

1940-41-42.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

SUPERANNUATION BILL 1942.

MEMORANDUM SHOWING THE AMENDMENTS PROPOSED
TO BE MADE TO THE SUPERANNUATION ACT 1922-1937.*(Circulated by the Treasurer, the Honorable J. B. Chifley.)*

The words printed in italics are words proposed to be omitted from the Principal Act.

The words printed in black type are words proposed to be inserted in the Principal Act.

CLAUSE 1.—SHORT TITLE AND CITATION.

CLAUSE 2.—COMMENCEMENT.

CLAUSE 3.—DEFINITIONS.

4.—(1.) In this Act, unless the contrary intention appears—

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“ **Approved authority** ” means the **Australian Broadcasting Commission**, the **Canberra Community Hospital Board** and the **Council of the Canberra University College**, and includes such other **Commonwealth authorities** as are specified by the regulations to be approved authorities for the purposes of this Act ;

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

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“ **Service** ” means service under, or employment by, the Commonwealth **or an approved authority** and, in relation to any qualifying period of employment, includes—

(a) continuous service as a member of the Permanent Naval, Military or Air Forces of the Commonwealth ; and

- (b) where an employee is transferred from the service of a State or Territory to the service of the Commonwealth, such permanent service of the employee under the State or Territory as is continuous with his service under the Commonwealth :

"The actuarial member of the Board " means any member of the Board who is an actuary ;

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(4.) Where a person is the holder for a term of years of a statutory office under the Commonwealth (whether his appointment was made before or is made after the commencement of this sub-section) and, by the terms of his appointment, he is required to give the whole of his time to the duties of his office, the Treasurer may, by notice published in the Gazette, direct that that person shall be deemed to be an employee within the meaning of this section, and that person shall be deemed to be such an employee as from the date of the publication of the notice.

(5.) Where—

- (a) a person employed by the Commonwealth otherwise than in a permanent capacity is by the terms of his employment required to give his whole time to the duties of his employment ;
- (b) that person has had not less than five years' continuous service ; and
- (c) the prescribed officer or, on appeal from the prescribed officer, the Treasurer, certifies that that person's employment is likely to be continued for an indefinite period,

the Treasurer may, by notice published in the Gazette, direct that that person shall be deemed to be an employee within the meaning of this section and that person shall be deemed to be such an employee as from the date of the publication of the notice.

(6.) Where any person employed by an approved authority is required by the terms of his employment to give the whole of his time to the duties of his office, and the approved authority certifies that the person's employment is likely to be continued for an indefinite period, the Minister administering the Act under which the authority is constituted may, on the recommendation of the approved authority, by notice published in the Gazette, direct that the person shall be deemed to be an employee within the meaning of this section, and that person shall be deemed to be such an employee as from the date of the publication of the notice.

CLAUSE 4.—MEDICAL EXAMINATION OF EMPLOYEES.

4B. Notwithstanding anything contained in any Act, no person who becomes an employee after the commencement of this section shall contribute to the Fund unless, prior to his appointment, a legally qualified medical practitioner satisfactory to the Board has certified that the employee is of sound bodily health and free from physical defects :

Provided that this section shall not apply to an employee who is at the commencement of this section an officer appointed under section twenty-one of the Australian Soldiers' Repatriation Act 1920, section fifteen of the War Service Homes Act 1918, section fourteen A of the Science and Industry Research Act 1920-1926, or section nine of the High Commissioner Act 1909, or to a person in respect of whom

a notice is published in pursuance of sub-section (4.) of section four of this Act and whose appointment to the statutory office was made before the commencement of the Superannuation Act 1942 :

Provided further that this section shall not apply to a person who, at the commencement of the Superannuation Act 1942, was employed by an approved authority and in respect of whom an approved authority has notified the Board that the authority accepts full liability for the payment of pensions and benefits under this Act on his retirement, within three years after the date on which he commences to contribute to the fund, on the ground of invalidity or of physical or mental incapacity to perform his duties, or on his death within that period.

CLAUSE 5.—COMMENCEMENT AND CESSATION OF CONTRIBUTIONS.

12.—(1.) Every employee shall (except as otherwise provided in this Act) contribute to the fund from such date (not being more than six months after the commencement of this Act) as the Governor-General notifies in the Gazette, or, in the case of an employee whose employment commences after the date so notified, from the date of the commencement of his employment.

(1A.) Where a Minister in pursuance of the power conferred by sub-section (4.), (5.) or (6.) of section four of this Act, section twenty-one of the Australian Soldiers' Repatriation Act 1920-1937, section fifteen of the War Service Homes Act 1918-1937, section fourteen A of the Science and Industry Research Act 1920-1937, or section nine of the High Commissioner Act 1909-1937, by notice published in the Gazette directs that an officer *appointed under one of those Acts* or person shall be deemed to be an employee within the meaning of section four of this Act, that officer or person shall commence contributing to the Fund on the pay day next following the publication of the notice.

(2.) In respect of units of pensions the initial contributions in respect of which have been made prior to the commencement of this sub-section the following provisions shall apply :—

(a) the contributions of a contributor shall, subject to the next succeeding paragraph, cease to be paid when he ceases to be *employed in the Service an employee*, or immediately after the last fortnightly payment before the anniversary of his initial contribution next preceding the attainment by him of the maximum age for retirement, whichever first happens ; and

(b) in the case of a contributor whose initial payment is made within twelve months before he attains the maximum age for retirement, twenty-six contributions at the fortnightly rates applicable to the contributor shall be made before pension in respect of superannuation shall become payable.

(2A.) In respect of units of pension the initial contributions in respect of which are made after the commencement of this sub-section the following provisions shall apply :—

(a) the contributions of a contributor shall, subject to the next succeeding paragraph, cease to be paid when he ceases to be *employed in the*

Service an employee, or, in respect of each unit or part thereof, immediately after the last fortnightly payment before the anniversary of his initial contribution in respect thereof next preceding the attainment by him of the maximum age for retirement, whichever first happens; and

- (b) in the case of a contributor whose initial payment in respect of any unit or part thereof is made within twelve months before he attains the maximum age for retirement, twenty-six contributions at the fortnightly rates applicable to the contributor in respect of that unit or part thereof shall be made before pension in respect of superannuation as regards that unit or part shall become payable.

(2B.) For the purposes of the last two preceding sub-sections the initial contribution of an employee in respect of any additional unit or part thereof *for which he has elected to contribute* shall be deemed to have been made on the date as from which the contribution became payable.

(2C.) A contributor—

- (a) who elects, or is called upon, to retire on or after attaining the age of sixty years, or
- (b) whose maximum age for retirement is fixed at an earlier age than sixty-five years, but not less than sixty years, and who retires on attaining the age so fixed,

may, notwithstanding anything contained in this section contribute, in a lump sum, or in such smaller sums and at such periods as the Board approves, *the actuarial equivalent of the amount necessary to complete his payments to the fund up to a later age (not exceeding the age of sixty-five years) such amount as the Board considers necessary to enable a pension to be paid to him on retirement equal to the pension which would have been paid to him if he had retired at such later age (not exceeding the age of sixty-five years) as the Board approves.*

(3.) An employee or pensioner—

- (a) who has completed his contributions up to the anniversary of his initial contribution next preceding the attainment by him of the maximum age for retirement; and
- (b) whose salary has been increased, subsequent to but from a date prior to the cessation of his contributions, to a higher salary group in column one of the scale contained in sub-section (1.) of section thirteen of this Act than the salary group in which it fell prior to the increase,

may elect to contribute such an amount as will provide additional units of pension but so that the total number of units shall not exceed the number specified in column two of section thirteen of this Act opposite to that higher salary group:

Provided that in respect of those units twenty-six contributions at the rate applicable to the maximum age for retirement shall be made before pension in respect of superannuation shall become payable and upon the payment of those contributions the pension shall become payable as from the date of retirement.

CLAUSE 6.—SCALE OF UNITS OF PENSION.

13.—(1.) Subject to this Act, contributions by an employee shall be in respect of units of pension as defined in section twenty-eight of this Act and the number of units in respect of which an employee shall contribute shall have relation to the salary of the employee in accordance with the following scale :—

COLUMN ONE.		COLUMN TWO.	
Where the Annual Salary of the Employee—		The Employee shall contribute the Amount necessary to provide Units of Pension, as under—	
£	£		Per annum. £
Does not exceed	130	Two units, equivalent to a pension of ..	52
Exceeds 130 and does not exceed ..	156	Two and a half units, equivalent to a pension of ..	65
.. 156	208	Three units, equivalent to a pension of ..	78
.. 208	260	Four units	104
.. 260	312	Five units	130
.. 312	364	Six units	156
.. 364	416	Seven units	182
.. 416	468	Eight units	208
.. 468	520	Nine units	234
.. 520	572	Ten units	260
.. 572	624	Eleven units	286
.. 624	676	Twelve units	312
.. 676	728	Thirteen units	338
.. 728	780	Fourteen units	364
.. 780	832	Fifteen units	390
.. 832	Sixteen units	416

(2.) *An employee whose salary does not exceed Two hundred and eight pounds per annum may elect to contribute additional units or half units to make up a total number of two and a half, three or four units.*

(2.) Notwithstanding anything contained in the last preceding sub-section—

- (a) an employee over the age of thirty years whose salary does not exceed Two hundred and eight pounds per annum may elect to contribute for additional units or half units to make up a total number of two and a half, three or four units ; and
- (b) where an employee under the age of thirty years whose salary does not exceed Two hundred and eight pounds per annum becomes a contributor after the commencement of the Superannuation Act 1942, he shall contribute for not less than four units.

(3.) Where an employee enters the service after the commencement of this Act, and at the time of such entry becomes a contributor after the commencement of this Act, and at the time of becoming a contributor is not less than forty years of age, the Board may, upon application by the employee, reduce the number of units in respect of which he shall contribute and any contributions paid by him, prior to such reduction, in respect of units in excess of the reduced number shall be credited as payments for paid-up pensions to be actuarially calculated, or refunded to him, as the Board determines.

(4.) If the salary of a contributor is increased, and by reason of that increase falls within a higher salary-group in column one of the scale contained in sub-section (1.) of this section than the salary-group in which it fell prior to the increase, the following provisions shall apply to the contributor :—

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

(b) in all other cases, he shall increase the amount of his contribution to such a sum as will provide units of pension to the number so specified,

and any such increased contribution shall be payable as from the date upon which payment of salary at the increased rate is approved, or from the date upon which such increased salary becomes payable, whichever is the later :

Provided that, where such date does not fall on a pay day, contributions shall commence on the next following pay day.

(4.) If the salary of a contributor is increased and, by reason of that increase, falls within a salary-group in column one of the scale contained in sub-section (1.) of this section higher than the salary-group in which it fell prior to the increase, the following provisions shall apply :—

(a) If the contributor has attained the age of forty years and is contributing for the number of units corresponding to the salary-group in which his salary fell immediately prior to the increase, he shall increase the amount of his contribution to such a sum as will provide units of pension to the number specified in column two of the scale contained in sub-section (1.) of this section opposite to the salary-group within which his increased salary falls, unless he elects, not later than six months after the first payment of the increased salary—

(i) not to increase the amount of his contribution ; or

(ii) to increase the amount of his contribution, but to such a sum as will provide a number of units less than the number so specified.

(b) If the contributor has attained the age of forty years and is not contributing for the number of units corresponding to the salary-group in which his salary fell immediately prior to the increase, he shall increase the amount of his contribution so as to add to the number of units for which he is contributing the maximum number of additional units for which he could have contributed if he had been a contributor to whom paragraph (a) of this sub-section applies, unless he elects, not later than six months after the first payment of the increased salary—

(i) not to increase the amount of his contribution ; or

(ii) to increase the amount of his contribution, but so as to add less than that maximum number of additional units.

(c) If the contributor is a contributor to whom the last preceding paragraph applies and he does not elect under sub-paragraph (i) or (ii) of that paragraph, he may, not later than twelve months after the first payment of the increased salary, elect to increase the amount of his

contribution to an amount which will provide units of pension not exceeding the number specified in column two of the scale contained in sub-section (1.) of this section opposite to the salary-group within which his increased salary falls :

Provided that the election shall not have effect unless, within the prescribed time, he satisfies the Board that he is not suffering from any physical or mental defect likely to render him incapable of performing his duties before attaining the maximum age for retirement.

- (d) In all other cases, the contributor shall increase the amount of his contribution to such a sum as will provide units of pension to the number specified in column two of the scale contained in sub-section (1.) of this section opposite to the salary-group within which his increased salary falls.

(4A.) Any increased contribution payable in pursuance of paragraph (a), (b) or (d) of the last preceding sub-section shall be payable as from the date upon which payment of salary at the increased rate is approved or from the date upon which salary at the increased rate becomes payable, whichever is the later, and any increased contribution payable in pursuance of paragraph (c) of the last preceding sub-section shall be payable as from the date of the election :

Provided that, where the date from which any increased contribution is payable is not a pay-day, the increased contribution shall be payable as from the next following pay-day.

(5.) An employee who is, at the commencement of this Act, not less than thirty years of age, shall not in any case be compelled to contribute for more than two units, but may, within three months after the date notified in pursuance of sub-section (1.) of section twelve of this Act, elect to take the benefit of this sub-section, and thereupon the following provisions shall apply to him :—

- (a) he may elect within the said three months to contribute, at the rates prescribed for the age of thirty, for two, two and a half, three or four units ; and
- (b) if the period of his continuous service under the Commonwealth, or under the Commonwealth and any State, is not less than ten years, he may elect within the said three months to contribute at the rate appropriate to his age as provided in the Schedules to this Act for units additional to those contributed for under the last preceding paragraph :

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

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

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

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

(6.) An employee who is, at the commencement of this Act, not less than thirty years of age, and who has not elected to take the benefit of the last preceding sub-section, may elect to contribute for any number of units, not being less than two, and not exceeding the number prescribed for the salary-group to which, according to the scale contained in sub-section (1.) of this section, he belongs.

(7.) An employee who has exercised any power of election in pursuance of either of the last two preceding sub-sections, shall pay, as from the date notified in pursuance of sub-section (1.) of section twelve, his contributions for the units for which he has elected to contribute :

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

(8.) Any person who—

(a) on or before the twentieth day of November, One thousand nine hundred and twenty-two, was appointed as an officer under section twenty-one of the Australian Soldiers' Repatriation Act 1920, section fifteen of the War Service Homes Act 1918 or section nine of the High Commissioner Act 1909 and has been continuously employed as an officer since that date ;

(b) was not less than thirty years of age on the twentieth day of November, One thousand nine hundred and twenty-two ; and

(c) is deemed to be an employee within the meaning of section four of this Act in consequence of a direction published in the Gazette in pursuance of the power conferred by section twenty-one of the Australian Soldiers' Repatriation Act 1920-1937, section fifteen of the War Service Homes Act 1918-1937 or section nine of the High Commissioner Act 1909-1937 (as the case may be),

shall not, in any case, be compelled to contribute for more than two units (which shall be at the rates prescribed for the age of thirty) but may, within three months from the date of commencement of his contributions, elect to contribute—

(d) at the rates prescribed for the age of thirty for two and a half, three or four units ; and

(e) at the rate appropriate to his age as provided in the Schedules to this Act for units additional to those contributed for under the last preceding paragraph :

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

CLAUSE 7.—ELECTION TO CONTRIBUTE FOR FULL PENSION AT SIXTY YEARS OF AGE.

16A.—(1.) *A contributor who is less than sixty of age, and to whom Part IVA. of this Act does not apply, may, within six months after the commencement of this section, and an employee who becomes a contributor after the commencement of this section may, within six months from the date of the commencement of his employment, elect to contribute at such rates specified in the Third or Fourth Schedule to this Act as are applicable.*

(1.) A contributor who is less than sixty years of age, and to whom Part IVA. of this Act does not apply, may, at any time, elect to contribute at such rates based on a retiring age of sixty years as are applicable.

(2.) Where an employee, who is a contributor at the date of the commencement of this section; elects to contribute at rates *specified in the Third or Fourth Schedule to this Act based on a retiring age of sixty years*, the rates at which he shall contribute shall, where he has previously elected under sub-section (5.) of section thirteen of this Act to contribute for units at the rates prescribed for the age of thirty, be, in respect of those units, the rate prescribed *in the Third or Fourth Schedule for the age of thirty, and, in respect of other units, shall be at the rate in those Schedules which is appropriate to his age at the date he elects under this section for the age of thirty years based on a retiring age of sixty years, and, in respect of other units, shall be at the rate appropriate to his age at the date on which he elects under this section based upon a retiring age of sixty years.*

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

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

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

(6.) *Such adjustment of contributions as is, in the opinion of the Board, necessary on account of the application to a contributor of the rates of contribution specified in the Third or Fourth Schedule to this Act may be made by the Board.*

(6.) The Board shall make such adjustment of contributions as, in its opinion, is necessary by reason of the election of a contributor to contribute at rates based on a retiring age of sixty years.

CLAUSE 8.—TABLES OF CONTRIBUTIONS IN SCHEDULES.

17.—(1.) *During the five years next following the commencement of this Act, and until other tables of contributions are prescribed as hereinafter provided, the tables of contributions for men and women according to ages, set out in Schedules I. to IV. (inclusive) to this Act, shall be in force.*

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

17. The tables of contributions set out in Schedules I., II., III. and IV. to this Act shall continue to apply to contributions the obligation to make which existed at the commencement of the Superannuation Act 1942 and the tables of contributions set out in Schedules V., VI., VII. and VIII. to this Act shall apply to contributions the obligation to make which comes into existence after the commencement of the Superannuation Act 1942.

CLAUSE 9.—RETRENCHMENT AND DISCHARGE.

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

- (a) shall be deemed to be "retrenchment" if the contributor has been *in the service* an employee for not less than ten years; and
- (b) shall be deemed to be "discharge" if the contributor has been *in the service* an employee for less than ten years.

CLAUSE 10.—RESIGNATION.

27. Voluntary termination of service (however expressed) by a contributor who is not entitled to retire on pension, or being so entitled elects not to do so, shall be deemed to be resignation.

CLAUSE 11.—RETIREMENT THROUGH INVALIDITY—AMOUNT OF PENSION.

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

- (a) *if the invalidity or incapacity is not due to his own fault, be entitled to the full pension for which he was contributing at the time of his retirement; and*
- (b) *if the invalidity or incapacity is due to his own fault, be entitled to a pension which is the actuarial equivalent of the contributions made by him up to the time of his retirement:*

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

Provided further that, in the event of a recurrence of the infirmity which was the cause of her retirement she shall be entitled to pension at a rate not less than the amount of the pension on which she was retired.

(2.) *Where a person appointed prior to the commencement of this sub-section, as an officer under section twenty-one of the Australian Soldiers' Repatriation Act 1920, section fifteen of the War Service Homes Act 1918, section fourteen A of the Science and Industry Research Act 1920-1926, or section nine of the High Commissioner Act 1909, becomes a contributor and is retired on the ground of invalidity or physical or mental incapacity to perform his duties or dies within seven years of his becoming a contributor, any pension payable under this Act shall be paid from the Fund and the payments from the Fund shall be repaid from the Consolidated Revenue Fund.*

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

- (a) if the invalidity or incapacity is not due to wilful action on his part for the purpose of obtaining pension—be entitled to the full pension for which he was contributing at the time of his retirement ; and
- (b) if the invalidity or incapacity is due to wilful action on his part for the purpose of obtaining pension—be entitled to a refund of the contributions paid by him to the fund :

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

Provided further that, in the event of a recurrence of the infirmity which was the cause of her retirement, she shall, if she married before the commencement of the Superannuation Act 1942, be entitled to pension at a rate not less than the rate of the pension payable to her on retirement.

(2.) Where a person—

- (a) appointed prior to the commencement of the Superannuation Act 1937 as an officer under section twenty-one of the Australian Soldiers' Repatriation Act 1920, section fifteen of the War Service Homes Act 1918, section fourteen A of the Science and Industry Research Act 1920-1926, or section nine of the High Commissioner Act 1909 ; or
- (b) in respect of whom a notice is published in pursuance of sub-section (4.) of section four of this Act and whose appointment to the statutory office was made prior to the commencement of the Superannuation Act 1942,

becomes a contributor and, within seven years after becoming a contributor, is retired on the ground of invalidity or physical or mental incapacity to perform his duties or dies, any pension payable under this Act shall be paid from the fund and the Commonwealth shall pay to the fund the amount of pension so paid.

(3.) Where a person referred to in the second proviso to section four a of this Act retires, within three years after the date on which he commenced to contribute to the fund, on the ground of invalidity or of physical or mental incapacity to perform his duties, or dies within that period—

- (a) any pension payable under this Act shall be paid from the fund ;
- (b) the Commonwealth shall pay to the fund the amount of pension so paid ;
and
- (c) the approved authority shall pay to the Commonwealth the amount paid by the Commonwealth to the fund and may apply for that purpose any moneys under the control of the approved authority.

CLAUSE 12.—PENSION TO WIDOW AND CHILDREN ON DEATH OF PENSIONER AFTER RETIREMENT.

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

(a) during her own life, one half of the pension payable to her husband at the time of his death, or pension at the rate of Twenty-six pounds per annum whichever is the greater:

Provided that if she remarries, her pension under this paragraph shall thereupon cease and determine; and

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

(2.) On the death of the widow of any such male pensioner, pension shall, in addition to the pension payable in pursuance of paragraph (b) of the last preceding sub-section, be payable, in respect of each of the children of the widow or of the male pensioner (except children of her remarriage) who are under the age of sixteen years, at the rate of Thirteen pounds per annum until the age of sixteen years has been attained.

(3.) The amount of the additional pension shall be payable from the fund without contribution by the Commonwealth.

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

CLAUSE 13.—PENSION TO ORPHANS ON DEATH OF CONTRIBUTOR OR PENSIONER.

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

(1A.)* Where the present value, as determined by the actuarial member of the Board, of a pension or pensions payable in pursuance of the last preceding sub-section is less than the contributions made by the contributor, the amount of the difference shall be paid to the personal representatives of the contributor or, failing them, to such persons (if any) as the Board determines.

(2.) Payment of one half of the pension payable in pursuance of this section shall be made from the fund without contribution by the Commonwealth.

CLAUSE 14.—RETRENCHMENT OF CONTRIBUTOR—CHOICE OF BENEFITS.

39.—(1.) In the event of the retrenchment of a contributor, he shall be entitled to receive the contributions paid by him, and the contributions to the fund which would have been made by the Commonwealth if the Commonwealth had, during

* Sub-clause (2.) of clause 13 of the Bill provides that this sub-section shall be deemed to have come into operation on the twentieth day of November, One thousand nine hundred and twenty-two.

the period throughout which the contributor had been contributing to the fund, been making such periodical contributions to the fund as are necessary to provide for the share of pension payable by the Commonwealth in respect of that contributor ; and within one month after his retrenchment he may choose to receive payment either in the form of a lump sum or as a pension.

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

(3.) Where an employee, who has been retrenched and is in receipt of a pension, *re-enters the service again becomes an employee* the following provisions shall apply :—

(a) the pension shall not cease to be payable ; and

(b) he shall contribute as provided in Part III. of this Act, but shall not be entitled to claim any further benefit in respect of his previous service.

(4.) Where an employee who has been retrenched and has received payment in the form of a lump sum under this section *re-enters the service again becomes an employee*, he shall contribute as provided in Part III. of this Act but shall not be entitled to claim any further benefit in respect of his previous service.

CLAUSE 15.—RESIGNATION, DISMISSAL OR DISCHARGE OF CONTRIBUTOR—REFUND OF CONTRIBUTIONS.

40.—(1.) Where a contributor resigns or is dismissed or discharged *from the service* there shall be paid to him the amount of the actual contributions paid by him under this Act, irrespective of the cause of his resignation, dismissal, or discharge.

(2.) Where an employee, who has resigned or been dismissed or discharged and has received a refund of the amount of his contributions, *re-enters the service again becomes an employee*, he shall contribute as provided in Part III. of this Act, but shall not be entitled to claim any further benefit in respect of his previous service.

CLAUSE 16.—SUPERANNUATION RIGHTS OF EMPLOYEES WHO HAVE BEEN CANDIDATES AT ELECTIONS.

40A. Notwithstanding anything contained in any Act, where a contributor—

(a) resigns from the Commonwealth Public Service in order to become a candidate for election as a member of any House of the Parliament of the Commonwealth or of a State ;

(b) was a candidate at the election ; and

(c) failed to be elected,

he shall, if re-appointed to the Commonwealth Public Service on application made within two months after the declaration of the poll at the election, or if he dies before the expiration of that period, be deemed not to have ceased, by reason of his resignation, to be a contributor.

CLAUSE 17.—CASH BENEFIT ON DEATH OF CONTRIBUTOR OR PENSIONER.

46A. Upon the death of a contributor, or of a pensioner who has been a contributor, there shall be payable to his personal representatives from the fund the sum of Five

pounds in respect of each unit of pension, and a proportionate part of Five pounds in respect of a fraction of unit of pension, for which he has contributed :

Provided that in respect of the death of a person who was—

- (a) a contributor for limited purposes under section fifty-three of this Act ; or
- (b) an officer contributing under Part IV A. of this Act,

the amount payable under this section in respect of each unit of pension for which he was contributing shall be such sum as bears to the sum of Five pounds the same proportion as the benefits for which he was contributing bear to the full benefits provided under this Act.

CLAUSE 18.—COMMENCEMENT OF PENSION OR BENEFITS.

48^a. Subject to this Act, where in pursuance of this Act any employee becomes liable, or elects, to contribute for any units or additional units, he shall be deemed to be a contributor in respect of those units or additional units as from the date when he becomes liable, or elects, to contribute (as the case may be), but if any pension or benefit becomes payable to or in respect of that contributor before he has actually commenced to make contributions or additional contributions there shall be deducted from the first payment of pension or benefit such contributions as are due by him in respect of those units or additional units or, if a pay day has not occurred before the pension or benefit becomes payable, one fortnightly contribution.

CLAUSE 19.—BREAK-DOWN PENSIONER TO BE DEEMED TO BE ON LEAVE.

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

(2.) *In the event of the re-employment in the service of a person who has retired on a pension under section thirty or thirty-seven of this Act* **If a person who has retired on a pension under section thirty or thirty-seven of this Act again becomes an employee,** the period during which he was retired shall not, for the purposes of this Act, be deemed to be a break in the continuity of his service.

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

CLAUSE 20.—PENSIONER RESTORED TO HEALTH MAY BE RECALLED TO SERVICE.

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

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

(3.) In the event of the recurrence of his infirmity, any contributor who has been re-employed *in the service by the Commonwealth or an approved authority* shall be entitled to pension at a rate not less than the amount of the pension on which he was first retired.

(4.) If, in the opinion of the Board—

- (a) the health of any pensioner, to whom a pension under section thirty or thirty-seven of this Act is being paid, has become so restored as to enable him to perform his duties ; or
- (b) the degree of invalidity or incapacity in relation to civil employment of any pensioner to whom a pension is being paid under section sixty N, sixty O of sixty R is less than ten per centum,

and suitable permanent employment under the Commonwealth or an approved authority cannot be offered to him, but the pensioner is engaged in temporary employment under the Commonwealth, or in other employment, at a remuneration not less than two-thirds of his salary at the time of his retirement, the Board may suspend the pension, and thereupon it shall cease to be payable so long as he continues in such employment.

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

CLAUSE 21.—RE-EMPLOYMENT OF PENSIONER.*

50A.—(1.) *Where a pensioner, other than a pensioner who has been retired on the ground of infirmity or retrenchment, is employed or re-employed by the Commonwealth and his employment or re-employment commences after the commencement of this section, so much of the pension as is attributable to the contribution payable by the Commonwealth shall be cancelled during the period of employment.*

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

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

50A.—(1) **Where a pensioner (other than a pensioner who has been retired on the ground of retrenchment or invalidity or physical or mental incapacity to perform his duties) is re-employed by the Commonwealth or by an approved authority for more**

* Sub-clause (2.) of clause 21 reads as follows :—

(2.) Where a person in receipt of a pension under section thirty-one or thirty-two of the Principal Act has been employed in a temporary capacity and portion of her pension has, in pursuance of section fifty A of the Principal Act, been cancelled during the period of employment, the pension shall be restored to the full amount and that person shall be entitled to payment of an amount equal to the amount of pension which was not payable to her by reason of the cancellation.

than twenty-eight working days in any period of twelve months and is paid salary or wages in respect of that employment, so much of the pension as is equivalent to the amount payable by the Commonwealth under section eighteen or nineteen of this Act shall be cancelled during the period of employment in excess of those twenty-eight working days.

(2.) The rate of pension payable under section thirty-two of this Act to the widow of a pensioner who died or dies while so re-employed shall not be affected by the fact that he was so re-employed.

(3.) Where a person in receipt of a pension under section thirty-one or thirty-two of this Act becomes an employee, so much of her pension as is equivalent to the amount payable by the Commonwealth under section eighteen or nineteen of this Act shall be cancelled during the period of employment.

(4.) Where a person referred to in the last preceding sub-section is a contributor, she shall, on retirement on pension, be entitled to receive—

(a) the proportions of both pensions which are based upon the contributions paid by her and by her husband ; and

(b) the proportion payable by the Commonwealth—

(i) of whichever of the pensions secures to her the greater payment from the Commonwealth ; or

(ii) if the payments from the Commonwealth are equal, of one only of those pensions.

(5.) Where a person referred to in sub-section (3.) of this section is a contributor to the Provident Account, she shall, on retirement on pension, be entitled to receive a pension at the same rate as that which she was receiving at the date of the commencement of her employment and, in addition, an amount from the Provident Account equal to the contributions paid by her to that Account, together with compound interest thereon at the rate of Three pounds per centum per annum :

Provided that nothing in this sub-section shall authorize payment of pension in respect of a child who has attained the age of sixteen years.

CLAUSE 22.—EMPLOYEE UNDER 65 YEARS AT COMMENCEMENT OF CONTRIBUTIONS
MAY ELECT TO COME UNDER THIS ACT FOR THE DIFFERENCE.

52.—(1.) Any employee referred to in section fifty-one of this Act, who—

* * * * *

(b) has any right, referred to in section fifty-one of this Act, which is, under section fifty-seven or fifty-eight of this Act, commutable for new rights in respect of a less number of units than would be applicable under this Act,

may, within the prescribed time, elect to come under this Act for the purpose of the difference.

(2.) For the purpose of determining such less number of units (including where necessary a fraction of a unit) the new rights shall be the actuarial equivalent of the rights specified in section fifty-one of this Act, and, in calculating that actuarial equivalent, all the benefits provided by this Act shall be taken into account.

(3.) If an employee elects under sub-section (1.) of this section, to come under this Act for the purpose of the difference, this Act shall, for the purpose of that difference, apply as if he were an employee not having any rights under section fifty-one of this Act, subject to the following qualifications:—

- (a) the contributions shall not be in respect of more than the difference ;
- (b) for the purpose of the adjustment of the difference, the contributions shall, where necessary, be in respect of a fraction of a unit ;
- (c) where the contributions are in respect of a fraction of a unit, the contributions and any pension or benefit in respect of the fraction of a unit shall be proportionate thereto ; **and**
- (d) the contributions shall be payable as from the first day of the month in which the employee elects as provided in this section ; **and**
- (e) *the contributions for additional units shall be payable as from the date upon which payment of salary at the increased rate is approved or from the date upon which such increased salary becomes payable, whichever is the later :*

Provided that, where such date does not fall on a pay day, contributions shall commence on the next following pay day.

(4.) For the purposes of this section "the difference" means the difference between the actuarial value, as at the date an employee comes under this Act, of the benefits by way of pension or retiring allowance to which the employee is then entitled by virtue of his rights under some other Act or State Act and the benefits which would, were he not entitled to those rights, be applicable, from time to time, under this Act.

(5.) *Where an employee has elected, under sub-section (1.) of this section, to come under the Act for the purpose of the difference, no variation in the difference shall be made unless the employee elects, within the time prescribed for the purposes of this sub-section, to come under the Act for the purposes of the difference as defined in the last preceding sub-section.*

CLAUSE 23.—EMPLOYEE HAVING PENSION RIGHTS UNDER OTHER LAW MAY EXCHANGE HIS RIGHTS FOR ANY EQUIVALENT UNDER THIS ACT.

57.—(1.) Any employee who has a right to a pension or superannuation allowance referred to in section fifty-one of this Act (not being a right to a pension under the Australian Soldiers' Repatriation Act 1920-1921) may at any time within twelve months after the commencement of this Act, make application to the Board to transfer that right to the Board, and to receive, in respect of the transferred right, a grant by the Board of such new rights of pension for himself, his widow, and children, as are agreed upon between himself and the Board, subject to the **actuary actuarial member** of the Board certifying that the new rights are the actuarial equivalent of his transferred right.

(1A.) Where an employee has transferred his right to the Board in accordance with sub-section (1.) of this section, the new rights of pension shall be such as are agreed upon between himself and the Board, subject to the **actuary actuarial member** of the Board certifying that the new rights are the actuarial equivalent of the transferred right as at the date of the commencement of this sub-section.

(1B.) Where any employee, referred to in sub-section (1.) of this section, failed to transfer his right to the Board within the time specified in that sub-section, he may, within twelve months after the commencement of this sub-section, make application to the Board to transfer that right to the Board and to receive a grant of new rights of pension in accordance with sub-section (1.) of this section.

(1C.) A person, having such a right as is referred to in sub-section (1.) of this section, who became or becomes an employee after the commencement of this Act, may, within twelve months after the commencement of this sub-section, or of the commencement of his employment, whichever is the later, make application to the Board to transfer that right to the Board and to receive a grant of new rights of pension in accordance with sub-section (1.) of this section.

(2.) Where any agreement is made under this section, the employee shall contribute to the fund to the extent to which he was contributing in respect of his right prior to its being transferred under this section.

(3.) When any benefit becomes payable under any agreement under this section it shall be paid by the Board from the fund, and the fund shall be recouped as prescribed from the Consolidated Revenue Fund for all such payments less the actuarial equivalent of the contributions made under the last preceding sub-section.

CLAUSE 24.—EMPLOYEE HAVING RIGHT TO REFUND OR GRATUITY UNDER OTHER LAW MAY EXCHANGE HIS RIGHTS FOR AN EQUIVALENT UNDER THIS ACT.

58.—(1.) Any employee who, under any other Act or State Act, has a vested or contingent right to a refund of contributions with or without interest, or a gratuity, or both refund and gratuity, may, at any time within twelve months after the commencement of this Act, apply to the Board to transfer his right to the Board, and upon such transfer he shall be entitled to receive, in respect of his transferred right, a grant by the Board of such rights of pension under this Act for himself, his widow, and children, as is agreed upon between himself and the Board, subject to the *actuary actuarial member* of the Board certifying that the new rights are the actuarial equivalent of the transferred right.

(1A.) Where an employee has transferred his right to the Board in accordance with sub-section (1.) of this section, the new rights of pension shall be such as are agreed upon between himself and the Board, subject to the *actuary actuarial member* of the Board certifying that the new rights are the actuarial equivalent of the transferred right as at the date of the commencement of this sub-section.

(1B.) Where any employee, referred to in sub-section (1.) of this section, failed to transfer his right to the Board within the time specified in that sub-section, he may, within twelve months after the commencement of this sub-section, make application to the Board to transfer that right to the Board and to receive a grant of new rights of pension in accordance with sub-section (1.) of this section.

(1C.) A person, having such a right as is referred to in sub-section (1.) of this section, who became or becomes an employee after the commencement of this Act, may, within twelve months after the commencement of this sub-section, or of the commencement of his employment, whichever is the later, make application to the Board to transfer that right to the Board and to receive a grant of new rights of pension in accordance with sub-section (1.) of this section.

(2.) Payment shall be made to the Board from the Consolidated Revenue Fund of such sums as would but for this section have been payable to the employee in respect of the right transferred by him to the Board.

CLAUSE 25.—DEFINITIONS.

60A. In this Part, unless the contrary intention appears—

“officer” means a commissioned officer of the Permanent Air Force and includes an Air Cadet but does not include a commissioned warrant officer;

“employee” means a member of the Permanent Military Forces, and includes a warrant commissioned warrant officer, warrant officer or non-commissioned officer or man of the Permanent Air Force, but does not include any warrant commissioned warrant officer, warrant officer or non-commissioned officer holding an honorary commission.

CLAUSE 26.—APPLICATION OF PART III.

60D. Employees and officers shall, subject to this Part, be liable and entitled to contribute in accordance with Part III. of this Act for units of pension under this Act, and, for the purpose of determining the rights and obligations of those employees and officers in respect of contributions for units of pension, Part III. shall, subject to this Part, apply in relation to contributions by those employees and officers:

Provided that an officer shall not become a contributor under this Part unless he makes an election in accordance with the next succeeding section.

CLAUSE 27.—EMPLOYEE BECOMING OFFICER.

60E.—(1.) *An officer who is serving at the commencement of this Part shall not be compelled, but may, within three months of that commencement, elect, to contribute in accordance with this Part.*

(2.) *An officer who is appointed after the commencement of this Part may, within three months of the date he is appointed, elect to contribute in accordance with this Part and thereupon his contributions shall commence as from the date of his appointment.*

(3.) *Where an employee who is a contributor under this Part becomes an officer, he shall cease to contribute as an employee and shall receive a refund of his prior contributions, and may, within three months after becoming an officer, elect to contribute according to the scale of contributions prescribed in respect of officers and thereupon—*

(a) *his right to pension or benefits under this Act shall, as from the date he became an officer, be those provided in this Part in respect of an officer;*
and

(b) *his contributions in pursuance of this paragraph shall commence as from the date he became an officer.*

60E. *Where an employee who is a contributor under this Part becomes an officer, he shall cease to contribute as an employee and shall be paid the amount of his prior contributions and shall, as from the date he becomes an officer, commence to contribute according to the scale of contributions prescribed in respect of officers and be entitled to the pension and benefits provided by this Part in respect of officers.*

CLAUSE 28.—CONTRIBUTORS RETIRING ON OR AFTER 55 YEARS OF AGE.

60g. *Paragraph (b) of sub-section (2.) of section twelve of this Act shall not apply to employees or officers who are contributors under this Part.*

60g.—(1.) In the application of sub-section (2c.) of section twelve of this Act to employees under this Part, the reference to sixty years and sixty-five years shall be read as a reference to fifty-five years and sixty years.

(2.) Sub-section (2c.) of section twelve of this Act shall not apply to officers under this part.

CLAUSE 29.—TABLES OF CONTRIBUTIONS.

60h.—(1.) *In the application of section seventeen of this Act to contributions by employees who are contributors under this Part the reference to Schedules I. and II. shall be read as a reference to Schedules III. and IV. to this Act.*

(1.) Section seventeen of this Act shall not apply to contributors under this Part.

(1a.) The tables of contributions set out in Schedule III. to this Act shall continue to apply to contributions by employees the obligation to make which existed at the commencement of the Superannuation Act 1942 and the tables of contributions set out in Schedule VII. to this Act shall apply to contributions by employees the obligation to make which comes into existence after the commencement of the Superannuation Act 1942.

(2.) The contributions by officers who are contributors under this Part shall be according to such rates as are prescribed.

CLAUSE 30.—PENSIONS FOR OFFICERS.

60j. Pension shall not be payable under this Act to, or in respect of, an officer who is a contributor except—

(a) a pension for himself upon retirement upon the ground of invalidity or physical or mental incapacity to perform his duties not due to *his own fault wilful action on his part for the purpose of obtaining pension*; and

(b) a pension to his widow and children upon his death while in the service or while he is in receipt of a pension under this Act.

CLAUSE 31.—PENSIONS NOT PAYABLE IN ADDITION TO COMPENSATION.

60k.—(1.) Pension shall not be payable under this Part to, or in respect of, any person to whom compensation upon retirement or discharge has been paid under the Defence Retirement Act 1922:

Provided that this *section sub-section* shall not apply to any person who, having received such compensation upon retirement or discharge, is re-appointed to the service and becomes a contributor.

(2.) Pension shall not be payable under this Part to, or in respect of, any person who absents himself without leave or becomes a deserter and who, during such period of absence or desertion, attains the maximum age for retirement or becomes incapacitated or dies.

CLAUSE 32.—AMOUNT OF PENSION ON RETIREMENT.

60M. Subject to this Act, a contributor shall, upon retirement, be entitled to receive a pension according to the number of units for which he was contributing at the time of his retirement:

Provided that any contributor—

- (a) who has attained the age of fifty-five years and elects, or is called upon, to retire before attaining the age of sixty years; or
 - (b) the age for whose retirement is fixed by law at an earlier age than sixty years, who retires on attaining the age so fixed,
- shall, as from the date of his retirement,—
- (c) be entitled to a pension which is the actuarial equivalent of the contributions made or to be made by him and of the share of pension payable by the Commonwealth and accruing to him under this Act; or
 - (d) if he contributes in a lump sum or in such smaller sums and at such periods as the Board approves, the actuarial equivalent of the amount necessary to complete his payments to the fund up to the age of sixty years, be entitled to a pension which is the actuarial equivalent of pension for retirement as at sixty years of age.

60M. In the application of section twenty-nine of this Act to employees under this Part, the reference to sixty years and sixty-five years shall be read as a reference to fifty-five years and sixty years.

CLAUSE 33.—RETIREMENT THROUGH INVALIDITY—AMOUNT OF PENSION.

60N. Where a contributor under this Part is retired on the ground of invalidity or physical or mental incapacity to perform his duties, he shall—

- (a) if the invalidity or incapacity is not due to *his own fault wilful action on his part for the purpose of obtaining pension*, be entitled to the full pension for which he was contributing at the time of his retirement; and
- (b) if the invalidity or incapacity is due to *his own fault wilful action on his part for the purpose of obtaining pension*, be entitled to a refund of his contributions.

CLAUSE 34.—PARTIAL INCAPACITY.

60O.—(1.) Where an officer or employee is retired upon the ground of invalidity or physical or mental incapacity to perform his duties, **not due to wilful action on his part for the purpose of obtaining pension**, and the invalidity or incapacity is, in the opinion of the Board, of an extent which constitutes a less degree than fifty per centum of total incapacity in relation to civil employment, the officer or employee shall not be entitled to pension except in accordance with this section.

(2.) An officer or employee to whom this section applies may upon retirement—

- (a) receive such amount of pension as is proportionate to the degree of his incapacity in relation to civil employment; or
- (b) if, within *two six* months of his retirement, he so elects—receive payment in the form of a lump sum of such amount as is the actuarial equivalent of his contributions and of the share of pension payable by the Commonwealth and accruing to him under this Act.

(2AA.) Any officer or employee who at the date of the commencement of this sub-section is in receipt of a proportionate pension in accordance with paragraph (a) of the last preceding sub-section may, within six months after that date, elect to receive payment in accordance with paragraph (b) of that sub-section, in which case he shall receive payment in accordance with that paragraph less the total amount of pension received by him and thereupon shall cease to be eligible for further pension.

(2A.) Should the degree of incapacity of an officer or employee in receipt of pension under the last preceding sub-section be increased after retirement, he may receive such pension as is determined by the Board as being proportionate to the degree of his increased incapacity, and payment of the pension at the increased rate shall be made from such date as is specified by the Board :

Provided that, where the Board determines that the degree of incapacity is not less than fifty per centum, he shall, as from such date as specified by the Board, be entitled to the full pension for which he was contributing at the time of his retirement.

(3.) Where an officer or employee, who is in receipt of a pension under paragraph (a) of the last preceding sub-section sub-section (2.) of this section, dies from any disease which, in the opinion of the Board, was the cause of his retirement, pension shall be payable to his widow at the rate of one-half of the pension for which the officer or employee was contributing at the time of his retirement.

CLAUSE 35.—ELECTION TO CONTRIBUTE TO PROVIDENT ACCOUNT.

60X.—(1.) Any contributor to the Superannuation Fund or any employee who would, but for this section, be required to become a contributor to the Superannuation Fund, whose contributions for his first two units—

(a) are or would be at a rate in excess of the rate prescribed in *Schedule I, or II, to this Act for forty-five years of age for the age of forty-five years based on a retiring age of sixty-five years*; and

(b) exceed, or would exceed, an amount equal to five per centum of his salary,

may, within six months after the date of commencement of this section, or of the commencement of his employment, whichever is the later, elect to contribute to either the Superannuation Fund or the Provident Account.

(2.) Where a contributor to the Superannuation Fund elects in pursuance of the last preceding sub-section to contribute to the Provident Account—

(a) he shall, as from the date on which he so elects, make no further contributions to the Superannuation Fund and shall cease to be entitled to any pension or benefit which would otherwise be payable from the Superannuation Fund; and

(b) *such portion of the Superannuation Fund as the Actuary to the Board certifies is the actuarial equivalent of the contributions made by the contributor to the Superannuation Fund shall be credited to the Provident Account and treated as being contributions by that contributor to the Provident Account.*

(b) the Board shall make such adjustment of contributions as, in its opinion, is necessary by reason of the election of the contributor to contribute to the Provident Account.

CLAUSE 36.—PAYMENTS ON RETIREMENT.

60y.—(1.) *Where Subject to this Act, where a contributor to the Provident Account retires or is retired on or after having attained the age of sixty years or where his services are terminated—*

- (a) on the ground of invalidity ; or
- (b) owing to retrenchment,

there shall be paid to him a sum equal to twice the following amount, namely, the aggregate of his contributions to the Provident Account, together with compound interest on those contributions at the rate of Three pounds per centum per annum :

Provided that the payment so made shall not be less than a sum equal to one-half of his annual rate of salary.

(2.) *Where a contributor to the Provident Account has been paid a sum under the last preceding sub-section and he again becomes a contributor to the Provident Account, the proviso to the last preceding sub-section shall not apply to any further payment to which he is entitled under that sub-section.*

CLAUSE 37.—STAFF.

73. The staff of the Board shall be appointed under and be subject to the provisions of any Act for the time being in force relating to the Public Service of the Commonwealth, and shall include a secretary *and an actuary, or an officer who is both secretary and actuary.*

CLAUSE 38.—ACCEPTANCE OF ELECTION OUTSIDE PRESCRIBED PERIOD.

76a.—(1.) *Notwithstanding anything contained in this Act, where an election under this Act has been or is made after the expiration of the prescribed period, and the Board is satisfied that—*

- (a) hardship would accrue to the employee or his dependants if the election were not recognized ; and
- (b) in all the circumstances of the case it is desirable that the election should be recognized,

the Board may recognize the election as if it had been made before the expiration of the prescribed period.

(2.) *In the event of the retirement of the employee on the ground of invalidity or physical or mental incapacity to perform his duties, within one year after the recognition of an election under the last preceding sub-section, he shall, if the election was to contribute for an additional unit or units, be entitled to a refund of the contributions paid in respect of the additional unit or units, but shall not be entitled to any further payment in respect thereof.*

CLAUSE 39.—QUESTION AS TO INVALIDITY, ETC., DETERMINED BY BOARD ON MEDICAL OFFICER'S REPORT.

77. Whenever any question arises under this Act as to whether a contributor is an invalid, or is physically or mentally incapable of performing his duties, and whether the invalidity or incapacity is due to *his fault wilful action on his part for the purpose of obtaining pension*, the question shall be determined by the Board (whether before or after the retirement of the contributor) upon a report from a Medical Officer appointed for the purposes of this Act :

Provided that upon receipt of an adverse report by the Board, and before a determination is arrived at the contributor shall have the right to a second medical report from a doctor mutually agreed upon by the contributor and the Board :

Provided further that, where the contributor is one to whom Part IVa. of this Act applies, the Board may determine the question upon a joint report from the medical officer appointed for the purposes of this Act and a medical officer attached to the branch of the Commonwealth Service in which the contributor is employed.

CLAUSE 40.—RETURNS.

79.—(1.) The Board may at any time require the Commonwealth or an approved authority to furnish such returns with respect to its employees as the Board decides, and may at any time require any employee to furnish such information as the Board deems necessary for the purpose of any investigation in connexion with the fund.

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

Penalty : Ten pounds.

CLAUSE 41.*

PAYMENTS TO COMMONWEALTH BY APPROVED AUTHORITIES.

80a. Where any pension or other benefit is payable under this Act to or in respect of a contributor who was or is a person employed by an approved authority, the approved authority shall pay to the Commonwealth the amount paid by the Commonwealth to the fund under section eighteen or nineteen of this Act in respect of that person and may apply for that purpose any moneys under the control of the approved authority.

RETIREMENT OR DEATH AS RESULT OF WAR SERVICE.

80c.—(1.) Where the Board is satisfied that any pension or benefit has, whether before or after the commencement of this section, become payable under this Act as the result of the service of a contributor as a member of the Forces, the Commonwealth shall pay to the fund the amount by which the proportion of the pension or benefit equivalent to the contributions made by the contributor is less than the amount of the pension or benefit.

(2.) In this section the expression "the Forces" means—

- (a) the Naval, Military or Air Forces of the Commonwealth, of the United Kingdom or of any other part of the King's dominions ;
- (b) any nursing service or women's auxiliary or other service established in connexion with any of the Forces specified in the last preceding paragraph ; and
- (c) any other service which the Minister, by order published in the Gazette, declares to be included in the Forces for the purposes of this section.

CLAUSE 42.—SCHEDULES.

NOTE.—The new Schedules added to the Principal Act by this clause are not reproduced in this memorandum.

* Sub-clause (2.) of clause 41, which does not amend the Principal Act, is not reproduced in this memorandum.