the age for retirement or, except in a case to which section 244(1)(b) applies, if there be no widow, the legal personal representative of the contributor or other individual approved by the board;
    - (b) the widow of a person who was in receipt of annuity benefit under this chapter immediately before the person's death, if the marriage to the person had occurred before—
      - (i) where the person had attained the age for retirement—that age; or
      - (ii) where the person had been, by reason of incapacity, retired from employment as a member before the person attained the age for retirement or the person had retired pursuant to an election referred to in section 234(2)(d)—such retirement;
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- (c) the widow of a person who, having before the passing of the *Superannuation Acts Amendment Act 1984* attained the age for retirement or retired pursuant to an election referred to in section 234(2)(d), has commuted for a lump sum the whole of the annuity benefit to which the person was entitled under this chapter, if the marriage to the person had occurred before—
    - (i) where the person had attained the age for retirement—that age; or
    - (ii) where the person had been, by reason of incapacity, retired from employment as a member before the person attained the age for retirement or the person had retired pursuant to an election referred to in section 234(2)(d)—such retirement;
  - (d) the widow of a person retired by reason of incapacity from employment as a member who at the date of death was entitled to or, but for the operation of section 260(4), would have been entitled to an incapacity benefit under this chapter and who dies before attaining the age for retirement, if the marriage to the person had occurred before such retirement.
- (2A) Subsection (2B) applies to the widow of a person only if the person dies on or after the discrimination law commencement.
- (2B) This subsection applies to the following persons—
- (a) the widow of a contributor who dies before attaining the age for retirement or, unless section 244(1)(b) applies, if there is no widow, the legal personal representative of the contributor or other individual approved by the board;
  - (b) the widow of a person who was in receipt of annuity benefit under this chapter immediately before the person's death, if the person—
    - (i) had reached the age for retirement; or
    - (ii) had retired before reaching the age for retirement because of incapacity or an election to retire under section 234(2)(d);
  - (c) the widow of a person who—
    - (i) before the passing of the *Superannuation Acts Amendment Act 1984*—
      - (A) had reached the age for retirement; or
      - (B) had retired before reaching the age for retirement because of incapacity or an election to retire under section 234(2)(d); and
    - (ii) has commuted for a lump sum the whole of the annuity benefit to which the person was entitled under this chapter;
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- (d) the widow of a person—
  - (i) who retired because of incapacity from employment as a member; and
  - (ii) who at the date of death—
    - (A) was entitled to an incapacity benefit under this chapter; or
    - (B) would have been entitled to an incapacity benefit under this chapter if the benefit had not been suspended under section 260(4); and
  - (iii) who dies before attaining the age for retirement.
- (3) In this section reference to a widow shall be construed as a reference to a widow of a person who dies on or after the coming into operation of this section.
- (4) In subsections (2)(a) and (2B)(a) reference to a legal personal representative or other individual approved by the board shall be construed as reference to such a representative of or other individual so approved in respect of a contributor who dies on or after the passing of the *Superannuation Acts Amendment Act 1987*.

#### **240 Units of assurance benefit**

The value of a unit of assurance benefit is determined—

- (a) if a contributor dies in service before turning 55—under schedule 20; or
- (b) if a contributor dies in service on or after turning 55 but before turning 60—under schedule 21; or
- (c) where entitlement thereto is derived through a person who immediately before the person's death was entitled to a pension under this chapter or who, but for the operation of section 260(4) or an application under section 249, would be entitled to a pension under this chapter, other than a person who has retired pursuant to an election referred to in section 234(2)(d)—in accordance with the formula—

$$A = B \times \frac{C}{D}$$

where—

A means the amount payable in respect of each unit of benefit, expressed in dollars and cents to the nearest cent.

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**B** means the factor set forth in schedule 22 opposite the age of the widow at nearest birthday as at the date of her husband's death.

**C** means the fortnightly amount of the pension to which the person through whom the entitlement is derived was, immediately before his or her death, entitled under this chapter or, as the case may be, would have been entitled under this chapter but for the operation of section 260(4) or an application under section 249.

**D** means the fortnightly amount of the pension to which the person through whom the entitlement is derived became entitled upon retirement; or

- (d) where entitlement thereto is derived through a person who retired pursuant to an election referred to in section 234(2)(d)—in accordance with the formula—

$$A = \frac{B \times C \times \left(1 - \frac{t}{40}\right) \times \frac{K}{100}}{D}$$

#### **241      Extent of assurance benefit**

- (1) Subject to this chapter, a widow to whom section 239 applies is entitled to receive assurance benefit according to the number of units for which the person through whom the entitlement is derived was contributing immediately before the person ceased to be a contributor.
- (2) Where a person who, on or after the passing of the *Superannuation Acts Amendment Act 1984*, attains the age for retirement or retires pursuant to an election referred to in section 234(2)(d) and has commuted (pursuant to division 7) for a lump sum the whole or part of the annuity benefit to which the person became entitled under this chapter, the person's widow is not entitled to receive assurance benefit in respect of the number of units of assurance benefit equal to the number of units of annuity benefit that have been commuted.

#### **242      Widow's right to substitute pension for assurance benefit**

- (1) Subject to this section, a widow to whom section 239 applies may elect not to receive assurance benefit for 1 or more units of assurance benefit but to receive in lieu thereof a widow's pension.
  - (2) The rate of widow's pension for each unit of assurance benefit to which the election relates shall be \$2.56 per fortnight except in the following cases—
    - (a) where the value of each unit of assurance benefit to which the widow is entitled is ascertained as prescribed by section 240(c)—the rate per fortnight of widow's pension for each unit of assurance benefit shall be ascertained in accordance with the formula—
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$$R = 2.56 \times \frac{A}{B}$$

where—

**A** means the fortnightly amount of pension to which the person through whom the widow's entitlement is derived was immediately before the person's death entitled under this chapter or would have been entitled under this chapter but for the operation of section 260(4) or an application under section 249.

**B** means the fortnightly amount of pension to which the person through whom the widow's entitlement is derived became entitled upon retirement.

**R** means the fortnightly rate of pension for each unit of assurance benefit, expressed in dollars and cents to the nearest cent;

- (b) where the value of each unit of assurance benefit to which the widow is entitled is ascertained as prescribed by section 240(d)—the rate per fortnight of widow's pension for each unit of assurance benefit shall be ascertained in accordance with the formula—

$$R = \frac{2.56 \times A \times \left(1 - \frac{t}{40}\right) \times \frac{K}{100}}{B}$$

- (3) An election under subsection (1)—
- (a) shall be in writing; and
  - (b) shall be made within 6 months after the date on which the entitlement to the assurance benefit arises; and
  - (c) shall specify the number of units of assurance benefit in respect of which the applicant desires to substitute a widow's pension.
- (6) A widow who again becomes widowed shall not be entitled to a pension under this section if an amount becomes payable to the widow under section 239 of this chapter or under section 294 of chapter 7 in the event of the widow so becoming widowed unless the widow elects as prescribed to forgo entitlement to that amount to which the widow is entitled under either of those sections or under both of those sections if the widow is entitled under both sections.
- (7) An election under subsection (6)—
- (a) shall be in writing; and
  - (b) shall be made within 6 months after the date on which the widow so becomes widowed.
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- (8) If a person was entitled to a pension under this section but, under section 242(4) of the *Superannuation (State Public Sector) Deed 1990* as in force before the commencement day, the pension stopped being payable—
- (a) subject to subsection (6), the person's entitlement to a pension under this section resumes from the commencement day; and
  - (b) if subsection (6) applies to the person, the person may make an election under subsection (6) within 6 months after the commencement day.
- (9) In this section—  
*commencement day* means the day subsection (8) commences.

## **Division 5 Additional assurance benefit for children**

### **242A Meaning of spouse for div 5**

- (1) In this division—  
*spouse* of a contributor or person in receipt of benefit who has died before the discrimination law commencement—
- (a) means a person who—
    - (i) was the husband or wife of the contributor or the person in receipt of benefit; or
    - (ii) although not married to the contributor or person in receipt of benefit, lived with the contributor or person in receipt of benefit on a genuine domestic basis as the husband or wife of the contributor or person in receipt of benefit; but
  - (b) does not include a person who permanently lived separately and apart from the contributor or person in receipt of benefit.
- (2) This section applies despite the *Acts Interpretation Act 1954*, section 32DA(6).

### **243 Children entitled to additional assurance benefit**

- (1) Subject to this chapter, additional assurance benefit shall be payable in respect of every child to whom this section applies until the child ceases to be a child under this deed.
- (2) This section applies to every child of—
- (a) a person—
    - (i) who, having attained the age for retirement before the passing of the *Superannuation Acts Amendment Act 1984*, has died before, on or after the passing of that Act or who, having

retired before the passing of that Act by reason of an election mentioned in section 234(2)(d), has died before, on or after the passing of that Act or who has died on or after the passing of that Act and was a contributor or was receiving annuity benefit or incapacity benefit immediately before the person's death; and

- (ii) who when the person died or ceased to be a contributor was contributing for not less than 4 units of assurance benefit under this chapter; or
  - (b) a deceased or divorced spouse of a person referred to in paragraph (a) who has died before the discrimination law commencement, except the child of a divorced wife that is not the issue of that person; or
  - (c) the widow of a person referred to in paragraph (a) except a child born on or after the passing of the *Superannuation Acts Amendment Act 1984* and the death of that person that is not the issue of that person; or
  - (d) a previous spouse of a person mentioned in paragraph (a) who dies on or after the discrimination law commencement, other than—
    - (i) a child of a divorced spouse who is not the issue of the person; or
    - (ii) a child of a de facto partner who has separated from the person, who is not the issue of the person.
  - (3) This section also applies to a child of a person if—
    - (a) the person has converted into a lump sum, under section 238, a benefit to which the person was entitled because of an incapacity; and
    - (b) the incapacity was caused by a medical condition (the ***primary medical condition***); and
    - (c) the person dies within 1 year after the day of payment of the benefit; and
    - (d) in the opinion of the board, the death was caused by—
      - (i) the primary medical condition; or
      - (ii) a medical condition related to the primary medical condition; and
    - (e) when the person stopped being a contributor, the person was contributing for at least 4 units of assurance benefit under this chapter.
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**244 Amount of additional assurance benefit**

- (1) In respect of each child, other than a child mentioned in section 243(3), the amount of additional assurance benefit shall be—
  - (a) if a person who, in the case, is or was a widow entitled to assurance benefit pursuant to division 4 is living—at the rate of \$50 per fortnight adjusted in accordance with the cost of living adjustment provided for in section 256 from and including that first pay period that occurs wholly in August 1987; and
  - (b) in any case other than a case to which paragraph (a) applies including the case of a child who at the passing of the *Superannuation Acts Amendment Act 1984* was entitled to additional assurance benefit under section 44(1)(b) of the *Police Superannuation Act 1968*—at a rate in accordance with the following table in respect of each unit of assurance benefit for which the person through whom the entitlement to additional assurance benefit arose or arises was contributing when the person died or otherwise ceased to be a contributor—

**Table**

1 child	\$2.56 per fortnight
2 or more children	\$3.84 per fortnight divided by the number of children in respect of each child.

- (2) However, each child who is entitled to additional assurance benefit under subsection (1)(b) shall be paid a fortnightly rate so that, when that rate is added to any rate of pension to which the child is entitled under chapter 7, the total rate payable shall be at least equal to twice the rate that the child would have been paid had the child been a case to which subsection (1)(a) applies.
- (2A) The amount of additional assurance benefit for a child mentioned in section 243(3) is the amount mentioned in subsection (1)(a).
- (3) Unless the board otherwise determines, the additional assurance benefit shall be paid in a case to which subsection (1)(a) applies, to the person who is or was the widow referred to therein and, in any other case, to the guardian of the child.
- (3A) For a child mentioned in section 243(3), the additional assurance benefit must be paid to the guardian of the child.
- (4) In any case where the board deems necessary for the better support and education of the child concerned the additional assurance benefit, or any part thereof, shall be paid to such person as the board determines.
- (5) Where by reason of the death of a contributor or a person in receipt of benefit the only entitlement derived through the person or contributor is an entitlement to an additional assurance benefit arising on or after the passing of the *Superannuation Acts Amendment Act 1984* and before the

passing of the *Superannuation Acts Amendment Act 1987* the amount of benefit payable in respect of the child or, where there are more than 1 child who derive the entitlement, in respect of all of them shall equal at the least the amount that would be payable in respect of 1 child (being a child deriving the entitlement through the contributor or person in receipt of benefit) under this section for a period of 5 years calculated at the rate at which a pension was payable in respect of 1 child (being a child deriving the entitlement through that contributor or person in receipt of benefit) at the date when the entitlement to the additional assurance benefit commenced.

- (6) Where by reason of the death of a contributor or a pensioner the only entitlement derived through the contributor or pensioner is an entitlement to an additional assurance benefit arising on or after the passing of the *Superannuation Acts Amendment Act 1987* and the amount of the benefit paid in respect of the child or, where there are more than 1 child who derive the entitlement, in respect of all of them (disregarding for the purpose of calculating that amount any increase in the rate of benefit payable since the time when the entitlement commenced) is less than the amount that would have been payable under section 239 to the widow of the person through whom the entitlement is derived, had the person left a widow upon the person's death, there shall be paid to such persons as are approved by the board, in equal shares if more than 1, the difference between the 2 amounts hereinbefore referred to in this subsection.

## **Division 6                      Surrender values and refunds of contributions for annuity and assurance benefits**

### **245      Endowment payment in lieu of units of assurance benefit**

A contributor who on or after the passing of the *Superannuation Acts Amendment Act 1984* attains the age for retirement or retires before attaining that age by reason of an election mentioned in section 234(2)(d) and—

- (a) who commuted for a lump sum all or any of the units of annuity benefit for which the contributor was contributing immediately before the contributor ceased to be a contributor, is entitled, in addition to the payment of the lump sum for which the contributor has commuted and to annuity benefit (if any), to an amount determined by the actuary and approved by the board in respect of each unit of assurance benefit for which the contributor was so contributing up to and including the number of units of annuity benefit in respect of which the contributor has commuted for a lump sum and the contributor shall be paid from the fund a sum equal to that amount multiplied by a number equal to the number of units of annuity benefit in respect of which the contributor has commuted; or
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- (b) who, being a person through whom there is at the time the person ceases to be a contributor no person who would derive an assurance benefit upon death, either—
  - (i) does not commute as referred to in paragraph (a); or
  - (ii) was contributing at the time the contributor ceased to be a contributor for a number of units of assurance benefit in excess of the number of units of annuity benefit in respect of which the contributor has commuted as referred to in paragraph (a);

is entitled, in addition to annuity benefit to the payment (if any) to which the contributor is entitled under paragraph (a), an amount determined by the actuary and approved by the board in respect of each unit of assurance benefit for which the contributor was contributing immediately before the contributor ceased to be a contributor or, as the case may be, in respect of each of those excess units of assurance benefit and the contributor shall be paid from the fund a sum equal to that amount multiplied by a number equal to the number of units of assurance benefit for which the contributor was so contributing or, as the case may be, by a number equal to the number of those excess units of assurance benefit.

#### **246 Refunds of annuity benefit contributions**

- (1) If and when a person ceases to be a contributor before attaining the age for retirement, otherwise than by reason of an election as is mentioned in section 234(2)(d), he or she or, if he or she has died, his or her legal personal representative or other individual approved by the board shall be paid from the fund a sum equal to the aggregate of all amounts contributed by him or her to the fund in respect of units of annuity benefit for which he or she was then contributing accumulated at the rate of 1¼% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.
  - (2) Subsection (1) does not apply to a person retired, by reason of incapacity, from his or her employment as a member of the police force.
  - (3) When a person over the age for retirement who has been a contributor and who when the person died was entitled to receive annuity benefit under this chapter, dies before the person has been in receipt of such benefit for a period of 3 years the person's legal personal representative or other individual approved by the board shall be entitled to be paid from the fund the amount by which the aggregate of all payments from the fund in respect of units of annuity benefit under this chapter in respect of which the person was entitled to the receipt of annuity benefit when the person died that would have been made if the person had been in receipt of such annuity benefit for a period of 3 years exceeds the aggregate of all such payments that had been made to the person before the person died.
  - (4) For the purposes of subsection (3)—
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- (a) it shall be deemed that the annuity benefit that would have been received by the person during any unexpired portion of the period of 3 years subsequent to the person's death shall be at the rate of \$3.84 per fortnight per unit of annuity benefit; and
  - (b) section 256 shall be disregarded in calculating entitlement under subsection (3).
- (5) Subsections (3) and (4) apply to a person who ceases to be a contributor by reason of an election as is mentioned in section 234(2)(d) as if—
- (a) the reference 'the age for retirement' were a reference to the person's age on retirement pursuant to such election; and
  - (b) the reference 'the rate of \$3.84' were a reference to the rate ascertained in accordance with the formula prescribed in section 235(3).

#### **247 Refunds of incapacity benefit contributions**

- (1) If and when a person ceases to be a contributor before attaining the age for retirement the person or, if the person has died, the person's legal personal representative or other individual approved by the board, shall be paid from the fund a sum equal to the aggregate of all sums contributed by the person to the fund in respect of units of incapacity benefit for which the person was then contributing accumulated at the rate of 1¼% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.
- (2) This section does not apply to a person retired, by reason of incapacity or an election as is mentioned in section 234(2)(d), from employment as a member.

#### **248 Refund of assurance benefit contributions**

If and when a person ceases to be a contributor before attaining the age for retirement other than by reason of—

- (a) the person's death; or
- (b) the person's retirement from employment as a member on the ground of incapacity; or
- (c) the person's retirement from employment as a member pursuant to an election referred to in section 234(2);

the person shall be paid from the fund a sum equal to the aggregate of all amounts contributed by the person to the fund in respect of units of assurance benefit for which the person was contributing accumulated at the rate of 1¼% per annum compound until the passing of the *Superannuation Acts Amendment Act 1987* and thereafter at the rate of 5%

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per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.

## **Division 7                    Commutation of annuity benefit**

### **249    Application to commute**

- (1) Subject to this division, a contributor or other person may apply in writing to the board to commute for the lump sum ascertained in accordance with this division the annuity benefit payable in respect of all or any of the units of annuity benefit (not including any reserve unit of benefit in respect of which he or she may elect to receive payment of the sum prescribed by section 231) for which he or she was contributing—
    - (a) on attaining the age for retirement; or
    - (b) in the case of a contributor retired by reason of incapacity from his or her employment as a member of the police force before attaining the age for retirement without again becoming a member—at his or her retirement; or
    - (c) in the case of a contributor who makes an election as is mentioned in section 234(2)(d) to retire before the day on which he or she would attain the age for retirement—on his or her retirement.
  - (2) The application shall be made—
    - (a) in the case of a contributor retired by reason of incapacity from his or her employment before attaining the age for retirement without again becoming a member—before the expiration of a period of 1 month commencing on the date on which he or she attains that age; and
    - (b) in the case of a contributor who makes an election as is mentioned in section 234(2)(d) to retire before the day on which he or she would attain the age for retirement—before the expiration of a period of 1 month commencing on the date on which his or her retirement takes effect; and
    - (c) in any other case—before the expiration of a period of 1 month commencing on the date on which the contributor attains the age for retirement.
  - (3) The board shall not proceed with an application under subsection (1) by a person to whom subsection (2)(a) applies (other than a person who at the date of the application is being continued in his or her employment as a member of the police force) unless the applicant has produced evidence of good health at the time of the application satisfactory to the board.
  - (4) A person to whom subsection (1)(b) applies who makes an application under that subsection shall produce evidence of his or her state of health at the time of the application satisfactory to the board and in determining the
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lump sum payable under this section due weight shall be given to that evidence.

## **250 Persons not entitled to commute**

- (1) This division does not apply to a contributor who—
  - (a) elects, after the commencement of the *Police Superannuation Act Amendment Act 1970* and after having attained an age that is 5 years less than the age for retirement, to increase his or her contribution under section 219 and is accepted by the board as a contributor under that section.
- (2) Where a contributor prior to retirement has duly surrendered all the units of benefits for which the contributor is contributing under section 219 the contributor shall, for the purposes of this section, be deemed not to have elected to increase the amount of the contributor's contributions under section 219.

## **251 Ascertainment of lump sum payable**

- (1) Subject to this section, the amount of the lump sum that a contributor or other person is entitled to be paid in respect of any application under section 249 is such amount as is determined by the actuary and approved by the board as the actuarial reserve of the units of annuity benefit to which the application relates.
- (2) In the case of a contributor who is continued in his or her employment as a member of the police force after attaining the age for retirement and who makes an application under section 249, the lump sum that is payable is such amount as is determined by the actuary and approved by the board as the actuarial reserve of the part or proportion of the units of annuity benefit to which the application relates attributable to contributions to the fund derived from the contributor.
- (3) In addition to the lump sum payable under subsection (2) there is payable to a contributor to whom that subsection applies on retiring or being retired from his or her employment as a member of the police force a sum of such amount as is determined by the actuary and approved by the board as the actuarial reserve as at the date on which the retirement takes effect of the part or proportion of the units of annuity benefit in respect of which the lump sum was payable under subsection (2) attributable to contributions to the fund derived from the Crown.
- (4) In the case of a contributor who retires pursuant to an election as is mentioned in section 234(2)(d), for the purpose of determining the lump sum that is payable under this division each unit of annuity benefit in respect of which the contributor makes an application under section 249 shall be taken to provide a benefit ascertained in accordance with the formula prescribed by section 235(3).

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## **Division 8**

## **General provisions respecting benefits**



## **252 Right to prepay contributions**

- (1) The board may permit a contributor to commute the contribution for benefits under this chapter, or any of them, payable by him or her in respect of any future period by payment of a lump sum of such amount as shall be determined by the actuary and approved by the board.
- (2) Where a contributor has commuted wholly or in part any contributions under this chapter attributable to a period within the 5 years immediately preceding the age for retirement the contributor is, upon the contributor's application therefor made to the board prior to the date of retirement, entitled to be paid from the fund in respect of the contributions so commuted and attributable to such part of that period as commences on the date of the contributor's application or a date specified by the contributor in the application (whichever is the later date) and expires at the termination of that period such sum of money as is determined by the actuary and approved by the board.
- (3) Where a contributor who elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement has commuted wholly or in part any contributions under this chapter attributable to any period after the date of retirement and has not been paid under subsection (2) a sum of money in respect of the whole of the contributions so commuted the contributor is, in addition to any benefit entitlement under this chapter, entitled to be paid from the fund such sum of money in respect of such contributions as is determined by the actuary and approved by the board, due allowance being made for any sum of money that has been paid under subsection (2) in respect of such contributions.

## **253 Benefits payable for life except in case of children**

- (1) Except where otherwise provided in this chapter, annuity benefit or assurance benefit shall be payable during the life of the person entitled thereto.
- (2) Additional assurance benefit in respect of any child shall be payable until the child ceases to be a child under this deed or sooner dies.
- (3) Benefits shall as far as practicable be paid fortnightly or, if so determined by the board, periodically at other intervals.

## **254 Payment to person other than the beneficiary**

- (1) Where in the opinion of the board payment of any benefit, refund of contributions or other payment under this chapter should be made to a person other than the person to whom the same is prescribed to be payable, the board may authorise payment to such firstmentioned person accordingly.
  - (2) This section does not apply to an eligible death benefit payable to a person under rule 64 of the division rules in Schedule 2 to the Deed.
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## 255 Commencement of benefits

Subject to this chapter, where in pursuance of this chapter any member of the police force becomes liable, or elects, to contribute for any units or additional units, he or she shall be a contributor in respect of those units or additional units as from the date as from which the contribution or additional contribution therefor is payable and not earlier, but if any benefit becomes payable to or in respect of that contributor before he or she has actually commenced to make contributions or additional contributions there shall, as determined by the board, be deducted from payments of benefit such contributions as are due by him or her in respect of those units or additional units.

## 256 Indexation of pensions—general

- (1) This section applies to a pension payable to a person during a financial year under this part if the pension was payable to the person immediately before the start of the previous financial year.
- (2) As soon as practicable after the start of the financial year, the board must reassess the amount of the pension and either increase it or maintain it at the same level as in the previous financial year, as follows—
  - (a) if the June index for the previous financial year is higher than the last adjustment index for the benefit, the pension must be increased by the percentage increase between the 2 indexes;
  - (b) otherwise, the pension remains the same.
- (3) If the pension is increased under the reassessment, the pension is payable to the person at the increased level from the first pay period that falls entirely in the month of August in the financial year.
- (4) A percentage increase between 2 indexes under subsection (2)(a) must be calculated to 1 decimal place.
- (5) In this section—

*last adjustment index*, for a pension, means—

- (a) if the pension has ever been increased under this section—the June index for the financial year immediately before the financial year in which the pension was last increased under this section; or
- (b) otherwise—the June index for the financial year immediately before the financial year in which the pension started being payable.

*pay period*, for a pension, means the fortnightly period in relation to which each pension payment is payable under this part.

*pension* means a benefit payable to a person under this part that has not been commuted to a lump sum.

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**256A Indexation of pensions—part of a year**

- (1) This section applies to a pension payable to a person under this part during a financial year (*year 2*) if the pension started being payable to the person during the previous financial year (*year 1*).
- (2) As soon as practicable after the start of year 2, the board must reassess the amount of the pension and either increase it or maintain it at the same level as in year 1, as follows—
  - (a) if the June index for year 1 is higher than the June index for the financial year before year 1 (*year 0*), the benefit must be increased by the amount calculated under the following formula—

$$\frac{I\% \times M \times B}{12};$$

- (b) otherwise, the pension remains the same.
- (3) If the pension is increased under the reassessment, the pension is payable to the person at the increased level from the first pay period that falls entirely in the month of August in year 2.
- (4) In this section—

*B* means the amount of the pension immediately before the reassessment.

*I%* means the percentage increase between the June index for year 0 and the June index for year 1, calculated to 1 decimal place.

*M* means the number of whole months in year 1 for which the pension is payable.

*pay period*, for a pension, means the fortnightly period in relation to which each pension payment is payable under this part.

**257 Adjustment of benefits where entitlement follows a former entitlement**

Where on or after 1 July 1974 a person becomes entitled to a benefit under division 1 (the *subsequent benefit*) and the person was, immediately before becoming so entitled, entitled to a benefit under division 2 (the *former benefit*) and has not since becoming entitled to the former benefit resumed employment as a member, the benefit to which the person is entitled is a benefit calculated in accordance with the formula—

$$P = A \times \frac{B}{C}$$

where—

*A* means the fortnightly amount of the benefit that would have been payable to the person but for this section.

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*B* means the fortnightly amount of the former benefit that was payable under this chapter to the person immediately before becoming entitled to the subsequent benefit.

*C* means the fortnightly amount of the former benefit that was payable to the person on becoming entitled thereto.

*P* means the fortnightly amount of the benefit payable to the person.

## **258 Variation of entitlement to adjustment**

- (1) Where in the opinion of the board a person in receipt of a benefit under this part would be prejudicially affected by an increase in his or her benefit under section 256 the board may determine—
  - (a) that such person receive no increase in benefit under that section; or
  - (b) that such person receive an increase in benefit less than that provided for by that section;

and the determination shall be given effect according to its terms notwithstanding that section.

- (2) The board may revoke or vary a determination under subsection (1).
- (3) In the event of a revocation of a determination the amount of the benefit to which the determination related shall, as from the date of the revocation, be the same as if that determination had not been made.
- (4) In the event of a variation of a determination the amount of the benefit to which the determination relates shall, as from the date of the variation, be in accordance with the determination as so varied.
- (5) Unless it is otherwise determined by the board, for the purpose of determining the amount of benefit payable under section 240 or 257 all determinations made under subsection (1) and variations made under subsection (2) shall be disregarded and the person in receipt of benefit shall be deemed to have been receiving, immediately before the person's death or, as the case may be, immediately before becoming entitled to the subsequent benefit referred to in section 257, the amount of benefit that would have been payable to the person had no such determination been made.

## **259 Proof of continued incapacity**

- (1) Any person who has been retired, by reason of incapacity, from employment as a member of the police force, and who is in receipt of incapacity benefit, shall whilst he or she continues to be in receipt of incapacity benefit, give as prescribed such notifications and certificates relating to his or her continued incapacity as shall be prescribed and submit himself or herself for medical examination when and so often as the board requires to any medical practitioner or medical practitioners approved by the board.
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- (2) If at any time a person defaults in complying with any requirement of subsection (1), the board may discontinue the payment to him or her of incapacity benefit until he or she remedies the default to its satisfaction.

**260 Incapacity beneficiary restored to health may be recalled to service**

- (1) If, in the opinion of the board, the health of any person who has been retired, by reason of incapacity, from employment as a member of the police force, and who is in receipt of incapacity benefit, has become so restored as to enable him or her to perform, in the opinion of the board, duties as a member of the police force, the board shall so inform the commissioner of the police service with a view to employment as a member of the police force being found for such person.
  - (2) If employment as a member of the police force is offered to him or her and he or she fails to accept that employment the board may cancel the incapacity benefit and thereupon it shall cease to be payable.
  - (3) Upon the cancellation pursuant to this section of the incapacity benefit payable to any person, neither that person nor any other person claiming through him or her, either immediately or at any future time, shall have any right or claim to any payment or, as respects incapacity benefit, further payment from the fund in respect of any units of annuity benefit, or of incapacity benefit, or in the case of a male contributor of assurance benefit (including additional assurance benefit) for which he or she was contributing to the fund when he or she retired save that such person shall be paid from the fund the sum equal to the aggregate of all amounts paid by him in respect of units of annuity benefit and assurance benefit accumulated at the rate of 1¼% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound.
  - (4) If at any time it appears to the board that any person who has been retired, by reason of incapacity, from employment as a member of the police force, and who is in receipt of incapacity benefit, engages in—
    - (a) any business or occupation on his or her own account; or
    - (b) employment (not being employment by virtue whereof he or she is a member of the police force);the board may suspend the incapacity benefit.
  - (5) For the period during which any such person is engaged as mentioned in subsection (4), he or she shall not be entitled to or receive any incapacity benefit but the board may direct that he or she receive, for that period or such part thereof as the board determines, the whole of the incapacity benefit in question or such part thereof as the board considers reasonable.
  - (6) Upon the termination of the engagement by virtue whereof payment of incapacity benefit to any person has been suspended under subsection (5), such incapacity benefit shall, subject to this chapter, again become payable and be paid to such person.
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**261 Contribution by retired incapacity beneficiaries upon re-employment**

If a person who has been retired, by reason of incapacity, from employment as a member of the police force and who is in receipt of incapacity benefit again becomes a member of the police force, the period during which he or she was retired shall not, for the purposes of this chapter, be deemed to be a break in the continuity of his or her service as a member of the police force, and accordingly the officer shall be deemed to be a contributor and contributions to the fund shall again become payable by the person in accordance with this chapter.

**262 Postponement of payment of refunds**

- (1) Notwithstanding the provisions of sections 246, 247 and 248, where a contributor ceases to be a member by reason of—
- (a) resignation before attaining an age that is 5 years before the contributor’s age for retirement; or
  - (b) termination of employment as a member before attaining an age that is 5 years before the contributor’s age for retirement, otherwise than on account of misconduct; or
  - (c) resignation in accordance with arrangements approved by the Governor in Council in relation to contributors of the class of that contributor; or
  - (d) non-renewal or termination by the Crown (otherwise than on account of misconduct) of a contract or appointment for a tenure limited by time under the *Police Service Administration Act 1990* and that contributor is not eligible to make, or does not make, an election in accordance with section 5.10 of that Act;

and that person makes an election pursuant to section 299 of chapter 7 that person shall, by reason of having made that election, be treated as having elected not to take from the fund the sums referred to in sections 246, 247 and 248.

- (2) Where an election is, pursuant to subsection (1), treated as having been made, there is to be credited to the fund on account of the elector the amount calculated in accordance with the formula—

$$A = \frac{B \times C}{D} [1 - .02 (F - E)]$$

where—

**A** means the amount payable.

**B** means the benefit to which the contributor would have been entitled had the contributor retired upon attaining the age expressed as F.

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*C* means the period expressed in years for which the contributor has contributed to the fund to the date on which the contributor ceases to be a member.

*D* means the period expressed in years for which the contributor would have contributed to the fund had the contributor retired upon attaining the age expressed as F.

*E* means the contributor's age expressed in years and complete months at the date on which the contributor ceases to be a member.

*F* means the age that is 5 years before the contributor's age for retirement; until, subject to subsection (3)—

- (a) the contributor attains the age that is 5 years before the age for retirement; or
- (b) the contributor satisfies the board that the contributor suffers a permanent incapacity by reason whereof the contributor is unfit to discharge or incapable of discharging duties as an employee; or
- (c) the contributor, being a person to whom subsection (1)(a) or (b) applies, informs the board in writing that the contributor no longer desires the election to operate; or
- (d) the contributor dies; or
- (e) the contributor, being a person to whom subsection (1)(c) or (d) applies, notifies the board of a desire to be paid the prescribed amount payable in cash;

whereupon the prescribed amount is to be paid to the contributor or to the contributor's legal personal representative, as the case requires.

- (3) Where a person who is deemed pursuant to subsection (1) to have elected as prescribed by that subsection again becomes a contributor the prescribed amount credited in the fund on the person's account under this section shall be added to the prescribed amount credited in the fund on the person's account under section 299 of chapter 7 and shall be applied in the manner prescribed by that section.

- (4) In subsections (2) and (3)—

***prescribed amount***, so far as it relates to the amount that is to be paid pursuant to subsection (2) or that is to be applied pursuant to subsection (3), means—

- (a) where the elector, being a person to whom subsection (1)(a) or (b) apply, has informed the board in writing that the elector no longer desires the election made under section 299 of chapter 7 to operate—the sums which the elector would have been entitled to be paid from the fund pursuant to sections 246, 247 and 248 had the elector not
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been deemed to have elected as prescribed by subsection (1) together with interest that has accrued since the date on which the elector ceased to be a member and that is properly attributable to those sums; and

- (b) in any other case—the amount credited in the fund on account of the elector pursuant to subsection (2), together with interest for the period since the date on which the elector ceased to be a member.
- (5) For the purposes of subsection (4)(a) and (b), interest shall be calculated at such rate as is determined by the board, from time to time, on the advice of the actuary which rate, at the time it is determined, is to reasonably reflect the after tax earnings of the fund (on a long-term basis) derived from the investment of contributors' contributions, having regard to costs incurred in investing and administering the fund.

## **Part 4 Transitional provisions**

### **Division 1 Interpretation**

#### **263 Application of pt 4**

- (1) This part applies to every member of the police force required by this chapter to contribute to the fund whose employment as a member of the police force (whether on probation or otherwise) commenced before 7 July 1969 and who immediately before that date was contributing under the repealed provisions in respect of superannuation allowance.
- (2) In this part—  
*member of the police force* means a member of the police force to whom this part applies.

### **Division 2 Contributions for units of benefits by members of the police force**

#### **264 Contributions for benefits by members of the police force**

- (1) Every member of the police force shall, as from 7 July 1969 and thereafter whilst he or she is required to contribute to the fund, contribute thereto for all units of benefits to the number thereof specified in column 2 of the scale contained in schedule 17 opposite the salary group within which his or her salary on that date falls.
  - (2) Where during the period commencing on 7 July 1969 and ending on 8 July 1979 the salary of a member of the police force being a contributor is increased and, by reason of that increase, falls within a salary group in column 1 of the scale contained in schedule 17 higher than the salary group
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in which it fell prior to the increase, the member of the police force shall thereafter contribute for the number of units of benefits specified in column 2 of such scale opposite to the salary group within which his or her increased salary falls.

- (3) In respect of the number of units of benefits for which a member of the police force is required to contribute pursuant to subsection (1), or subsections (1) and (2), the contribution payable shall be—
  - (a) such sum as will provide the units of benefits according to the appropriate table contained in schedule 18; or
  - (b) if the sum specified in paragraph (a) exceeds—
    - (i) in the case of a male contributor—the rate of 5¾%; or
    - (ii) in the case of a female contributor—the rate of 5%;of the contributor's salary, a sum equal to—
    - (iii) in the case of a male contributor—5¾%; or
    - (iv) in the case of a female contributor—5%;of that salary.
- (4) Save as otherwise expressly provided in this division, a member of the police force shall, whilst he or she is required by this chapter to contribute to the fund, contribute thereto in accordance with part 3 but the number of units of benefit for which the member is required or entitled to contribute under the provisions of this chapter (other than this division) is the number of units ascertained in accordance with those provisions less the number of units for which the member is required to contribute under the provisions of subsection (1), or subsections (1) and (2).
- (5) Notwithstanding subsections (1) to (4), on and after the commencement of the *Police Superannuation Act Amendment Act 1970* the amount of contribution that shall be paid by a member of the police force in respect of units to which this section relates shall be ascertained in accordance with subsection (6) or (7).
- (6) In respect of the number of units of benefits for which a member of the police force is required to contribute pursuant to subsection (1), or subsections (1) and (2), the contribution payable shall be—
  - (a) in respect of units of benefits (not being units for which the member contributed by way of commutation of contributions by payment of a lump sum pursuant to section 252 or towards the provision of which the member is deemed by section 265 to have contributed by way of a single premium)—the sum of—
    - (i) such amount ascertained in accordance with, in the case of male members of the police force, the table of contributions contained in schedule 18, part 1 and, in the case of female

members of the police force, the table of contributions contained in part 2 of that schedule as would provide the units of benefits or where that amount exceeds—

(A) in the case of a male contributor—the rate of 5 $\frac{3}{4}$ %; or

(B) in the case of a female contributor—the rate of 5%;

of the contributor's salary, an amount equal to—

(C) in the case of a male contributor—5 $\frac{3}{4}$ %; or

(D) in the case of a female contributor—5%;

of that salary; and

(ii) the amount of the difference between such amount, ascertained in accordance with the applicable table of contributions contained in schedule 19 as if in the case of such of the units of benefits as the contributor had commenced to contribute for before the date of commencement of the *Police Superannuation Act Amendment Act 1970* the member had commenced to contribute for such units on the date of the said commencement, as would provide the units of benefits and such amount, ascertained in accordance with the applicable table of contributions contained in schedule 18 as if in the case of such of the units of benefits as the contributor had commenced to contribute for before the date of commencement of the *Police Superannuation Act Amendment Act 1970* the member had commenced to contribute for such units on the date of the said commencement, as would provide the units of benefits; and

(b) in respect of units of benefits (not being units to which paragraph (a) relates)—the amount of the difference specified in paragraph (a)(ii) where a reference to units of benefits in that subparagraph is read as a reference to units of benefits to which this paragraph relates.

(7) Where, at or after the commencement of the *Police Superannuation Act Amendment Act 1970*, a member of the police force is required, or being entitled to elect elects, to contribute for units of benefits in addition to the units of benefit for which the member is required to contribute pursuant to subsection (1), or subsections (1) and (2), the amount of the contributions for those additional units shall be as prescribed by section 225(1).

(8) Nothing in section 218 shall read as limiting the amount of the contribution payable by a contributor under this section.

(9) Section 217 applies to this section.

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## 265 Refund of contributions made under repealed provisions

Save to the extent that the whole or any part thereof is paid to a contributor from the fund under section 59(1) or (2) of the *Police Superannuation Act 1968*, the aggregate of all amounts contributed prior to 7 July 1969 by a contributor by way of deduction from pay and salary to the police superannuation fund established under the repealed provisions shall be deemed to have been contributed to the fund by the contributor as a single premium towards the provision (as at 7 July 1969) of units of benefits to the number that is equal to the difference between—

- (a) the number of units of benefits for which the contributor is required to contribute pursuant to section 264(1); and
- (b) the number of units of benefits the amount that the contributor is required to contribute to the fund under section 264(3) would provide on 7 July 1969 according to the appropriate table of contributions in schedule 18.

## Division 3 Persons in receipt of superannuation allowances etc. under the repealed provisions

### 266 Superannuation allowance

- (1) The right and interest of a person in respect of superannuation allowance (including additional superannuation allowance (if any)) that became payable to him or her under the repealed provisions, or that having become payable under any Act mentioned in the said provisions was preserved or continued by those provisions, before 7 July 1969, are, to the extent subsisting immediately before that date, hereby preserved and continued on and from that date and accordingly payments as necessary shall be made from the fund.
- (2) The rate of superannuation allowance (including additional superannuation allowance (if any)) payable to a person to whom subsection (1) applies shall be increased—
  - (a) in the case of a person who retired from the police service before the commencement of the *Police Acts Amendment Act 1959*—by \$275 per annum; or
  - (b) in the case of a person who retired from the police service after the commencement of the *Police Acts Amendment Act 1959*—by four-twenty-firsts.

*Editor's note—*

*Police Acts Amendment Act 1959* commenced 22 December 1959 (see 8 Eliz 2 No. 64).

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- (3) Every person to whom subsection (1) applies and who is in receipt of that allowance on the date of passing of the *Police Superannuation Act 1968* or who becomes entitled to that allowance after that date shall be deemed to have been entitled to payment from the appropriate fund of superannuation allowance (including additional superannuation allowance (if any)) under the repealed provisions at the rate thereof increased—
- (a) save in the case of a person who became entitled to that allowance after 30 December 1968, during the period commencing on 1 January 1968 or the date on which that person became entitled to that allowance where the person became entitled after the said 1 January whichever is later and ending on 30 December 1968—
- (i) in the case of a person to whom subsection (2)(a) applies—by \$200 per annum; and
- (ii) in the case of a person to whom subsection (2)(b) applies—by one-seventh; and
- (b) on and from 31 December 1968 or, in the case of a person who became entitled to that allowance after that date, on and from the date on which that person became so entitled, whichever is later and until 6 July 1969, as prescribed by subsection (2).

*Editor's note—*

*Police Superannuation Act 1968* was assented to on 24 December 1968.

- (4) Superannuation allowances (including additional superannuation allowances (if any)) payable under the repealed provisions may be paid at the increased rates provided for in subsection (3) to persons entitled under that subsection to payment at the increased rates.

## **267 Widows' pensions**

- (1) The right and interest of a person in respect of pension payable to the widow of—
- (a) a member of the police force who died before attaining the age for retirement; or
- (b) a retired member of the police force;
- that became payable to the widow under the repealed provisions or that having become payable under any Act mentioned in the said provisions was preserved or continued by those provisions, prior to 7 July 1969, are, to the extent subsisting immediately before that date, hereby preserved and continued, on and from that date and accordingly payments as necessary shall be made from the fund.
- (2) The rate of pension payable to a person to whom subsection (1) applies shall be increased—
- (a) in the case of a person who is—
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- (i) the widow of a member of the police force who died before the commencement of the *Police Acts Amendment Act 1959*; or
    - (ii) the widow of a retired member of the police force who retired from the police service before the commencement of the *Police Acts Amendment Act 1959*;by \$172 per annum; or
  - (b) in the case of a person who is—
    - (i) the widow of a member of the police force who died after the commencement of the *Police Acts Amendment Act 1959*; or
    - (ii) the widow of a retired member of the police force who retired from the police service after the commencement of the *Police Acts Amendment Act 1959*;by four-twenty-firsts.
- (3) Every person to whom subsection (1) applies and who is in receipt of that pension on the date of passing of the *Police Superannuation Act 1968* or who becomes entitled to that pension after that date shall be entitled to payment from the appropriate fund of pension under the repealed provisions at the rate thereof increased—
- (a) save in the case of a person who became entitled to that pension after 30 December 1968, during the period commencing on 1 January 1968 or the date on which the person became entitled to that pension where the person became so entitled after the said 1 January whichever is later and ending on 30 December 1968—
    - (i) in the case of a person to whom subsection (2)(a) applies—by \$125 per annum; and
    - (ii) in the case of a person to whom subsection (2)(b) applies—by one-seventh; and
  - (b) on and from 31 December 1968 or, in the case of a person who became entitled to that pension after that date, on and from the date on which the person became so entitled, whichever is later and until 6 July 1969, as prescribed by subsection (2).
- (4) Pensions payable under the repealed provisions may be paid at the increased rates provided for in subsection (3) to persons entitled under that subsection to payment at the increased rates.

## **268 Children's pensions**

- (1) The right and interest of a person in respect of pension or sum payable in respect of the child of—
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- (a) a member of the police force who died before attaining the age for retirement; or
- (b) a retired member of the police service;

that became payable under the repealed provisions, or that having become payable under any Act mentioned in the said provisions was preserved or continued, under those provisions before 7 July 1969, are, to the extent subsisting immediately before that date hereby preserved and continued on and from that date and accordingly payments as necessary shall be made from the fund.

- (2) The pension or sum payable in respect of a child to whom subsection (1) applies shall be increased at the rate of \$52 per annum.
- (3) The pension or sum payable in respect of a child payable under the repealed provisions may be paid on and from 31 December 1968 at the increased rates provided for by subsection (2) to persons entitled in accordance with that subsection to payment at the increased rates.
- (4) The pension or sum payable in respect of a child, to whom subsection (1) applies, on and from the commencement of the *Police Superannuation Acts Amendment Act 1977* shall be—
  - (a) where the widow of the person through whom the pension is derived is or was entitled to a widow's pension under section 267 and is living—at the rate of \$16 per fortnight adjusted in accordance with the cost of living adjustment provided for in section 271 from and including the first pay period that occurs wholly in September 1977; and
  - (b) in any case other than a case to which paragraph (a) applies—at the rate of \$32 per fortnight adjusted in accordance with the cost of living adjustment provided for in section 271 from and including the first pay period that occurs wholly in September 1977.

*Editor's note—*

*Police Superannuation Acts Amendment Act 1977* commenced 29 August 1977 (see 1977 No. 34 s 3).

## **269 Pension to widow or child for ex-member dying after 1968 Act commenced**

- (1) Upon the death of a person to whom section 266(1) applies, on or after 7 July 1969, the widow or child of that person shall have a right or claim to payment of the pension or sums payable in respect of a widow or child under the repealed provisions that that widow or child would have had under those provisions if the *Police Superannuation Act 1968* had not been passed and accordingly payments as necessary shall be made from the fund.
  - (2) The rate of pension payable to a widow to whom subsection (1) applies shall be increased—
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- (a) in the case of a widow of a retired member of the police force who retired from the police service before the commencement of the *Police Acts Amendment Act 1959*—by \$172 per annum; or
  - (b) in the case of a widow of a retired member of the police force who retired after the commencement of the *Police Acts Amendment Act 1959*—by four-twenty-firsts.
- (3) The rate of the pension or sum payable in respect of a child to whom subsection (1) applies shall be increased by \$52 per annum.
  - (4) Upon the death of a retired member of the police force, on or after 4 January 1971 who retired on or after 1 July 1961, to whom section 266(1) applies, the member's widow, if the marriage to the member took place before the member's retirement, shall, in lieu of the right or claim to payment prescribed by subsection (1), be entitled to a pension of five-eighths of the superannuation allowance which such member was receiving immediately prior to the member's death.
  - (5) The pension or sum payable in respect of a child to whom subsection (1) applies, on and from the commencement of the *Police Superannuation Acts Amendment Act 1977* shall be—
    - (a) where the widow of the person through whom the pension is derived is or was entitled to a widow's pension under this section and is living—at the rate of \$16 per fortnight adjusted in accordance with the cost of living adjustment provided for in section 271 from and including the first pay period that occurs wholly in September 1977; and
    - (b) in any case other than a case to which paragraph (a) applies—at the rate of \$32 per fortnight adjusted in accordance with the cost of living adjustment provided for in section 271 from and including the first pay period that occurs wholly in September 1977.
  - (6) Upon the death of a retired member of the police force on or after 29 August 1977, who retired on or after 1 April 1959, to whom section 266(1) applies, the member's widow, if the marriage took place before the member's retirement, shall, in lieu of the entitlement to pension prescribed by subsection (4), be entitled to a pension of 66.7% of the superannuation allowance which such member was receiving immediately prior to the member's death.

## 270 Savings

To the extent necessary to give operation and effect to this division, the provisions of the repealed provisions with respect to benefits thereunder referred to therein respectively as superannuation allowance, additional superannuation allowance, pension to the widow of a member or retired member of the police force and sums payable in respect of a child of such a member or retired member shall apply.

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**271 Indexation of benefit payments—general**

- (1) This section applies to a benefit payable to a person during a financial year under this division if the benefit was payable to the person immediately before the start of the previous financial year.
- (2) As soon as practicable after the start of the financial year, the board must reassess the amount of the benefit and either increase it or maintain it at the same level as in the previous financial year, as follows—
  - (a) if the June index for the previous financial year is higher than the last adjustment index for the benefit, the benefit must be increased by the percentage increase between the 2 indexes;
  - (b) otherwise, the benefit remains the same.
- (3) If the benefit is increased under the reassessment, the benefit is payable to the person at the increased level from the first pay period that falls entirely in the month of August in the financial year.
- (4) A percentage increase between 2 indexes under subsection (2)(a) must be calculated to 1 decimal place.
- (5) In this section—

*last adjustment index*, for a benefit, means—

- (a) if the benefit has ever been increased under this section—the June index for the financial year immediately before the financial year in which the benefit was last increased under this section; or
- (b) otherwise—the June index for the financial year immediately before the financial year in which the benefit started being payable.

*pay period*, for a benefit, means the fortnightly period in relation to which each benefit payment is payable under this division.

**271A Indexation of benefit payments—part of a year**

- (1) This section applies to a benefit payable to a person under this division during a financial year (*year 2*) if the benefit started being payable to the person during the previous financial year (*year 1*).
- (2) As soon as practicable after the start of year 2, the board must reassess the amount of the benefit and either increase it or maintain it at the same level as in year 1, as follows—
  - (a) if the June index for year 1 is higher than the June index for the financial year before year 1 (*year 0*), the benefit must be increased by the amount calculated under the following formula—

$$\frac{I\% \times M \times B}{12};$$

- (b) otherwise, the benefit remains the same.



- (3) If the benefit is increased under the reassessment, the benefit is payable to the person at the increased level from the first pay period that falls entirely in the month of August in year 2.

- (4) In this section—

*B* means the amount of the benefit immediately before the reassessment.

*I%* means the percentage increase between the June index for year 0 and the June index for year 1, calculated to 1 decimal place.

*M* means the number of whole months in year 1 for which the benefit is payable.

*pay period*, for a benefit, means the fortnightly period in relation to which each benefit payment is payable under this division.

## **272 Variation of entitlement to adjustment**

- (1) Where in the opinion of the board a person in receipt of a benefit under this division would be prejudicially affected by an increase in his or her benefit under section 271 the board may determine—
- (a) that such person receive no increase in benefit under that section; or
- (b) that such person receive an increase in benefit less than that provided for by that section;

and the determination shall be given effect according to its terms notwithstanding that section.

- (2) The board may revoke or vary a determination under subsection (1).
- (3) In the event of a revocation of a determination the amount of the benefit to which the determination related shall, as from the date of the revocation, be the same as if that determination had not been made.
- (4) In the event of a variation of a determination the amount of the benefit to which the determination relates shall, as from the date of the variation, be in accordance with the determination as so varied.
- (5) Unless it is otherwise determined by the board, for the purpose of determining the rate of pension payable under section 269 all determinations made under subsection (1) and all variations made under subsection (2) shall be disregarded and the person in receipt of benefit shall be deemed to have been receiving, immediately before the person's death, the amount of benefit that would have been payable to the person had no such determination been made.

## **273 Incapacity beneficiaries when deemed on leave**

Sections 259 to 261 apply to persons whose right and interest in respect of superannuation allowance (including additional superannuation allowance) which became payable to them under the repealed provisions on retirement by reason of bodily injury received in the execution of their

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duty or mental or bodily infirmity which totally and permanently incapacitated them for work pursuant to the *Police Act 1937*, section 37 or which having become so payable under any Act mentioned in the repealed provisions were continued or preserved by those provisions are preserved and continued by section 266 of this chapter.

**274 Incapacity beneficiaries re-employed as members of the police force**

- (1) If any person whose right and interest in respect of superannuation allowance are preserved and continued by section 266 becomes a member of the police force, then the provisions applicable to members of the police force of this part shall apply to the person.
- (2) For the purpose of so applying those provisions any reference therein to 7 July 1969, shall be read as referring to the date on which the person becomes a member of the police force.

**Division 4 Medical certificates**

**275 When evidence of good health required**

Despite anything in this chapter, a member of the police force to whom section 274 applies shall not be entitled or required or permitted to contribute under this chapter to the fund unless and until he or she produces evidence of good health satisfactory to the board or is exempted from so doing by the board.

**Part 5 Miscellaneous**

**276 Limit of commutation or variation of benefits**

Except as prescribed by this chapter no commutation or other variation whatsoever of any benefit under this chapter or of any superannuation allowance (including additional superannuation allowance (if any)), pension or sum payable in respect of a child under the repealed provisions the right whereof is preserved and continued by this chapter shall be permitted in any circumstances whatsoever.

**278 Question as to incapacity etc. determined by board on medical practitioner's report**

Whenever any question arises under this chapter as to the incapacity of a contributor or other person who is in receipt of incapacity benefit, or as to whether in any case incapacity is due to wilful action on the part of the contributor or other person concerned for the purpose of obtaining incapacity benefit, the question shall be determined by the board (whether before or after the retirement of the contributor) upon consideration of a

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report from a medical practitioner or medical practitioners appointed by the board.

**279 Returns**

- (1) The board may require a pensioner at any time to furnish such evidence of age as the board may consider sufficient and such other information as the board may require for the purposes of this chapter.
- (2) If a pensioner fails to comply with a requirement of the board under subsection (1) and does not offer to the board a reasonable excuse for his or her failure the board may suspend payment of the pension to him or her until such time as the board's requirement is complied with to its satisfaction.
- (3) Where payment of a pension is suspended under subsection (2) the pension shall not be payable in respect of the period of suspension.
- (4) For the purposes of this section an excuse for failure by a pensioner to comply with a requirement of the board to the effect that he or she does not wish to furnish the evidence or information required or that furnishing the evidence or information required would prejudice the interests of the pensioner or other person under this chapter shall not constitute a reasonable excuse.
- (5) In this section—

*pensioner* means a person to whom a pension is payable under this chapter.

**279A [Deleted]**

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## Chapter 7 Police 74 category

### Part 1 Preliminary

#### 280 Interpretation

- (1) In this chapter, except so far as the context or subject matter otherwise indicates or requires—

*1968 Act* means the repealed *Police Superannuation Act 1968*.

*1974 Act* means the repealed *Police Superannuation Act 1974*.

*1999 cashable amount* means—

- (a) the amount of a contributor's benefit that would have been payable to the contributor at 30 June 1999 under section 299(1) if the contributor had, on 30 June 1999, ceased to be an employed member; and
- (b) the amount of a contributor's benefit that would have been payable to the contributor at 30 June 1999 under section 299(4) if an event mentioned in section 299(4)(a) happened on 30 June 1999.

*age for retirement* of a member means 60.

*child's pension* means a pension payable under part 3, division 4.

*continuing contributor* means a contributor who immediately before the commencement of the *1974 Act* was a contributor under the *1968 Act* and who on the said commencement continued to be a contributor under the *1968 Act*, and includes—

- (a) a person to whom section 24(3) of the *1968 Act* relates who having been a contributor under the *1968 Act* or an Act repealed by that Act again becomes a member after the commencement of the *1974 Act*.

*contributor* means a member who contributes under this chapter to the fund and includes—

- (a) a member who is required to contribute thereto but has not commenced contributions;
- (b) a member who has ceased to contribute thereto by reason of the member's age or incapacity.

*contributor's pension* means a pension that is payable under this chapter to a contributor other than an incapacity pension.

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***final average increase in salary*** in relation to a continuing contributor means the amount by which the contributor's final average salary exceeds the fortnightly salary that the member would have received during the year immediately preceding the member attaining the age for retirement or the member's earlier retirement from or death in service had the member's salary remained constant at the rate in force at the date immediately before the commencement of the *1974 Act* or, where the contributor is a person to whom section 24(3) of the *1974 Act* relates, the rate in force at the date when the member was retired on the grounds of incapacity as mentioned in that subsection.

***final average salary*** means—

- (a) in relation to a contributor who on or after the passing of the *Superannuation Acts Amendment Act 1984* attains the age for retirement or earlier retires from employment as a member otherwise than by retiring or being retired on grounds of incapacity and who has received 1 or more increases in salary by reason of 1 or more promotions received by the contributor after the passing of that Act and during the 2 years immediately preceding the contributor attaining the age for retirement or the contributor's earlier retirement—the final average salary ascertained in accordance with section 281; and
- (b) in relation to any other contributor—the average fortnightly salary received by the contributor during the year immediately preceding the contributor attaining the age for retirement or the contributor's earlier retirement from or death in employment as a member.

***incapacity*** means any mental or bodily infirmity by reason whereof a member is unfit to discharge or incapable of discharging the duties of the member's office efficiently.

***incapacity pension*** means a pension that is payable under this chapter to a contributor who before attaining the age for retirement is retired or permitted to retire on the grounds of incapacity not due to wilful action on the part of such person for the obtaining of such pension.

***member*** means—

- (a) a police 74 member; or
- (b) a person, or a member of a class of person, declared, under a notice under section 10(1) of the *Superannuation (State Public Sector) Act 1990*, to be eligible for membership of the scheme in the police 74 category.

***net earning rate of the fund*** means the rate of interest as determined by the board, from time to time, on the advice of the actuary which rate, at the time it is determined, reasonably reflects the after tax earnings of the fund (on a long-term basis) derived from the investment of contributors'

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contributions to the fund, having regard to administrative costs of the fund, the costs of death and incapacity benefits and the charges incurred in the investment of those contributions.

***pensioner*** means a person who is entitled to a pension under this chapter and includes a person who, but for an election under section 312, would be entitled to such a pension.

***preservation cashing condition***, for a contributor, means the contributor—

- (a) permanently retiring from the workforce after reaching preservation age; or
- (b) dying; or
- (c) becoming permanently incapacitated; or
- (d) reaching preservation age if the contributor has, before reaching preservation age, permanently retired from the workforce for a reason not mentioned in paragraph (c).

***relict's pension*** means a pension payable under part 3, division 3.

***retired*** in relation to employment as a member, means retired or required to retire from that employment by the Governor in Council or the commissioner of the police service.

***salary*** means the rate of payment made by way of fixed remuneration to a member and does not include any sum paid by way of fee or allowance.

***service*** means any period during which a person contributes, whether before or after the commencement of the *1974 Act*, to the fund under this chapter, chapter 6 or any Act repealed by the *1968 Act*, and includes any period in respect of which the person is or was required to contribute thereto and before the first of the person's contribution is or was paid to the fund.

***spouse***—

- (a) for part 3, division 3—see section 293A; or
  - (b) for part 3, division 4—see section 295A.
- (2) For the purposes of subsection (1), definition *service*—
- (a) where a person having been retired or permitted to retire from the person's employment as a member and having been in receipt of an incapacity pension under this chapter or incapacity benefit under chapter 6 or incapacity allowance preserved and continued by chapter 6, again becomes a member—the period during which the person was so absent shall be deemed to comprise part of the person's service; and
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- (b) where a person has received a refund of the person's contribution to the fund whether under this chapter or, in relation to annuity benefit, under chapter 6 and has subsequently recommenced contributing to the fund—the person's employment before the date on which the person recommenced shall be deemed not to comprise part of the person's service.
  - (3) For the purpose of ascertaining the final average salary of a person who is a pensioner or has died in service as a member the salary received by that person during the period of 1 year immediately preceding the person attaining the age for retirement or the person's earlier retirement from or death in service shall include any increase in salary of a rank held by the person at any time during that period.
  - (4) For the purposes of subsection (1), definition *final average salary*, a reference to the period of a year immediately preceding the person attaining the age for retirement or the person's earlier retirement from or death in service shall, in the case of a contributor whose length of service at the time of the person's retirement or death is less than 1 year be read as a reference to the person's actual period of service.
  - (5) For the purposes of subsection (1), definition *final average increase in salary*, a reference to the period of a year immediately preceding the person attaining the age for retirement or the person's earlier retirement from or death in service shall be a reference to a period after the commencement of the *1974 Act* and shall in the case of a continuing contributor whose length of service after the commencement of the *1974 Act* at the time of the person's retirement or death is less than 1 year, be read as a reference to the person's actual period of service after the said commencement.
  - (6) A reference in this chapter to a period expressed in years shall, where appropriate, be read as including a reference to a period expressed in years together with a fraction of a year being a fraction consisting of a completed whole month or 2 or more such months.
  - (7) Where at any time during the period of 1 year immediately preceding the time of the person attaining the age for retirement or the person's earlier retirement from or death in service a contributor has been absent on secondment to employment other than as a member or absent from duty on less than full pay, the person's final average salary or the person's final average increase in salary shall be calculated as if the person continued to receive his or her full pay as a member during the whole of that period.
  - (8) Notwithstanding any other provision of this chapter; where the employment of a contributor as a member ceases at any time after the contributor has attained an age that is within 5 years immediately preceding the day on which the person would attain the age for retirement otherwise than by reason of the person's death or having been retired or permitted to retire on the ground of incapacity then, for the purposes of this chapter, the contributor shall be deemed to have elected to retire at the time when the employment ceased.
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**280AA Meaning of *child* for ch 7—before discrimination law commencement**

(1) This section applies if a contributor or pensioner dies before the discrimination law commencement.

(2) Despite section 1, definition *child*, in this chapter—

*child*, in relation to the contributor or pensioner, a relict of the contributor or pensioner, or a deceased or divorced wife of the contributor or pensioner, means a person who—

(a) is under the age of 16 years; and

(b) is not an offspring of—

(i) a marriage of the pensioner contracted after the pensioner's retirement; or

(ii) the remarriage of a relict of the contributor or pensioner after his or her death or of a divorced wife;

and includes a person over that age but under the age of 25 years who is receiving, in the opinion of the board, full-time education at a school, college or university.

**280AC Meaning of *relict* for ch 7—before discrimination law commencement**

In this chapter, except so far as the context or subject matter otherwise indicates or requires—

*relict* means, in relation to a person who has died before the discrimination law commencement and was at the date of the person's death a contributor or pensioner, a person who was legally married to the deceased person at the date of death and, in the case of a deceased pensioner, at the date of the person attaining the age for retirement or the person's earlier final retirement from employment as a member.

**280AD Meaning of *relict* for ch 7—from discrimination law commencement**

(1) This section applies for this chapter if a contributor or a pensioner dies on or after the discrimination law commencement.

(2) The *relict* of a contributor who has died means, except so far as the context or subject matter otherwise indicates or requires, a person who was the contributor's spouse on the day the contributor died.

(3) The *relict* of a pensioner who has died means, except so far as the context or subject matter otherwise indicates or requires, a person who was the pensioner's spouse—

(a) on the day the pensioner died; and

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- (b) on whichever of the following days is relevant—
  - (i) if the pensioner retired before reaching the age for retirement—the day the pensioner retired;
  - (ii) if the pensioner did not retire before reaching the age for retirement—the day the pensioner reached the age for retirement.
- (4) For this section, the gender of the contributor, pensioner or relict is not relevant.
- (5) For this section, the spouse of a person on the day the person died includes a de facto partner of the person on the day of the death only if the person and the de facto partner lived together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA—
  - (a) for a continuous period of at least 2 years ending on the day of the death; or
  - (b) for a shorter period ending on the day of the death, if the circumstances of the de facto relationship of the person and the de facto partner evidenced a clear intention that the relationship be a long-term, committed relationship.
- (6) Subsection (5) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).

#### **280A Preserved amount**

- (1) If a preservation cashing condition for a contributor has happened, none of a benefit payable to the contributor is a preserved amount for the scheme.
- (2) Subject to subsection (1), the amount in a contributor's benefit that is a preserved amount for the scheme is as follows—
  - (a) for a contributor's benefit under section 299(1)—the amount of the benefit that may be taken as a lump sum that is in excess of the contributor's 1999 cashable amount;
  - (b) for a contributor's benefit under section 299(4)—
    - (i) if the contributor has not reached 55 years—the whole amount of the benefit; or
    - (ii) otherwise—the amount of the benefit that is in excess of the contributor's 1999 cashable amount.

#### **281 Ascertainment of certain final average salaries**

- (1) Where a contributor, on or after the passing of the *Superannuation Acts Amendment Act 1984*, retires from employment as a member otherwise than by retiring or being retired on the ground of incapacity and has
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received  $t$  increase(s) in salary (where  $t$  is a positive whole number) by reason of  $t$  promotion(s) received by the contributor on or after the passing of that Act and during the 2 years immediately preceding the contributor attaining the age for retirement or the contributor's earlier retirement, the contributor's final average salary shall be ascertained in accordance with the formula—

if  $t = 1$

$$FAS_t = A + \left[ (B_t - A) \frac{n_t}{24} \right]$$

if  $t$  is greater than 1

$$FAS_t = FAS_{t-1} + \left[ (B_t - B_{t-1}) \frac{n_t}{24} \right]$$

(2) In subsection (1)—

$A$  means the contributor's final average salary had the contributor not received any increases in salary by way of promotion(s).

$B_t$  means the contributor's final average salary had the contributor held the  $t^{\text{th}}$  promotion for the period of 1 year immediately preceding the contributor attaining the age for retirement or the contributor's earlier retirement from employment as a member.

$FAS_t$  means the final average salary after  $t$  promotion(s) to be ascertained.

$n$  means the number of whole months from the date on which the contributor received the  $t^{\text{th}}$  promotion until the day immediately preceding the day the contributor attained the age for retirement or the contributor's earlier retirement from employment as a member.

## Part 2 Contributions

### 282 Obligation of members to contribute to the fund and consolidated fund

- (1) A member must contribute to the fund under this part.
  - (1A) A member is taken to contribute to the fund under this part if contributions are made by the member's employer under an arrangement with the employer.
  - (2) If a member (being so required) has not been medically examined in accordance with section 316 within 6 months after becoming a member who is required under this chapter to contribute to the fund or such extended time as the board may in special circumstances allow, the member shall be entitled to no benefits under this chapter other than the payment of a sum of money equal to the amount of the member's contributions thereunder to the fund.
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- (3) Except where it is otherwise expressly provided by this chapter, where a contributor is absent from duty for any period without pay or on less than full pay the contributor shall continue to contribute to the fund during that period at the rate at which the contributor would have been required to contribute thereto if the contributor had continued to receive full pay in respect of that period.
- (4) If for any reason a contributor referred to in subsection (3) becomes entitled to an increase in salary whilst the contributor is absent from duty as hereinbefore referred to, the contributor's obligation to contribute to the fund shall be to contribute at a rate calculated by reference to the salary as so increased.
- (5) Where absence from duty referred to in subsections (3) and (4), other than sick leave of absence without pay, is for a continuous period of 14 days or more (whether or not working days) the contributor shall, unless the contributor elects pursuant to subsection (6), in addition to continuing to contribute to the fund as provided by subsections (3) and (4) pay to the consolidated fund for the period, an amount determined by the Treasurer.
- (6) A contributor who would be required to pay additional amounts to the consolidated fund under subsection (5) may elect in writing furnished to the board not to pay contributions to the fund in respect of the period of the contributor's absence whereupon—
  - (a) contribution to the fund in respect of the contributor shall cease to be payable in respect of the period of the absence; and
  - (b) the board shall waive the additional payments to the consolidated fund (if any) that would be required by that subsection to be made by the contributor; and
  - (c) the benefits to which the contributor or the contributor's dependants may become entitled under this chapter shall be reduced by such amounts as are determined by the actuary and approved by the board.
- (7) The Governor in Council may waive the requirement under subsection (5) to make additional payments to the consolidated fund either unconditionally or upon such terms and conditions as the Governor in Council determines, either in a particular case or in respect of a class of case, and such waiver shall be given effect.

### **283 Commencement and cessation of contributions**

- (1) The contributions under this chapter of a member commence from the day the member's salary commences because of his or her appointment as a member.
  - (2) A member's contributions cease to be payable on the last day of the fortnightly pay period last preceding the day on which—
    - (a) the member ceases to be a member; or
    - (b) the member attains the age for retirement; or
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- (c) the member's service as a member, ascertained as prescribed by section 289, equals 42 years and 6 months;

whichever first occurs.

## **284 Time and manner of paying contributions**

- (1) Except as otherwise expressly provided in this chapter, the contributions of a member shall be payable periodically from the member's salary at such intervals and in such manner as may be prescribed and shall be deducted from salary payable to the member accordingly, and, until otherwise prescribed, shall be payable by the member and deducted fortnightly from the member's salary.
  - (1A) The contributions of a member are taken to be paid from the member's salary if the contributions are made by the member's employer under an arrangement with the employer.
  - (2) The deductions shall be made for the first time in each case on the first payday occurring after the contributions in respect of which they are to be made commence, as provided by section 283(1), and the full amount of all deductions so made shall be paid into the fund.
  - (3) A contributor who, pursuant to section 282(3), (4) or (5), is required to pay contributions to the fund and to make additional payments to the consolidated fund in respect of a period of absence from duty—
    - (a) shall, before commencing the period of absence, pay to the fund and consolidated fund—
      - (i) the total amount of contributions that the contributor is required to pay under this chapter for the period of absence; and
      - (ii) the total amount that the contributor is required to pay pursuant to section 282(5); or
    - (b) shall before commencing the period of absence, make arrangements satisfactory to the board for payment of the total amount of contributions and payments that the contributor is so required to pay.
  - (4) Where a contributor to whom subsection (3) applies does not comply with subsection (3)(a) or (b) the benefits to which the contributor or the contributor's dependants may become entitled under this chapter may be reduced by such amounts as are determined by the actuary and approved by the board.
  - (5) Where a contributor—
    - (a) is on leave of absence without pay; or
    - (b) is on sick leave on less than full pay; or
    - (c) is under suspension without salary or at less than full salary; or
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- (d) for any reason (other than any misconduct or default on the contributor's part) is receiving remuneration at a rate less than the rate of pay for the time being applicable to the contributor's position;

the board, on the application of the contributor, may permit the contributor to defer his or her contributions and the payment of any amount required by section 282(3), (4) and (5) to be paid by the contributor for such period as the board may approve, subject to such conditions as to the future payment of the contributor's contributions and other such amount as the board may impose (including conditions as to the payment of interest, at such rate (if any) as is determined by the board, on the contributions and other such amount so deferred) but save as permitted by the board pursuant to this subsection, the contributor shall contribute and otherwise make payment to the fund at the times and in the manner prescribed.

- (6) Any amount of the contributions and other payments prescribed by this chapter or chapter 6 to be made by a contributor not paid by deduction from the contributor's salary as prescribed by subsections (1) and (2) shall, subject to subsection (5), be paid in such manner as the board directs and, if directed by the board, may be deducted from the contributor's salary in addition to the deductions from the contributor's salary as prescribed by subsections (1) and (2) but the board may waive payment thereof wholly or in part.
- (7) Notwithstanding the foregoing provisions of this section, the board may recover by action as for a debt any amount of the contributions and other payments as aforesaid to be made by a contributor which is due and unpaid.
- (8) For the purposes of subsections (6) and (7), an amount of unpaid contribution or other payment includes interest on the amount calculated at the rate at which earnings would have accrued to the fund had the amount been paid to the fund.
- (9) If a contribution or other payment payable by a contributor is unpaid (the *unpaid amount*), the board may determine the rights of the contributor to benefits under this chapter.
- (10) If the board makes a determination under subsection (9), the board must pay to the contributor an amount equal to the amount of all contributions and other payments payable by the contributor under this chapter to the day of determination (accumulated on and after 27 February 1984 at the applicable rate) less the unpaid amount and interest on the unpaid amount calculated at the rate at which earnings would have accrued to the fund had the amount been paid to the fund.
- (11) However, the board may waive the taking into account of interest on the unpaid amount in whole or part.
- (12) Except where it is otherwise provided by this chapter, a contributor—
- (a) shall continue to contribute as prescribed to the fund until the contributor attains the age for retirement or the contributor's employment as a member is sooner terminated by earlier retirement, death, resignation or otherwise howsoever; and
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- (b) shall, in respect of a period of leave of absence, with or without pay, pay contribution, as for a period of service, without reduction.
- (13) In subsection (10)—
- applicable rate* means—
- (a) in relation to a period starting on or after 27 February 1984 and ending on or before 30 June 1990—5% per year compound; or
  - (b) in relation to a period starting on or after 1 July 1990—the net earning rate of the fund compound.

## 285 Rates of contribution

- (1) The amount of the contributions payable by a continuing contributor (other than a member to whom subsection (2) applies) is the prescribed percentage of the amount by which the contributor's applicable current salary exceeds the contributor's applicable initial salary.
  - (2) The amount of the contributions payable by a contributor who became a member on or after the commencement is the prescribed percentage of the contributor's applicable current salary.
  - (3) Contributions payable under subsections (1) and (2) are payable—
    - (a) periodically; and
    - (b) in addition to any contributions payable to the fund under chapter 6.
  - (4) A member who made an election under section 24(4) of the *1974 Act* to increase the rate of his or her contributions must continue to contribute to the fund under this chapter at the rate decided by the board under section 24(4) of the *1974 Act* in addition to the rate prescribed by this chapter (other than this subsection).
  - (5) Where by reason that a member becomes a contributor on or after the commencement of the *Police Superannuation Acts Amendment Act 1977* and after the member has attained the age of 20 years, the length of the member's service, ascertained for the purposes of calculating the pension to be paid to the member under this chapter if the member attains the age for retirement, will not amount to 40 years, the member may elect within a period of 2 months after the member becomes a member to increase the rate of the member's contribution and the board may determine that the additional rate over and above the contributions that, but for this subsection, would have been payable by the member shall be a sum calculated at such rate as the board, after consultation with the actuary, may determine, being a rate that, having regard to the fact that payments by the Crown will be in relation only to contributions by the member that would be payable but for this subsection, will enable the length of service for the purpose of calculating the pension to be paid to the member under this chapter to be regarded as the length of service ascertained in accordance with the board's determination under subsection (7) but not exceeding 40 years, and thereupon the member shall be deemed to be
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required to contribute to the fund at the rate so determined in addition to the rate prescribed by this chapter (other than this subsection).

- (6) A member who made an election under section 24(5) of the *1974 Act* to increase the rate of his or her contributions must continue to contribute to the fund under this chapter at the rate decided by the board under section 24(5) of the *1974 Act* in addition to the rate prescribed by this chapter (other than this subsection).
  - (7) Where the board has made a determination under subsection (4), (5) or (6) in relation to a member, the board may determine that, for the purpose of calculating the pension to be paid to the member under part 3, the member's length of service as a member shall be regarded as being equal to the member's actual length of service ascertained in accordance with this chapter plus such additional length of service as the board, after consultation with the actuary, may determine and thereupon this chapter shall apply to the member accordingly.
  - (8) Where the board has made a determination under subsection (4), (5) or (6) upon the election of a member and the contributor satisfies the board that payment of such additional rate of the contribution by the member is causing the member undue hardship, the board may cancel its determination or vary the same by reducing, with the approval of the actuary, the additional rate of contributions to be paid by the contributor.
  - (9) Where in respect of a contributor the board, pursuant to subsection (8), cancels a determination under subsection (4), (5) or (6), any determination under subsection (7) in respect of additional length of service of the contributor shall likewise be cancelled and cease to apply to or in respect of the contributor and the board shall make to the contributor a refund of such part of the contributor's contributions to the fund pursuant to subsection (4), (5) or (6) as the actuary determines is justified having regard to the reduced liability of the fund.
  - (10) Where in respect of a contributor the board pursuant to subsection (8) varies a determination under subsection (4), (5) or (6), it shall make an appropriate variation of its consequential determination under subsection (7) of additional length of service in respect of the contributor and this chapter shall apply as if the determinations as so varied were at all relevant times the determinations originally made on the election of the contributor and the board shall make to the contributor a refund of such part of the contributor's contributions pursuant to subsection (4), (5) or (6) as the actuary determines is justified having regard to the reduced liability of the fund.
  - (11) Despite subsections (1) and (2), if the salary of a contributor is reduced, the contributor shall thereupon contribute to the fund in relation to the reduced rate of the contributor's salary and the board shall make to the contributor a refund of such part of the contributor's contributions to the fund as the actuary determines is justified having regard to the reduced liability of the fund, by reason of the reduction in salary, in respect of the prospective entitlement of the officer to benefits under this chapter and thereupon for the purpose of calculating the contributor's entitlement to benefits under this chapter the contributor's rate of salary in respect of any
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period before the time the contributor's salary was reduced shall be deemed not to have been in excess of the rate to which the contributor's salary was so reduced.

- (12) Where a contributor has paid to the fund contributions in excess of those prescribed by this chapter, the board shall refund to the contributor such sum of money in respect of those contributions as is determined by the actuary and approved by the board.

- (13) In this section—

***applicable current salary***, of a contributor, means the contributor's applicable starting salary varied, in the first full fortnightly pay period in November of each year (the ***adjustment year***), to the contributor's salary at 1 October in the adjustment year if the contributor was a contributor on that day.

***applicable initial salary***, of a contributor, means the contributor's salary at the commencement.

***applicable starting salary***, of a contributor, means the contributor's salary at—

- (a) 30 June 1993; or
- (b) if the contributor starts to contribute under this chapter after 30 June 1993—the day on which the contributor starts to contribute.

***commencement*** means the commencement of the *1974 Act*.

*Editor's note—*

The *1974 Act* commenced 1 January 1975 (see 1974 No. 53 s 1(3)).

***prescribed percentage*** means the percentage prescribed under section 287(4).

## **286 Provision for female contributors to contribute for benefits under pt 4, divs 2 and 3 of the 1974 Act**

- (1) This section applies to a female member who made an election under section 24A of the *1974 Act* and became entitled to increase the rate of her contribution to the fund sufficient to secure for her the benefits provided for by part 4, divisions 2 and 3 of the *1974 Act*.
- (2) The additional rate of contribution payable by the member continues to be the rate decided by the board under section 24A(3) of the *1974 Act*.
- (3) If in relation to a contributor by whom an additional rate of contribution is payable pursuant to this section the board makes a determination under section 285(8) that cancels or varies a board's determination made under section 285(4), (5) or (6) in relation to that contributor, the additional rate of contribution payable by the contributor pursuant to this section shall be adjusted having regard to that cancellation or variation, the ascertainment of the contributor's length of service for the purposes of this section shall
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be adjusted accordingly and the board shall make to the contributor a refund of such part of her contributions to the fund pursuant to this section as the actuary determines is justified, having regard to the reduced liability of the fund.

## 287 Further provisions re contributions

- (1) In this part—  
*salary*, in relation to a member, means—
    - (a) the fortnightly salary of the member; or
    - (b) where the periodic interval at which the member's contribution to the fund is deducted from the member's salary is based upon a period other than a fortnight—the salary of the member for that period.
  - (2) The fortnightly, or other periodic, salary of a member who is paid salary at a rate other than a fortnightly rate or, as the case may be, other periodic rate shall be ascertained as prescribed and different such prescriptions may be made in respect of the members included in different classes of members.
  - (3) If the salary of a contributor is varied, then, for the purpose of calculating under section 285 the amount of contribution payable by the contributor, the salary as varied is the contributor's salary on and from the day the variation takes or took effect.
  - (4) For the purposes of section 285 the prescribed percentage shall be—
    - (a) in the case of a male contributor or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—
      - (i) who has attained the age of 20 years but has not attained the age of 25 years at the said time—6%; or
      - (ii) who has attained the age of 25 years but has not attained the age of 35 years at the said time—6.5%; or
      - (iii) who has attained the age of 35 years at the said time—7%; or
    - (b) in the case of a female contributor who was a contributor immediately before the passing of the *Superannuation Acts Amendment Act 1984*—
      - (i) who has attained the age of 20 years but has not attained the age of 25 years at the said time—5%; or
      - (ii) who has attained the age of 25 years but has not attained the age of 35 years at the said time—5.5%; or
      - (iii) who has attained the age of 35 years at the said time—6%.
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- (5) For section 285, the prescribed time is 2 months after a member becomes a contributor.

## **Part 3 Benefits and payments**

### **Division 1 Benefits transferred to accumulation account**

#### **288 Accumulation account**

If a benefit is payable under this chapter to a member, other than by way of a pension, the board must credit the member's accumulation account with the amount of the benefit.

### **Division 2 Contributors' pensions and other benefits**

#### **289 Calculation of service**

For the purpose of calculating the pension to be paid to a contributor under this division—

- (a) any service as a member, before attaining the age of 20 years shall be disregarded in ascertaining the contributor's length of service; and
- (b) if, under paragraph (a), the contributor's length of service as a member is more than 40 years—the contributor's length of service is taken to be 40 years; and
- (c) where the contributor is a person in relation to whom a determination has been made by the board under section 285(7)—the contributor's length of service shall, unless otherwise expressly provided by this chapter, be deemed to be the length of the contributor's service ascertained in accordance with the board's determination; and
- (d) any reduction in benefits determined by the actuary and approved by the board in respect of contributors to whom sections 282(6) and 284(3) apply shall be taken into account.

#### **290 Rights of contributors**

- (1) Where a contributor (other than a continuing contributor)—
    - (a) retires on attaining the age for retirement; or
    - (b) before attaining the age for retirement, is retired or permitted to retire on the ground of incapacity not due to wilful action on the
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contributor's part for the obtaining of any benefit under this chapter;  
or

- (c) elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement;

the contributor is entitled to a pension calculated in accordance with the provisions of this section.

- (2) Before a contributor is entitled to a pension in accordance with subsection (1)(b) the contributor is to satisfy the board that the incapacity is such as to render that contributor permanently unfit to discharge efficiently or permanently incapable of discharging efficiently the duties of that contributor's office.
- (3) Except as otherwise expressly provided in this section the pension to be paid to a contributor to whom subsection (1) relates is a fortnightly sum calculated in accordance with the formula—

$$P = \frac{K}{100} \times A \left( \frac{3B}{160} + \frac{F}{62.5} \right)$$

- (4) In subsection (3)—

*A* means the final average salary of the contributor.

*B* means the contributor's length of service, expressed in years, accumulated before 1 July 1988.

*F* means the contributor's length of service, expressed in years, accumulated on and from 1 July 1988 or, in the case of a contributor who becomes entitled to an incapacity pension, that would have been accumulated on and from that date had the contributor continued in service until the contributor attained the age for retirement.

*K* means  $85 + 3$  (age at retirement in years and complete months – 55).

*P* means the fortnightly amount of that pension.

- (5) For the purpose of calculating the pension to be paid to a contributor to whom subsection (1)(b) relates, the contributor's length of service shall be calculated as if the contributor had continued to be a member until the day on which the contributor would have attained the age for retirement.
- (6) Where a contributor to whom subsection (1) relates (not being a contributor who has made an election under section 285(4) the determination in relation to which has not been cancelled by the board pursuant to section 285(8)), after attaining the age for retirement, continues to be a member the contributor is entitled—
- (a) on attaining the age for retirement to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have
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been entitled under this section if the contributor had retired on attaining the age for retirement; and

- (b) on retiring or being retired from employment as a member to an increase in the pension payable under paragraph (a), which shall then become payable at the rate of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement.
- (7) Where a contributor to whom subsection (1) relates who has made an election under section 285(4) the determination in relation to which has not been cancelled by the board pursuant to section 285(8) of that section, continues after attaining the age for retirement, to be a member the contributor is entitled—
- (a) on attaining the age for retirement—
    - (i) to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have been entitled under this section if section 285(4) had not been enacted and the contributor had retired on attaining the age for retirement; and
    - (ii) to a pension determined by the board upon the advice of the actuary being a pension based upon the additional contributions made by the officer under section 285(4); and
  - (b) on retiring or being retired from employment as a member to an increase in the pension payable under paragraph (a), which shall then become payable at the rate of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement.
- (8) A member who—
- (a) becomes a contributor after the commencement of the *Police Superannuation Acts Amendment Act 1979*; and
  - (b) makes an election under section 285(5); and
  - (c) elects to retire in accordance with subsection (1)(c);

is entitled to a pension in respect of the additional service determined under section 285(7), calculated in accordance with the formula—

$$P = A \left( \frac{K}{100} \times \frac{N \times 3}{160} \times \frac{M - C}{60 - C} \right)$$

if the member became a contributor before 1 July 1988 or in accordance with the formula—

$$P = A \left( \frac{K}{100} \times \frac{N}{62.5} \times \frac{M - C}{60 - C} \right)$$


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if the member became a contributor on or after 1 July 1988, in addition to the pension to which the contributor would have been entitled if the contributor had not made the election.

*Editor's note—*

*Police Superannuation Acts Amendment Act 1979* commenced 1 January 1980 (see 1979 No. 60 s 2).

(9) In subsection (8)—

**A** means the final average salary of the contributor.

**C** means the age (expressed in years and complete months) of the contributor at the date the contributor commences to be a contributor.

**K** means  $85 + 3$  (age at retirement in years and complete months – 55).

**M** means the age (expressed in years and complete months) of the contributor at the date of retirement.

**N** means the additional length of service determined by the board under section 285(7).

**P** means the fortnightly amount of the pension payable to the contributor.

(10) Where a contributor to whom subsection (1) relates who has made an election under section 285(5) the determination in relation to which has not been cancelled by the board pursuant to section 285(8) continues, after attaining the age for retirement, to be a member, the contributor is entitled—

(a) on attaining the age for retirement—

(i) to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have been entitled under this section if section 285(5) had not been enacted and the contributor had retired on attaining the age for retirement; and

(ii) to a pension determined by the board upon the advice of the actuary being a pension based upon the additional contributions made by the member under section 285(5); and

(b) on retiring or being retired from employment as a member to an increase in the pension payable under paragraph (a)(i), which shall then become payable at the rate of pension to which the contributor would have been entitled under this section if section 285(5) had not been enacted and the contributor had retired on attaining the age for retirement.

(11) The rate of the pension to which a contributor is entitled under this section shall not, in any case, exceed a rate equal to three-quarters of the final average salary of the contributor.

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**291 Rights of continuing contributors**

- (1) Where a continuing contributor—
- (a) retires on attaining the age for retirement; or
  - (b) before attaining the age for retirement, is retired or permitted to retire on the ground of incapacity not due to wilful action on the contributor's part for the obtaining of any benefit under this chapter; or
  - (c) elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement;

the contributor is entitled to a pension calculated in accordance with the provisions of this section.

- (2) Except as otherwise expressly provided in this section, the pension to be paid to a contributor to whom subsection (1) relates, in addition to the benefits to which the contributor may be entitled under chapter 6, is a fortnightly sum calculated in accordance with the formula—

$$P = \frac{K}{100} \times A \left( \frac{3B}{160} + \frac{F}{62.5} \right)$$

- (3) In subsection (2)—

*A* means the final average increase in salary of the contributor.

*B* means the contributor's length of service, expressed in years, accumulated before 1 July 1988.

*F* means the contributor's length of service, expressed in years, accumulated on and from 1 July 1988 or, in the case of a contributor who becomes entitled to an incapacity pension, that would have been accumulated on and from that date had the contributor continued in service until the contributor attained the age for retirement.

*K* means  $85 + 3$  (age at retirement in years and complete months  $- 55$ ).

*P* means the fortnightly amount of that pension.

- (4) For the purpose of calculating the pension to be paid to a continuing contributor to whom subsection (1)(b) relates, the contributor's length of service shall be calculated as if the contributor had continued to be a member until the day on which the contributor would have attained the age for retirement.
- (5) Where a continuing contributor, after attaining the age for retirement, continues in employment as a member, the contributor is entitled, in addition to any benefits to which the contributor may be entitled under chapter 6—

- (a) on attaining the age for retirement to a pension calculated at the rate of two-sevenths of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement; and
  - (b) on retiring or being retired from employment as a member to an increase in the pension payable under paragraph (a), which shall then become payable at the rate of the pension to which the contributor would have been entitled under this section if the contributor had retired on attaining the age for retirement.
- (6) The rate of the pension to which a contributor is entitled under this section shall not, in any case, exceed a rate equal to three-quarters of the final average increase in salary of the contributor.

## **292 Construction of pension benefit formula in certain cases and transfer of funds**

- (1) Sections 290 and 291 apply subject to this section.
- (2) In the case of—
  - (a) a contributor who, before attaining the contributor's age for retirement, is retired or permitted to retire on the ground of incapacity not due to wilful action on the contributor's part for the obtaining of any benefit under this chapter;

the formula prescribed by any provision of section 290 or 291 shall be read and construed as if the formula had not been amended by section 26 or 27, as the case may be, of the *Superannuation Acts Amendment Act 1988*.

- (3) Where a benefit is paid to a contributor referred to in subsection (2) or a benefit is paid under section 294 in respect of a contributor, the amount standing to the credit of the fund established under the *Superannuation (Government and Other Employees) Act 1988* on account of such sums as are required to be paid under section 15 of that Act as at the date of commencement of section 6.4 of the *Superannuation (Miscellaneous Acts) Amendment Act 1991* in respect of the contributor shall be transferred to the fund and the consolidated fund in the proportion 2:5.

*Editor's note—*

*Superannuation (Miscellaneous Acts) Amendment Act 1991*, section 6.4 commenced 11 May 1991 (see proc pubd gaz 4 May 1991 p 73).

## **Division 3 Benefits upon contributor's death**

### **293A Meaning of spouse for div 3**

In this division—

**spouse**, of a person who is a relict, means the contributor or pensioner as a result of whose death the person became a relict.

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**294 Entitlement to benefit**

- (1) Subject to subsections (3) and (4), in respect of—
- (a) a male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*; or
  - (b) a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 286; or
  - (c) a contributor who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*;

a relict of the contributor or, except in a case to which section 296(3)(b) applies, if there be no relict, the legal personal representative of the contributor or other individual approved by the board is entitled to the payment of an amount calculated—

- (d) if the contributor was under 55—in accordance with the formula—

$$A = B \times C \times \frac{(D - 5)}{D} ; \text{ or}$$

- (e) if the contributor was 55 or more—in accordance with the formula—

$$A = B \times C \times \frac{(D - E)}{D}$$

- (2) In subsection (1)(d)—

*A* means the amount payable.

*B* means the fortnightly amount of pension that would have been payable to the contributor if he or she had retired and become eligible for an incapacity pension immediately before his or her death.

*C* means the factor set out in schedule 26 opposite the age in years of the contributor as at the date of his or her death.

*D* means the length of service of the contributor, expressed in years, ascertained as prescribed by section 289 as if he or she had retired and become eligible for an incapacity pension immediately before his or her death.

- (3) In subsection (1)(e)—

*A* means the amount payable.

*B* means the fortnightly amount of pension that would have been payable to the contributor if he or she had retired and become eligible for an incapacity pension immediately before his or her death.



**C** means the factor set out in schedule 27 opposite the age in years and complete months of the contributor as at the date of his or her death.

**D** means the length of service of the contributor, expressed in years, ascertained as prescribed by section 289, as if he or she had retired and become eligible for an incapacity pension immediately before his or her death.

**E** means the difference between the contributor's age in years and complete months as at the date of his or her death and the age for retirement of that contributor.

(4) Subject to subsection (7), a relict of—

(a) a male pensioner who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984*; or

(b) a male pensioner who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of his death was entitled or, but for the operation of section 309, would have been entitled to a pension from the fund; or

(c) a female pensioner who—

(i) became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*; or

(ii) became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 286;

and who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of her death was entitled or, but for the operation of section 309, would have been entitled to a pension from the fund;

is entitled to the payment of an amount calculated in accordance with the formula—

$$A = B \times C$$

(5) In subsection (4)—

**A** means the amount payable.

**B** means the fortnightly amount of pension to which his or her spouse was entitled or, but for the operation of section 309, would have been entitled immediately before his or her death or, in the case of a spouse who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* and whose entitlement to a contributor's pension had ceased or had been reduced by reason of an election under section 312, would have been entitled immediately before his or her death

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if the contributor had not made the election and where the spouse was a member who had not retired as if the spouse had retired.

*C* means the factor set forth in schedule 28 opposite the age at nearest birthday of the relict as at the date of the spouse's death.

- (6) Where the contributor or pensioner through whom entitlement to an amount is derived under this section is or was a male continuing contributor immediately before he or she finally ceased to contribute to the fund the entitlement to an amount under this section is in addition to the benefits (if any) derived through the contributor or pensioner under chapter 6.
- (7) Where the contributor or pensioner through whom entitlement to an amount is derived under this section is or was a female continuing contributor who had increased the rate of her contribution to the fund pursuant to section 286 an amount shall be payable to the relict or other person entitled to an amount under this section (other than this subsection) determined by the actuary and approved by the board in lieu of the amount prescribed by subsection (1) or (4).
- (8) In this section—

*relict* means a relict of a contributor or pensioner who dies on or after the commencement of section 40 of the *Superannuation (Public Employees Portability and Acts Amendment) Act 1985*.

*Editor's note—*

*Superannuation (Public Employees Portability and Acts Amendment) Act 1985*, section 40 commenced 4 May 1985 (see proc pubd gaz 4 May 1985 p 307).

- (9) The benefit prescribed by subsection (1) to accrue in the absence of a relict of a contributor shall be taken to accrue only in respect of a contributor who dies on or after the passing of the *Superannuation Acts Amendment Act 1987*.
- (10) In subsection (4)(a)—
- pensioner* does not include a person who was retired or permitted to retire on the grounds of incapacity and has made an election under section 312.

## 295 Relicts' right to substitute pension for entitlement

- (1) Subject to this section, a relict entitled to the payment of an amount pursuant to section 294 may elect not to receive that amount or a part of that amount and to receive in lieu a relict's pension on and from the date following the day of his or her spouse's death calculated in accordance with the formula—

$$P = B \times C \times .667$$

- (2) In subsection (1)—

*B* means—

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- (a) in the case of a relict of a contributor—the fortnightly amount of pension that would have been payable to the contributor if he or she had retired and become eligible for an incapacity pension immediately before his or her death; or
- (b) in the case of a relict of a pensioner—the fortnightly amount of pension to which his or her spouse was entitled or, but for the operation of section 309, would have been entitled immediately before his or her death or, in the case of a spouse who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* and whose entitlement to a contributor's pension had ceased or had been reduced by reason of an election under section 312, would have been entitled immediately before his or her death if he or she had not made the election and, where the spouse was a member who had not retired, as if the spouse had retired.

**C** means a fraction that is the equivalent of the percentage of the amount of entitlement in respect of which the relict desires to substitute a relict's pension.

**P** means the fortnightly amount of relict's pension.

- (3) An election under subsection (1)—
  - (a) shall be in writing; and
  - (b) shall be made within 6 months after the date on which the entitlement to payment of the amount to the relict arises; and
  - (c) shall specify the percentage of the amount of entitlement in respect of which the applicant desires to substitute a relict's pension.
- (4) This section does not apply to the relict of—
  - (a) a person who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*; or
  - (b) a female who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 286;

unless in the board's opinion the relict was wholly financially dependent upon the deceased person immediately before his or her death.

- (5) For the purposes of subsection (4) a relict shall be taken to be wholly financially dependent notwithstanding that he or she is in receipt of an income that in the board's opinion is insufficient to maintain for the relict a reasonable standard of living.
  - (8) A relict who again becomes widowed shall not be entitled to a pension under this section if an amount becomes payable to the relict under section 294 in the event of his or her so becoming widowed unless the relict elects
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as prescribed to forgo entitlement to that amount and, in the case of a widowed female, to any benefit to which she is entitled pursuant to section 239 of chapter 6 in the event of her so becoming widowed.

- (9) An election under subsection (8)—
- (a) shall be in writing; and
  - (b) shall be made within 6 months after the date on which the relict so becomes widowed.
- (10) Where the contributor or pensioner through whom entitlement to an amount is derived under section 294 is or was a female continuing contributor who had increased the rate of her contribution to the fund pursuant to section 286, a relict's pension shall be payable to the relict where the relict elects as prescribed by subsection (3) at a rate determined by the actuary and approved by the board in lieu of the rate prescribed by subsection (1).
- (11) If a person was entitled to a pension under this section but, under section 295(6) of the *Superannuation (State Public Sector) Deed 1990* as in force before the commencement day, the pension stopped being payable—
- (a) subject to subsection (8), the person's entitlement to a pension under this section resumes from the commencement day; and
  - (b) if subsection (8) applies to the person, the person may make an election under subsection (8) within 6 months after the commencement day.
- (12) In this section—
- commencement day* means the day subsection (11) commences.

## **Division 4 Children's pensions**

### **295A Meaning of *spouse* for div 4**

- (1) In this division—
- spouse* of a contributor or pensioner who has died before the discrimination law commencement—
- (a) means a person who—
    - (i) was the contributor's or pensioner's husband or wife; or
    - (ii) although not married to the contributor or pensioner, lived with the contributor or pensioner on a genuine domestic basis as the contributor's or pensioner's husband or wife; but
  - (b) does not include a person who permanently lived separately and apart from the contributor or pensioner.
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- (2) This section applies despite the *Acts Interpretation Act 1954*, section 32DA(6).

**296 Child's pension – when payable**

- (1) A pension is payable under this chapter in respect of every child to whom this section applies until he or she ceases to be a child.
- (2) This section applies to the following children—
- (a) every child of a deceased male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*;
  - (b) every child of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had not increased the rate of her contribution to the fund pursuant to section 286 where in the opinion of the board the child was wholly dependent on the contributor when she died;
  - (c) every child of a deceased female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 286;
  - (d) every child of a deceased contributor who became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*;
  - (e) every child of a deceased male pensioner who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* other than a person retired on account of incapacity who has made an election under section 312;
  - (f) every child of a deceased male pensioner who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of his death was entitled to or, but for the operation of section 309, would have been entitled to a pension from the fund;
  - (g) every child of a deceased female pensioner who—
    - (i) became a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*; or
    - (ii) became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had increased the rate of her contribution to the fund pursuant to section 286;

and who attained the age for retirement or retired on or after the passing of the *Superannuation Acts Amendment Act 1984* and who at the date of her death was entitled to or, but for the operation of section 309, would have been entitled to a pension from the fund;

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- (h) every child of a relevant female pensioner who—
  - (i) being other than a person retired on account of incapacity who has made an election under section 312, retired before the passing of the *Superannuation Acts Amendment Act 1984*; or
  - (ii) retired after the passing of the *Superannuation Acts Amendment Act 1984* and at the date of her death was entitled to or, but for the operation of section 309, would have been entitled to a pension from the fund;

where in the opinion of the board the child was wholly dependent on the pensioner when she died.

(2A) This section also applies to a child of a person if—

- (a) the person has converted into a lump sum, under section 312, a benefit to which the person was entitled because of an incapacity; and
- (b) the incapacity was caused by a medical condition (the ***primary medical condition***); and
- (c) the person dies within 1 year after the day of payment of the benefit; and
- (d) in the opinion of the board, the death was caused by—
  - (i) the primary medical condition; or
  - (ii) a medical condition related to the primary medical condition; and
- (e) if the person is a relevant female pensioner—the child was, in the opinion of the board, wholly dependent on the person when the person died.

(3) Subject to subsection (4A), a pension that is payable under this section is payable—

- (a) where the relict of the person through whom the pension is derived under subsection (2) is living—at the rate of \$50 per fortnight adjusted in accordance with the cost of living adjustment provided for in section 300 from and including the first pay period that occurs wholly in August 1987; and
  - (b) in any case other than a case to which paragraph (a) applies—at a rate equal to a percentage in accordance with the following table of—
    - (i) in the case of a child of a contributor who dies before attaining the age for retirement—the pension that would have been payable to the contributor if the contributor had retired and
-

become eligible for an incapacity pension immediately before the contributor's death;

- (ii) in the case of a child of a contributor who has continued in the contributor's employment as a member after attaining the age for retirement—the pension that would have been payable to the contributor immediately before the contributor's death if the contributor had retired on attaining the age for retirement;
- (iii) in the case of a child of a person who attained the age for retirement or retired before the passing of the *Superannuation Acts Amendment Act 1984* whose entitlement to a contributor's pension had ceased or had been reduced by reason of an election under section 312—the pension that would have been payable to that person immediately before the contributor's death if the contributor had not made the election, and, in the case of a member who had not retired, as if the contributor had retired;
- (iv) in any other case—the pension payable to the person through whom the entitlement to the child's pension is derived immediately before his or her death—

**Table**

1 child	66.7%
2 or more children	100% divided by the number of children in respect of each child.

- (4) However, each child who is entitled to a pension under subsection (3)(b) shall be paid a fortnightly rate of pension so that, when that rate is added to any rate of benefit to which the child is entitled under chapter 6, the total rate payable shall be at least equal to twice the fortnightly rate of pension that the child would have been paid had the child been a case to which subsection (3)(a) applies.
  - (4A) A pension payable under this section to a child mentioned in subsection (2A) is payable at the rate mentioned in subsection (3)(a).
  - (5) The cases to which the provisions subsections (3) and (4) apply includes the case of a child's pension payable immediately before the passing of the *Superannuation Acts Amendment Act 1987*.
  - (6) A child who is entitled under subsection (3)(a) or (4A) to payment of a child's pension in respect of him or her shall not be entitled to additional assurance benefits under chapter 6.
  - (7) Where on or after 1 July 1974 a child becomes entitled to a pension under any other provision of this section and the person through whom the child derives the entitlement was immediately before the person's death entitled to receive a pension under this chapter or but for an election under section 312 would have been so entitled, the pension to which the child is entitled is a pension calculated in accordance with the formula—
-

$$P = A \times \frac{B}{C}$$

- (8) In subsection (7)—

**A** means the fortnightly amount of the pension that would have been payable to the child but for subsection (7).

**B** means the fortnightly amount of the pension that was payable under this chapter to the person through whom the child in question derives the entitlement or, in a case where that person had made an election under section 312, or that person was a person to whom section 306 applied, that would have been payable but for the election or the said section 306, immediately before the death of that person.

**C** means the fortnightly amount of the pension (being the pension to which the definition B refers) that was payable under division 2 to the person through whom the child derives the entitlement on that person becoming entitled thereto or that would have been so payable but for section 306.

**P** means the fortnightly amount of the pension payable to the child.

- (9) Where by reason of the death of a contributor or a pensioner the only entitlement derived through the contributor or pensioner is an entitlement to a child's pension arising on or after the passing of the *Superannuation Acts Amendment Act 1984* and before the passing of the *Superannuation Acts Amendment Act 1987* the amount of pension payable in respect of the child or, where there are more than 1 child who derive the entitlement, in respect of all of them shall equal at the least the amount that would be payable in respect of 1 child (being a child deriving the entitlement through that contributor or pensioner) under this section for a period of 5 years calculated at the rate at which a pension was payable in respect of 1 child (being a child deriving the entitlement through that contributor or pensioner) at the date when the entitlement to the pension in question commenced.
- (10) Where by reason of the death of a contributor or a pensioner the only entitlement derived through the contributor or pensioner is an entitlement to a child's pension arising on or after the passing of the *Superannuation Acts Amendment Act 1987* and the amount of pension payable in respect of the child or, where there are more than 1 child who derive the entitlement, in respect of all of them (disregarding for the purpose of calculating that amount any increase in the rate of pension payable since the time when the entitlement arose) is less than the amount that would have been payable under section 294 to the relict of the person through whom the entitlement is derived, had the person left a relict upon the person's death, there shall be paid to such persons as are approved by the board, in equal shares if more than 1, the difference between the 2 amounts hereinbefore referred to in this subsection.
- (11) In this section—

**relevant female pensioner** means a deceased female pensioner who—

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- (a) became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*; and
- (b) had not increased the rate of her contribution to the fund under section 286.

**297 Commencement and cessation of children's pensions**

- (1) A child's pension commences on the date of the day following the event by virtue of which it becomes payable as provided in section 296 and ceases to be payable on—
  - (a) the child (not being a child to whom subsection (2) relates) attaining the age of 18 years; or
  - (b) the death of the child;

whichever first happens.

- (2) In the case of a child who is receiving, in the opinion of the board, full-time education at a school, college, or university, the child's pension ceases to be payable—
  - (a) when the child attains the age of 25 years; or
  - (b) when the child ceases to receive, in the opinion of the board, full-time education at a school, college, or university;

whichever first happens.

- (2A) In the case of a child with a disability, the child's pension commences on the date of the day following the event by virtue of which it becomes payable as provided in section 188 and ceases to be payable on—
  - (a) the child no longer having the disability; or
  - (b) the death of the child;

whichever first happens.

- (3) Where—
  - (a) a child's pension has ceased pursuant to subsection (1) or (2); and
  - (b) no amount has been paid in accordance with section 296(9) or (10); and
  - (c) the board is satisfied that the child concerned is receiving full-time education at a school, college or university at any time before the child has attained the age of 25 years;

the board may reinstate the child's pension at the rate at which it would have been payable if it had not ceased, whereupon the pension shall be payable subject to subsection (2).

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**298 Persons to whom a child's pension is payable**

- (1) A child's pension shall be paid to the relict (if any) of the contributor or pensioner in relation to whom it is payable, or, if there is no relict, to the guardian of the child, unless the board in any case otherwise determines.
- (2) The board may at any time pay to the guardian of a child or to such other person as the board determines, or expend for a child's benefit, any pension or sum of money payable in respect of that child under this chapter.

**Division 5 Refund of contributions**

**299 Refund of contributions**

- (1) Where a contributor, before attaining the age for retirement, ceases to be a member by reason of—
  - (a) resigning before turning 55; or
  - (b) dismissal; or
  - (c) being retired or permitted to retire on the ground of incapacity that is due to wilful action on the contributor's part for the obtaining of any benefit under this chapter; or
  - (d) termination of employment for incapacity, but the board is not satisfied the incapacity has made the contributor permanently unfit to discharge efficiently or permanently incapable of discharging efficiently the duties of the contributor's office;

the contributor is entitled to be paid from the fund a sum of money equal to the total amount of the contributor's contributions to the fund under this chapter and any additional amounts paid by the contributor under section 282(5) or under section 223(2) of chapter 6 such contributions or payments being accumulated on and after the passing of the *Superannuation Acts Amendment Act 1984* at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound, and, subject to subsections (2) and (4) is not entitled to any other benefit under this chapter.

- (2) Where a contributor, before attaining the age for retirement, ceases to be a member by reason of—
  - (a) resignation before attaining an age that is 5 years before the age for retirement; or
  - (b) termination of employment as a member before attaining an age that is 5 years before the age for retirement, otherwise than for misconduct or because of incapacity; or

- (c) resignation in accordance with arrangements approved by the Governor in Council in relation to contributors of the class of that contributor; or
- (d) non-renewal or termination by the Crown (otherwise than on account of misconduct) of a contract or appointment for a tenure limited by time under the *Police Service Administration Act 1990* and that contributor is not eligible to make, or does not make, an election in accordance with section 5.10 of that Act;

and the contributor has been a contributor for a period of 12 months at the least, the contributor may elect as prescribed not to take from the fund that part of the benefit prescribed by subsection (1) that is attributable to the contributor's contributions to the fund.

- (3) An election under subsection (2)—
  - (a) is to be in writing furnished to the board; and
  - (b) is to be made within 3 months after the date on which the contributor ceases to be a member.
- (4) Where an election is duly made under subsection (2), there is to be credited to the fund on account of the elector an amount calculated in accordance with the formula—

$$A = \frac{B \times C}{D} [1 - .02 (F - E)]$$

until, subject to subsection (6)—

- (a) the contributor attains the age that is 5 years before the contributor's age for retirement; or
- (b) the contributor satisfies the board that the contributor suffers a permanent incapacity by reason whereof the contributor is unfit to discharge or incapable of discharging duties as an employee; or
- (c) the contributor, being a person to whom subsection (2)(a) or (2)(b) apply, informs the board in writing that the contributor no longer desires the election to operate; or
- (d) the contributor dies; or
- (e) the contributor, being a person to whom subsection (2)(c) or (2)(d) apply, notifies the board of a desire to be paid the prescribed sum in cash;

whereupon the prescribed amount is to be paid to the contributor or to the contributor's legal personal representative, as the case requires.

- (5) In subsection (4)—  
A means the amount payable.
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**B** means the benefit to which the contributor would have been entitled had the contributor accumulated as a contributor length of service, ascertained as prescribed by section 289, to the age expressed as F and had retired upon attaining that age.

**C** means the contributor's length of service, expressed in years, after attaining the age of 20 years or becoming a contributor, whichever is later, as at the time the contributor ceases to be a member.

**D** means the length of service expressed in years which the contributor would have had after attaining the age of 20 years or becoming a contributor, whichever is later, had the contributor continued as a contributor until attaining the age expressed as F.

**E** means the contributor's age expressed in years and complete months at the date on which the contributor ceases to be a member.

**F** means the age that is 5 years before the contributor's age for retirement.

- (6) If a person who has made an election under subsection (2) again becomes a member and elects under this subsection to again become a contributor within 3 months of again becoming a member, the prescribed amount shall be applied to the purchase by that person of benefit entitlements—
- (a) in respect of a period of service equal to the period during which the person had contributed to the fund after the person's 20th birthday and before the person made the election; and
  - (b) in respect of any additional period of service as determined by the actuary having regard to any of the prescribed amount credited in the fund on the person's account that is attributable to contributions paid in excess of those prescribed by section 287;

as approved by the board, having regard to the rates at which benefits would have accrued to that person had the person not ceased to be a member.

- (7) Where a person to whom subsection (6) applies again ceases to be a member in any circumstances prescribed by subsection (2) and does not make an election under that subsection the benefit to which the person shall on that occasion be entitled under subsection (1) in respect of the prescribed amount applied pursuant to subsection (6) shall be such amount as is determined by the actuary and approved by the board, notwithstanding the provisions of subsection (1).
- (8) If a person who has made an election under subsection (2)—
- (a) again becomes a member; and
  - (b) does not make an election under subsection (6);

the prescribed amount is to be applied in obtaining benefits for the person under chapter 2.

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- (9) In subsections (4), (6), (7) and (8)—  
*prescribed amount* means—
- (a) where the elector, being a person to whom subsection (2)(a) or (2)(b) applies, has informed the board in writing that the person no longer desires the election to operate—the sum which the person would have been entitled to be paid from the fund pursuant to subsection (1) had the person not made the election under subsection (2), less the amount already paid on the person's account from the fund as benefit under subsection (1), together with interest that has accrued since the date on which the elector ceased to be a member and that is properly attributable to that sum less that amount; and
  - (b) in any other case—the amount credited in the fund on account of the elector pursuant to subsection (4), together with interest for the period since the date on which the elector ceased to be a member.
- (10) For the purposes of subsection (9)(a) and (b), interest shall be calculated at such rate as is determined by the board, from time to time, on the advice of the actuary which rate, at the time it is determined, is to reasonably reflect the after tax earnings of the fund (on a long-term basis) derived from the investment of contributors' contributions, having regard to costs incurred in investing and administering the fund.
- (11) In the event of the death, before attaining the age for retirement, of a contributor whose death does not give rise to an entitlement under division 2 or 3 the board shall pay a sum equal to the total amount of the contributor's contributions to the fund under this chapter and any additional amounts paid by the contributor under section 282(5) or 223(2), such contributions or payments being accumulated on and after the passing of the *Superannuation Acts Amendment Act 1984* at the rate of 5% per annum compound until 30 June 1990 and thereafter at the net earning rate of the fund compound, to the legal personal representative of the contributor or, if the board considers it desirable to do so, to another individual as the board may determine.
- (12) For the purposes of subsections (1) and (11), a contributor who, before the commencement of section 33(2E) of the *1974 Act*, had made a payment under section 282(5) or the *1968 Act*, section 30(1A) to the fund, is taken to have made the payment to the consolidated fund.
- (13) Where the contributor is a continuing contributor entitlements under this section are in addition to entitlements (if any) of or in relation to the contributor under chapter 6.
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## Division 6 Adjustment of pensions

### 300 Indexation of pensions—general

- (1) This section applies to a pension payable to a person during a financial year under this chapter if the pension was payable to the person immediately before the start of the previous financial year.
- (2) As soon as practicable after the start of the financial year, the board must reassess the amount of the pension and either increase it or maintain it at the same level as in the previous financial year, as follows—
  - (a) if the June index for the previous financial year is higher than the last adjustment index for the pension, the pension must be increased by the percentage increase between the 2 indexes;
  - (b) otherwise, the pension remains the same.
- (3) If the pension is increased under the reassessment, the pension is payable to the person at the increased level from the first pay period that falls entirely in the month of August in the financial year.
- (4) A percentage increase between 2 indexes under subsection (2)(a) must be calculated to 1 decimal place.
- (5) In this section—

*last adjustment index*, for a pension, means—

- (a) if the pension has ever been increased under this section—the June index for the financial year immediately before the financial year in which the pension was last increased under this section; or
- (b) otherwise—the June index for the financial year immediately before the financial year in which the pension started being payable.

*pay period*, for a pension, means the fortnightly period in relation to which each pension payment is payable under this part.

### 300A Indexation of pensions—part of a year

- (1) This section applies to a pension payable to a person under this chapter during a financial year (*year 2*) if the pension started being payable to the person during the previous financial year (*year 1*).
- (2) As soon as practicable after the start of year 2, the board must reassess the amount of the pension and either increase it or maintain it at the same level as in year 1, as follows—
  - (a) if the June index for year 1 is higher than the June index for the financial year before year 1 (*year 0*), the pension must be increased by the amount calculated under the following formula—

$$\frac{I\% \times M \times B}{12}$$

12

(b) otherwise, the pension remains the same.

- (3) If the pension is increased under the reassessment, the pension is payable to the person at the increased level from the first pay period that falls entirely in the month of August in year 2.
- (4) In this section—

*B* means the amount of the pension immediately before the reassessment.

*I%* means the percentage increase between the June index for year 0 and the June index for year 1, calculated to 1 decimal place.

*M* means the number of whole months in year 1 for which the pension is payable.

*pay period*, for a pension, means the fortnightly period in relation to which each pension payment is payable under this part.

### 301 Variation of entitlement to adjustment

- (1) Where in the opinion of the board a pensioner would be prejudicially affected by an increase in the pensioner's pension under section 300 the board may determine—
- (a) that the pensioner receive no increase in pension under that section;  
or
- (b) that the pensioner receive an increase in pension less than that provided for by that section;

and the determination shall be given effect according to its terms notwithstanding that section.

- (2) The board may revoke or vary a determination under subsection (1).
- (3) In the event of a revocation of a determination the amount of the pension to which the determination related shall, as from the date of the revocation, be the same as if the determination had not been made.
- (4) In the event of a variation of a determination the amount of the pension to which the determination relates shall, as from the date of the variation, be in accordance with the determination as so varied.
- (5) Unless it is otherwise determined by the board, for the purpose of determining the rate of pension payable under section 294 or 296 all determinations made under subsection (1) and variations made under subsection (2) shall be disregarded and the pensioner shall be deemed to have been receiving, immediately before the pensioner's death, the amount of pension that would have been payable to the pensioner had no such determination been made.
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## **Division 7                    General provisions as to pensions**

### **302     Duration of pensions**

Except as otherwise expressly provided, a pension under this chapter is payable during the life of the pensioner, and is payable as from the date of the death or retirement by virtue of which it becomes payable.

### **303     Time and manner of payment of pensions**

Pensions shall be paid in fortnightly instalments or, if so determined by the board, periodically at other intervals.

### **304     Payment to person other than the beneficiary**

- (1) Where in the opinion of the board payment of any pension, refund of contributions or other payment under this chapter should be made to a person other than the person to whom the same is prescribed to be payable, the board may authorise payment to such firstmentioned person accordingly and the receipt of that person is a complete discharge to the board for the amount so paid.
- (2) This section does not apply to an eligible death benefit payable to a person under rule 64 of the division rules in Schedule 2 to the Deed.

### **305     Excess payments**

- (1) Where a person has received a payment under this chapter or the *1968 Act* and it is subsequently discovered that, owing either to some miscalculation or mistake of fact for which the person is not responsible, the payment was in excess of the amount properly payable, the board may—
    - (a) waive repayment; or
    - (b) allow repayment to be made on such terms as the board thinks just;of the whole or any part of that excess payment or may write off the whole or any part thereof, if, in the opinion of the board, its repayment would cause undue hardship or the enforcement of the repayment thereof would be inequitable.
  - (2) Where a person has received a payment under this chapter or the *1968 Act* and it is subsequently discovered that, by reason of a mistake, the amount of the payment is in excess of the amount properly payable to that person, the board may write off the whole or any part of the excess amount so paid if it is satisfied that the excess amount or that part is irrecoverable or that the enforcement of the repayment by that person of the excess amount or that part would impose undue hardship on that person or would, in all the circumstances of the case, be inequitable.
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**306 Commencement of benefits**

Subject to this chapter, where in pursuance of this chapter any member becomes liable or elects to contribute for any pension benefits or additional such benefits the member shall be a contributor in respect of those benefits or additional benefits as from the date as from which the contribution or additional contribution therefor is payable and not earlier, but if any benefit becomes payable to or in respect of that contributor before the member has actually commenced to make contributions or additional contributions there shall, as determined by the board, be deducted from payments of benefits such contributions as are due by the member in respect of those benefits or additional benefits.

**307 Proof of continued incapacity**

- (1) Any person who has been retired, by reason of incapacity, from employment as a member, and who is in receipt of incapacity pension, shall, whilst the person continues to be in receipt of incapacity pension, give as prescribed such notifications and certificates relating to the person's continued incapacity as shall be prescribed and submit himself or herself for medical examination when and so often as the board requires to any medical practitioner or medical practitioners approved by the board.
- (2) If at any time a person defaults in complying with any requirement of this section, the board may discontinue the payment to the person of incapacity pension until the person remedies the default to its satisfaction.

**308 Incapacity pensioner restored to health may be recalled to service**

- (1) If, in the opinion of the board, the health of any person who has been retired, by reason of incapacity, from employment as a member, who is in receipt of incapacity pension and who has not attained the age for retirement, has become so restored as to enable the person to perform in the opinion of the board duties as a member, the board shall so inform the commissioner of the police service with a view to employment as a member being found for such person.
  - (2) If employment as a member is offered to the person at a rate of salary at least equal to the rate of salary then payable in respect of the rank held by the person at the time he or she became eligible for the incapacity pension in question and the person fails to accept that employment the board may cancel the incapacity pension and thereupon it shall cease to be payable.
  - (3) Upon the cancellation pursuant to this section of the incapacity pension payable to any person, neither that person nor any other person claiming through the person, either immediately or at any future time, shall have any right or claim to any payment or, as respects incapacity pension further payment, from the fund in respect of any contributor's pension, incapacity pension, relict's pension or child's pension in respect of which the person was contributing to the fund when the person retired save that such person shall be paid from the fund a sum of money equal to the total amount of the person's contributions to the fund less such amount thereof as the actuary certifies is attributable to the provision of incapacity pension.
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**309 Incapacity pension may be suspended during employment**

- (1) If at any time it appears to the board that any person who has been retired, by reason of incapacity from employment as a member, and who is in receipt of incapacity pension, engages in—
  - (a) any business or occupation on the person's own account; or
  - (b) employment (not being employment by virtue whereof the person is a member receiving salary at least equal to the rate referred to in section 308(2));

the board may suspend the incapacity benefit.

- (2) For the period during which any such person is engaged as specified in subsection (1) by virtue of which engagement payment of incapacity benefit has been suspended under subsection (1) the person shall not be entitled to or receive any incapacity pension provided that the board may direct that the person receive for that period or such part thereof as the board determines, the whole of the incapacity pension in question or such part thereof as the board considers reasonable.
- (3) Upon the termination of the engagement by virtue whereof payment of incapacity pension to any person has been suspended under subsection (1) such incapacity pension shall, subject to this chapter, again become payable and be paid to such person.

**310 Contribution by retired incapacity pensioners upon re-employment**

If a person who has been retired, by reason of incapacity, from employment as a member and who is in receipt of incapacity pension again becomes a member, the period during which the person was retired shall not, for the purposes of this chapter, be deemed to be a break in the continuity of the person's service, and accordingly the member shall be deemed to be a contributor and contributions to the fund shall again become payable by the person in accordance with this chapter.

**311 Right to prepay contributions**

- (1) The board may permit a contributor to commute wholly or in part any existing contribution under this chapter, payable by the contributor in respect of any future period, by payment of a lump sum of such amount as shall be determined by the actuary and approved by the board.
  - (2) Where a contributor who elects to retire at any time within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement has commuted wholly or in part any contribution under this chapter attributable to any period after the date of his or her retirement, the contributor is, in addition to any pension entitlement under this chapter, entitled to be paid from the fund such sum of money in respect of such contribution as is determined by the actuary and approved by the board.
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## Division 8                      Conversion of pension entitlement into a lump sum payment

### 312      Right of contributor to convert the contributor's pension into a lump sum

- (1) A person who is or was prior to his or her retirement a contributor may, subject to this section, elect to convert into a lump sum payment his or her pension entitlement under this chapter—
    - (a) as to the whole thereof, in the case of an entitlement to an incapacity pension; or
    - (b) as to the whole or any part thereof, in the case of an entitlement to a contributor's pension.
  - (2) A person who is or was prior to his or her retirement a continuing contributor is not entitled to elect under subsection (1) to convert into a lump sum payment his or her entitlement to an incapacity pension under this chapter unless he or she also elects to convert into a lump sum payment the whole of his or her entitlement to incapacity benefit under chapter 6.
  - (3) A contributor who after the commencement of the *1974 Act* makes an election under section 285(4) that has not been cancelled may not make an election under this section in relation to any part of the contributor's pension entitlement under this chapter unless the contributor has contributed in accordance with that subsection for not less than 5 years before such pension entitlement arises or would have been so contributing but for a commutation of contributions pursuant to section 311.
  - (4) Subsection (3) does not apply in relation to a contributor of a description referred to in the subsection who before the passing of the *Superannuation Acts Amendment Act 1984* was retired or permitted to retire on the ground of incapacity.
  - (5) An election under this section—
    - (a) shall—
      - (i) where the contributor retires after an election under section 290(1)(c) or 291(1)(c)—be made before the expiration of a period of 1 month after the contributor's retirement; and
      - (ii) where the contributor retires on or after attaining the age for retirement—be made before the expiration of a period of 1 month after the contributor attains the age for retirement; and
    - (b) shall in the case of a person who is entitled to payment of an incapacity pension, be made before the expiration of a period of 6 months after the date on which the entitlement to the pension arises or arose or after the passing of the *Superannuation Acts Amendment Act 1984*, whichever period is the later to expire and shall be
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effective only if, in the board's opinion, the elector is medically competent to make the election; and

- (c) shall be made by notice in writing given to the board (*the contributor's notice of election*).
- (6) In the case of an election under this section made in respect of a pension entitlement, other than an entitlement to an incapacity pension, the notice of election shall specify the percentage of the elector's pension entitlement that the elector desires to convert into a lump sum.
- (7) Where a contributor retires from employment as a member on attaining the age for retirement or within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement and duly elects to convert a specified percentage (other than 100%) of his or her entitlement to a contributor's pension—
- (a) the contributor shall be paid from the fund—
    - (i) in the case of a male contributor or of a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to that specified percentage of the amount of the contributor's fortnightly pension entitlement under this chapter multiplied by the factor set forth in schedule 23, part 1, column 2 opposite the contributor's age in years and complete months as at the date of retirement set forth in schedule 23, part 1, column 1; or
    - (ii) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to that specified percentage of the amount of her fortnightly pension entitlement under this chapter multiplied by the factor set forth in schedule 23, part 2, column 2 opposite the contributor's age in years and complete months as at the date of retirement set forth in schedule 23, part 2, column 1; and
  - (b) the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage.
- (8) Where a contributor retires from employment as a member on attaining the age for retirement or within the period of 5 years immediately preceding the day on which the contributor would attain the age for retirement and duly elects to convert the whole of his or her entitlement to a contributor's pension—
- (a) the contributor shall be paid from the fund—
    - (i) in the case of a male contributor or of a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to the amount of his or her fortnightly pension entitlement under
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this chapter multiplied by the factor set forth in schedule 23, part 1, column 2 opposite the contributor's age in years and complete months as at the date of retirement set forth in schedule 23, part 1, column 1;

- (ii) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to the amount of her fortnightly pension entitlement under this chapter multiplied by the factor set forth in schedule 23, part 2, column 2 opposite the contributor's age in years and complete months as at the date of retirement set forth in schedule 23, part 2, column 1; and
  - (b) his or her entitlement to a contributor's pension under this chapter ceases.
- (9) Where a contributor (other than one who has made an election under section 285(4) or (5)) who has attained the age for retirement, has duly elected under this section and has continued in employment as a member, the contributor shall, in lieu of the lump sum payment from the fund to which the contributor would have been entitled under subsection (7) or (8), be entitled to be paid from the fund—
- (a) in the case of a contributor who elects to convert a specified percentage (other than 100%) of his or her entitlement to a contributor's pension—
    - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 313.1 times that specified percentage of two-sevenths of the amount of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement; or
    - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 339.2 times that specified percentage of two-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement; and
    - (iii) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as a member, a sum equal to that specified percentage of five-sevenths of the amount of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement multiplied by such factor not exceeding 313.1 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
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- (iv) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as a member, a sum equal to that specified percentage of five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement multiplied by such factor not exceeding 339.2 as the actuary determines having regard to her age at the time she retires or is retired;

and the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage; or

- (b) in the case of a contributor who elects to convert the whole of his or her entitlement to a contributor's pension—
  - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 313.1 times the amount of two-sevenths of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement; or
  - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 339.2 times the amount of two-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement; and
  - (iii) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as a member, a sum equal to five-sevenths of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement multiplied by such factor not exceeding 313.1 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
  - (iv) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as a member, a sum equal to five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement multiplied by such factor not exceeding 339.2 as the actuary determines having regard to her age at the time she retires or is retired;

and his or her entitlement to a contributor's pension under this chapter ceases.

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- (10) Where a contributor (being a contributor who has made an election under section 285(4)) who has attained the age for retirement, has duly elected under this section and has continued in employment as a member, the contributor shall, in lieu of the lump sum payment from the fund to which the contributor would have been entitled under subsection (7) or (8), be entitled to be paid from the fund—
- (a) in the case of a contributor who elects to convert a specified percentage (other than 100%) of his or her entitlement to a contributor's pension—
- (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 313.1 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 290(7)(a)(i); or
  - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 339.2 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 290(7)(a)(i);
  - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 313.1 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 290(7)(a)(ii); or
  - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 339.2 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 290(7)(a)(ii); and
  - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as a member, a sum equal to that specified percentage of five-sevenths of the amount of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement and section 285(4) had not been enacted and that specified percentage of 65% of the pension attributable to section 285(4) that would have been payable if he or she had retired on attaining the age for retirement, multiplied by such factor not exceeding 313.1 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
  - (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as a member, a sum equal to that specified percentage of five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement and section 285(4) had not been enacted and that
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specified percentage of 65% of the pension attributable to section 285(4) that would have been payable if she had retired on attaining the age for retirement multiplied by such factor not exceeding 339.2 as the actuary determines having regard to her age at the time she retires or is retired;

and the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage; or

- (b) in the case of a contributor who elects to convert the whole of his or her entitlement to a contributor's pension—
- (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 313.1 times the amount of his or her fortnightly pension entitlement referred to in section 290(7)(a)(i); or
  - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 339.2 times the amount of her fortnightly pension entitlement referred to in section 290(7)(a)(i);
  - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 313.1 times the amount of his or her fortnightly pension entitlement referred to in section 290(7)(a)(ii); or
  - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 339.2 times the amount of her fortnightly pension entitlement referred to in section 290(7)(a)(ii); and
  - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as a member, a sum equal to five-sevenths of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement and section 285(4) had not been enacted and 65% of the pension attributable to section 285(4) that would have been payable if he or she had retired on attaining the age for retirement, multiplied by such factor not exceeding 313.1 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
  - (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as a member, a sum equal to five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement and section 285(4)
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had not been enacted and 65% of the pension attributable to section 285(4) that would have been payable if she had retired on attaining the age for retirement, multiplied by such factor not exceeding 339.2 as the actuary determines having regard to her age at the time she retires or is retired;

and his or her entitlement to a contributor's pension under this chapter ceases.

- (11) Where a contributor (being a contributor who has made an election under section 285(5)) who has attained the age for retirement, has duly elected under this section and has continued in employment as a member, the contributor shall, in lieu of the lump sum payment from the fund to which the contributor would have been entitled under subsection (7) or (8), be entitled to be paid from the fund—
- (a) in the case of a contributor who elects to convert a specified percentage (other than 100%) of his or her entitlement to a contributor's pension—
    - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 313.1 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 290(10)(a)(i);
    - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 339.2 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 290(10)(a)(i);
    - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 313.1 times that specified percentage of the amount of his or her fortnightly pension entitlement referred to in section 290(10)(a)(ii); or
    - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 339.2 times that specified percentage of the amount of her fortnightly pension entitlement referred to in section 290(10)(a)(ii); and
    - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as a member, a sum equal to that specified percentage of five-sevenths of the amount of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement and section 285(5) had not been enacted multiplied by such factor not exceeding 313.1 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
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- (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as a member, a sum equal to that specified percentage of five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement and section 285(5) had not been enacted, multiplied by such factor not exceeding 339.2 as the actuary determines having regard to her age at the time she retires or is retired;

and the contributor's pension to which he or she would have been entitled but for making an election under this section shall be reduced by a percentage equal to that specified percentage; or

- (b) in the case of a contributor who elects to convert the whole of his or her entitlement to a contributor's pension—
    - (i) being a male contributor, or a female contributor who becomes a contributor on or after the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 313.1 times the amount of his or her fortnightly pension entitlement referred to in section 290(10)(a)(i); or
    - (ii) being a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984*—a sum equal to 339.2 times the amount of her fortnightly pension entitlement referred to in section 290(10)(a)(i);
    - (iii) being a male contributor or female contributor referred to in subparagraph (i)—a sum equal to 313.1 times the amount of his or her fortnightly pension entitlement referred to in section 290(10)(a)(ii); or
    - (iv) being a female contributor referred to in subparagraph (ii)—a sum equal to 339.2 times the amount of her fortnightly pension entitlement referred to in section 290(10)(a)(ii); and
    - (v) being a male contributor or female contributor referred to in subparagraph (i)—upon his or her retiring or being retired from employment as a member, a sum equal to five-sevenths of his or her fortnightly pension entitlement under this chapter if he or she had retired on attaining the age for retirement and section 285(5) had not been enacted, multiplied by such factor not exceeding 313.1 as the actuary determines having regard to his or her age at the time he or she retires or is retired; or
    - (vi) being a female contributor referred to in subparagraph (ii)—upon her retiring or being retired from employment as a member, a sum equal to five-sevenths of the amount of her fortnightly pension entitlement under this chapter if she had retired on attaining the age for retirement and section 285(5)
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had not been enacted, multiplied by such factor not exceeding 339.2 as the actuary determines having regard to her age at the time she retires or is retired;

and his or her entitlement to a contributor's pension under this chapter ceases.

- (12) Where a contributor becomes entitled to an incapacity pension on or after the passing of the *Superannuation Acts Amendment Act 1984* and while entitled to receive payment thereof duly elects under this section he or she shall be paid from the fund the sum equal to the amount that would have been payable from the fund—
- (a) had the contributor died on the date of his or her retirement from employment as a member on the grounds of incapacity; and
  - (b) in the case of a female contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and had not increased the rate of her contribution to the fund pursuant to section 286—had the contributor increased the rate of her contribution to the fund pursuant to that section;

less the amount of pension that he or she has been paid in respect of the period subsequent to the date of his or her retirement to the exclusion of any other entitlement he or she might otherwise have had under this section and his or her entitlement to an incapacity pension under this chapter thereupon ceases.

### **313 Endowment benefit in lieu of relict's pension**

A male contributor who became a contributor before the passing of the *Superannuation Acts Amendment Act 1984* and who on or after the passing of that Act attains the age for retirement or retires within the period of 5 years immediately preceding the day on which he would attain that age and duly elects under section 312 otherwise than in respect of an incapacity pension, is entitled, in addition to the benefits prescribed by that section, to an amount determined by the actuary and approved by the board having regard to the period for which the contributor contributed to the fund before the commencement of that Act.

## **Part 5 Miscellaneous**

### **316 Medical examinations**

- (1) Every person who on or after the commencement of the *1974 Act* becomes a member and every member mentioned in section 3 of the *1974 Act* shall, if the person is so required by the board, be medically examined by a medical practitioner before being accepted as a contributor.
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- (2) A person referred to in subsection (1) shall not contribute to the fund as a contributor if the board is not satisfied, after considering the report of the medical practitioner, that the health and physical condition of that person are such as to justify the person being accepted as such a contributor.
- (3) Notwithstanding anything to the contrary contained in this chapter and subject to section 307, where any person, member or contributor is required by or under this chapter—
  - (a) to be medically examined by a medical practitioner; or
  - (b) to produce any medical evidence;

then the medical examination is to be made by, or, as the case requires, medical evidence is to be obtained from such medical practitioner as the board may appoint in that behalf (whether by naming the medical practitioner or by reference to the holder for the time being of any office), and a report of the medical examination or, as the case may be, the medical evidence is to be furnished by the medical practitioner or holder of the office to the board or, if the board so specifies, then to the person or authority specified.

- (4) But where permitted by this chapter and without derogating from the board's discretion to accept or to refuse to accept the result of that further medical examination or that further medical evidence, the person, member or contributor may have a further medical examination made or, as the case requires, further medical evidence obtained from some other medical practitioner.

### **317 Calculation of benefits based on contributions of members**

- (1) Where in this chapter provision is made for the refund of, or for benefits based wholly or in part on, a member's contributions, those contributions include all contributions paid by the member up to the date of the member attaining the age for retirement or the member's earlier retirement or death, as the case may be, together with any contributions that the member may be required or permitted to pay that are paid by the member or on the member's behalf, after that date, but subject to the deduction of any contributions previously refunded to the member.
- (2) Where such a provision relates to a contributor who has retired and has been re-employed, the contributions shall, subject to the express provisions of this chapter, be calculated only from the date of the last re-employment of the contributor.

### **318 No interest on certain payments**

- (1) Interest is payable on a lump sum payment made out of the fund only if—
    - (a) the payment of interest on the payment is authorised by this chapter;  
or
    - (b) the board determines that interest is payable on the payment.
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- (2) If the board makes a determination under subsection (1)(b), the board must also determine the rate of interest.

## Part 6 Savings and transitional

### 319 Application of ch 6

- (1) Subject to subsection (3), no person shall be entitled or required or permitted to contribute for units of benefits under chapter 6 other than—
    - (a) the units of benefits for which the person was contributing immediately before the commencement of the *1974 Act*; and
    - (b) units of benefits for which the person was before the commencement of the *1974 Act* required to contribute to the fund by reason of an increase of the person's salary but for which on the said commencement the person had not commenced to contribute; and
    - (c) units of benefits in respect of which, being thereunto authorised or entitled under the *1968 Act* before the commencement of the *1974 Act*, the person makes or has made an election (whether before or after the commencement of the *1974 Act*) within the time prescribed therefor by the *1968 Act* or, where no time is so prescribed, before the said commencement but for which on the said commencement the person had not commenced to contribute.
  - (2) Nothing in this section precludes the board from exercising its powers and functions under chapter 6 in relation to contribution by a member for units of benefits under chapter 6 to which subsection (1)(b) or (c) or subsection (3) relates.
  - (3) At any time before the expiration of a period of 6 months commencing on the commencement of the *1974 Act*, a continuing contributor may make any election under and in accordance with section 26 of the *1968 Act* that the contributing contributor was eligible to make immediately before the commencement of the *1974 Act* and subject to the said section the contributing contributor may increase his or her contribution to the fund accordingly.
  - (4) Where the time prescribed by the *1968 Act* not later than which a member may make an election under section 24 thereof in respect of units of benefits expired on the day immediately before the commencement of the *1974 Act*, such units of benefits shall be deemed to be units of benefits in respect whereof a continuing contributor may make an election pursuant to subsection (3).
  - (5) The obligation to contribute to the fund under chapter 6 by a continuing contributor shall be in respect of—
    - (a) the units of benefits and other benefits for which the contributor was contributing under the *1968 Act* immediately before the commencement of the *1974 Act*; and
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- (b) units of benefits referred to in subsection (1)(b) or (c) for which the contributor commences to contribute under chapter 6 after the commencement of the *1974 Act*; and
- (c) the units of benefits under chapter 6 in respect whereof the contributor increases his or her contribution to the fund pursuant to subsection (3);

and, subject to chapter 6, is at the rates of contribution prescribed by the *1968 Act* immediately before the commencement of the *1974 Act*.

**319A [Deleted]**

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## Chapter 8 Fire category

### 320 Application

This chapter applies to members in the fire category.

### 321 Definitions for ch 8

In this chapter—

**commencement** means the commencement of the *Superannuation and Other Legislation Amendment Act 1997*, part 3.

*Editor's note—*

That part contained amendments of the *Fire and Rescue Authority Act 1990*, including the omission of the provisions under which the discontinued scheme was operated.

The commencement is 30 June 1997 (see 1997 No. 21 s 2(3)).

**discontinued scheme** means the superannuation scheme operated under the *Fire and Rescue Service Act 1990* immediately before the commencement.

*Note—*

The short title of the *Fire and Rescue Service Act 1990* was amended by the *Public Safety Business Agency Act 2014* and is now the *Fire and Emergency Services Act 1990*.

### 331 Members with defined benefits or receiving partial incapacity benefits

- (1) This section applies to a member who, immediately before the commencement, was entitled to a benefit under division 2 of the rules for the discontinued scheme.
  - (2) Subject to this deed, the rules of the discontinued scheme, as at the time immediately before the commencement, continue to apply to the member in relation to the benefit.
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## Chapter 9 Parliament 70 category

### Part 1 Preliminary

#### 332 Application

- (1) This chapter applies to members in the parliament 70 category.
- (2) The category for a transferring member under the repealed part 5A of the *Superannuation (State Public Sector) Act 1990* is the parliament 70 category.

#### 333 Definitions

In this chapter, except so far as the context or subject matter otherwise indicates or requires—

**agreement**, for part 3, see section 361.

**approved deposit fund** see the *SIS Act*, section 10.

**Assembly** means the Legislative Assembly.

**basic salary** means the salary payable to every member.

*Note—*

See the *Queensland Independent Remuneration Tribunal Act 2013* in relation to the salary of members.

**continuing member** means a member who was entitled to salary as a member on 21 and 22 October 1983.

**court order**, for part 3, see section 361.

**election** means a general election or by-election for the Assembly.

**entitled former spouse**, for part 3, see section 361.

**Family Law Act**, for part 3, see section 361.

**member** means a member of the Assembly who was elected before 17 December 2004.

**new member** means—

- (a) a member other than a continuing member; and
- (b) a continuing member who has elected pursuant to this chapter to be treated as a new member for the purposes of this chapter.

**operative time**, for part 3, see section 361.

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**repealed Act** means the *Parliamentary Contributory Superannuation Act 1970*.

**salary**, of a member, means the member's basic salary, and any additional salary payable to the member as the holder of an office in the Assembly or as Minister or Assistant Minister.

*Note—*

See the *Queensland Independent Remuneration Tribunal Act 2013* in relation to the salary of members.

Under the *Acts Interpretation Act 1954*, section 34 a reference to the holder of a particular office includes a reference to the person for the time being acting in the office.

**service**, for part 3, see section 361.

**superannuation fund** see the *SIS Act*, section 10.

**widow** see section 335.

### **334 Meaning of ceasing to be a member**

For the purposes of this chapter a member shall be deemed not to have ceased to be a member by reason only of retirement by effluxion of time or the dissolution of the Assembly.

### **335 Meaning of widow**

- (1) A person is the **widow** of a member if the person was the member's spouse on the day the member died.
  - (2) A person is the **widow** of a former member if the person was the former member's spouse on both of the following days—
    - (a) the day the former member ceased to be a member;
    - (b) the day the former member died.
  - (3) For this section, the gender of the member, former member or other person is not relevant.
  - (4) For this section, the spouse of a person on the day the person died includes a de facto partner of the person on the day of the death only if the person and the de facto partner lived together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA—
    - (a) for a continuous period of at least 2 years ending on the day of the death; or
    - (b) for a shorter period ending on the day of the death, if the circumstances of the de facto relationship of the person and the de facto partner evidenced a clear intention that the relationship be a long-term, committed relationship.
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- (5) Subsection (4) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).

## Part 2 Contributions, benefits and payments

### 336 Deductions from salaries of members

- (1) From each instalment of salary paid to a member or person who, having ceased to be a member, is in receipt of salary there shall be deducted an amount equal to 11<sup>1</sup>/<sub>2</sub>% of the gross amount of the instalment before any deductions.
- (2) Subsection (1) does not apply if the member or person is 70 years or more.

### 339 Election to be treated as new member

A continuing member who elected under the repealed Act, section 16A, to be treated as a new member for the purposes of that Act, is taken to be a new member and no longer a continuing member for the purpose of this chapter.

### 340 Members' superannuation benefit

- (1) Subject to this chapter a person who has received salary as a member (either after or partly before and partly after the commencement of the repealed Act)—
- (a) for an aggregate period of 11 years or more; or
- (b) for an aggregate period of 8 years or more and ceases to be a member as the result of defeat at an election or, being a representative of a recognised political party, as the result of not standing for re-election by reason that such party has not selected the person to so stand or as the result of a resignation matter to be decided by the board after consulting with the Parliamentary Benefits Committee;

shall, on ceasing to be a member and to be entitled to payment of salary, be entitled to be paid out of the fund an annual pension at the rate ascertained in accordance with the formula—

$$A \times \frac{B}{C}$$

- (2) In subsection (1)—

A means an amount determined by multiplying the basic salary in force immediately prior to the time at which he or she ceased to be a member by the value—

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the symbol 't' having a value of 240 or a less number, being the number of complete months during which the member received salary as a member.

$$.5 + \left[ \frac{.025}{12} \times (t - 96) \right]$$

**B** means the total salary received by that person.

**C** means the total basic salary in respect of the period of service of that person in the Assembly.

- (3) However, if the person has received salary as a member for an aggregate period of more than 20 years and the number worked out under subsections (1) and (2) by dividing factor B by factor C (the **actual number**) is less than the highest number that would have been worked out under the subsections by dividing factor B by factor C had the person ceased to be a member at any time after completing 20 years service in the Assembly, the actual number is taken to be the highest number.
  - (4) Subject to subsection (7) and section 343, a person who—
    - (a) ceases to be a member (other than because of death); and
    - (b) is not entitled to a pension under this chapter;
 is entitled—
    - (c) if the person ceases to be a member because of a result mentioned in subsection (1)(b)—to an amount equivalent to  $3\frac{1}{3}$  times the relevant deductions; or
    - (d) if paragraph (c) does not apply—to an amount equivalent to  $2\frac{1}{6}$  times the relevant deductions.
  - (5) Subsection (6) applies in relation to—
    - (a) a member who has died while serving as a member and in respect of whom no entitlement under section 346, 347, 349 or 350 has arisen; and
    - (b) a former member who has died and to whom section 342(11) would have applied had the member not died but had ceased to be a person referred to in that section.
  - (6) Subject to this chapter, the legal personal representative of a member or former member in relation to whom this subsection applies or other person approved by the board shall be entitled to be paid—
    - (a) for a member, under 70 years, who died before completing 8 years of service as a member—the amount calculated using formula 'A' mentioned in section 346(1)(a); or
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- (b) for a member, under 70 years, who died on or after completing 8 years of service as a member—the amount calculated using formula ‘A’ mentioned in section 346(1)(b); or
  - (c) for a member who died at 70 years or more and had completed less than 8 years of service as a member before the member’s 70th birthday—the amount that would have been payable to a widow of the member, under section 347(3), if the member was a new member; or
  - (d) for a member who died at 70 years or more and had completed 8 years or more of service as a member before the member’s 70th birthday—the amount that would have been payable to a widow of the member, under section 347(8), if the widow had made an election under section 347(7) on the day of the member’s death; or
  - (e) in the case of a former member—a sum in accordance with the formula in section 346(1)(c) except that, for the purposes of this paragraph, the factor E represents a factor determined by an actuary and approved by the board having regard to the average age, at nearest birthday, of widows (be they female or male, as the case requires) of persons whose age, at nearest birthday, was or would have been that, at nearest birthday, of the former member at the date of the member’s death.
- (7) If—
- (a) a payment has been made to a person under subsection (4); and
  - (b) the person becomes entitled to a pension under subsection (1) or section 344;

then the pension must be suspended, and may not be converted to a lump sum entitlement, until the payment, escalated to the present value of the payment as determined by the actuary, is repaid to the fund in one of the ways decided by the board, on the advice of the actuary, and agreed to by the person.

- (8) This section is subject to section 341.
- (9) In this section—

***Parliamentary Benefits Committee*** means a committee consisting of the following persons—

- (a) the Premier;
  - (b) the Speaker of the Legislative Assembly;
  - (c) the member of the Legislative Assembly who is recognised as the Leader of the Opposition.
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*relevant deductions* means the amount of deductions made under this chapter from the person's salary in respect of the person's continuous service to the day the person ceased to be a member.

*resignation matter* means a matter about whether a person has resigned, or not sought re-election, as a member of the Legislative Assembly for good and sufficient reasons.

**341 Benefits payable to a person who ceases to be a member, and ceases to be entitled to a salary, on or after the person's 70th birthday**

- (1) This section applies to a person who ceases to be a member, and ceases to be entitled to payment of a salary, on a day (the *cessation day*) that is on or after the person's 70th birthday.
- (2) Subsection (3) applies if the person—
  - (a) is a person mentioned in section 340(1)(a) or (b); and
  - (b) completed at least 8 years of service as a member before the person's 70th birthday.
- (3) Despite section 340(1), the person is entitled to receive a pension that is the same amount as the pension the person would have been entitled to receive on the cessation day, under this chapter, had the person ceased to be a member, and ceased to be entitled to payment of a salary, on the day before the person's 70th birthday.
- (4) Subsection (5) applies if the person—
  - (a) is a person mentioned in section 340(1)(a) or (b); and
  - (b) completed less than 8 years of service as a member before the person's 70th birthday.
- (5) The person is not entitled to receive a pension under section 340(1).
- (6) Subsection (7) applies if the person is a person described in section 340(4)(a) and (b).
- (7) Despite section 340(4)(c) and (d), the person is entitled to receive an amount calculated using the following formula—

**A + B**

where—

**A** means the amount the person would have been entitled to receive, under section 340(4)(c) or (d), had the person ceased to be a member on the day before the person's 70th birthday.

**B** means the interest that would have been earned on the investment of **A** during the period, had **A** been invested on a compounded basis during the period, calculated by reference to—

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- (a) if there is 1 interest rate for the period—the interest rate; or
- (b) if there are different interest rates for different parts of the period—the interest rates.

(8) In this section—

*interest rate*, for the period or part of the period, means the interest rate decided by the board as being indicative of the net interest earned on the fund during the period or part of the period.

*net interest*, earned on the fund, means the amount earned on the investment of the fund after deducting—

- (a) the costs of administering the fund; and
- (b) expenses incurred in effecting the investment; and
- (c) taxes payable on income earned on the investment.

*period* means the period—

- (a) starting on the person's 70th birthday; and
- (b) ending on the cessation day.

### **342 Right to convert entitlement to lump sum entitlement**

- (1) Notwithstanding anything in this chapter a former member who is entitled to a pension under section 340, 341(3) or 344(9) and who is under the age of 75 years at the time of ceasing to be a member may within the period of 3 months after ceasing to be a member, elect by notice in writing served on the board to convert the whole or any part of the member's pension entitlement to a lump sum payment determined in accordance with subsection (2).
  - (2) A lump sum payment under subsection (1) shall be—
    - (a) in the case of a person under the age of 71 years on the date on which the person became entitled to a pension under section 340, 341(3) or 344(9)—the amount of the annual pension entitlement in respect of which the election is made, multiplied by 10; or
    - (b) in the case of a person who is 71 years or over on the date on which the person became entitled to a pension under section 340, 341(3) or 344(9)—the amount of the annual pension entitlement in respect of which the election is made multiplied by 10 less half of the difference between the number of years of the person's age on the said date and 70.
  - (3) A former member who makes an election under subsection (1) shall be entitled to receive a lump sum payment calculated under subsection (2) less the amount of pension that the former member has been paid or, where the election has been made in respect of part only of the pension
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entitlement, less an amount that bears to that amount of pension the proportion that the part of the pension entitlement in respect of which the election was made bears to the whole of the pension entitlement and from the date of payment of that lump sum the annual pension entitlement of that former member shall be reduced by the amount of annual pension entitlement in respect of which the election was made.

- (4) The provisions of this section do not apply to a person who is entitled to a pension under section 344, other than section 344(9).
  - (5) Where section 352 applies to a former member the part of the former member's pension entitlement which the former member may elect to convert under this section shall be reduced by the amount that the former member's annual pension is reduced pursuant to section 352.
  - (6) Notwithstanding anything in this section, where the board is of opinion that, but for an election under subsection (1), a member would become, or but for the provisions of section 354(2) would become, a person to whom section 354(1)(a), (b) or (c) relates within a period of 12 months after the commencement of the member's entitlement to a pension under section 340, 341(3) or 344(9), such an election by that member shall be deferred for such period not exceeding 12 months as the board may determine.
  - (7) The board may at any time reduce the period of deferment of an election under subsection (6).
  - (8) During the period of deferment of an election under subsection (6), the former member is entitled to payment of the former member's annual pension entitlement under section 340, 341(3) or 344(9).
  - (9) If during the period of deferment of his or her election, a former member who made the election becomes a person to whom section 354(1)(a), (b) or (c) relates, the former member shall be deemed not to have made the election under this section and the former member shall not be entitled to payment of any lump sum thereunder except where being a person to whom section 354(1)(c) relates the appointment to the office or place of profit in question was made after the former member last ceased to be a member.
  - (10) Where during the period of deferment of an election under this section the former member by whom the election was made does not become a person to whom section 354(1)(a), (b) or (c) relates or having become such a person section 354(1) is deemed not to apply to or in relation to the former member, the lump sum that would have been payable under subsection (2) but for the deferment less in the case of an election to convert the whole of the former member's pension entitlement the amount paid to the former member pursuant to subsection (8) or, in the case of an election to convert part only of the pension entitlement, the amount that bears to the amount paid to the former member pursuant to subsection (8) the same proportion as the part in respect of which the election is made bears to the whole of the pension entitlement, shall become payable to the former member.
  - (11) Where under subsection (9) an election made by a former member under subsection (1) has been deemed not to have been made or a former member not having made such an election becomes within a period of 3 months
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after ceasing to be a member a person in relation to whom the consequences referred to in section 354(1) are applicable, the former member may, on ceasing to be a person in relation to whom the consequences referred to in section 354(1) are applicable, elect to convert the whole or any part of the pension entitlement under section 340, 341(3) or 344(9) to a lump sum payment and the provisions of subsections (1) to (10) as modified in accordance with subsection (12) apply with respect to the election and the payment of a lump sum thereunder.

(12) With respect to an election under subsection (11) and payment of a lump sum thereunder subsections (1) to (10) shall apply subject to the following modifications—

(a) in subsection (1)—

- (i) for the words ‘ceasing to be a member’ (wherever occurring) substitute the words ‘ceasing to be a person in relation to whom the consequences referred to in section 354(1) are applicable’; and
- (ii) insert, after the words ‘the member’s pension entitlement’ the words ‘at the time of ceasing to be a member’;

(b) in subsection (2)—

- (i) for the words ‘became entitled to a pension under section 340, 341(3) or 344(9)’ (wherever occurring) substitute the words ‘ceased to be a person in relation to whom the consequences referred to in section 354(1) are applicable’; and
- (ii) add to the subsection the words ‘increased in the same proportion as that person’s rate of pension is increased, or would but for the election have been increased, under sections 356 and 358 at the date on which the election is made, less in the case of an election to convert the whole of the person’s pension entitlement, the amount of pension paid to the former member pursuant to this chapter or, in the case of an election to convert part only of the pension entitlement, the amount that bears to the amount of pension paid to the former member the same proportion as the part in respect of which the election is made bears to the whole of the pension entitlement’;

(c) in subsections (2), (3) and (6) for the words ‘subsection (1)’ substitute the words ‘subsection (11)’;

(d) in subsection (6)—

- (i) for the word ‘member’ (wherever occurring) substitute the words ‘former member’; and
  - (ii) for the words ‘the commencement of the member’s entitlement to a pension under section 340, 341(3) or 344(9)’ substitute the
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words ‘last ceasing to be a person in relation to whom the consequences referred to in section 354(1) are applicable’;

- (e) in subsection (8), add, after the words ‘section 340, 341(3) or 344(9)’, the words ‘and section 356’;
- (f) in subsection (10) for the words ‘subsection (2)’ substitute the words ‘subsection (11)’.

(13) This section is subject to section 343.

### **343 Preserved amount—lump sum entitlement**

- (1) If a preservation cashing condition for a former member has happened, none of a benefit payable to the former member under section 340(4), 342 or 345 is a preserved amount for the fund.
- (2) Subsection (3) applies if a former member was a member before 17 February 2001.
- (3) Subject to subsection (1), the part of the former member’s benefit payable under section 340(4), 342 or 345 that is a preserved amount for the fund is the part that does not include the cashable amount of the benefit.
- (4) In this section—

***cashable amount***, of a former member’s benefit, means the amount of the benefit that—

- (a) would have been payable to the former member, under section 340(4), if the former member had ceased to be a member on the day before 17 February 2001; or
- (b) would have been payable to the former member, under section 342 or 345, if the former member made an election under the relevant section on the day before 17 February 2001.

***preservation age*** means—

- (a) for a former member born before 1 July 1960—55 years; or
  - (b) for a former member born between 1 July 1960 and 30 June 1961 inclusive—56 years; or
  - (c) for a former member born between 1 July 1961 and 30 June 1962 inclusive—57 years; or
  - (d) for a former member born between 1 July 1962 and 30 June 1963 inclusive—58 years; or
  - (e) for a former member born between 1 July 1963 and 30 June 1964 inclusive—59 years; or
  - (f) for a former member born after 30 June 1964—60 years.
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**preservation cashing condition**, for a person who is a former member, means—

- (a) the person having become a former member by—
  - (i) permanently retiring from the workforce after reaching preservation age; or
  - (ii) dying; or
  - (iii) becoming totally and permanently disabled; or
  - (iv) reaching preservation age if the person has, before reaching preservation age, permanently retired from the workforce for a reason not mentioned in subparagraph (iii); or
  - (v) ceasing to be a member on or after reaching 60 years; or
- (b) an event mentioned in paragraph (a)(i) to (iv) happening in relation to the person while the person was a former member.

**preserved amount**, for the fund, means a benefit payable to a former member under section 340(4), 342 or 345 that must not be paid to the former member until a preservation cashing condition for the former member has happened.

**total and permanent disablement**, in relation to a former member, means disablement to an extent that, in the opinion of the board after obtaining the advice of not less than 2 medical practitioners, makes the former member unlikely ever to be able to work again in an occupation for which the former member is reasonably qualified by education, training or experience.

### **344 Benefits payable on retirement on ground of ill health**

- (1) A person who becomes a member after the commencement of the repealed Act may furnish to the satisfaction of the board a certificate of a medical practitioner who has been approved by the board certifying that the member is in a state of good health.
  - (2) Where in accordance with the *Superannuation (Public Employees Portability) Act 1985* a transfer value is received by the board in relation to a member and the trustees or manager (howsoever described) of the superannuation scheme from which the transfer value is paid certify as to the member's state of health for benefit purposes under that scheme, the board may, for the purposes of the division rules, accept that state of health as the member's state of health for the purposes of this chapter.
  - (3) Where a member who has furnished a certificate pursuant to subsection (1) or (2) satisfies the board that the person has ceased to be a member because the person has been rendered incapable of being a member by reason of ill health he or she shall, subject to subsection (4) and provided the person does not qualify for a benefit under section 340 or 341, be entitled to a
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pension calculated in accordance with the formula specified in section 340(1).

- (4) A person who applies to the board under this section shall provide the board with such medical reports and other evidence as they may require.
- (5) Where a member, having failed to comply with subsection (1) or (2), retires on the ground of ill health occasioned by accident and applies to the board, the board may, notwithstanding the failure to comply with subsection (1) or (2), determine that that person is entitled to a pension calculated in accordance with the formula specified in section 340(1).
- (6) Subsection (7) applies if a person who has applied to the board for a pension under subsection (3) or (5)—
  - (a) is 70 years or more; and
  - (b) completed less than 8 years of service as a member before the person's 70th birthday.
- (7) Despite subsection (3) or (5), the person is entitled to receive an amount calculated using the following formula—

**A + B**

where—

**A** means the amount the person would have been entitled to receive, under section 340(4)(c), had the person ceased to be a member on the day before the person's 70th birthday.

**B** means the interest that would have been earned on the investment of **A** during the period, had **A** been invested on a compounded basis during the period, calculated by reference to—

- (a) if there is 1 interest rate for the period—the interest rate; or
    - (b) if there are different interest rates for different parts of the period—the interest rates.
  - (8) Subsection (9) applies if a person who has applied to the board for a pension under subsection (3) or (5)—
    - (a) is 70 years or more; and
    - (b) completed at least 8 years of service as a member before the person's 70th birthday.
  - (9) Despite subsection (3) or (5), the person is entitled to receive a pension that is the same amount as the pension the person would have been entitled to receive under section 341(3) had the person ceased to be a member, on the day before the person's 70th birthday, for a reason mentioned in section 340(1)(b).
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- (10) Despite section 340(1), the minimum amount of pension payable to a member under this section is 50% of the member's basic salary.
- (11) Subsection (10) does not apply to a person mentioned in subsection (8).
- (12) In this section—

*interest rate*, for the period or part of the period, means the interest rate decided by the board as being indicative of the net interest earned on the fund during the period or part of the period.

*period* means the period—

- (a) starting on the person's 70th birthday; and
- (b) ending on the day the person ceased to be a member under this section.

### **345 Right to convert s 344 entitlement to lump sum entitlement**

- (1) A person who was a new member and is entitled to a pension under section 344 may within the period of 6 months after ceasing to be a member elect by notice in writing served on the board to convert the whole or any part of the person's pension entitlement to a lump sum payment determined in accordance with subsection (3).
- (2) Such election shall be effective only if in the board's opinion the elector is medically competent to make the election.
- (3) A lump sum payment under subsection (1) shall be the amount of the annual pension entitlement in respect of which the election is made multiplied by 9.
- (4) A person who makes an effective election under subsection (1) shall be entitled to receive a lump sum payment calculated in accordance with subsection (3) less the amount of pension that the person has been paid or, where the election has been made in respect of part only of the pension entitlement, less an amount that bears to that amount of pension the proportion that the part of the pension entitlement in respect of which the election was made bears to the whole of the pension entitlement and from the date of payment of that lump sum the annual pension entitlement of that person shall be reduced by the amount of annual pension entitlement in respect of which the election was made.
- (5) This section does not apply to a person who is entitled to receive a pension under section 344(9).

### **346 Benefit of widows of members other than continuing members**

- (1) The widow of a member or former member (other than the widow of a continuing member, a former continuing member or a former new member who had converted the whole of the pension entitlement to a lump sum) is entitled to payment of a sum—
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- (a) in the case of the widow of a new member who has not served for an aggregate period of 8 years—in accordance with whichever of the following formulae, for *A* or *F*, yields the greater amount—

$$A = .375 \times B \times C \times \frac{D}{E}$$

where—

*A* means the amount payable.

*B* means the value—

- (a) 10, if the member's age at death is less than 66 years; or
- (b) 10 less half the difference between the member's age and 65, if the member's age at death is 66 years or more but less than 75 years; or
- (c) zero, if the member's age at death is 75 years or more.

*C* means the basic salary payable at the date of the member's death.

*D* means the total salary received by the member.

*E* means the total basic salary in respect of the period of service of the member in the Assembly.

$$F = G \times H$$

where—

*F* means the amount payable.

*G* means 40% of the basic salary payable at the date of the member's death.

*H* means the factor set forth in schedule 29 opposite the age at nearest birthday of the widow at the date of the member's death;

- (b) in the case of the widow of a new member who has served for an aggregate period of 8 years or more—in accordance with whichever of the following formulae, for *A* or *F*, yields the greater amount—

$$A = \frac{3}{4} \times I \times B \times C \times \frac{D}{E}$$

where—

*A* means the amount payable.

*B*, *C*, *D* and *E* means respectively the same values as are ascribed to them in paragraph (a).

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*I* means the value—

$$.5 + \left[ \frac{.025}{12} \times (t - 96) \right]$$

the symbol 't' having a value of 240 or a less number, being the number of complete months during which the member received salary as a member prior to death.

$$F = G \times H$$

where—

*F* means the amount payable.

*G* means either—

(a)  $2/3 \times I \times C \times \frac{D}{E}$

(b)  $.4 \times C$ ;

whichever yields the greater value.

*I*, *C*, *D* and *E* mean respectively the same values as are ascribed to them in this paragraph.

*H* means the factor set forth in schedule 29 opposite the age at nearest birthday of the widow at the date of the member's death;

- (c) in the case of the widow of a former new member who was or but for the application of section 354 would have been in receipt of a pension immediately before the member's death—in accordance with the formula—

$$A = B \times \frac{C}{D} \times E$$

where—

*A* means the amount payable.

*B* means—

- (a) two-thirds of the pension that became or but for the application of section 354 would have become payable to the former member when the former member ceased to be a member; or

- (b) 40% of the basic salary on—

- (i) if the former member ceased to be a member before the former member's 70th birthday— the day the former member ceased to be a member; or
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- (ii) if the former member ceased to be a member on or after the former member's 70th birthday—the day before the former member's 70th birthday;

whichever is the greater;

however, if the former member had, pursuant to section 342 or 345, converted a part of the pension entitlement to a lump sum payment such amount shall be reduced by the proportion that the part in respect of which the election to convert was made bears to the whole of the former member's pension entitlement.

*C* means the annual amount of the pension that was payable under this chapter to the person through whom the widow derives the entitlement immediately before the person's death or, where that person had made an election under section 342, 345 or 354 applied to the person, that would have been payable under this chapter to that person immediately before the person's death but for the election or the application of section 354.

*D* means the annual amount of the pension (being the pension to which definition *C* refers) that was payable or, as the case may be, would have been payable under this chapter to the person through whom the widow derives the entitlement on that person ceasing to be a member.

*E* means the factor set forth in schedule 29 opposite the age at nearest birthday of the widow as at the date of the former member's death;

- (d) in the case of the widow of a former member who ceased to be a member prior to 22 October 1983 and immediately before the former member's death, was entitled to a pension or would have been entitled to a pension but for an election under section 342 or the application of section 354—in accordance with the formula—

$$A = B \times \frac{C}{D} \times E$$

where—

*A* means the amount payable.

*B* means—

- (a) five-eighths of the pension that became payable to the former member when the former member ceased to be a member; or
- (b) 40% of the basic salary at the time when the former member ceased to be a member;

whichever is the greater.

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**C** means the annual amount of the pension that was payable under this chapter to the person through whom the widow derives the entitlement immediately before the person's death or, where that person had made an election under section 342 or 354 applied to the person, that would have been payable under this chapter to that person immediately before the person's death but for the election or the application of section 354.

**D** means the annual amount of the pension (being the pension to which definition C refers) that was payable or, as the case may be, would have been payable under this chapter to the person through whom the widow derives the entitlement on that person ceasing to be a member.

**E** means the factor set forth in schedule 29 opposite the age at nearest birthday of the widow as at the date of the former member's death.

- (2) Subsection (3) applies if under subsection (1)(b)—
  - (a) the new member has served as a member for an aggregate period of more than 20 years; and
  - (b) the number (the *actual number*) worked out under subsection (1)(b) by dividing factor D by factor E is less than the highest number that would have been worked out under subsection (1)(b) by dividing factor D by factor E had the new member ceased to be a member at any earlier time after completing 20 years service in the Assembly.
- (3) The actual number is taken to be the highest number.
- (4) This section is subject to section 347.

**347 Benefits payable to a widow of a new member who died on or after the new member's 70th birthday**

- (1) This section applies to a widow of a new member who died on or after the new member's 70th birthday.
- (2) Subsection (3) applies if the new member had completed less than 8 years of service as a member before the new member's 70th birthday.
- (3) Despite section 346(1)(a) or (b), the widow is entitled to receive an amount calculated using the following formula—

**A + B**

where—

**A** means the amount the new member would have been entitled to receive, under section 340(4)(c), had the new member ceased to be a member on the day before the new member's 70th birthday.

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**B** means the interest that would have been earned on the investment of A during the period, had A been invested on a compounded basis during the period, calculated by reference to—

- (a) if there is 1 interest rate for the period—the interest rate; or
  - (b) if there are different interest rates for different parts of the period—the interest rates.
- (4) Subsection (5) applies if the new member completed at least 8 years of service as a member before the new member's 70th birthday.
- (5) Despite section 346(1)(b), the widow is entitled to receive a pension that is the same amount as the pension the new member would have been entitled to receive under section 341(3) had the new member ceased to be a member, on the day of the new member's death, for a reason mentioned in section 340(1)(b).
- (6) Subsections (7) and (8) apply if—
- (a) the new member died before the new member's 75th birthday; and
  - (b) the widow is entitled to receive a pension under subsection (5).
- (7) The widow may, by written notice given to the board within 3 months after the new member's death, elect to convert the whole or part of the pension to a lump sum.
- (8) The lump sum is the same amount the new member would have received, under section 342, had the new member—
- (a) become entitled to receive a pension under section 341(3) on the day of the new member's death; and
  - (b) made an election under section 342 on the same day that the widow makes the election under subsection (7).

- (9) In this section—

**interest rate**, for the period or part of the period, means the interest rate decided by the board as being indicative of the net interest earned on the fund during the period or part of the period.

**period** means the period—

- (a) starting on the new member's 70th birthday; and
- (b) ending on the day the new member died.

### **348 Widow's right to substitute pension for entitlement**

- (1) The widow of a member or former member (other than the widow of a continuing member, a former continuing member, or a former new member who had converted the whole of the pension entitlement to a lump sum) may elect not to receive the sum payable to a widow pursuant to
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section 346 but to receive in lieu a pension on and from the day following the date of the member's or former member's death until the widow's death.

- (2) The rate of widow's pension payable shall be calculated—
- (a) in the case of the widow of a new member who has not served for an aggregate period of 8 years—in accordance with the formula—

$$P = B \times C$$

where—

*B* means 40% of the basic salary payable at the date of the member's death.

*C* means a fraction that is equivalent to the percentage of the amount of widow's entitlement in respect of which the widow desires to substitute a widow's pension.

*P* means the annual amount of widow's pension;

- (b) in the case of the widow of a new member who has served for an aggregate period of 8 years or more—in accordance with the formula—

$$P = B \times C$$

where—

*B* means either—

- (a) two-thirds of the pension that would have become payable to the member if the member had ceased to be a member on the date of the member's death and had been entitled to a pension under section 340; or
- (b) 40% of the basic salary payable at the date of the member's death;

whichever is the greater.

*C* means a fraction that is equivalent to the percentage of the amount of widow's entitlement in respect of which the widow desires to substitute a widow's pension.

*P* means the annual amount of widow's pension;

- (c) in the case of the widow of a former new member who was or but for the application of section 354 would have been in receipt of a pension immediately before the former member's death—in accordance with the formula—
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$$P = B \times \frac{C}{D} \times E$$

where—

**B** means—

- (a) two-thirds of the pension that became or but for the application of section 354 would have become payable to the former member when the former member ceased to be a member; or
- (b) 40% of the basic salary at the time when the former member ceased to be a member;

whichever is the greater;

however, if the former member had, pursuant to section 342 or 345, converted a part of the pension entitlement to a lump sum payment such amount shall be reduced by the proportion that the part in respect of which the election to convert was made bears to the whole of the former member's pension entitlement.

**C** means the annual amount of the pension that was payable under this chapter to the person through whom the widow derives the entitlement immediately before the person's death or, where that person had made an election under section 342, 345 or 354 applied to the person, that would have been payable under this chapter to that person immediately before the person's death but for the election or the application of section 354.

**D** means the annual amount of the pension (being the pension to which definition C refers) that was payable or, as the case may be, would have been payable under this chapter to the person through whom the widow derives the entitlement on that person ceasing to be a member.

**E** means a fraction that is equivalent to the percentage of the amount of widow's entitlement in respect of which the widow desires to substitute a widow's pension.

**P** means the annual amount of widow's pension;

- (d) in the case of the widow of a former member who ceased to be a member before 22 October 1983 and who immediately before the former member's death was entitled to a pension or would have been entitled to a pension but for an election under section 342 or the application of section 354—in accordance with the formula—

$$P = \frac{B}{C}$$

where—

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**B** means the sum to which the widow is entitled pursuant to section 346 or, where the election relates to part only of that sum, the value of that part.

**C** means the factor set forth in schedule 29 opposite the age at nearest birthday of the widow as at the date of the former member's death.

**P** means the annual amount of widow's pension.

- (3) An election under subsection (1)—
  - (a) shall be in writing; and
  - (b) shall be made within 6 months after the date on which the entitlement to payment of the sum to the widow arises; and
  - (c) shall specify the percentage of the amount of entitlement in respect of which the elector desires to substitute a widow's pension.
- (4) To remove doubt, it is declared that this section does not apply to a person who is entitled to receive a benefit under section 347(3).

### **349 Pension for widow of continuing member**

- (1) Upon the death of a former continuing member (other than a continuing member who has elected to be treated as a new member) who immediately before his or her death was in receipt of, or who, if the former continuing member had not, pursuant to section 342, converted the whole of his or her pension entitlement to a lump sum or if section 354 had not applied to the former continuing member, would have been entitled to receive, a pension under the provisions of this part the widow of that person shall until death be entitled to an annual pension at the rate of—
  - (a) five-eighths of the pension that became payable to the former member when the former member ceased to be a member or, if the former member had pursuant to section 342 converted the whole or part of the pension entitlement to a lump sum payment, five-eighths of the pension that would have been payable to the former member when the former member ceased to be a member if the former member had not so converted the whole or part of the pension entitlement; or
  - (b) 40% of the basic salary at the time when the former member ceased to be a member;

whichever is greater, increased by the fraction—

$$\frac{A}{B}$$

where—

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**A** means the annual amount of pension that was payable under this chapter to the person through whom the widow derives the entitlement immediately before the person's death or, where that person had made an election under section 342 or 354 applied to the person, that would have been payable under this chapter to that person immediately before the person's death but for the election or the application of section 354.

**B** means the annual amount of the pension (being the pension to which definition A refers) that was payable or, as the case may be, would have been payable under this chapter to the person through whom the widow derives the entitlement on that person ceasing to be a member.

- (2) Upon the death of a continuing member (other than a continuing member who has elected to be treated as a new member) who has served for an aggregate period of 8 years or more the widow of that person shall until death be entitled to an annual pension at the rate of—
  - (a) five-eighths of the pension that would have become payable to that person if the person had ceased to be a member on the date of the person's death and had been entitled to a pension under section 340; or
  - (b) 40% of the basic salary payable at the date of the person's death;whichever is greater.
- (3) Upon the death of a continuing member (other than a continuing member who has elected to be treated as a new member) before the continuing member has served for an aggregate period of 8 years the widow of that person shall until death be entitled to a pension at the rate of 40% of the basic salary at the time of the continuing member's death.

### **350 Payments to children**

- (1) Subject to this section, on the death—
    - (a) of a person receiving, or of a person (being a member other than a new member) who if the person had not pursuant to section 342 converted the whole of the person's pension entitlement to a lump sum would have been entitled to receive, a pension under section 340, 341(3) or 344; or
    - (b) of a member;leaving any child or children the board may, subject to this section, make from the fund payments in respect of the child or children.
  - (2) Subject to subsection (3), a payment from the fund under subsection (1)—
    - (a) where the widow of the person through whom the child's benefit is derived is living—shall be at the rate of \$50 per fortnight, which
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shall be adjusted in accordance with the cost of living adjustment provided for in section 358 from and including the first pay period that occurs wholly in August 1987; or

- (b) in a case other than one to which paragraph (a) applies—where the person through whom the child’s benefit is derived was a member at the date of the person’s death—
    - (i) in the case of payment for the benefit of 1 child only—shall be at the rate of pension under this chapter (including any increase in the rate pursuant to this chapter) that would be payable to the widow of that person if the widow were living and entitled to such a pension; or
    - (ii) in the case of payment for the benefit of 2 or more children—
      - (A) shall be at the rate of pension under this chapter (including any increase in the rate pursuant to this chapter) that would have been payable to that person, being a person who had served as a member for an aggregate period of 11 years or more, had the person ceased to be a member, other than by reason of death, on the date of the person’s death; or
      - (B) shall be at the rate of pension under this chapter (including any increase in the rate pursuant to this chapter) that would have been payable to that person, being a person who had served as a member for less than an aggregate period of 11 years, had the person ceased to be a member by reason of ill health on the date of the person’s death; or
  - (c) in a case other than one to which paragraph (a) applies—where the person through whom the child’s benefit is derived had ceased to be a member before the date of the person’s death—
    - (i) in the case of payment for the benefit of 1 child only—shall be at the rate of pension under this chapter (including any increase in the rate pursuant to this chapter) that would be payable to the widow of that person if the widow were living and entitled to such a pension; or
    - (ii) in the case of payment for the benefit of 2 or more children—
      - (A) where the person through whom the child’s benefit is derived had been a new member— shall be at the rate of pension under this chapter (including any increase in the rate pursuant to this chapter) that was payable to that person at the date of the person’s death; or
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- (B) where the person through whom the child's benefit is derived had been a member other than a new member—shall be at the rate of pension under this chapter (including any increase in the rate pursuant to this chapter) that was payable to that person at the date of the person's death or, if the person had converted, pursuant to section 342, the whole or part of the person's pension entitlement to a lump sum, that would have been payable to that person at the date of the death if the person had not so converted.
- (3) Where by reason of the death of a member or a former member a payment is to be made under subsection (1) for the benefit of 2 or more children it shall be made for their benefit in equal shares.
- (4) Where by reason of the death of a member the only benefit derived through the member is a child's benefit under subsection (1) arising on or after the passing of the *Superannuation Acts Amendment Act 1987* and the amount of benefit payable in respect of the child or, where there are more than 1 child who derive the benefit, in respect of all of them (disregarding for the purpose of calculating that amount any increase in the rate of pension payable since the time when the benefit arose) is less than the amount that would have been payable under section 346 to the widow of the member had the member left a widow upon the member's death, there may be paid to such persons as are approved by the board, in equal shares if more than 1, the difference between the 2 amounts hereinbefore referred to in this subsection.

*Editor's note—*

*Superannuation Acts Amendment Act 1987* commenced 23 April 1987 (see 1987 No. 27).

- (5) Payment from the fund under this section shall not be made in respect of a child or children the issue of a marriage contracted by a person, or of a de facto relationship entered into by a person, after the person had finally ceased to be a member.
- (6) Payment under this section in respect of any particular child or children may be made as determined from time to time by the board to the widow of the former member, to the guardian or, if deemed necessary or expedient by the board for the better maintenance, support or education of such child or children, in whole or in part to such person as the board determines.
- (7) A payment to a child may be made under this section at any time—
- (a) after the death of the member or former member through whom the child's benefit is derived; and
- (b) while the child is a child under this deed.
- (8) The board shall not be under any obligation or duty to inquire into or see to the proper application of any moneys paid from the fund under this section.
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**351 Endowment benefit to new members who were continuing members**

A continuing member who has elected pursuant to this chapter to be treated as a new member and who has pursuant to section 342 converted the whole or part of the pension entitlement to a lump sum payment is entitled, in addition to the benefits to which the continuing member is entitled under section 340, 341(3) or 342, to an amount determined by the actuary and approved by the board, having regard to the period for which deductions have been made from salary paid to that member before 22 October 1983 and paid to the fund.

**352 Pension entitlement reduced if the member has previously converted pension entitlement**

Notwithstanding anything in this part, where a person who, on ceasing to be a member, converted the whole or part of the person's pension entitlement to a lump sum becomes entitled to a pension under this chapter the amount of the person's annual pension entitlement shall be reduced by the amount of annual pension entitlement in respect of which the conversion was made escalated to an amount determined by the actuary.

**353 Death benefit reduced if pension converted**

- (1) This section applies in relation to a member (other than a continuing member) who—
  - (a) dies while serving as a member; and
  - (b) had, under this chapter, previously converted a pension entitlement, in whole or part, to a lump sum.
- (2) Despite any other provision of this part, the benefit payable on the member's death must be calculated disregarding the period, or part of the period, of service as a member to which the conversion of the pension entitlement related.

**354 Reduction of pension in certain cases**

- (1) If—
    - (a) a person who is receiving or is entitled to receive a pension under this chapter again becomes a member of the Legislative Assembly; or
    - (b) a person who is receiving or is entitled to receive a pension under this chapter becomes a member of the Parliament of the Commonwealth or of any State (including Queensland) and receives or is entitled to receive any salary or parliamentary allowance in the nature of salary in respect of the person's office as such member; or
    - (c) a person (being a person who has ceased to be a member) who is receiving or is entitled to receive a pension under this chapter holds
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any office or place of profit under the Crown, whether in Queensland or elsewhere, for which the person is remunerated or entitled to be remunerated out of moneys of the Crown;

then, whilst such person continues to be such a member or, as the case may be, to hold such an office or place of profit the following consequences ensue—

- (d) if the salary or parliamentary allowance, or as the case may be, the remuneration which the person receives or is entitled to receive as such a member or, as the case may be, the holder of such an office or place of profit is at a rate equal to or greater than the person's pension under this chapter—that pension shall not be payable;
  - (e) if the salary or parliamentary allowance or, as the case may be, the remuneration which the person receives or is entitled to receive as such a member or, as the case may be, the holder of such an office or place of profit is at a rate less than that of the person's pension under this chapter—the rate of that pension shall be reduced by the rate of the salary, allowance or, as the case may be, remuneration.
- (2) Subsection (1) shall be deemed not to apply to or in relation to a person in respect of the holding of an office or place of profit referred to in subsection (1)(c) where the appointment to the office or place of profit in question was made after that person last ceased to be a member.
  - (3) Where a person to whom, but for the provisions of subsection (1), a pension under this chapter would have been payable dies, the widow of that person, any child or children of that person and any female member of that person's family named in a notice given to the board under former section 22(1) shall be entitled to receive the same pension or payments under this chapter as she or they would have been entitled to receive if the person firstmentioned in this subsection had not been a person to whom the consequences mentioned in subsection (1) were applicable and was at the time of death in receipt of the person's full pension entitlement under this chapter.
  - (4) In this section—

*former section 22(1)* means section 22(1) of the repealed Act as in force before 14 June 1990.

### **355 When particular pension entitlement ends**

- (1) This section applies to a member if—
    - (a) the member is entitled to a pension, under section 340(1) or 344, that is not payable or is reduced under section 354(1)(d) or (e) (the *first pension*); and
    - (b) the member again becomes entitled to a pension under section 340(1) or 344 on again ceasing to be a member.
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- (2) The member's entitlement to the first pension ends when the member again becomes entitled to a pension under section 340(1) or 344.
- (3) Subsection (2) does not limit the member's entitlement to a pension under this chapter for the aggregate period for which he or she was a member.

### **356 Increase in rates of pensions etc.**

- (1) Notwithstanding any other provision of this part, a person who is entitled to receive a pension under section 340, 341(3) or 344 is entitled to an increase in the rate of that pension in accordance with this section.
- (2) The increased rate of pension referred to in subsection (1) payable to the person in question from time to time shall be the rate ascertained in accordance with the formula—

$$P(1 + .03T)$$

where—

*P* means the rate of pension prescribed in relation to that person at the time in question by the provisions of this part (other than this section).

*T* means the number of periods each of 12 months that have elapsed between—

- (a) the date on which the person to whom the pension in question is payable or through whom the entitlement to the pension is derived last ceased to be a member or to be entitled to salary (whether by reason of death or any other cause whatsoever) whichever last occurs; and
- (b) the date at which the increased rate is to be ascertained;

increased, where in the instant case the pension in question became payable to the person concerned before 1 July 1973, by 1.

- (3) A person entitled to receive pension under the provisions of this chapter referred to in subsection (1) is entitled to receive that pension at the increased rate thereof ascertained in accordance with this section in lieu of pension at the rate prescribed by those provisions.
- (4) This section shall not apply in relation to pension entitlement which arises on or after 1 July 1974 or so as to increase in respect of any period, or part of a period, occurring on or after 1 July 1974 the rate of any pension payable under this chapter.

### **357 Competing claims for widow's entitlement**

- (1) This section applies to an entitlement that is payable under this chapter to a widow of a member or former member.
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- (2) If, apart from this subsection, the entitlement would be payable to more than 1 widow (because a deceased member or deceased former member has left more than 1 widow)—
  - (a) the entitlement is payable as decided by the board; and
  - (b) the total amount of entitlement payable to the widows at any time must be equal to the amount of a single entitlement.
- (3) For subsection (2)(a), the board may decide—
  - (a) that the entitlement is not payable to 1 or some, but not all, of the widows; or
  - (b) subject to subsection (2)(b), how the amount of the entitlement is to, or, if necessary for subsection (6), would, if the same type of entitlement was payable to all the widows, be apportioned between the widows.
- (4) For subsection (3), the board must have regard to the needs of each of the widows and the other matters the board reasonably considers relevant.
- (5) Subsection (6) applies if—
  - (a) a deceased member has left more than 1 widow and a widow makes an election under section 347(7) or 348(1) (the *electing widow*); or
  - (b) a deceased former member has left more than 1 widow and a widow makes an election under section 348(1) (also the *electing widow*).
- (6) Despite section 347(8) or 348(2) the lump sum or pension payable to the electing widow is that decided by the board having regard to the apportionment for the electing widow.
- (7) In this section—

*entitlement* means a pension or other amount.

*single entitlement* means the entitlement that would have been payable if the deceased member or deceased former member left only 1 widow.

### **358 Indexation of pensions**

- (1) This section applies to a pension payable to a person under section 340, 341(3), 344, 347, 348, 349 or 367 during a financial year if the pension was payable to the person immediately before the start of the financial year.
  - (2) To remove any doubt, it is declared that this section applies to a pension that is not payable, or is reduced, under section 354(1)(d) or (e).
  - (3) As soon as practicable after the start of the financial year, the board must reassess the amount of the pension and either increase it or maintain it at the same level as in the previous financial year, as follows—
    - (a) for a pension payable to a relevant person—
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- (i) if the basic salary at 1 July of the financial year is higher than the basic salary at 1 July of the previous financial year, the pension must be increased by the percentage increase between the 2 basic salaries; or
- (ii) otherwise, the pension remains the same;
- (b) for another pension—
  - (i) if the June index for the previous financial year is higher than the last adjustment index for the pension, the pension must be increased by the percentage increase between the 2 indexes; or
  - (ii) otherwise, the pension remains the same.
- (4) If the pension is increased under the reassessment, the pension is payable to the person at the increased level from the first pay period that falls entirely in the month of August in the financial year.
- (5) A percentage increase between 2 basic salaries or 2 indexes under subsection (3)(a)(i) or (b)(i) must be calculated to 1 decimal place.
- (6) In this section—

***entitled former spouse*** has the same meaning as in part 3.

***last adjustment index***, for a pension, means—

- (a) if the pension has ever been increased under this section—the June index for the financial year immediately before the financial year in which the pension was last increased under this section; or
- (b) otherwise—the June index for the financial year immediately before the financial year in which the pension started being payable.

***pay period***, for a pension, means the fortnightly period in relation to which each pension payment is payable under section 383.

***relevant person***, for a pension, means—

- (a) if the pension is payable under section 340, 341(3) or 344—a person who was a member immediately before the commencement of the *Superannuation Legislation Amendment Act 2004*, part 4; or
  - (b) if the pension is payable under section 347, 348, 349 or 367—a person who derives the pension through, or is the entitled former spouse for, a person mentioned in paragraph (a).
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## Part 3                      **Agreements and court orders under Family Law Act**

### 361      **Definitions for pt 3**

In this part—

**agreement** means an agreement mentioned in the definition *entitled former spouse*.

**court order** means a court order mentioned in the definition *entitled former spouse*.

**entitled former spouse** means a person who is entitled or conditionally entitled under an agreement, or a court order, under the *Family Law Act*, part VIII B, to payment of an amount from the fund.

**Family Law Act** means the *Family Law Act 1975* (Cwlth).

**operative time**, for an agreement or court order, is the time that is, under the *Family Law Act*, part VIII B, the operative time in relation to the payment split or payment flag under the agreement or court order.

**service** means service as a member.

### 362      **Providing information**

- (1) This section applies if an eligible person within the meaning of the *Family Law Act*, section 90XZB, applies under that section to the board for information about a benefit that is being paid, or may become payable, under this chapter.
- (2) The board must give to the eligible person the information as required under the *Family Law Act*.
- (3) If the information is about a member who has not completed 8 years service, the information may include an accrued benefit multiple for the benefit decided by the board on the advice of an actuary.
- (4) If the information is about a member who has completed at least 8 years service, the information may include the value of the benefit, decided by the board on the advice of an actuary, that may become payable to the member.

### 363      **Agreement or court order for member with less than 8 years service at the operative time**

- (1) This section applies if—
    - (a) the board receives an agreement or court order that relates to a benefit payable to a person; and
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- (b) at the operative time for the agreement or court order, the person is a member who has not completed 8 years service; and
  - (c) on ceasing to be a member, the person is entitled to a benefit, other than a pension, under this chapter.
- (2) The board must pay to an approved deposit fund, or a superannuation fund, nominated by the entitled former spouse for the agreement or court order the amount to which he or she is entitled under the agreement or court order.
  - (3) However, if the entitled former spouse does not nominate a fund for subsection (2) within 3 months after the day the person ceases to be a member, the board must pay the amount to the accumulation account on behalf of the entitled former spouse.
  - (4) This section does not apply to an agreement or court order if the entitled former spouse makes an election under section 365 in relation to the agreement or court order.

**364 Agreement or court order for member with at least 8 years service at the operative time**

- (1) This section applies if—
  - (a) the board receives an agreement or court order that relates to a benefit payable to a person; and
  - (b) at the operative time for the agreement or court order, the person is a member who has completed at least 8 years service.
- (2) The board must pay to an approved deposit fund, or a superannuation fund, nominated by the entitled former spouse for the agreement or court order the amount to which he or she is entitled under the agreement or court order.
- (3) However, if the entitled former spouse does not nominate a fund for subsection (2) within 3 months after the day the board receives the agreement or court order, the board must pay the amount to the accumulation account on behalf of the entitled former spouse.

**365 Agreement or court order for member with at least 8 years service after the operative time**

- (1) This section applies if—
    - (a) the board receives an agreement or court order that relates to a benefit payable to a person; and
    - (b) at the operative time for the agreement or court order, the person is a member who has not completed 8 years service; and
    - (c) the person completes at least 8 years service.
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- (2) The entitled former spouse for the agreement or court order may, by written notice given to the board, elect to receive an amount under this section.
- (3) The notice must be given to the board within 3 months after the day the member completes 8 years service.
- (4) Also, the entitled former spouse may, within 3 months after the day the member completes 8 years service, nominate an approved deposit fund, or a superannuation fund, for payment of the amount.
- (5) If the entitled former spouse makes an election under this section, the board must—
  - (a) calculate the amount, on the advice of an actuary and as at the date the notice of the election is given to the board, that the entitled former spouse is to receive; and
  - (b) pay the amount to—
    - (i) if the entitled former spouse nominates an approved deposit fund, or a superannuation fund, for payment of the amount—that fund; or
    - (ii) otherwise—the accumulation account.
- (6) To help a person decide whether to make an election under this section, the board must inform the person of the likely amount to be calculated under subsection (5)(a).

*Note—*

If an entitled former spouse makes an election under this section in relation to an agreement or court order, sections 363 and 367 do not apply to the agreement or court order.

### **366 Effect of agreement or court order on particular benefits**

- (1) The board must reduce the benefit that, other than for an agreement or court order to which section 363, 364 or 365 applies, would be payable from the fund to a person by the amount paid to the entitled former spouse for the agreement or court order.
  - (2) The board must reduce the benefit in the way decided by the board on the advice of an actuary.
  - (3) However, the board must reduce each component of the benefit in equal proportions.
  - (4) In this section—

***component***, of a benefit, means—

    - (a) the cashable amount, or preserved amount, of the benefit within the meaning of section 343; or
    - (b) the non-preserved transfer amount of the benefit.
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*non-preserved transfer amount*, of a benefit, means an amount received by the board under section 387.

**367 Agreement or court order—pensions**

- (1) This section applies if the board receives an agreement or court order that relates to—
    - (a) a benefit that, at the operative time for the agreement or court order, is a pension being paid to a former member under section 340(1) or 344; or
    - (b) a benefit payable to a person who—
      - (i) at the operative time for the agreement or court order, is a member who has not completed 8 years service; and
      - (ii) on ceasing to be a member is entitled to a pension under section 340(1) or 344.
  - (2) Subject to subsection (4), the board must pay the entitled former spouse for the agreement or court order the proportion, stated in the agreement or court order, of the splittable payment to which he or she is entitled under the agreement or court order (the *spousal amount*).
  - (3) The board must reduce the splittable payment that, other than for the agreement or court order, would be payable from the fund to a person by the spousal amount.
  - (4) The board must pay the entitled former spouse a pension for his or her lifetime (a *lifetime pension*) if the entitled former spouse elects, by written notice given to the board, to be paid a lifetime pension.
  - (5) The notice must be given to the board—
    - (a) for an agreement or court order for a benefit mentioned in subsection (1)(a)—within 3 months after the day the board receives the agreement or court order; or
    - (b) for an agreement or court order for a benefit mentioned in subsection (1)(b)—
      - (i) if the person entitled to the benefit elects to convert the whole or a part of the benefit to a lump sum payment under section 342(1)—within 3 months after the day the board receives the notice of the election under that subsection; or
      - (ii) otherwise—within 6 months after the day the benefit becomes payable.
  - (6) If an entitled former spouse elects to be paid a lifetime pension, the amount of the pension must be calculated in the way decided by the board on the advice of an actuary.
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- (7) This section does not apply to an agreement or court order if the entitled former spouse makes an election under section 365 in relation to the agreement or court order.
- (8) In this section—  
*splittable payment* see the *Family Law Act*, section 90XE.

**368 Effect of agreement or court order on other benefits**

Despite section 346, 347, 348 or 373, an entitled former spouse is not entitled to receive a benefit under any of the provisions.

**369 Board to inform entitled former spouse**

If the board receives an agreement or court order from a person other than the entitled former spouse for the agreement or court order, the board must as soon as practicable inform the entitled former spouse of the receipt of the agreement or court order.

## **Part 4 Transitional provisions**

### **Division 1 Provisions for repealed Act before commencement of Superannuation and Other Legislation Amendment Act 2000**

**371 Definition for pt 4**

In this part—

*repealed Acts specified in schedule 1* means the Acts as mentioned in the repealed Act, schedule 1, immediately before the commencement of the *Superannuation Legislation Amendment Act 1992*.

*Editor's note—*

*Superannuation Legislation Amendment Act 1992* commenced 23 June 1992.

**372 Annuity payable or to become payable under repealed Acts**

- (1) The right and interest in respect of annuity that, before the commencement of the repealed Act, became payable under any of the provisions of the repealed Acts specified in schedule 1 to a person by reason of the person ceasing to be a member are, to the extent subsisting immediately prior to the date of commencement of the repealed Act, hereby preserved and continued on and from that date and accordingly payment as necessary to give effect to this subsection shall be made from the fund.
  - (2) Where immediately prior to the commencement of the repealed Act a person who ceased to be a member but who was not entitled forthwith to payment of an annuity but had a right or claim under the provisions of the
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repealed Acts specified in schedule 1 to the payment of annuity upon attaining a prescribed age, that person shall have the same right or claim to payment of annuity as that person would have had under those provisions if the repealed Act had not been passed and the said provisions had continued in force and accordingly payments as necessary to give effect to this subsection may be made accordingly.

**373 Annuity to widows and female dependants payable or to become payable under repealed provisions**

- (1) The right and interest of a person in respect of annuity payable to the widow or female dependant of—
  - (a) a member who died; or
  - (b) a person who having ceased to be a member died;

that, before the commencement of the repealed Act, became payable under any of the provisions of the repealed Acts specified in schedule 1 to the widow or female dependant are, to the extent subsisting immediately prior to the date of commencement of the repealed Act, hereby preserved and continued on and from that date and accordingly payments as necessary to give effect to this subsection shall be made from the fund.

- (2) Upon the death of a person to whom section 372(1) or (2) applies, the widow, or as the case may be female dependant, of that person shall have the same right or claim to payment of annuity as the person would have had under the provisions of the repealed Acts specified in schedule 1 if this chapter had not been enacted and the said provisions had continued in force and accordingly payments as necessary to give effect to this subsection shall be made from the fund.
- (3) A former member's widow who before or after the passing of the *Superannuation Acts Amendment Act 1987* becomes entitled to an annuity payable under any of the provisions of the repealed Acts specified in schedule 1 may within 6 months after the date on which entitlement to the annuity arises elect, by notice in writing served on the board, to convert the whole or any part of the pension entitlement to a lump sum payment of an amount determined by the actuary and approved by the board.
- (4) A person who makes an election under subsection (3) shall be entitled to receive the lump sum determined and approved in accordance with that subsection and from the date of payment of that lump sum the annuity entitlement of that person shall be reduced by the amount of that entitlement in respect of which the election is made.

**374 Payments in respect of a child or children**

- (1) The right and interest of a person in respect of sums payable in respect of a child or children of—
    - (a) a member who died; or
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- (b) a person who having ceased to be a member died;

that, before the commencement of the repealed Act, became payable under any of the provisions of the repealed Acts specified in schedule 1 to the child or children are to the extent subsisting immediately prior to the date of commencement of the repealed Act hereby preserved and continued on and from that date and accordingly payments as necessary to give effect to this subsection shall be made from the fund.

- (2) Upon the death of a person to whom section 372(1) or (2) applies, a child or children of that person shall have the same right or claim to payments in respect of a child or children as the child or children would have had under the provisions of the repealed Acts specified in schedule 1 if the repealed Act had not been enacted and the said provisions had continued in force and accordingly payments as necessary to give effect to this subsection shall be made from the fund.

### **375 Saving**

To the extent necessary to give operation and effect to the provisions of this part, the provisions of the repealed Acts specified in schedule 1 (other than the *Parliamentary Contributory Superannuation Fund Act 1948*, section 11A) with respect to annuities and payments in respect of a child or children of a deceased member or person who had ceased to be a member shall, notwithstanding the repeal thereof, be deemed to remain in force.

### **376 Increase in rates of annuities etc.**

- (1) Notwithstanding any other provision of this part, a person who is entitled to receive annuity (whether or not that entitlement was preserved and continued under this part or arose under this part after the commencement of the repealed Act) is entitled to an increase in the rate of the annuity in accordance with this section.
- (2) The increased rate of annuity payable to the person in question from time to time shall be the rate ascertained in accordance with the formula—

$$P(1 + .03T)$$

where—

*P* means the rate of annuity (without any bonus addition) prescribed in relation to that person at the time in question under the provisions of this part (other than this section).

*T* means the number of periods each of 12 months that have elapsed between—

- (a) the commencement of the repealed Act; and
- (b) the date at which the increased rate of pension is to be ascertained;
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increased by 2 or, where the pension in question became payable to the person concerned before 1 July 1973, by 3.

- (3) In relation to payments in respect of a child or children under this part, the *Parliamentary Contributory Superannuation Fund Act 1948*, section 14A(3) shall be read as if a reference to ‘the rate of annuity under this Act’ were a reference to a rate of annuity increased in accordance with the provisions of this section.
- (4) This section shall not apply in relation to annuity entitlement which arises on or after 1 July 1974 or so as to increase in respect of any period, or part of a period, occurring on or after 1 July 1974, the rate of any pension payable under this chapter.

### **377 Indexation of annuities**

- (1) This section applies to an annuity payable to a person under this part during a financial year if the annuity was payable to the person immediately before the start of the financial year.
- (2) As soon as practicable after the start of the financial year, the board must reassess the amount of the annuity and either increase it or maintain it at the same level as in the previous financial year, as follows—
  - (a) if the June index for the previous financial year is higher than the last adjustment index for the annuity, the annuity must be increased by the percentage increase between the 2 indexes;
  - (b) otherwise, the annuity remains the same.
- (3) If the annuity is increased under the reassessment, the annuity is payable to the person at the increased level from the first pay period that falls entirely in the month of August in the financial year.
- (4) A percentage increase between 2 indexes under subsection (2)(a) must be calculated to 1 decimal place.
- (5) In this section—

*last adjustment index*, for an annuity, means—

- (a) if the annuity has ever been increased under this section—the June index for the financial year immediately before the financial year in which the annuity was last increased under this section; or
- (b) otherwise—the June index for the financial year immediately before the financial year in which the annuity started being payable.

*pay period*, for an annuity, means the period in relation to which each annuity payment is payable under this part.

**378 Remarriage of a widow of a member or former member**

- (1) This section applies if—
  - (a) the widow of a member or former member stopped receiving a pension under section 348 because the widow remarried; and
  - (b) the remarriage happened before the commencement of the section 20A amendment.
- (2) The commencement of the section 20A amendment does not revive the widow's entitlement to the pension.
- (3) In this section—

*section 20A amendment* means the amendment of the repealed Act, section 20A effected by the *Superannuation and Other Legislation Amendment Act 2000*, section 15(1).

**379 Remarriage of a widow of a former continuing member**

- (1) This section applies if—
  - (a) the widow of a former continuing member stopped receiving a pension under section 349 because the widow remarried; and
  - (b) the remarriage happened before the commencement of the section 20B amendment.
- (2) The commencement of the section 20B amendment does not revive the widow's entitlement to the pension.
- (3) In this section—

*section 20B amendment* means the amendment of the repealed Act, section 20B effected by the *Superannuation and Other Legislation Amendment Act 2000*, section 16.

**380 Continued receipt of widow's pension**

- (1) This section applies to a person who was in receipt of a pension under the repealed Act, section 20C immediately before its repeal by the *Superannuation and Other Legislation Amendment Act 2000*, section 17.
- (2) The person is to continue to receive the pension as if section 20C had not been repealed.

**Division 3 Provision for Revenue Legislation  
Amendment Act 2005**

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**381 Transitional provision about superannuation contributions surcharge**

To work out the amount equal to the balance of a former member's surcharge debt account under section 359, the amendment of the section by the *Revenue Legislation Amendment Act 2005* applies as if the amendment had commenced on 1 July 2005.

*Note—*

Section 359 was omitted from the *Superannuation (State Public Sector) Deed 1990* by the *Superannuation (State Public Sector) (Scheme Membership) Amendment of Deed Regulation 2017*.

## **Part 5 Miscellaneous**

**382 Board may accept late election**

- (1) Despite the stated period for making an election under a relevant provision, the board may accept an election made under the provision after the stated period ends if satisfied it would be reasonable in all the circumstances to accept the election.

- (2) In this section—

**relevant provision** means section 342(1) or (11), 345(1), 347(7), 348(1), 23A(1) of the repealed Act or 373(3).

**stated period**, for making an election under a relevant provision, means—

- (a) for an election under section 342(1) or (11)—the period stated in section 342(1), including section 342(1) as applied by section 342(12), for the election; or
- (b) for an election under section 345(1), 347(7), 23A(1) of the repealed Act, or 373(3)—the period stated in the subsection for the election; or
- (c) for an election under section 348(1)—the period stated in section 348(3)(b) for the election.

*Editor's note—*

Section 23A was omitted from the provisions of the repealed Act that were relocated to this chapter. See the *Superannuation (State Public Sector) Amendment of Deed Regulation (No. 1) 2007*, section 51 and the schedule, amendment 21.

**383 Payment of pensions etc.**

- (1) Pensions under this chapter shall be payable in fortnightly instalments.
- (2) Pensions under this chapter shall be apportionable in point of time.
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**384 Payment of interest on lump sum**

Where a person becomes entitled, in accordance with this chapter, to the payment of a lump sum the board must pay interest to that person, at such rate, as may be determined by the board, for the period between the date when the person becomes entitled to the payment of the lump sum and the date on which the lump sum is actually paid to that person.

**385 Pensions**

- (1) Pensions and other rights under this chapter shall not be assigned, charged, taken in execution, attached or passed by operation of law or otherwise howsoever to any person other than the beneficiary or payee nor shall any claim be set off against the same.
- (2) Subsection (1) is subject to part 3.

**386 Payment of lump sum**

- (1) This section applies to a former member who—
  - (a) is under 70 years; and
  - (b) is entitled under this chapter to payment of a lump sum.
- (2) Subject to subsection (4), the board must pay the lump sum to an approved deposit fund, or a superannuation fund, nominated by the former member.
- (3) The former member must nominate a fund for subsection (2) within 3 months after he or she ceases to be a member.
- (4) If the former member does not nominate a fund under this section, the board must pay the lump sum to the accumulation account on behalf of the former member as soon as practicable after the period stated in subsection (3) for nominating a fund ends.

**387 Transferring or withdrawing amounts**

- (1) The board may receive from some other superannuation, pension or like scheme or fund or from the trustees or administrators or other controlling body thereof any moneys in respect of a member's interest in that other scheme or fund or from a life assurance office or from such other source as is approved by the board.
  - (2) The board shall after consultation with the actuary, advise the member of the manner in which the board intends to deal with those moneys.
  - (3) The member may transfer from the fund to an approved deposit fund, a superannuation fund or the accumulation account all or a part of an amount received under subsection (1), other than an amount received under the *Superannuation (Public Employees Portability) Act 1985*.
  - (4) If the member may withdraw from the fund an amount received under subsection (1), the board may impose reasonable conditions about the
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minimum amount of a withdrawal, or the frequency of withdrawals, having regard to the appropriate administration of the fund.

**388 Reference to things done or entitlements under this chapter**

A reference to a thing happening or an entitlement under this chapter is taken to include a thing happening or an entitlement under the repealed Act.

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## Schedule 1 Percentages for benefits

chapter 2, sections 44, 45 and 45A

- 1 Subject to sections 5 and 6, the percentages in respect of benefits for employed members are—
  - (a) compulsory contribution benefit—12.5%; and
  - (b) basic benefit—8.5%; and
  - (c) prospective membership benefit—21%.
- 5 The percentages in respect of employed members employed by the Queensland Police Service are—
  - (a) compulsory contribution benefit—21%; and
  - (b) basic benefit—3.5%; and
  - (c) prospective membership benefit—24.5%.
- 6 The percentages for benefits for an employed member who is employed by the Port of Brisbane Authority as a crew member of the dredge ‘Sir Thomas Hiley’ on 30 June 1994 and continues the employment after that date are—
  - (a) for employment up to 30 June 1994—the percentages calculated by the actuary on the member’s salary as at 1 July 1994 that result in the member being entitled to benefits equal to the benefits the member would have been entitled to under part 7 of the *Superannuation (State Public Sector) Deed 1990*, as in force on 30 June 1994, had the member ceased employment on 30 June 1994; and
  - (b) for employment on and after 1 July 1994—the percentages mentioned in section 1.

## Schedule 2 Scale of units of benefits

chapter 4, section 95

Column 1 Fortnightly salary		Column 2 No. of units of annuity, incapacity, and (males only) assurance benefits respectively	Column 3 Fortnightly amount of benefits		
Exceeding \$	Not exceeding \$		Annuity \$	Incapacity \$	Assurance \$
..	12.20	2	7.68	7.68	5.12
12.20	17.00	3	11.52	11.52	7.68
17.00	21.80	4	15.36	15.36	10.24
21.80	26.70	5	19.20	19.20	12.80
26.70	31.50	6	23.04	23.04	15.36
31.50	36.30	7	26.88	26.88	17.92
36.30	41.10	8	30.72	30.72	20.48
41.10	46.00	9	34.56	34.56	23.04
46.00	50.80	10	38.40	38.40	25.60
50.80	55.60	11	42.24	42.24	28.16
55.60	60.50	12	46.08	46.08	30.72
60.50	65.30	13	49.92	49.92	33.28
65.30	70.10	14	53.76	53.76	35.84
70.10	74.90	15	57.60	57.60	38.40
74.90	79.80	16	61.44	61.44	40.96
79.80	84.60	17	65.28	65.28	43.52
84.60	89.40	18	69.12	69.12	46.08
89.40	94.30	19	72.96	72.96	48.64
94.30	99.10	20	76.80	76.80	51.20
99.10	106.30	21	80.64	80.64	53.76
106.30	113.50	22	84.48	84.48	56.32
113.50	120.70	23	88.32	88.32	58.88
120.70	127.90	24	92.16	92.16	61.44
127.90	135.10	25	96.00	96.00	64.00
135.10	142.30	26	99.84	99.84	66.56
142.30	149.50	27	103.68	103.68	69.12
149.50	156.70	28	107.52	107.52	71.68
156.70	163.90	29	111.36	111.36	74.24

Column 1 Fortnightly salary		Column 2 No. of units of annuity, incapacity, and (males only) assurance benefits respectively	Column 3 Fortnightly amount of benefits		
Exceeding	Not exceeding		Annuity	Incapacity	Assurance
\$	\$		\$	\$	\$
163.90	171.10	30	115.20	115.20	76.80
171.10	178.30	31	119.04	119.04	79.36
178.30	185.50	32	122.88	122.88	81.92
185.50	192.70	33	126.72	126.72	84.48
192.70	199.90	34	130.56	130.56	87.04
199.90	207.10	35	134.40	134.40	89.60
207.10	214.30	36	138.24	138.24	92.16
214.30	221.50	37	142.08	142.08	94.72
221.50	228.70	38	145.92	145.92	97.28
228.70	235.90	39	149.76	149.76	99.84
235.90	243.10	40	153.60	153.60	102.40
243.10	250.30	41	157.44	157.44	104.96
250.30	257.50	42	161.28	161.28	107.52
257.50	264.70	43	165.12	165.12	110.08
264.70	271.90	44	168.96	168.96	112.64
271.90	279.10	45	172.80	172.80	115.20
279.10	286.30	46	176.64	176.64	117.76
286.30	293.50	47	180.48	180.48	120.32
293.50	300.70	48	184.32	184.32	122.88
300.70	307.90	49	188.16	188.16	125.44
307.90	315.10	50	192.00	192.00	128.00
315.10	322.30	51	195.84	195.84	130.56
322.30	329.50	52	199.68	199.68	133.12
329.50	336.70	53	203.52	203.52	135.68
336.70	343.90	54	207.36	207.36	138.24
343.90	351.10	55	211.20	211.20	140.80
351.10	358.30	56	215.04	215.04	143.36
358.30	365.50	57	218.88	218.88	145.92
365.50	372.70	58	222.72	221.72	148.48
372.70	379.90	59	226.56	226.56	151.04
379.90	386.40	60	230.40	230.40	153.60
386.40	392.80	61	234.24	234.24	156.16
392.80	399.20	62	238.08	238.08	158.72
399.20	405.60	63	241.92	241.92	161.28
405.60	412.00	64	245.76	245.76	163.84

Column 1 Fortnightly salary		Column 2 No. of units of annuity, incapacity, and (males only) assurance benefits respectively	Column 3 Fortnightly amount of benefits		
Exceeding	Not exceeding		Annuity	Incapacity	Assurance
\$	\$		\$	\$	\$
412.00	418.40	65	249.60	249.60	166.40
418.40	424.80	66	253.44	253.44	168.96
424.80	431.10	67	257.28	257.28	171.52
431.10	437.40	68	261.12	261.12	174.08
437.40	443.80	69	264.96	264.96	176.64
443.80	450.20	70	268.80	268.80	179.20
450.20		71+A*	3.84 x (71+A*)	3.84 x (71+A*)	2.56 x (71+A*)

\*A denotes the number of times (disregarding any fraction less than 1) by which the fortnightly salary of the contributor exceeds the sum of \$450.20 by the sum of \$6.38.

## Schedule 3

chapter 4, section 102

### Part 1 Male contributors

#### Division 1 Rates of contribution to be paid fortnightly for units of benefit effected at ages not over 60½ years

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
			1st, 2nd, 3rd and 4th units	5th and each subsequent unit
	\$	\$	\$	\$
15	0.06	0.02	0.04	0.03
16	0.07	0.02	0.04	0.03
17	0.07	0.02	0.05	0.04
18	0.07	0.02	0.05	0.04
19	0.08	0.02	0.05	0.04
20	0.08	0.02	0.05	0.04
21	0.08	0.02	0.05	0.05
22	0.09	0.02	0.06	0.05
23	0.10	0.02	0.06	0.05
24	0.10	0.02	0.07	0.05
25	0.11	0.02	0.07	0.06
26	0.11	0.02	0.07	0.06
27	0.12	0.02	0.08	0.07
28	0.13	0.02	0.08	0.07
29	0.14	0.03	0.08	0.07
30	0.15	0.03	0.08	0.07
31	0.16	0.03	0.09	0.08
32	0.16	0.03	0.10	0.08
33	0.18	0.03	0.10	0.09
34	0.19	0.03	0.11	0.09
35	0.20	0.03	0.11	0.10
36	0.22	0.03	0.12	0.10

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
	\$	\$	1st, 2nd, 3rd and 4th units	5th and each subsequent unit
37	0.23	0.04	0.12	0.11
38	0.25	0.04	0.13	0.11
39	0.27	0.04	0.14	0.12
40	0.29	0.04	0.15	0.13
41	0.31	0.05	0.15	0.14
42	0.34	0.05	0.16	0.15
43	0.36	0.05	0.17	0.15
44	0.39	0.05	0.18	0.16
45	0.43	0.05	0.19	0.18
46	0.47	0.06	0.20	0.19
47	0.51	0.06	0.21	0.20
48	0.56	0.07	0.23	0.21
49	0.62	0.07	0.24	0.23
50	0.69	0.07	0.26	0.24
51	0.76	0.08	0.28	0.26
52	0.84	0.08	0.30	0.28
53	0.94	0.08	0.32	0.31
54	1.06	0.09	0.34	0.33
55	1.21	0.10	0.38	0.36
56	1.39	0.10	0.41	0.40
57	1.62	0.11	0.46	0.44
58	1.93	0.11	0.52	0.50
59	2.36	0.12	0.59	0.57
60	2.90	0.13	0.69	0.67

**Division 2**                      **Rates of contribution to be paid  
fortnightly for units of benefit effected at  
ages over 60<sup>1/2</sup> years**

Age to nearest month when contribution for unit		Maximum number of contribut- ions	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
Years	Months				1st, 2nd, 3rd and 4th	5th and each subsequent unit
			\$	\$	\$	\$
60	6	117	3.37	0.13	0.77	0.75
60	7	115	3.43	0.13	0.78	0.76
60	8	113	3.51	0.13	0.79	0.77
60	9	110	3.63	0.14	0.81	0.78
60	10	108	3.72	0.14	0.82	0.80
60	11	106	3.81	0.14	0.84	0.81
61	0	104	3.91	0.14	0.85	0.83
61	1	102	3.99	0.14	0.86	0.84
61	2	100	4.08	0.14	0.88	0.85
61	3	97	4.22	0.14	0.90	0.88
61	4	95	4.32	0.14	0.92	0.90
61	5	93	4.42	0.14	0.94	0.91
61	6	91	4.54	0.14	0.96	0.93
61	7	89	4.65	0.14	0.98	0.95
61	8	86	4.82	0.14	1.01	0.98
61	9	84	4.95	0.15	1.03	1.01
61	10	82	5.08	0.15	1.05	1.03
61	11	80	5.23	0.15	1.08	1.05
62	0	78	5.37	0.15	1.10	1.08
62	1	76	5.53	0.15	1.13	1.11
62	2	73	5.78	0.15	1.18	1.15
62	3	71	5.96	0.15	1.21	1.18
62	4	69	6.17	0.15	1.24	1.21

Age to nearest month when contribution for unit		Maximum number of contributions	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
Years	Months		\$	\$	1st, 2nd, 3rd and 4th	5th and each subsequent unit
					\$	\$
62	5	67	6.39	0.15	1.27	1.25
62	6	65	6.60	0.15	1.31	1.28
62	7	63	6.84	0.15	1.34	1.31
62	8	60	7.20	0.16	1.40	1.37
62	9	58	7.48	0.16	1.45	1.42
62	10	56	7.78	0.16	1.49	1.46
62	11	54	8.10	0.16	1.54	1.51
63	0	52	8.45	0.16	1.60	1.57
63	1	50	8.80	0.16	1.66	1.63
63	2	47	9.39	0.16	1.76	1.72
63	3	45	9.83	0.16	1.83	1.79
63	4	43	10.31	0.16	1.91	1.87
63	5	41	10.84	0.16	2.00	1.96
63	6	39	11.43	0.17	2.09	2.05
63	7	36	12.42	0.17	2.26	2.22
63	8	34	13.19	0.17	2.38	2.34
63	9	32	14.05	0.17	2.53	2.48
63	10	30	15.03	0.17	2.69	2.64
63	11	28	16.03	0.17	2.87	2.82
64	0	26	17.42	0.17	3.08	3.03
64	1	23	19.70	0.16	3.44	3.38
64	2	21	21.57	0.15	3.71	3.65
64	3	19	23.68	0.13	4.04	3.98
64	4	17	26.12	0.11	4.45	4.38
64	5	15	28.89	0.10	4.98	4.89
64	6	13	32.49	0.08	5.66	5.57
64	7	10	41.75	0.08	7.25	7.13
64	8	8	51.55	0.06	8.92	8.78



Age to nearest month when contribution for unit		Maximum number of contributions	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
Years	Months				1st, 2nd, 3rd and 4th	5th and each subsequent unit
			\$	\$	\$	\$
64	9	6	67.90	0.05	11.71	11.53
64	10	4	97.55	0.03	16.66	16.41
64	11	2	195.40	0.02	33.38	32.88
65	0	1	392.30	67.00	66.00	..

## Part 2 Female contributors

### Division 1 Rates of contribution to be paid fortnightly for units of benefit effected at ages not over 60<sup>1/2</sup> years

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit
15	0.07	0.03
16	0.08	0.03
17	0.08	0.03
18	0.09	0.03
19	0.09	0.03
20	0.10	0.03
21	0.10	0.03
22	0.11	0.03
23	0.11	0.03
24	0.12	0.03
25	0.13	0.03
26	0.14	0.04
27	0.15	0.04
28	0.16	0.04
29	0.16	0.04
30	0.18	0.04
31	0.19	0.04
32	0.20	0.05
33	0.21	0.05
34	0.23	0.05
35	0.24	0.05
36	0.26	0.05
37	0.28	0.05
38	0.30	0.05

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<b>Age at nearest birthday when contribution for unit commences</b>	<b>Per unit of annuity benefit</b>	<b>Per unit of incapacity benefit</b>
39	0.32	0.06
40	0.34	0.06
41	0.37	0.06
42	0.40	0.06
43	0.43	0.07
44	0.46	0.07
45	0.50	0.07
46	0.55	0.07
47	0.60	0.08
48	0.66	0.08
49	0.72	0.08
50	0.79	0.09
51	0.87	0.09
52	0.97	0.10
53	1.09	0.10
54	1.23	0.10
55	1.39	0.11
56	1.61	0.11
57	1.87	0.12
58	2.20	0.13
59	2.64	0.14
60	3.32	0.15

**Division 2**                      **Rates of contribution to be paid  
fortnightly for units of benefit effected at  
ages over 60<sup>1/2</sup> years**

Age to nearest month when contribution for unit commences		Maximum number of contributions payable	Per unit of annuity benefit	Per unit of incapacity benefit
Years	Months		\$	\$
60	6	117	3.88	0.15
60	7	115	3.99	0.15
60	8	113	4.11	0.15
60	9	110	4.25	0.15
60	10	108	4.37	0.15
60	11	106	4.48	0.15
61	0	104	4.60	0.15
61	1	102	4.70	0.15
61	2	100	4.80	0.15
61	3	97	4.96	0.16
61	4	95	5.08	0.16
61	5	93	5.19	0.16
61	6	91	5.32	0.16
61	7	89	5.45	0.16
61	8	86	5.66	0.16
61	9	84	5.80	0.16
61	10	82	5.96	0.16
61	11	80	6.12	0.16
62	0	78	6.29	0.16
62	1	76	6.48	0.16
62	2	73	6.77	0.17
62	3	71	6.99	0.17
62	4	69	7.20	0.17
62	5	67	7.45	0.17
62	6	65	7.71	0.17
62	7	63	7.98	0.17
62	8	60	8.40	0.17
62	9	58	8.72	0.17
62	10	56	9.05	0.17

Age to nearest month when contribution for unit commences		Maximum number of contributions payable	Per unit of annuity benefit	Per unit of incapacity benefit
Years	Months		\$	\$
62	11	54	9.43	0.17
63	0	52	9.82	0.17
63	1	50	10.23	0.17
63	2	47	10.91	0.18
63	3	45	11.42	0.18
63	4	43	11.97	0.18
63	5	41	12.59	0.18
63	6	39	13.26	0.18
63	7	36	14.40	0.18
63	8	34	15.28	0.18
63	9	32	16.28	0.18
63	10	30	17.39	0.19
63	11	28	18.68	0.19
64	0	26	20.15	0.18
64	1	23	22.81	0.18
64	2	21	24.86	0.16
64	3	19	27.09	0.14
64	4	17	29.51	0.13
64	5	15	32.34	0.11
64	6	13	36.69	0.09
64	7	10	46.95	0.08
64	8	8	57.70	0.07
64	9	6	75.65	0.05
64	10	4	107.00	0.03
64	11	2	214.40	0.02
65	0	1	430.40	..

## Schedule 4

chapter 4, section 102

### Part 1 Rates of contribution to be paid fortnightly for units of benefit effected at ages not over 60½ years

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit	Males		Females	
			Per unit of assurance benefit	Per unit of annuity benefit	Per unit of annuity benefit	Per unit of incapacity benefit
			Each of first 4 units	5 <sup>th</sup> and each subsequent Unit		
	\$	\$	\$	\$	\$	\$
15	0.06	0.02	0.05	0.04	0.07	0.03
16	0.07	0.02	0.05	0.04	0.08	0.03
17	0.07	0.02	0.05	0.04	0.08	0.03
18	0.07	0.02	0.05	0.04	0.08	0.03
19	0.08	0.02	0.05	0.04	0.09	0.03
20	0.08	0.02	0.06	0.05	0.10	0.03
21	0.08	0.02	0.06	0.05	0.10	0.03
22	0.09	0.02	0.06	0.05	0.11	0.03
23	0.10	0.02	0.07	0.06	0.11	0.03
24	0.10	0.02	0.07	0.06	0.12	0.03
25	0.11	0.02	0.08	0.06	0.13	0.03
26	0.11	0.02	0.09	0.07	0.14	0.04
27	0.12	0.02	0.09	0.07	0.15	0.04
28	0.13	0.02	0.09	0.07	0.16	0.04
29	0.14	0.03	0.10	0.08	0.16	0.04
30	0.15	0.03	0.10	0.08	0.18	0.04
31	0.16	0.03	0.11	0.09	0.19	0.04
32	0.16	0.03	0.11	0.09	0.20	0.05
33	0.18	0.03	0.12	0.10	0.21	0.05
34	0.19	0.03	0.12	0.10	0.23	0.05
35	0.20	0.03	0.13	0.11	0.24	0.05
36	0.22	0.03	0.14	0.12	0.26	0.05
37	0.24	0.04	0.14	0.12	0.28	0.05
38	0.26	0.04	0.15	0.13	0.30	0.05
39	0.28	0.04	0.16	0.14	0.32	0.06
40	0.30	0.04	0.18	0.15	0.35	0.06
41	0.33	0.05	0.19	0.16	0.38	0.06

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit	Males		Females	Per unit of annuity benefit	Per unit of incapacity benefit
			Per unit of assurance benefit	Per unit of assurance benefit			
			Each of first 4 units	5 <sup>th</sup> and each subsequent Unit			
42	0.36	0.05	0.20	0.17	0.41	0.06	
43	0.39	0.05	0.21	0.18	0.45	0.07	
44	0.42	0.05	0.22	0.19	0.49	0.07	
45	0.46	0.05	0.24	0.21	0.54	0.07	
46	0.50	0.06	0.25	0.22	0.59	0.07	
47	0.55	0.06	0.27	0.24	0.64	0.08	
48	0.61	0.07	0.29	0.26	0.71	0.08	
49	0.67	0.07	0.31	0.28	0.78	0.08	
50	0.75	0.07	0.33	0.30	0.86	0.09	
51	0.83	0.08	0.35	0.32	0.96	0.09	
52	0.93	0.08	0.38	0.35	1.07	0.10	
53	1.05	0.08	0.41	0.38	1.20	0.10	
54	1.19	0.09	0.45	0.42	1.36	0.10	
55	1.36	0.10	0.49	0.46	1.55	0.11	
56	1.57	0.10	0.55	0.52	1.79	0.11	
57	1.84	0.11	0.61	0.58	2.09	0.12	
58	2.18	0.11	0.69	0.66	2.47	0.13	
59	2.64	0.12	0.80	0.77	2.99	0.14	
60	3.29	0.13	0.95	0.92	3.73	0.15	

**Part 2 Rates of contribution to be paid fortnightly for units of benefit effected at ages over 60<sup>1/2</sup> years**

Age to nearest month when contribution for unit commences	Maximum number of contributions payable	Males		Per unit of assurance benefit	Females			
		Per unit of annuity benefit	Per unit of incapacity benefit		Per unit of annuity benefit	Per unit of incapacity benefit		
Years	M'ths			Each of first 4 units	5 <sup>th</sup> and each subsequent unit			
			\$	\$	\$	\$	\$	
60	6	117	3.72	0.13	1.05	1.02	4.22	0.15
	7	115	3.80	0.13	1.07	1.03	4.30	0.15
	8	113	3.88	0.13	1.09	1.05	4.39	0.15
	9	110	3.99	0.14	1.12	1.08	4.53	0.15

Age to nearest month when contribution for unit commences		Maximum number of contributions payable	Males		Per unit of assurance benefit	Females		
			Per unit of annuity benefit	Per unit of in-capacity benefit		Per unit of annuity benefit	Per unit of in-capacity benefit	
Years	M'ths		\$	\$	Each of first 4 units	5 <sup>th</sup> and each subsequent unit	\$	\$
	10	108	4.08	0.14	1.14	1.10	4.62	0.15
	11	106	4.17	0.14	1.16	1.12	4.73	0.15
61	0	104	4.26	0.14	1.18	1.14	4.83	0.15
	1	102	4.36	0.14	1.20	1.16	4.94	0.15
	2	100	4.46	0.14	1.22	1.18	5.06	0.15
	3	97	4.61	0.14	1.26	1.22	5.23	0.16
	4	95	4.72	0.14	1.28	1.24	5.36	0.16
	5	93	4.84	0.14	1.31	1.27	5.49	0.16
	6	91	4.96	0.14	1.33	1.29	5.63	0.16
	7	89	5.09	0.14	1.36	1.32	5.77	0.16
	8	86	5.28	0.14	1.41	1.37	5.99	0.16
	9	84	5.43	0.15	1.44	1.40	6.15	0.16
	10	82	5.58	0.15	1.47	1.43	6.32	0.16
	11	80	5.73	0.15	1.50	1.46	6.50	0.16
62	0	78	5.90	0.15	1.54	1.50	6.69	0.16
	1	76	6.07	0.15	1.58	1.54	6.89	0.16
	2	73	6.34	0.15	1.64	1.60	7.19	0.17
	3	71	6.54	0.15	1.69	1.64	7.41	0.17
	4	69	6.75	0.15	1.73	1.69	7.65	0.17
	5	67	6.98	0.15	1.78	1.74	7.90	0.17
	6	65	7.22	0.15	1.84	1.79	8.17	0.17
	7	63	7.47	0.15	1.89	1.84	8.45	0.17
	8	60	7.87	0.16	1.98	1.93	8.9	0.17
	9	58	8.16	0.16	2.05	2.00	9.24	0.17
	10	56	8.48	0.16	2.12	2.07	9.59	0.17
	11	54	8.82	0.16	2.20	2.14	9.98	0.17
63	0	52	9.19	0.16	2.28	2.22	10.39	0.17
	1	50	9.59	0.16	2.37	2.31	10.84	0.17
	2	47	10.23	0.16	2.52	2.45	11.58	0.18
	3	45	10.72	0.16	2.62	2.56	12.13	0.18
	4	43	11.25	0.16	2.74	2.67	12.74	0.18
	5	41	11.84	0.16	2.87	2.80	13.41	0.18
	6	39	12.48	0.17	3.01	2.94	14.15	0.18
	7	36	13.57	0.17	3.26	3.18	15.38	0.18
	8	34	14.41	0.17	3.45	3.36	16.34	0.18
	9	32	15.35	0.17	3.66	3.57	17.43	0.18
	10	30	16.43	0.17	3.89	3.80	18.65	0.19
	11	28	17.65	0.17	4.17	4.07	20.05	0.19
64	0	26	19.07	0.17	4.48	4.38	21.67	0.18

Age to nearest month when contribution for unit commences		Maximum number of contributions payable	Males		Per unit of assurance benefit		Females	
			Per unit of annuity benefit	Per unit of in-capacity benefit	Each of first 4 units	5 <sup>th</sup> and each subsequent unit	Per unit of annuity benefit	Per unit of in-capacity benefit
Years	M'ths		\$	\$	\$	\$	\$	\$
	1	23	21.47	0.16	5.03	4.92	24.35	0.18
	2	21	23.42	0.15	5.48	5.36	26.51	0.16
	3	19	25.78	0.13	6.01	5.88	29.12	0.14
	4	17	28.70	0.11	6.68	6.54	32.34	0.13
	5	15	32.39	0.10	7.52	7.36	36.43	0.11
	6	13	37.22	0.08	8.62	8.44	41.77	0.09
	7	10	48.19	0.08	11.13	10.91	53.97	0.08
	8	8	59.99	0.06	13.98	13.55	67.03	0.07
	9	6	79.66	0.05	18.30	17.95	88.81	0.05
	10	4	118.99	0.03	27.27	26.75	132.37	0.03
	11	2	237.00	0.02	54.17	53.15	263.05	0.02
65	0	1	472.00	..	107.60	105.60	522.70	..



## Schedule 5      Value per unit of assurance in respect of contributors who die before age 60

chapter 4, section 116

<b>Contributor's age nearest birthday at date of death</b>	<b>Value</b>
	\$
Up to 25	468
26	481
27	494
28	508
29	521
30	534
31	548
33	574
34	588
35	601
36	614
37	628
38	641
39	655
40	668
41	681
42	695
43	708
44	721
45	735
46	748
47	755
48	763
49	770
50 to 60	777

**Schedule 6 Value per unit of assurance in respect of contributors who die at age of 60 or between 60 and 65**

chapter 4, section 116

Contributor's age in years and completed months at date of death		Value
Years	Months	\$
60	0	777
	1	777
	2	777
	3	777
	4	777
	5	777
	6	777
	7	777
	8	777
	9	777
	10	777
	11	777
61	0	777
	1	777
	2	777
	3	777
	4	777
	5	777
	6	777
	7	777
	8	776
	9	776
	10	776
	11	776
62	0	776
	1	776
	2	776
	3	775
	4	775
	5	775
	6	775
	7	774
	8	774
	9	774
	10	774
	11	773
63	0	773

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Contributor's age in years and completed months at date of death		Value
Years	Months	\$
	1	773
	2	773
	3	772
	4	772
	5	772
	6	772
	7	771
	8	771
	9	771
	10	771
	11	770
64	0	770
	1	770
	2	770
	3	770
	4	769
	5	769
	6	769
	7	769
	8	769
	9	768
	10	768
	11	768

## Schedule 7 Factors for widows of pensioners

chapter 4, section 116

<b>Widow's age nearest birthday at date of death of pensioner</b>	<b>Factor</b>
Up to 24	401
25 to 29	468
30 to 34	534
35 to 39	601
40 to 59	668
60 to 64	601
65 to 69	534
70 to 74	468
75 to 79	401
80 to 82	334
83 to 85	284
86 to 88	250
89 to 91	217
92 to 94	184
95 to 97	150
98 to 100	117

## Schedule 8

chapter 4, section 161(1)

### Part 1 Value per unit of annuity benefit of male contributors who retire between ages 55 and 60

Contributor's age in years and completed months at date of retirement		Value
Years	Months	\$
55	0	500
	1	508
	2	517
	3	525
	4	533
	5	542
	6	550
	7	558
	8	567
	9	575
	10	583
56	11	592
	0	600
	1	608
	2	617
	3	625
	4	633
	5	642
	6	650
	7	658
	8	667
	9	675
57	10	683
	11	692
	0	700
	1	708
	2	717
	3	725
4	733	
5	742	

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Contributor's age in years and completed months at date of retirement		Value
Years	Months	\$
	6	750
	7	758
	8	767
	9	775
	10	783
	11	792
58	0	800
	1	808
	2	817
	3	825
	4	833
	5	842
	6	850
	7	858
	8	867
	9	875
	10	883
	11	892
59	0	900
	1	911
	2	923
	3	934
	4	945
	5	957
	6	968
	7	979
	8	991
	9	1,002
	10	1,013
	11	1,025

## Part 2 Value per unit of annuity benefit of female contributors who retire between ages 55 and 60

Contributor's age in years and completed months at date of retirement		Value
Years	Months	\$
55	0	625
	1	633
	2	642
	3	650
	4	658
	5	667
	6	675
	7	683
	8	692
	9	700
	10	708
56	11	717
	0	725
	1	733
	2	742
	3	750
	4	758
	5	767
	6	775
	7	783
	8	792
	9	800
57	10	808
	11	817
	0	825
	1	833
	2	842
	3	850
	4	858
	5	867
	6	875
	7	883
	8	892
9	900	
	10	908

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Contributor's age in years and completed months at date of retirement		Value
Years	Months	\$
	11	917
58	0	925
	1	933
	2	942
	3	950
	4	958
	5	967
	6	975
	7	983
	8	992
	9	1,000
	10	1,008
	11	1,017
59	0	1,025
	1	1,037
	2	1,048
	3	1,060
	4	1,071
	5	1,083
	6	1,094
	7	1,106
	8	1,117
	9	1,129
	10	1,140
	11	1,152



## Schedule 9

section 161(3)

### Part 1 Male contributions

Factors for converting lump sum benefits to pension benefits of contributors who retire between ages 55 and 60

Contributor's age in years and completed months at date of retirement

Years	Months	Factor
55	0	365
	1	364
	2	364
	3	363
	4	362
	5	361
	6	360
	7	359
	8	358
	9	357
	10	357
56	11	356
	0	355
	1	354
	2	353
	3	352
	4	351
	5	351
	6	350
	7	349
	8	348
	9	347
57	10	346
	11	345
	0	344
	1	344
	2	343
	3	342
4	341	
5	340	

**Factors for converting lump sum benefits to pension benefits of contributors who retire between ages 55 and 60**

<b>Contributor's age in years and completed months at date of retirement</b>		<b>Factor</b>
<b>Years</b>	<b>Months</b>	
	6	339
	7	338
	8	337
	9	337
	10	336
	11	335
58	0	334
	1	333
	2	332
	3	331
	4	331
	5	330
	6	329
	7	328
	8	327
	9	326
	10	325
	11	324
59	0	324
	1	323
	2	322
	3	321
	4	320
	5	319
	6	318
	7	317
	8	317
	9	316
	10	315
	11	314

## Part 2 Female contributions

Factors for converting lump sum benefits to pension benefits of contributors who retire between ages 55 and 60

Contributor's age in years and completed months at date of retirement Factor

Years	Months	
55	0	391
	1	391
	2	390
	3	389
	4	388
	5	387
	6	386
	7	385
	8	384
	9	384
	10	383
56	11	382
	0	381
	1	380
	2	379
	3	378
	4	377
	5	377
	6	376
	7	375
	8	374
	9	373
57	10	372
	11	371
	0	371
	1	370
	2	369
	3	368
	4	367
	5	366
	6	365
	7	364
	8	364
9	363	
10	362	

**Factors for converting lump sum benefits to pension benefits of contributors who retire between ages 55 and 60**

<b>Contributor's age in years and completed months at date of retirement</b>		<b>Factor</b>
<b>Years</b>	<b>Months</b>	
58	11	361
	0	360
	1	359
	2	358
	3	357
	4	357
	5	356
	6	355
	7	354
	8	353
	9	352
	10	351
59	11	351
	0	350
	1	349
	2	348
	3	347
	4	346
	5	345
	6	344
	7	344
	8	343
	9	342
	10	341
11	340	

## Schedule 10

chapter 5, section 205

### Part 1 Commutation factors

Column 1

Column 2

Age in years and complete months at date of retirement

Years	Months	Commutation factor
60	0	313
60	1	312
60	2	311
60	3	310
60	4	310
60	5	309
60	6	308
60	7	307
60	8	306
60	9	305
60	10	304
60	11	304
61	0	303
61	1	302
61	2	301
61	3	300
61	4	299
61	5	298
61	6	297
61	7	297
61	8	296
61	9	295
61	10	294
61	11	293
62	0	292
62	1	291
62	2	290
62	3	290
62	4	289

**Column 1****Column 2****Age in years and complete months at date of retirement**

<b>Years</b>	<b>Months</b>	<b>Commutation factor</b>
62	5	288
62	6	287
62	7	286
62	8	285
62	9	284
62	10	284
62	11	283
63	0	282
63	1	281
63	2	280
63	3	279
63	4	278
63	5	277
63	6	277
63	7	276
63	8	275
63	9	274
63	10	273
63	11	272
64	0	271
64	1	270
64	2	270
64	3	269
64	4	268
64	5	267
64	6	266
64	7	265
64	8	264
64	9	264
64	10	263
64	11	262
65	0	261

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## Part 2                      Commutation factors

**Column 1****Column 2****Age in years and complete months at date of retirement**

<b>Years</b>	<b>Months</b>	<b>Commutation factor</b>
60	0	339
60	1	338
60	2	337
60	3	337
60	4	336
60	5	335
60	6	334
60	7	333
60	8	332
60	9	331
60	10	330
60	11	330
61	0	329
61	1	328
61	2	327
61	3	326
61	4	325
61	5	324
61	6	324
61	7	323
61	8	322
61	9	321
61	10	320
61	11	319
62	0	318
62	1	317
62	2	317
62	3	316
62	4	315
62	5	314
62	6	313
62	7	312
62	8	311
62	9	310
62	10	310

**Column 1****Column 2****Age in years and complete months at date of retirement**

<b>Years</b>	<b>Months</b>	<b>Commutation factor</b>
62	11	309
63	0	308
63	1	307
63	2	306
63	3	305
63	4	304
63	5	304
63	6	303
63	7	302
63	8	301
63	9	300
63	10	299
63	11	298
64	0	297
64	1	297
64	2	296
64	3	295
64	4	294
64	5	293
64	6	292
64	7	291
64	8	290
64	9	290
64	10	289
64	11	288
65	0	287



## Schedule 11 Factors for benefits upon death of contributors who die before age 60

chapter 5, section 185

<b>Contributor's age nearest birthday at date of death</b>	<b>Factor</b>
Up to 25	137
26	141
27	145
28	149
29	153
30	157
31	161
32	164
33	168
34	172
35	176
36	180
37	184
38	188
39	192
40	196
41	200
42	204
43	208
44	211
45	215
46	219
47	223
48	227
49	231
50 to 60	235

## Schedule 12 Factors for benefits upon death of contributors who die at age 60 or between ages 60 and 65

chapter 5, section 185

Contributor's age in years and completed months at date of death		Factor
Years	Months	
60	0	235
	1	234
	2	233
	3	233
	4	232
	5	231
	6	231
	7	230
	8	229
	9	229
	10	228
61	11	227
	0	227
	1	226
	2	225
	3	225
	4	224
	5	224
	6	223
	7	222
	8	222
	9	221
62	10	220
	11	220
	0	219
	1	218
	2	218
	3	217
	4	216
	5	216
6	215	
7	214	

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Contributor's age in years and completed months at date of death		Factor
Years	Months	
63	8	214
	9	213
	10	212
	11	212
	0	211
	1	210
	2	210
	3	209
	4	208
	5	208
	6	207
64	7	207
	8	206
	9	205
	10	205
	11	204
	0	203
	1	203
	2	202
	3	201
	4	201
	5	200
6	199	
7	199	
8	198	
9	197	
10	197	
11	196	

## Schedule 13 Factors for relicts of pensioners

chapter 5, section 185

<b>Relict's age nearest birthday at date of death of pensioner</b>	<b>Factor</b>
Up to 24	104
25 to 29	122
30 to 34	139
35 to 39	157
40 to 59	174
60 to 64	157
65 to 69	139
70 to 74	122
75 to 79	104
80 to 82	87
83 to 85	74
86 to 88	65
89 to 91	57
92 to 94	48
95 to 97	39
98 to 100	30

## Schedule 14 Factors for lump sum benefits of contributors who retire between ages 55 and 60

chapter 5, section 181(1)

Contributor's age in years and completed months at date of retirement		Factor
Years	Months	
55	0	.9000
	1	.9017
	2	.9033
	3	.9050
	4	.9067
	5	.9083
	6	.9100
	7	.9117
	8	.9133
	9	.9150
	10	.9167
56	11	.9183
	0	.9200
	1	.9217
	2	.9233
	3	.9250
	4	.9267
	5	.9283
	6	.9300
	7	.9317
	8	.9333
	9	.9350
57	10	.9367
	11	.9383
	0	.9400
	1	.9417
	2	.9433
	3	.9450
	4	.9467
	5	.9483
6	.9500	
	7	.9517

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Contributor's age in years and completed months at date of retirement		Factor
Years	Months	
58	8	.9533
	9	.9550
	10	.9567
	11	.9583
	0	.9600
	1	.9617
	2	.9633
	3	.9650
	4	.9667
	5	.9683
	6	.9700
	7	.9717
59	8	.9733
	9	.9750
	10	.9767
	11	.9783
	0	.9800
	1	.9817
	2	.9833
	3	.9850
	4	.9867
	5	.9883
	6	.9900
	7	.9917
8	.9933	
9	.9950	
10	.9967	
11	.9983	

## Schedule 15

chapter 5, section 181(3)

### Part 1 Male contributors; and female contributors who commenced on or after 27.2.1984

Factors for converting lump sum benefits to pension benefits of contributors who retire  
between ages 55 and 60

Contributor's age in years and completed months at date of retirement		Factor
Years	Months	
55	0	365
	1	364
	2	364
	3	363
	4	362
	5	361
	6	360
	7	359
	8	358
	9	357
	10	357
56	11	356
	0	355
	1	354
	2	353
	3	352
	4	351
	5	351
	6	350
	7	349
	8	348
	9	347
57	10	346
	11	345
	0	344
	1	344
	2	343
	3	342
	4	341

**Factors for converting lump sum benefits to pension benefits of contributors who retire between ages 55 and 60**

<b>Contributor's age in years and completed months at date of retirement</b>		<b>Factor</b>
<b>Years</b>	<b>Months</b>	
	5	340
	6	339
	7	338
	8	337
	9	337
	10	336
	11	335
58	0	334
	1	333
	2	332
	3	331
	4	331
	5	330
	6	329
	7	328
	8	327
	9	326
	10	325
	11	324
59	0	324
	1	323
	2	322
	3	321
	4	320
	5	319
	6	318
	7	317
	8	317
	9	316
	10	315
	11	314



## Part 2                      Female contributors who commenced before 27.2.1984

Factors for converting lump sum benefits to pension benefits of contributors who retire between ages 55 and 60

Contributor's age in years and completed months at date of retirement		Factor
Years	Months	
55	0	391
	1	391
	2	390
	3	389
	4	388
	5	387
	6	386
	7	385
	8	384
	9	384
	10	383
56	11	382
	0	381
	1	380
	2	379
	3	378
	4	377
	5	377
	6	376
	7	375
	8	374
	9	373
57	10	372
	11	371
	0	371
	1	370
	2	369
	3	368
	4	367
	5	366
	6	365
	7	364
	8	364
9	363	
10	362	

**Factors for converting lump sum benefits to pension benefits of contributors who retire between ages 55 and 60**

<b>Contributor's age in years and completed months at date of retirement</b>		<b>Factor</b>
<b>Years</b>	<b>Months</b>	
58	11	361
	0	360
	1	359
	2	358
	3	357
	4	357
	5	356
	6	355
	7	354
	8	353
	9	352
	10	351
59	11	351
	0	350
	1	349
	2	348
	3	347
	4	346
	5	345
	6	344
	7	344
	8	343
	9	342
	10	341
11	340	

## Schedule 16 Scale of units of benefits

chapter 6, section 218

Column 1 Fortnightly salary		Column 2 No. of units of annuity, incapacity, and (males only) assurance benefits respectively	Column 3 Fortnightly amount of benefits		
Exceeding	Not exceeding		Annuity	Incapacity	Assurance
\$	\$		\$	\$	\$
..	12.20	2	7.68	7.68	5.12
12.20	17.00	3	11.52	11.52	7.68
17.00	21.80	4	15.36	15.36	10.24
21.80	26.70	5	19.20	19.20	12.80
26.70	31.50	6	23.04	23.04	15.36
31.50	36.30	7	26.88	26.88	17.92
36.30	41.10	8	30.72	30.72	20.48
41.10	46.00	9	34.56	34.56	23.04
46.00	50.80	10	38.40	38.40	25.60
50.80	55.60	11	42.24	42.24	28.16
55.60	60.50	12	46.08	46.08	30.72
60.50	65.30	13	49.92	49.92	33.28
65.30	70.10	14	53.76	53.76	35.84
70.10	74.90	15	57.60	57.60	38.40
74.90	79.80	16	61.44	61.44	40.96
79.80	84.60	17	65.28	65.28	43.52
84.60	89.40	18	69.12	69.12	46.08
89.40	94.30	19	72.96	72.96	48.64
94.30	99.10	20	76.80	76.80	51.20
99.10	106.30	21	80.64	80.64	53.76
106.30	113.50	22	84.48	84.48	56.32
113.50	120.70	23	88.32	88.32	58.88
120.70	127.90	24	92.16	92.16	61.44
127.90	135.10	25	96.00	96.00	64.00
135.10	142.30	26	99.84	99.84	66.56
142.30	149.50	27	103.68	103.68	69.12
149.50	156.70	28	107.52	107.52	71.68
156.70	163.90	29	111.36	111.36	74.24
163.90	171.10	30	115.20	115.20	76.80

<b>Exceeding</b>	<b>Not exceeding</b>		<b>Annuity</b>	<b>Incapacity</b>	<b>Assurance</b>
\$	\$		\$	\$	\$
171.10	178.30	31	119.04	119.04	79.36
178.30	185.50	32	122.88	122.88	81.92
185.50	192.70	33	126.72	126.72	84.48
192.70	199.90	34	130.56	130.56	87.04
199.90	207.10	35	134.40	134.40	89.60
207.10	214.30	36	138.24	138.24	92.16
214.30	221.50	37	142.08	142.08	94.72
221.50	228.70	38	145.92	145.92	97.28
228.70	235.90	39	149.76	149.76	99.84
235.90	243.10	40	153.60	153.60	102.40
243.10	250.30	41	157.44	157.44	104.96
250.30	257.50	42	161.28	161.28	107.52
257.50	264.70	43	165.12	165.12	110.08
264.70	271.90	44	168.96	168.96	112.64
271.90	279.10	45	172.80	172.80	115.20
279.10	286.30	46	176.64	176.64	117.76
286.30	293.50	47	180.48	180.48	120.32
293.50	300.70	48	184.32	184.32	122.88
300.70	307.90	49	188.16	188.16	125.44
307.90	315.10	50	192.00	192.00	128.00
315.10	322.30	51	195.84	195.84	130.56
322.30	329.50	52	199.68	199.68	133.12
329.50	336.70	53	203.52	203.52	135.68
336.70	343.90	54	207.36	207.36	138.24
343.90	351.10	55	211.20	211.20	140.80
351.10	358.30	56	215.04	215.04	143.36
358.30	365.50	57	218.88	218.88	145.92
365.50	372.70	58	222.72	222.72	148.48
372.70	379.90	59	226.56	226.56	151.04
379.90	386.40	60	230.40	230.40	153.60
386.40	392.80	61	234.24	234.24	156.16
392.80	399.20	62	238.08	238.08	158.72
399.20	405.60	63	241.92	241.92	161.28
405.60	412.00	64	245.76	245.76	163.84
412.00	418.40	65	249.60	249.60	166.40
418.40	424.80	66	253.44	253.44	168.96
424.80	431.10	67	257.28	257.28	171.52
431.10	437.40	68	261.12	261.12	174.08
437.40	443.80	69	264.96	264.96	176.64
443.80	450.20	70	268.80	268.80	179.20
450.20	..	71 + A*	\$3.84 x (71+A*)	\$3.84 x (71+A*)	\$2.56 x (71+A*)

\*A denotes the number of times (disregarding any fraction less than 1) by which the fortnightly salary of the contributor exceeds the sum of \$450.20 by the sum of \$6.38.

## Schedule 17 Scale of units of benefits

chapter 6, section 264

Column 1		Column 2	Column 3		
Fortnightly salary		No. of units of annuity, incapacity, and (males only) assurance benefits respectively	Fortnightly amount of benefits		
Exceeding	Not exceeding		Annuity	Incapacity	Assurance
\$	\$		\$	\$	\$
..	12.20	2	7.68	7.68	5.12
12.20	17.00	3	11.52	11.52	7.68
17.00	21.80	4	15.36	15.36	10.24
21.80	26.70	5	19.20	19.20	12.80
26.70	31.50	6	23.04	23.04	15.36
31.50	36.30	7	26.88	26.88	17.92
36.30	41.10	8	30.72	30.72	20.48
41.10	46.00	9	34.56	34.56	23.04
46.00	50.80	10	38.40	38.40	25.60
50.80	55.60	11	42.24	42.24	28.16
55.60	60.50	12	46.08	46.08	30.72
60.50	65.30	13	49.92	49.92	33.28
65.30	70.10	14	53.76	53.76	35.84
70.10	74.90	15	57.60	57.60	38.40
74.90	79.80	16	61.44	61.44	40.96
79.80	84.60	17	65.28	65.28	43.52
84.60	89.40	18	69.12	69.12	46.08
89.40	94.30	19	72.96	72.96	48.64
94.30	99.10	20	76.80	76.80	51.20
99.10	108.80	21	80.64	80.64	53.76
108.80	118.40	22	84.48	84.48	56.32
118.40	128.10	23	88.32	88.32	58.88
128.10	137.70	24	92.16	92.16	61.44
137.70	147.40	25	96.00	96.00	64.00
147.40	157.00	26	99.84	99.84	66.56
157.00	166.70	27	103.68	103.68	69.12
166.70	176.40	28	107.52	107.52	71.68
176.40	186.00	29	111.36	111.36	74.24
186.00	195.70	30	115.20	115.20	76.80
195.70	205.30	31	119.04	119.04	79.36

<b>Exceeding</b>	<b>Not exceeding</b>		<b>Annuity</b>	<b>Incapacity</b>	<b>Assurance</b>
\$	\$		\$	\$	\$
205.30	215.00	32	122.88	122.88	81.92
215.00	224.70	33	126.72	126.72	84.48
224.70	234.30	34	130.56	130.56	87.04
234.30	244.00	35	134.40	134.40	89.60
244.00	253.60	36	138.24	138.24	92.16
253.60	263.60	37	142.08	142.08	94.72
263.30	273.00	38	145.92	145.92	97.28
273.00	282.60	39	149.76	149.76	99.84
282.60	292.30	40	153.60	153.60	102.40
292.30	301.90	41	157.44	157.44	104.96
301.90	311.60	42	161.28	161.28	107.52
311.60	321.30	43	165.12	165.12	110.08
321.30	330.90	44	168.96	168.96	112.64
330.90	340.60	45	172.80	172.80	115.20
340.60	350.20	46	176.64	176.64	117.76
350.20	359.90	47	180.48	180.48	120.32
359.90	369.60	48	184.32	184.32	122.88
369.60	379.20	49	188.16	188.16	125.44
379.20	388.90	50	192.00	192.00	128.00
388.90	398.50	51	195.84	195.84	130.56
398.50	408.20	52	199.68	199.68	133.12
408.20	417.80	53	203.52	203.52	135.68
417.80	..	54	207.36	207.36	138.24

## Schedule 18

sections 225, 264 and 265

### Part 1 Male contributors

#### Division 1 Rates of contribution to be paid fortnightly for units of benefit effected at ages not over 55<sup>1/2</sup> years

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
			1st, 2nd, 3rd and 4th units	5th and each subsequent unit
	\$	\$	\$	\$
15	0.10	0.02	0.05	0.04
16	0.10	0.02	0.05	0.04
17	0.11	0.02	0.05	0.04
18	0.11	0.02	0.05	0.04
19	0.12	0.02	0.05	0.04
20	0.13	0.02	0.06	0.05
21	0.14	0.02	0.06	0.05
22	0.14	0.02	0.06	0.05
23	0.15	0.02	0.06	0.05
24	0.16	0.02	0.07	0.06
25	0.17	0.02	0.07	0.06
26	0.18	0.02	0.08	0.06
27	0.19	0.02	0.09	0.07
28	0.21	0.02	0.09	0.07
29	0.22	0.03	0.09	0.07
30	0.23	0.03	0.10	0.08
31	0.25	0.03	0.10	0.08
32	0.27	0.03	0.11	0.09
33	0.29	0.03	0.11	0.09
34	0.31	0.03	0.12	0.10

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
			1st, 2nd, 3rd and 4th units	5th and each subsequent unit
	\$	\$	\$	\$
35	0.33	0.03	0.12	0.10
36	0.35	0.03	0.13	0.11
37	0.38	0.03	0.14	0.12
38	0.41	0.04	0.15	0.13
39	0.44	0.04	0.16	0.13
40	0.48	0.04	0.17	0.14
41	0.52	0.04	0.18	0.15
42	0.57	0.04	0.20	0.17
43	0.62	0.04	0.21	0.18
44	0.67	0.05	0.22	0.19
45	0.74	0.05	0.24	0.21
46	0.82	0.05	0.25	0.22
47	0.91	0.05	0.27	0.24
48	1.01	0.05	0.30	0.27
49	1.14	0.06	0.33	0.30
50	1.29	0.06	0.36	0.33
51	1.47	0.06	0.41	0.37
52	1.70	0.07	0.45	0.41
53	2.00	0.07	0.51	0.47
54	2.41	0.07	0.59	0.55
55	2.97	0.08	0.71	0.66



**Division 2**                      **Rates of contribution to be paid  
fortnightly for units of benefit effected at  
ages over 55<sup>1/2</sup> years**

Age to nearest month when contribution for unit commences		Maximum number of contributions payable	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
					1st, 2nd, 3 <sup>rd</sup> and 4 <sup>th</sup> units	5th and each subsequent unit
			\$	\$	\$	\$
55	6	117	3.36	0.08	0.80	0.75
55	7	115	3.42	0.08	0.81	0.76
55	8	113	3.49	0.08	0.82	0.77
55	9	110	3.59	0.08	0.84	0.78
55	10	108	3.66	0.08	0.85	0.79
55	11	106	3.74	0.08	0.86	0.80
56	0	104	3.82	0.08	0.87	0.82
56	1	102	3.90	0.08	0.89	0.84
56	2	100	3.98	0.08	0.90	0.85
56	3	97	4.11	0.08	0.93	0.88
56	4	95	4.20	0.08	0.95	0.89
56	5	93	4.30	0.08	0.97	0.91
56	6	91	4.41	0.08	0.99	0.93
56	7	89	4.52	0.08	1.01	0.95
56	8	86	4.69	0.08	1.04	0.98
56	9	84	4.82	0.09	1.06	1.01
56	10	82	4.95	0.09	1.09	1.03
56	11	80	5.09	0.09	1.11	1.05
57	0	78	5.23	0.09	1.14	1.08
57	1	76	5.39	0.09	1.17	1.11
57	2	73	5.63	0.09	1.22	1.15
57	3	71	5.80	0.09	1.25	1.18
57	4	69	5.99	0.09	1.29	1.22

Age to nearest month when contribution for unit commences		Maximum number of contributions payable	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
					1st, 2nd, 3 <sup>rd</sup> and 4 <sup>th</sup> units	5th and each subsequent unit
			\$	\$	\$	\$
57	5	67	6.18	0.09	1.32	1.25
57	6	65	6.38	0.09	1.36	1.29
57	7	63	6.60	0.09	1.41	1.33
57	8	60	6.94	0.09	1.48	1.40
57	9	58	7.20	0.09	1.53	1.45
57	10	56	7.47	0.09	1.58	1.50
57	11	54	7.76	0.09	1.64	1.55
58	0	52	8.07	0.09	1.70	1.61
58	1	50	8.43	0.09	1.77	1.67
58	2	47	9.00	0.09	1.87	1.78
58	3	45	9.43	0.09	1.95	1.85
58	4	43	9.90	0.09	2.04	1.94
58	5	41	10.41	0.09	2.14	2.03
58	6	39	10.97	0.09	2.24	2.13
58	7	36	11.90	0.09	2.43	2.30
58	8	34	12.62	0.09	2.56	2.44
58	9	32	13.44	0.10	2.72	2.59
58	10	30	14.36	0.10	2.90	2.75
58	11	28	15.41	0.10	3.10	2.95
59	0	26	16.61	0.10	3.33	3.17
59	1	23	18.72	0.09	3.74	3.56
59	2	21	20.43	0.08	4.07	3.87
59	3	19	22.51	0.07	4.46	4.25
59	4	17	25.08	0.07	4.95	4.72
59	5	15	28.33	0.06	5.57	5.32
59	6	13	32.58	0.05	6.38	6.09
59	7	10	42.22	0.04	8.24	7.87
59	8	8	52.60	0.04	10.22	9.77

			Per unit of assurance benefit			
Age to nearest month when contribution for unit commences		Maximum number of contributions payable	Per unit of annuity benefit	Per unit of incapacity benefit	1st, 2nd, 3 <sup>rd</sup> and 4 <sup>th</sup> units	5th and each subsequent unit
			\$	\$	\$	\$
59	9	6	69.91	0.03	13.53	12.94
59	10	4	104.52	0.02	20.15	19.27
59	11	2	208.34	0.01	40.00	38.27
60	0	1	415.30	..	79.40	76.00

## Part 2 Female contributors

### Division 1 Rates of contribution to be paid fortnightly for units of benefit effected at ages not over 55<sup>1/2</sup> years

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit
	\$	\$
15	0.11	0.02
16	0.12	0.02
17	0.12	0.02
18	0.13	0.02
19	0.14	0.02
20	0.15	0.02
21	0.15	0.02
22	0.16	0.02
23	0.17	0.02
24	0.18	0.02
25	0.20	0.03
26	0.21	0.03
27	0.22	0.03
28	0.24	0.03
29	0.25	0.03
30	0.27	0.03
31	0.28	0.03
32	0.30	0.03
33	0.33	0.03

<b>Age at nearest birthday when contribution for unit commences</b>	<b>Per unit of annuity benefit</b>	<b>Per unit of incapacity benefit</b>
	<b>\$</b>	<b>\$</b>
34	0.35	0.04
35	0.37	0.04
36	0.40	0.04
37	0.43	0.04
38	0.46	0.04
39	0.50	0.04
40	0.54	0.04
41	0.59	0.05
42	0.64	0.05
43	0.70	0.05
44	0.76	0.05
45	0.84	0.05
46	0.93	0.06
47	1.03	0.06
48	1.14	0.06
49	1.28	0.07
50	1.45	0.07
51	1.66	0.07
52	1.92	0.07
53	2.26	0.08
54	2.71	0.08
55	3.34	0.08

**Division 2                      Rates of contribution to be paid  
fortnightly for units of benefit effected at  
ages over 55<sup>1/2</sup> years**

<b>Age to nearest month when contribution for unit commences</b>	<b>Maximum number of contributions payable</b>	<b>Per unit of annuity benefit</b>	<b>Per unit of incapacity benefit</b>
		<b>\$</b>	<b>\$</b>
55      6	117	3.78	0.08
55      7	115	3.85	0.08
55      8	113	3.92	0.08
55      9	110	4.03	0.08
55      10	108	4.11	0.08
55      11	106	4.20	0.08

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56	0	104	4.29	0.08
56	1	102	4.38	0.08
56	2	100	4.47	0.08
56	3	97	4.61	0.08
56	4	95	4.71	0.09
56	5	93	4.83	0.09
56	6	91	4.95	0.09
56	7	89	5.08	0.09
56	8	86	5.27	0.09
56	9	84	5.41	0.09
56	10	82	5.56	0.09
56	11	80	5.71	0.09
57	0	78	5.87	0.09
57	1	76	6.04	0.09
57	2	73	6.30	0.09
57	3	71	6.49	0.09
57	4	69	6.69	0.09
57	5	67	6.90	0.09
57	6	65	7.13	0.09
57	7	63	7.37	0.09
57	8	60	7.76	0.09
57	9	58	8.05	0.09
57	10	56	8.36	0.09
57	11	54	8.69	0.09
58	0	52	9.04	0.09
58	1	50	9.44	0.09
58	2	47	10.08	0.09
58	3	45	10.56	0.09
58	4	43	11.08	0.09
58	5	41	11.65	0.09
58	6	39	12.27	0.09
58	7	36	13.31	0.09
58	8	34	14.12	0.09
58	9	32	15.03	0.09
58	10	30	16.06	0.09
58	11	28	17.23	0.09
59	0	26	18.57	0.09
59	1	23	20.93	0.09
59	2	21	22.86	0.08

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59	3	19	25.19	0.07
59	4	17	28.07	0.06
59	5	15	31.72	0.06
59	6	13	36.49	0.05
59	7	10	47.29	0.04
59	8	8	58.93	0.03
59	9	6	78.34	0.03
59	10	4	117.16	0.02
59	11	2	233.61	0.01
60	0	1	465.80	..

## Schedule 19

chapter 6, sections 225 and 227

### Part 1 Male contributors

#### Division 1 Rates of contribution to be paid fortnightly for units of benefit effected at ages not over 55<sup>1/2</sup> years

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
			1st, 2nd, 3rd and 4th units	5th and each subsequent unit
	\$	\$	\$	\$
15	0.10	0.02	0.05	0.04
16	0.10	0.02	0.05	0.04
17	0.11	0.02	0.06	0.05
18	0.12	0.02	0.06	0.05
19	0.13	0.02	0.06	0.05
20	0.13	0.02	0.06	0.05
21	0.14	0.02	0.07	0.06
22	0.15	0.02	0.07	0.06
23	0.16	0.02	0.07	0.06
24	0.17	0.02	0.08	0.07
25	0.18	0.02	0.09	0.07
26	0.19	0.02	0.10	0.08
27	0.21	0.02	0.10	0.08
28	0.22	0.02	0.10	0.08
29	0.24	0.03	0.11	0.09
30	0.25	0.03	0.11	0.09
31	0.27	0.03	0.12	0.10
32	0.29	0.03	0.13	0.11
33	0.31	0.03	0.13	0.11
34	0.34	0.03	0.14	0.12

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
			1st, 2nd, 3rd and 4th units	5th and each subsequent unit
	\$	\$	\$	\$
35	0.36	0.03	0.15	0.13
36	0.39	0.03	0.16	0.14
37	0.42	0.03	0.18	0.15
38	0.46	0.04	0.19	0.16
39	0.49	0.04	0.20	0.17
40	0.54	0.04	0.21	0.18
41	0.59	0.04	0.22	0.19
42	0.64	0.04	0.24	0.21
43	0.70	0.04	0.25	0.22
44	0.77	0.05	0.27	0.24
45	0.85	0.05	0.29	0.26
46	0.94	0.05	0.32	0.29
47	1.04	0.05	0.34	0.31
48	1.17	0.05	0.37	0.34
49	1.31	0.06	0.42	0.38
50	1.49	0.06	0.46	0.42
51	1.71	0.06	0.51	0.47
52	1.99	0.07	0.58	0.54
53	2.35	0.07	0.66	0.62
54	2.82	0.07	0.76	0.72
55	3.49	0.08	0.92	0.87



**Division 2****Rates of contribution to be paid  
fortnightly for units of benefit effected at  
ages over 55<sup>1/2</sup> years**

Age to nearest month when contribution for unit commences		Maximum number of contribut- ions payable	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
					1st, 2nd, 3rd and 4 <sup>th</sup> units	5th and each subsequent unit
			\$	\$	\$	\$
55	6	117	3.94	0.08	1.02	0.97
55	7	115	4.02	0.08	1.04	0.98
55	8	113	4.11	0.08	1.06	1.00
55	9	110	4.23	0.08	1.09	1.03
55	10	108	4.32	0.08	1.11	1.05
55	11	106	4.41	0.08	1.13	1.07
56	0	104	4.51	0.08	1.15	1.09
56	1	102	4.61	0.08	1.17	1.11
56	2	100	4.71	0.08	1.20	1.13
56	3	97	4.87	0.08	1.23	1.17
56	4	95	4.99	0.08	1.26	1.20
56	5	93	5.11	0.08	1.28	1.22
56	6	91	5.23	0.08	1.31	1.25
56	7	89	5.36	0.08	1.34	1.28
56	8	86	5.56	0.08	1.39	1.32
56	9	84	5.71	0.09	1.42	1.35
56	10	82	5.86	0.09	1.46	1.39
56	11	80	6.02	0.09	1.49	1.42
57	0	78	6.19	0.09	1.53	1.46
57	1	76	6.37	0.09	1.57	1.50
57	2	73	6.65	0.09	1.63	1.56
57	3	71	6.85	0.09	1.68	1.60

Age to nearest month when contribution for unit commences		Maximum number of contributions payable	Per unit of assurance benefit			
			Per unit of annuity benefit	Per unit of incapacity benefit	1st, 2nd, 3rd and 4 <sup>th</sup> units	5th and each subsequent unit
			\$	\$	\$	\$
57	4	69	7.07	0.09	1.72	1.65
57	5	67	7.30	0.09	1.77	1.70
57	6	65	7.55	0.09	1.83	1.75
57	7	63	7.81	0.09	1.88	1.80
57	8	60	8.22	0.09	1.97	1.89
57	9	58	8.52	0.09	2.04	1.96
57	10	56	8.85	0.09	2.11	2.03
57	11	54	9.20	0.09	2.19	2.10
58	0	52	9.58	0.09	2.27	2.18
58	1	50	9.99	0.09	2.36	2.27
58	2	47	10.65	0.09	2.51	2.41
58	3	45	11.15	0.09	2.62	2.52
58	4	43	11.70	0.09	2.74	2.63
58	5	41	12.30	0.09	2.87	2.76
58	6	39	12.97	0.09	3.01	2.90
58	7	36	14.08	0.09	3.26	3.14
58	8	34	14.95	0.09	3.45	3.32
58	9	32	15.92	0.10	3.66	3.53
58	10	30	17.02	0.10	3.91	3.76
58	11	28	18.29	0.10	4.18	4.03
59	0	26	19.74	0.10	4.50	4.34
59	1	23	22.25	0.09	5.06	4.88
59	2	21	24.30	0.08	5.51	5.31
59	3	19	26.78	0.07	6.05	5.84
59	4	17	29.84	0.07	6.72	6.49
59	5	15	33.72	0.06	7.57	7.31
59	6	13	38.79	0.05	8.68	8.39
59	7	10	50.28	0.04	11.22	10.84

Age to nearest month when contribution for unit commences	Maximum number of contributions payable	Per unit of annuity benefit	Per unit of incapacity benefit	Per unit of assurance benefit	
				1st, 2nd, 3rd and 4 <sup>th</sup> units	5th and each subsequent unit
		\$	\$	\$	\$
59 8	8	62.66	0.04	13.93	13.47
59 9	6	83.30	0.03	18.46	17.85
59 10	4	124.57	0.02	27.52	26.62
59 11	2	248.40	0.01	54.70	52.92
60 0	1	495.30	..	108.70	105.20

## Part 2 Female contributors

### Division 1 Rates of contribution to be paid fortnightly for units of benefit effected at ages not over 55<sup>1/2</sup> years

Age at nearest birthday when contribution for unit commences	Per unit of annuity benefit	Per unit of incapacity benefit
15	0.12	0.02
16	0.12	0.02
17	0.13	0.02
18	0.14	0.02
19	0.15	0.02
20	0.16	0.02
21	0.17	0.02
22	0.18	0.02
23	0.19	0.02
24	0.20	0.02
25	0.21	0.03
26	0.23	0.03
27	0.24	0.03
28	0.26	0.03
29	0.28	0.03

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<b>Age at nearest birthday when contribution for unit commences</b>	<b>Per unit of annuity benefit</b>	<b>Per unit of incapacity benefit</b>
30	0.29	0.03
31	0.32	0.03
32	0.34	0.03
33	0.36	0.03
34	0.39	0.04
35	0.42	0.04
36	0.45	0.04
37	0.49	0.04
38	0.53	0.04
39	0.57	0.04
40	0.62	0.04
41	0.68	0.05
42	0.74	0.05
43	0.81	0.05
44	0.89	0.05
45	0.98	0.05
46	1.08	0.06
47	1.20	0.06
48	1.34	0.06
49	1.51	0.07
50	1.72	0.07
51	1.97	0.07
52	2.28	0.07
53	2.69	0.08
54	3.24	0.08
55	4.00	0.08

**Division 2**                      **Rates of contribution to be paid  
fortnightly for units of benefit effected at  
ages over 55<sup>1/2</sup> years**

Age to nearest month when contribution for unit commences		Maximum number of contributions payable	Per unit of annuity benefit	Per unit of incapacity benefit
			\$	\$
55	6	117	4.51	0.08
55	7	115	4.60	0.08
55	8	113	4.69	0.08
55	9	110	4.83	0.08
55	10	108	4.94	0.08
55	11	106	5.04	0.08
56	0	104	5.15	0.08
56	1	102	5.26	0.08
56	2	100	5.38	0.08
56	3	97	5.56	0.08
56	4	95	5.69	0.09
56	5	93	5.83	0.09
56	6	91	5.97	0.09
56	7	89	6.12	0.09
56	8	86	6.35	0.09
56	9	84	6.52	0.09
56	10	82	6.69	0.09
56	11	80	6.88	0.09
57	0	78	7.07	0.09
57	1	76	7.27	0.09
57	2	73	7.59	0.09
57	3	71	7.82	0.09
57	4	69	8.07	0.09
57	5	67	8.33	0.09
57	6	65	8.61	0.09
57	7	63	8.91	0.09
57	8	60	9.37	0.09
57	9	58	9.72	0.09
57	10	56	10.09	0.09
57	11	54	10.49	0.09

Age to nearest month when contribution for unit commences		Maximum number of contributions payable	Per unit of annuity benefit	Per unit of incapacity benefit
			\$	\$
58	0	52	10.92	0.09
58	1	50	11.38	0.09
58	2	47	12.14	0.09
58	3	45	12.71	0.09
58	4	43	13.34	0.09
58	5	41	14.02	0.09
58	6	39	14.78	0.09
58	7	36	16.05	0.09
58	8	34	17.03	0.09
58	9	32	18.14	0.09
58	10	30	19.40	0.09
58	11	28	20.83	0.09
59	0	26	22.49	0.09
59	1	23	25.35	0.09
59	2	21	27.69	0.08
59	3	19	30.52	0.07
59	4	17	34.02	0.06
59	5	15	38.45	0.06
59	6	13	44.24	0.05
59	7	10	57.35	0.04
59	8	8	71.48	0.03
59	9	6	95.04	0.03
59	10	4	142.16	0.02
59	11	2	283.51	0.01
60	0	1	565.40	..

## **Schedule 20 Value of a unit of assurance for contributors who die before turning 55**

chapter 6, section 240

<b>Relicts age nearest birthday at date of death</b>	<b>Value</b>
	<b>\$</b>
Up to 25	468
26	481
27	494
28	508
29	521
30	534
31	548
32	561
33	574
34	588
35	601
36	614
37	628
38	641
39	655
40	668
41	681
42	695
43	708
44	721
45	735
46	748
47	761
48	775
49-55	784

**Schedule 21 Value of a unit of assurance for contributors who die on or after turning 55 but before turning 66**

chapter 6, section 240

Contributor's age in years at date of at and completed months date of death		Value \$
Years	Months	
55	0	785
	1	787
	2	789
	3	791
	4	792
	5	794
	6	796
	7	798
	8	800
	9	802
	10	804
56	11	806
	0	808
	1	810
	2	812
	3	814
	4	816
	5	818
	6	820
	7	822
	8	823
	9	825
57	10	827
	11	829
	0	831
	1	833
	2	835
	3	837
	4	839
	5	841
	6	843



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Contributor's age in years at date of at and completed months date of death		Value
Years	Months	\$
	7	845
	8	847
	9	849
	10	851
	11	853
58	0	854
	1	856
	2	858
	3	860
	4	862
	5	864
	6	866
	7	868
	8	870
	9	872
	10	874
	11	876
59	0	878
	1	880
	2	882
	3	884
	4	885
	5	887
	6	889
	7	891
	8	893
	9	895
	10	897
	11	899

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## Schedule 22 Factor for widows of former members

chapter 6, section 240

<b>Widow's age nearest birthday at date of death of former member</b>	<b>Factor</b>
Up to 24	401
25 to 29	468
30 to 34	534
35 to 39	601
40 to 59	668
60 to 64	601
65 to 69	534
70 to 74	468
75 to 79	401
80 to 82	334
83 to 85	284
86 to 88	250
89 to 91	217
92 to 94	184
95 to 97	150
98 to 100	117

## Schedule 23

chapter 7, section 312

### Part 1 Commutation factors

Column 1

Column 2

Age in years and complete months at date of retirement

Years	Months	Commutation factor
55	0	365.3
55	1	364.4
55	2	363.5
55	3	362.7
55	4	361.8
55	5	360.9
55	6	360.0
55	7	359.2
55	8	358.3
55	9	357.4
55	10	356.6
55	11	355.7
56	0	354.8
56	1	354.0
56	2	353.1
56	3	352.2
56	4	351.3
56	5	350.5
56	6	349.6
56	7	348.7
56	8	347.9
56	9	347.0
56	10	346.1
56	11	345.3
57	0	344.4
57	1	343.5
57	2	342.6
57	3	341.8
57	4	340.9
57	5	340.0

**Column 1****Column 2****Age in years and complete months at date of retirement**

<b>Years</b>	<b>Months</b>	<b>Commutation factor</b>
57	6	339.2
57	7	338.3
57	8	337.4
57	9	336.6
57	10	335.7
57	11	334.8
58	0	334.0
58	1	333.1
58	2	332.2
58	3	331.3
58	4	330.5
58	5	329.6
58	6	328.7
58	7	327.9
58	8	327.0
58	9	326.1
58	10	325.3
58	11	324.4
59	0	323.5
59	1	322.6
59	2	321.8
59	3	320.9
59	4	320.0
59	5	319.2
59	6	318.3
59	7	317.4
59	8	316.6
59	9	315.7
59	10	314.8
59	11	313.9
60	0	313.1

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## Part 2                      Commutation factors

**Column 1****Column 2****Age in years and complete months at date of retirement**

<b>Years</b>	<b>Months</b>	<b>Commutation factor</b>
55	0	391.4
55	1	390.5
55	2	389.6
55	3	388.7
55	4	387.9
55	5	387.0
55	6	386.1
55	7	385.3
55	8	384.4
55	9	383.5
55	10	382.7
55	11	381.8
56	0	380.9
56	1	380.0
56	2	379.2
56	3	378.3
56	4	377.4
56	5	376.6
56	6	375.7
56	7	374.8
56	8	374.0
56	9	373.1
56	10	372.2
56	11	371.3
57	0	370.5
57	1	369.6
57	2	368.7
57	3	367.9
57	4	367.0
57	5	366.1
57	6	365.3
57	7	364.4
57	8	363.5
57	9	362.7
57	10	361.8

**Column 1****Column 2****Age in years and complete months at date of retirement**

<b>Years</b>	<b>Months</b>	<b>Commutation factor</b>
57	11	360.9
58	0	360.0
58	1	359.2
58	2	358.3
58	3	357.4
58	4	356.6
58	5	355.7
58	6	354.8
58	7	354.0
58	8	353.1
58	9	352.2
58	10	351.3
58	11	350.5
59	0	349.6
59	1	348.7
59	2	347.9
59	3	347.0
59	4	346.1
59	5	345.3
59	6	344.4
59	7	343.5
59	8	342.6
59	9	341.8
59	10	340.9
59	11	340.0
60	0	339.2

## **Schedule 26    Factors for benefits upon death of contributors who die before age 55**

chapter 7, section 294

<b>Contributor's age nearest birthday at date of death</b>	<b>Factor</b>
Up to 25	139
26	143
27	147
28	151
29	155
30	159
31	163
32	167
33	171
34	175
35	179
36	183
37	187
38	191
39	195
40	199
41	203
42	207
43	211
44	215
45	219
46	222
47	224
48	227
49	230
50 to 55	233

**Schedule 27 Factors for benefits upon death of contributors who die at age 55 or between ages 55 and 60**

chapter 7, section 294

Contributor's age in years at date of at and completed months date of retirement		Factor
Years	Months	
55	0	233
	1	233
	2	233
	3	233
	4	233
	5	233
	6	233
	7	234
	8	234
	9	234
	10	234
56	11	234
	0	234
	1	234
	2	234
	3	234
	4	234
	5	235
	6	235
	7	235
	8	235
	9	235
57	10	235
	11	235
	0	235
	1	235
	2	235
	3	235
	4	235
5	235	
6	235	



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Contributor's age in years at date of at and completed months date of retirement		Factor
Years	Months	
	7	235
	8	235
	9	235
	10	235
	11	235
58	0	235
	1	235
	2	235
	3	235
	4	235
	5	235
	6	235
	7	235
	8	235
	9	235
	10	235
	11	235
59	0	235
	1	235
	2	235
	3	235
	4	235
	5	235
	6	235
	7	235
	8	235
	9	235
	10	235
	11	235

## Schedule 28 Factors for relicts of pensioners

chapter 7, section 294

<b>Relict's age nearest birthday at date of death of pensioner</b>	<b>Factor</b>
Up to 24	104
25 to 29	122
30 to 34	139
35 to 39	157
40 to 59	174
60 to 64	157
65 to 69	139
70 to 74	122
75 to 79	104
80 to 82	87
83 to 85	74
86 to 88	65
89 to 91	57
92 to 94	48
95 to 97	39
98 to 100	30

## **Schedule 29    Factors for widows of members or former members**

sections 346 and 348

<b>Age nearest birthday of widow at time of member's or former member's death</b>	<b>Factor</b>
Up to 24	6.0
25 to 29	7.0
30 to 34	8.0
35 to 39	9.0
40 to 59	10.0
60 to 64	9.0
65 to 69	8.0
70 to 74	7.0
75 to 79	6.0
80 to 82	5.0
83 to 85	4.25
86 to 88	3.75
89 to 91	3.25
92 to 94	2.75
95 to 97	2.25
98 to 100	1.75