



**BERMUDA**

**PUBLIC SERVICE SUPERANNUATION ACT 1981**

**1981 : 70**

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## **PART I PRELIMINARY**

### **Short title**

1 This Act may be cited as the Public Service Superannuation Act 1981.

### **Interpretation**

- 2 (1) In this Act, unless the context otherwise requires—
- “appointed day” means the day appointed pursuant to section 65(2) as the date of commencement of this Act;
- “Auditor” means the Government Auditor;
- “Bermuda Fire and Rescue Service” means the department of Government established under section 4 of the Bermuda Fire and Rescue Service Act 1982;
- “Bermuda Regiment staff” means those members of the full-time permanent staff of the Royal Bermuda Regiment who are not for the time being seconded to the Royal Bermuda Regiment by Her Majesty’s Government in the United Kingdom;
- “BMA” means the Bermuda Monetary Authority established under the Bermuda Monetary Authority Act 1969;
- “BMA pension plan” means a pension plan provided for employees of the BMA under the National Pension Scheme (Occupational Pensions) Act 1998;
- “Board” means the Public Service Superannuation Board established under section 4;
- “child” includes adopted child and stepchild;
- “Commission” means the Pension Commission established under section 54 of the National Pension Scheme (Occupational Pensions) Act 1998;
- “contract officer” means a person, other than a teacher, police officer, prison officer or fire officer, whether possessing Bermudian status or not, employed by the Government on contract for a fixed term of time and whose appointment was made by the Governor after 1 November 1985;
- “contributor” means a person of the age of 18 years or over who contributes or has contributed to the Fund pursuant to this Act;
- “contributory service” means service in respect of which a contributor contributes to the Fund;
- “deferred pensioner” means a person entitled to a pension by virtue of section 24 as well as any police officer, fire officer, prison officer, or member of the Bermuda Regiment staff who retires in accordance with the proviso to section 19(1);

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“Divisional officer” means the fire officer of that rank in the Bermuda Fire and Rescue Service;

“established office” means a public office declared by the Governor to be a pensionable office and includes a permanent appointment, so declared, with a Government Board; and the expression "non-established office" shall be construed accordingly;

“estate representative” means the executor, original or by representation, or administrator for the time being of a deceased person;

“fire officer” means an officer of the Bermuda Fire and Rescue Service;

“mandatory overtime service” means service in the Prisons Service in excess of 80 hours and not exceeding 96 hours extending over a period of 14 consecutive days;

“Minister” means the Minister of Finance;

“pensioner” means a person who has retired from the public service and is in receipt of a pension under this or any of the repealed Acts, and includes a deferred pensioner as well as a person who has satisfied the conditions required for the payment of a pension under this or any of the repealed Acts although no payment has been actually made to him;

“pensionable service” means service which shall be taken into account in computing a pension under this Act;

“public service” means service in a civil capacity under the Government of Bermuda and includes service with a Government Board, service in the Bermuda Regiment staff, and service with a school as a teacher;

“repealed Acts” means the Acts referred to in section 62(1);

“salary” includes wages whether paid weekly or otherwise, and wages paid for mandatory overtime service but does not include any other form of over-time payment, personal allowance, duty allowance, entertainment allowance, or any other allowance or award;

“school” means a school in Bermuda in receipt of assistance from public funds either as an aided school or maintained school as defined in the Education Act 1954, and includes the Bermuda College;

“teacher” means a teacher who is or has been on the staff of any school, and includes the President of the Board of Governors of the Bermuda College, all persons appointed to the instructional staff of that College, and teachers who, pursuant to section 4(3) of the Bermuda College Act 1974, have been seconded to the College;

“the Fund” means the Public Service Superannuation Fund established by the Public Treasury (Administration and Payments) Act 1969.

(2) Reference to a person being re-employed on a part-time basis shall be construed as a reference to employment where the person gives personal service of at

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least twenty hours a week; and a reference to re-employment on a casual basis shall be construed as a reference to employment of an occasional nature.

*[Section 2 subsection (1) "child" amended by 2002:36 Sch para 25 effective 19 January 2004; "contributor" amended by 2007:18 s.2 effective 14 September 2007; "Bermuda Fire and Rescue Service" substituted for Fire Services Department, "Divisional officer" and "fire officer" amended by 2007:23 effective 2 July 2007; "BMA" and "BMA pension plan" inserted by 2010:7 s.2 effective 19 March 2010; "Commission" inserted by 2012 : 9 s. 2 effective 1 April 2012; Section 2 subsection (1) definition "Bermuda Regiment staff" amended by 2015 : 48 s. 25 effective 1 November 2017]*

### **Application**

3 (1) Subject to subsections (2) and (3) this Act shall apply to persons who contribute to the Fund and who are—

- (a) public officers as defined in section 102 of the Constitution;
- (b) teachers;
- (c) police officers;
- (d) prison officers;
- (e) public officers, so defined, who are or have been seconded for service with—
  - (i) the Bermuda Monetary Authority pursuant to section 5 of the Bermuda Monetary Authority Act 1969;
  - (ii) the Bermuda Housing Corporation pursuant to section 8 of the Bermuda Housing Act 1980;
  - (iii) the Bermuda Hospitals Board pursuant to section 11 of the Bermuda Hospitals Board Act 1970;
  - (iv) the Bermuda Arts Council pursuant to section 10 of the Bermuda Arts Council Act 1969;
  - (v) the Bermuda College pursuant to section 4 of the Bermuda College Act 1974;
- (ee) contract officers;
- (f) Bermuda Regiment staff;
- (g) the administrative and clerical officers of the Public Transportation Board and such officers who, on the first day of April 1973, were administrative and clerical officers of that Board;
- (h) Government employees in non-established offices;
- (i) employees of Government Boards, other than employees of the Bermuda Hospitals Board who do not come within paragraph (e)(iii);
- (j) judges of the Supreme Court;
- (k) fire officers;

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(l) such other employees of the Government or any Government agency or authority or body as may be designated by order of the Minister as being subject to this Act.

(2) This Act shall not apply to any person whose retirement from the public service took effect prior to the first day of April 1978 as regards persons in established offices, or the first day of April 1979 as regards persons in non-established offices.

(3) This Act shall not apply to—

(a) any person employed by the Government on contract for a fixed period of time—

(i) whose employment with the Government commenced before 1 November 1985; or

(ii) whose appointment was made by the Governor before 1 November 1985,

and whose terms and conditions of service provide for the payment of a gratuity at the end of the contract period or at the end of a subsequent contract:

Provided that Part VIII shall apply to such person in like manner as they apply to contributors;

(b) any person employed on a part-time, or casual basis.

(4) *[repealed]*

(5) *[repealed]*

(6) An order made under subsection (1)(l) may be made with retrospective effect and shall be subject to the negative resolution procedure.

*[Section 3 subsection (3) paragraph (b) substituted, and (c) repealed, by 2007:18 s.3 effective 14 September 2007; subsections (4) and (5) repealed by 2014 : 26 s. 6 effective 27 June 2014]*

### **BMA employees who are eligible to contribute to the Fund**

3A (1) Notwithstanding section 3, on the coming into operation of this section, no employee of the BMA is entitled to contribute to the Fund unless that employee is eligible to contribute to the Fund under this section.

(2) An employee of the BMA is eligible to contribute to the Fund if, and only if—

(a) he was—

(i) on 31 December 2001, an employee of the BMA (or a public officer seconded to the BMA) who was, on 31 December 2001, contributing to the Fund; or

(ii) immediately before being employed by the BMA (if employed by the BMA after 31 December 2001), contributing to the Fund; and

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- (b) he is, immediately before the coming into operation of this section, an employee of the BMA who is, immediately before the coming into operation of this section—
  - (i) contributing to the Fund; or
  - (ii) contributing to the BMA pension plan; and
- (c) he elects, within 30 days after the coming into operation of this section—
  - (i) to continue to contribute to the Fund (if, immediately before the coming into operation of this section, he is contributing to the Fund); or
  - (ii) to contribute to the Fund (if, immediately before the coming into operation of this section, he is contributing to the BMA pension plan); and
- (d) where he is required under section 3B or 3C to include in his election under paragraph (c) an undertaking to repay any amount to the Fund, full repayment of such amount to the Fund is made within 180 days after the coming into operation of this section.

(3) A person who elects to contribute to the Fund under subsection (2)(c) and a person who makes full repayment to the Fund in accordance with his election and undertaking under subsection (2)(d) shall, for the purpose of being eligible to contribute to the Fund, be deemed to have made such election or both such election and repayment (as the case may be) on the coming into operation of this section.

(4) An election under subsection (2) shall be made in writing to the Accountant General in such form as the Accountant General may determine.

*[Section 3A inserted by 2010:7 s.3 effective 19 March 2010]*

### **Repayment of transfer and contributions**

3B (1) Where a person referred to in section 3A(2)(a) transferred the amount in respect of his contributions (including the employer's contributions) from the Fund to the BMA pension plan, he shall include in his election under section 3A(2)(c) an undertaking to repay to the Fund—

- (a) the amount transferred from the Fund to the BMA pension plan, together with interest thereon calculated from the date of transfer of the amount from the Fund to the date of repayment into the Fund; and
- (b) the amount of both the employee's and employer's contributions for the period during which he has not made contributions to the Fund, each contribution payable at the rate applicable when it became payable under this Act, together with interest thereon from the date each such contribution became due.

(2) If a person reinstates his account in the Fund in accordance with subsection (1) his service shall not, for the purpose of calculating his pensionable service, be

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regarded as having been broken by the fact of his not having made contributions for the period that has been repaid.

*[Section 3B inserted by 2010:7 s.3 effective 19 March 2010]*

### **Repayment of refund and contributions**

3C (1) Where a person referred to in section 3A(2)(a) received a refund of his contributions or was a deferred pensioner, he shall include in his election under section 3A(2)(c) an undertaking to repay to the Fund—

- (a) in every case, the amount of both the employee's and employer's contributions for the period during which he has not made contributions to the Fund, each contribution payable at the rate applicable when it became payable under this Act, together with interest thereon from the date each such contribution became due; and
- (b) in the case of a person who received a refund of his contributions, the amount refunded to him together with interest thereon calculated from the date of the withdrawal from the Fund of his contributions to the date of repayment into the Fund.

(2) If a person reinstates his account in the Fund in accordance with subsection (1) his service shall not, for the purpose of calculating his pensionable service, be regarded as having been broken by the fact of his not having made contributions for the period that has been repaid.

*[Section 3C inserted by 2010:7 s.3 effective 19 March 2010]*

## **PART II ADMINISTRATION**

### **Establishment of the Public Service Superannuation Board**

4 (1) There is hereby established a body to be called the Public Service Superannuation Board which shall, subject to any general directions of the Minister, have the powers conferred, and discharge the duties imposed upon it by this Act.

(2) Schedule 1 shall have effect with respect to the constitution and operation of the Board and otherwise in relation thereto.

*[Section 4 subsection (2) amended by 2012 : 9 s. 6 effective 1 April 2012]*

### **Functions of the Board**

5 The Board shall consider the claim of every contributor who retires from, or ceases to be employed in the public service in circumstances entitling him to a pension or to a refund of his contributions under this Act, to perform such other functions as may be assigned to it by or under any provision of this Act or, subject thereto, by the Minister.

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### **Report to be laid before the Legislature**

6 (1) The Board shall make a report annually to the Minister containing such information as the Minister may require.

(2) The annual report of the Board shall be laid by the Minister before the Legislature if it is then in session or, if it is not then in session, at the next ensuing session.

### **The Superannuation Fund**

7 (1) Subject to subsection (6) the Public Service Superannuation Fund established by the Public Treasury (Administration and Payments) Act 1969 is hereby charged with all payments certified to be made or otherwise payable under this Act:

Provided that any payment made under Part VIII in relation to any person referred to in section 3(3)(a) or the proviso to section 3(3)(c) shall be a charge on the Consolidated Fund.

(2) Subject to this Act the administration of the Fund shall be the responsibility of the Accountant General.

(3) The Accountant General shall keep proper records showing the amount of contributions to the Fund by or on behalf of each contributor and all other payments into or out of the Fund.

(4) For the purpose of enabling the Accountant General to comply with the requirements of subsections (2) and (3) in those cases where payment of salaries is made from any fund administered by an authority other than the Accountant General, then every such authority shall—

- (a) make the appropriate deductions from the salary of each contributor falling within any of the categories of contributors mentioned in paragraph (e)(i), (ii), (iii) and (iv) and paragraph (i) of section 3(1);
- (b) make a like contribution from the fund administered by that authority in relation to each contributor;
- (c) within fourteen days after the end of each calendar month forward to the Accountant General a record showing—
  - (i) the salary paid to each contributor;
  - (ii) the contribution deducted from the salary of each contributor;
  - (iii) the equal contribution made from the fund of the authority in relation to each contributor,

and shall also pay to the Accountant General the gross amount of the contributions relating to all the contributors.

(5) The moneys paid into the Fund shall be invested in accordance with the Public Funds Act 1954 and the income from such investments shall be paid into the Fund.

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(6) If at any time the Fund is insufficient to meet the payments chargeable against it the deficiency shall be made up out of the Consolidated Fund.

(7) The financial year of the Fund shall be from the first day of April in one year to the 31st day of March in the following year and the accounts of the Fund shall be submitted to the Auditor for audit not later than 30th June next following the end of the financial year.

### **Pensions payable under repealed Acts charged on the Fund**

7A There shall be charged on and paid out of the Fund all such sums of money payable on 1 April 1986 by way of pension or other benefit under any of the repealed Acts, notwithstanding anything to the contrary in this Act or any of those Acts.

### **Audit**

8 The accounts of the Fund shall be audited by the Auditor, and he shall make an annual report in respect of the preceding financial year to the Minister who shall then lay the report before the Legislature if it is in session or, if it is not then in session, at the next ensuing session.

### **Actuarial review**

8A (1) The Minister shall cause an actuary to be appointed to review the operation of the Fund within one year from 1 April 1995 and thereafter every third year.

(2) An actuary on each review pursuant to subsection (1) shall make a report on the adequacy of the Fund to the Minister who shall then lay the report before the Legislature if it is in session or if it is not then in session, at the next ensuing session.

*[Section 8A inserted by 1993 : 6 effective 1 April 1993]*

### **Interest payable**

9 Except where otherwise specifically provided for by this Act, interest payable under this Act shall be at the rate of 4 per centum per annum compounded annually on the 31st day of March.

### **Cost of administration**

10 The administrative costs of this Act shall be paid out of the Fund.

### **Review of computation or refund of contributions and appeal therefrom**

11 (1) A contributor who is aggrieved by a computation of—

- (a) the amount of pension payable to him; or
- (b) the amount of contributions refundable to him,

may apply in writing to the Board to review the matter and the Board shall give a decision thereon within sixty days of the receipt of the application.

(2) Where a contributor is dissatisfied with the decision of the Board given under subsection (1) he may appeal to the Supreme Court on any question of law or of mixed

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law and fact and the Civil Appeals Act 1971 (except sections 3, 5 and 9) shall, subject to such exceptions, modifications, and adaptations as may be necessary, apply to any such appeal.

### **PART III CONTRIBUTIONS**

#### **Contributions to be deducted from salary**

12 (1) Subject to subsection (1A) and (1B), monthly deductions shall be made from the salary of every contributor holding an established office in the public service of an amount equal to the following percentages of his salary—

- (a) from 1 October 2025 – 8.7%;
- (b) from 1 April 2026 – 9.3%;
- (c) from 1 April 2027 – 10%,

and the amount so deducted shall be placed to the credit of the contributor in the Fund.

(1A) In the case of a police officer below the rank of Superintendent, a fire officer below the rank of Divisional Officer and a prison officer below the rank of Deputy Commissioner, the monthly deduction shall be an amount that is equal to the following percentages of his salary—

- (a) from 1 October 2025 – 10.2%;
- (b) from 1 April 2026 – 10.8%;
- (c) from 1 April 2027 – 11.5%.

(1B) In the case of a member of the Bermuda Regiment staff, the monthly deduction shall be an amount that is equal to the following percentage of his salary—

- (a) from 1 October 2025 – 10.2%;
- (b) from 1 April 2026 – 10.8%;
- (c) from 1 April 2027 – 11.5%.

(2) Deductions shall be made in relation to the full salary payable at the time the deduction is made whether or not the contributor is for any reason receiving less than that salary.

(3) A person being a teacher who has—

- (a) attained the age of sixty years and whose first employment with the Government commences on or before 31 March 2033 shall not contribute to the Fund (or be entitled to any benefit under this Act) unless he elects to contribute to the Fund;
- (b) attained the age of sixty-one years and whose first employment with the Government commences from 1 April 2033 shall not contribute to the

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Fund (or be entitled to any benefit under this Act) unless he elects to contribute to the Fund;

- (c) attained the age of sixty-two years and whose first employment with the Government commences from 1 April 2035 shall not contribute to the Fund (or be entitled to any benefit under this Act) unless he elects to contribute to the Fund.

(3A) A person falling within—

- (a) section 22(2)(a) who has attained the age of sixty years and whose first employment with the Government commences on or before 31 March 2027 shall not contribute to the Fund (or be entitled to any benefit under this Act) unless he elects to contribute to the Fund;
- (b) section 22(2)(b) who has attained the age of sixty-one years and whose first employment with the Government commences from 1 April 2033 shall not contribute to the Fund (or be entitled to any benefit under this Act) unless he elects to contribute to the Fund;
- (c) section 22(2)(c) who has attained the age of sixty-two years and whose first employment with the Government commences from 1 April 2035 shall not contribute to the Fund (or be entitled to any benefit under this Act) unless he elects to contribute to the Fund.

(4) An election under subsection (3) or (3A) shall be made in such form as the Accountant General may determine and shall be delivered to the Accountant General within 60 days after the commencement of a person's employment.

*[Section 12 subsections (1) and (1A) substituted for (1) by 2006 : 6 s. 2 effective 1 April 2006; subsections (3) and (4) inserted by 2007 : 18 s. 4 effective 14 September 2007; Section 12 amended by 2018 : 22 s. 2 effective 28 May 2018; Section 12 subsection (3) amended, subsection (3A) inserted, and subsection (4) substituted by 2019 : 34 s. 2 effective 1 October 2019; Section 12 amended by 2025 : 19 s. 3 effective 1 October 2025]*

### **Government's contribution**

13 Where an amount deducted under subsection (1), (1A) or (1B) of section 12 is credited to the Fund, or where a contributor makes payment of contributions pursuant to any provision of this Act, the Accountant General shall in each case pay out of the Consolidated Fund into the Fund an equivalent amount as Government's contribution to the Fund.

*[Section 13 amended by 2006:6 s.3 effective 1 April 2006; Section 13 modified during period 1 April 2015 to 31 March 2016 by s.2 of 2015:13 effective 1 April 2015; Section 13 amended by 2025 : 19 s. 4 effective 1 October 2025]*

### **Cessation of contributions**

14 Subject to this Act every contributor shall cease to contribute to the Fund on the day on which he ceases to be employed in the public service or upon receiving a pension from the Fund, whichever is the earlier.

*[Section 14 amended by 2007:18 s.5 effective 14 September 2007]*

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### **Contributions during leave of absence without salary**

15 (1) A contributor who is granted leave of absence without salary for a period of one month or more because of illness or pregnancy, shall, within six months of the termination of the leave, contribute to the Fund an amount equal to the amount that would have been contributed if the leave had not been granted.

(2) A contributor who is granted leave of absence without salary for a period of one month or more for special or educational purposes may make contributions to the Fund for the period of leave, in which case he shall contribute an amount equal to the amount he would have contributed to the Fund if he had not been granted the leave, and payment of such contributions shall commence not later than one month after resumption of duty and may extend over a period of time not exceeding the period of leave; or he may elect not to make such contributions, in which case the period during which he did not contribute to the Fund shall not be counted as pensionable service.

### **Contributions during leave of absence with bursary**

16 (1) Where a contributor is granted leave of absence without salary for educational purposes and he receives a bursary or other financial assistance from the Government or from a Government Board (as the case may be), the leave shall be deemed for the purposes of this Act to be educational leave of absence with pay, and he shall contribute to the Fund an amount equal to the amount he would have contributed if he had not been granted the leave, and the amount of the contribution shall be deducted from his bursary or other financial assistance.

(2) If the contributor does not resume his service at the end of the leave the period during which he was absent on leave shall not be counted as pensionable service.

### **Exercise of option under section 15**

17 The right to elect whether to contribute to the Fund referred to in section 15(2) shall be exercisable, and if exercised may be revoked, not later than twenty-one days before the commencement of the leave.

## **PART IV PENSIONS**

### **Entitlement to pension**

18 (1) Subject to section 24, every contributor who, on or after the appointed day, has satisfied the requirements of this Act relating to the qualifications for the payment of a pension shall be entitled as of right to a pension under this Act and, in calculating his pensionable service, any service rendering him eligible for a pension under any of the repealed Acts, shall be counted as pensionable service:

Provided that in the case of a fire officer section 25 of the Bermuda Fire and Rescue Service Act 1982 shall have effect.

*[Section 18 amended by 2007:23 s.16 effective 2 July 2007]*

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### **Circumstances entitling contributor to payment**

19 (1) Subject to this Act every person in the public service who has contributed continuously to the Fund for 8 years or more shall be entitled to a pension upon his retirement from the public service in any of the following circumstances namely—

- (a) in the case of a police officer or a fire officer—
  - (i) on or before 31 March 2027, on the police officer or fire officer attaining the age of fifty-five years; or where he is below the rank of Superintendent or Divisional Officer as the case may be, on attaining the age of fifty years or on completing twenty-five years' service as a police officer or a fire officer, whichever first occurs;
  - (ii) from 1 April 2027, on the police officer or fire officer attaining the age of fifty-six years; or where he is below the rank of Superintendent or Divisional Officer as the case may be, on attaining the age of fifty-one years or on completing twenty-five years' service as a police officer or a fire officer, whichever first occurs;
  - (iii) from 1 April 2029, on the police officer or fire officer attaining the age of fifty-seven years; or where he is below the rank of Superintendent or Divisional Officer as the case may be, on attaining the age of fifty-two years or on completing twenty-five years' service as a police officer or a fire officer, whichever first occurs;
  - (iv) from 1 April 2031, on the police officer or fire officer attaining the age of fifty-eight years; or where he is below the rank of Superintendent or Divisional Officer as the case may be, on attaining the age of fifty-three years or on completing twenty-five years' service as a police officer or a fire officer, whichever first occurs;
  - (v) from 1 April 2033, on the police officer or fire officer attaining the age of fifty-nine years; or where he is below the rank of Superintendent or Divisional Officer as the case may be, on attaining the age of fifty-four years or on completing twenty-five years' service as a police officer or a fire officer, whichever first occurs;
  - (vi) from 1 April 2035, on the police officer or fire officer attaining the age of sixty years; or where he is below the rank of Superintendent or Divisional Officer as the case may be, on attaining the age of fifty-five years or on completing twenty-five years' service as a police officer or a fire officer, whichever first occurs;
- (b) in the case of a prison officer—
  - (i) on or before 31 March 2027, on the prison officer attaining the age of fifty-five years; or where he is below the rank of Deputy Commissioner, on attaining the age of fifty years or on completing twenty-one years' service as a prison officer, whichever first occurs;
  - (ii) from 1 April 2027, on the prison officer attaining the age of fifty-six years; or where he is below the rank of Deputy Commissioner, on

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- attaining the age of fifty-one years or on completing twenty-one years' service as a prison officer, whichever first occurs;
- (iii) from 1 April 2029, on the prison officer attaining the age of fifty-seven years; or where he is below the rank of Deputy Commissioner, on attaining the age of fifty-two years or on completing twenty-one years' service as a prison officer, whichever first occurs;
  - (iv) from 1 April 2031, on the prison officer attaining the age of fifty-eight years; or where he is below the rank of Deputy Commissioner, on attaining the age of fifty-three years or on completing twenty-one years' service as a prison officer, whichever first occurs;
  - (v) from 1 April 2033, on the prison officer attaining the age of fifty-nine years; or where he is below the rank of Deputy Commissioner, on attaining the age of fifty-four years or on completing twenty-one years' service as a prison officer, whichever first occurs;
  - (vi) from 1 April 2035, on the prison officer attaining the age of sixty years; or where he is below the rank of Deputy Commissioner, on attaining the age of fifty-five years or on completing twenty-one years' service as a prison officer, whichever first occurs;
- (c) in the case of a member of staff of the Bermuda Regiment—
- (i) on or before 31 March 2027, on the staff member attaining the age of fifty-five years or on completing twenty-five years' service, whichever first occurs;
  - (ii) from 1 April 2027, on the staff member attaining the age of fifty-six years or on completing twenty-five years' service, whichever first occurs;
  - (iii) from 1 April 2029, on the staff member attaining the age of fifty-seven years or on completing twenty-five years' service, whichever first occurs;
  - (iv) from 1 April 2031, on the staff member attaining the age of fifty-eight years or on completing twenty-five years' service, whichever first occurs;
  - (v) from 1 April 2033, on the staff member attaining the age of fifty-nine years or on completing twenty-five years' service, whichever first occurs;
  - (vi) from 1 April 2035, on the staff member attaining the age of sixty years or on completing twenty-five years' service, whichever first occurs;
- (d) in the case of any other contributor—
- (i) on or before 31 March 2027, on the contributor attaining the age of sixty years;

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- (ii) from 1 April 2027, on the contributor attaining the age of sixty-one years;
- (iii) from 1 April 2029, on the contributor attaining the age of sixty-two years;
- (iv) from 1 April 2031, on the contributor attaining the age of sixty-three years;
- (v) from 1 April 2033, on the contributor attaining the age of sixty-four years;
- (vi) from 1 April 2035, on the contributor attaining the age of sixty-five years;
- (e) on the abolition of his office;
- (f) on compulsory retirement for the purpose of facilitating improvement in the organization of the Department or Government Board to which he belongs, by which greater efficiency or economy can be effected;
- (g) on medical evidence to the satisfaction of the Governor that he is incapable by reason of some infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent; or
- (h) on termination of employment by agreement between the Government and the contributor:

Provided that, subject to section 22(4)—

(i) if a police officer or a fire officer below the rank of Superintendent or Divisional Officer (as the case may be) retires after completing the prescribed twenty-five years of service but before attaining the age of fifty years, fifty-one years, fifty-two years, fifty-three years, fifty-four years or fifty-five years (as specified under subsection (1)(a)(i) to (vi)), then payment of his pension shall be deferred until he has attained the age specified unless he elects to take reduced monthly pension payments;

(ii) if a prison officer below the rank of Deputy Commissioner retires after completing the prescribed twenty-one years of service but before attaining the age of fifty years, fifty-one years, fifty-two years, fifty-three years, fifty-four years or fifty-five years (as specified under subsection (1)(b)(i) to (vi)), then payment of his pension shall be deferred until he has attained the age specified unless he elects to take reduced monthly pension payments;

(iii) if a member of staff of the Bermuda Regiment retires after completing the prescribed twenty-five years of service but before attaining the age of fifty years, fifty-one years, fifty-two years, fifty-three years, fifty-four years or fifty-five years (as the case may be), then payment of his pension shall be deferred until he has attained that age unless he elects to take reduced monthly pension payments;

(iv) if any other contributor retires pursuant to subsection (1)(d), then payment of his pension shall be deferred until he has attained the age of sixty-years, sixty-one years,

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sixty-two years, sixty-three years, sixty-four years or sixty-five years (as specified under subsection (1)(d)(i) to (vi)), unless he elects to take reduced monthly pension payments.

(2) If after the appointed day a contributor whose pensionable service commenced prior to that day ceases to be employed in the public service having satisfied any of the circumstances specified in subsection (1)(a) to (h) but has contributed to the Fund for less than 8 years, he shall, notwithstanding that he has less than 8 years contributory service, be entitled to a pension under this Act, and section 64 shall apply accordingly:

Provided that this subsection shall apply only where the total pensionable service of the contributor is not less than 8 years.

*[Section 19 amended by 1993:6 effective 1 April 1993; proviso following subsection (1)(h) substituted by 2006:6 s.4 effective 1 April 2006; Section 19 subsection (1) amended by 2018 : 22 s. 3 effective 28 May 2018; Section 19(1) amended by 2025 : 19 s. 5 effective 1 October 2025 ]*

### **Reduced pension payments upon early retirement**

19A (1) This section applies to a contributor referred to in paragraph (i), (ii), (iii) or (iv) of the proviso to section 19(1) who retires before attaining the age specified therein and who elects under this section to take reduced monthly pension payments instead of having his pension deferred.

(2) A contributor referred to in subsection (1) who makes an election under this section shall do so by delivering to the Accountant General a direction, in such form as the Accountant General may determine, sixty days before the day he retires; and an election is revocable up to five days before that day but not thereafter.

(3) The amount of the reduction in monthly pension payments shall be determined in accordance with the prevailing actuarial review and prescribed as soon as possible thereafter by the Minister, after consultation with the Board, by Notice in the Gazette subject to the negative resolution procedure.

*[Section 19A inserted by 2025 : 19 s. 6 effective 1 October 2025]*

### **Service not qualifying for pension**

20 No pension shall be certified or paid to a contributor under this Act in respect of any service rendered—

- (a) while the contributor is on probation unless, without break of service, he is confirmed in an established office in Bermuda; or
- (b) while he is under the age of eighteen years.

### **Refund of contributions where service terminated in the public interest**

21 Where a contributor's service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the contributor thereto and all other circumstances of the case, it is desirable in the public interest to terminate his service, and a pension cannot lawfully be paid to him under this Act the Board shall approve and certify the refund to him of the amount contributed by him to the Fund

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together with interest thereon and shall, if the Governor, acting in accordance with section 93 of the Constitution, so directs, approve and certify the refund to him of the Government's contribution to his account in the Fund with interest thereon.

### **Age of compulsory retirement**

22 (1) A contributor being—

- (a) a police officer or a fire officer below the rank of Superintendent or Divisional Officer as the case may be, shall retire from the public service on attaining the age first occurring in section 19(1)(a)(i) to (vi);
- (b) a prison officer below the rank of Deputy Commissioner shall retire from the public service on attaining the age first occurring in section 19(1)(b)(i) to (vi):

Provided that any such police officer, fire officer or prison officer may, having regard to the conditions of the department, the usefulness of such contributor thereto, and all other circumstances of the case, be permitted by the Commissioner of Police, the Chief Fire Officer or the Commissioner of Prisons, as the case may be, to continue in the public service until a later age not exceeding the age of sixty-five years;

- (c) a member of the Bermuda Regiment staff shall retire from the Regiment on attaining the age prescribed by the Royal Bermuda Regiment Governor's Orders 2025.

(1A) A contributor being a teacher who—

- (a) on or before 31 March 2033 attains the age of sixty-eight years shall retire from the public service at the end of the school year during which he attains that age;
- (b) from 1 April 2033 attains the age of sixty-nine years shall retire from the public service at the end of the school year during which he attains that age;
- (c) from 1 April 2035 attains the age of seventy years shall retire from the public service at the end of the school year during which he attains that age:

Provided that having regard to the conditions of the public service, the usefulness of such teacher thereto, and all other circumstances of the case, it is desirable in the public interest that the service of any such teacher should be retained, he may be permitted by the Head of the Public Service to continue in the public service for one or more further school years (provided that such permission is granted for no more than one school year at a time) until no later than the end of the school year during which the teacher attains the age of seventy-five years.

(2) Any other contributor who—

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- (a) on or before 31 March 2027 attains the age of sixty-eight years shall, except where expressly otherwise provided by any provision of law, retire from the public service on attaining that age;
- (b) from 1 April 2033 attains the age of sixty-nine years shall, except where expressly otherwise provided by any provision of law, retire from the public service on attaining that age;
- (c) from 1 April 2035 attains the age of seventy years shall, except where expressly otherwise provided by any provision of law, retire from the public service on attaining that age:

Provided that such contributor may be permitted to continue in the public service until a later age, not exceeding the age of seventy-five years, subject to annual confirmation by the contributor's Head of Department to the relevant Permanent Secretary that the contributor is competent to discharge the duties of the post.

(3) [Repealed]

(4) Notwithstanding anything in the foregoing provisions of this section, any contributor may be required by the Governor to retire—

- (a) in the case of a police officer or a fire officer below the rank of Superintendent or Divisional Officer, on or at any time after completing twenty-five years' service as a police officer or fire officer as the case may be;
- (b) in the case of a prison officer below the rank of Deputy Commissioner, on or at any time after completing twenty-one years' service as a prison officer; and
- (c) in the case of any other contributor, except where expressly otherwise provided by any provision of law, on or at any time after attaining the age of sixty years:

Provided that if any such police officer, or any such fire officer, or any such prison officer is required to retire as aforesaid, the proviso to section 19(1) shall not apply to him.

*[Section 22 amended by 1993 : 6 effective 1 April 1993; provisos to subsections (1), (2) and (4) amended, and subsection (3) repealed, by 2007:18 s.6 effective 14 September 2007; subsection (1A) inserted by 2013 : 25 s. 2 effective 23 July 2013; Section 22 subsection (1) amended by 2018 : 22 s. 4 effective 28 May 2018; Section 22 subsection (2) amended by 2019 : 34 s. 3 effective 1 October 2019; Section 22 amended by BR 85 / 2021 reg. 6 effective 7 June 2021; Section 22 amended by 2025 : 19 s. 7 effective 1 October 2025; The cross-reference in subsection (1) to the Royal Bermuda Regiment Governor's Orders 1993 was updated pursuant to section 11(h) of the Computerization and Revision of Laws Act 1989 as a result of those Orders being repealed and replaced]*

### **Maximum pension**

23 (1) A pension payable to a contributor under this Act shall not exceed sixty per centum of the highest salary drawn by him at any time in the course of his service in Bermuda.

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(2) For the purpose of subsection (1) an additional pension certified by the Board under section 38 in respect of injury shall not be taken into account, but where the contributor is granted such an additional pension, the amount of such additional pension which he may draw shall not exceed fifteen per centum of his highest salary at any time in the course of his public service by more than the sum by which the amount of his pension, apart from such additional pension, falls short of sixty per centum of such highest salary.

### **Deferred pensions**

- 24 (1) Subject to the proviso to section 19(1) where—
- (a) on or before 31 March 2027 a person has contributed continuously to the Fund for a period of not less than 8 years and that person is not otherwise entitled to a pension under this Act, that person shall be entitled to a deferred pension payment of which shall commence when he attains the age of sixty years if he ceases to be employed before attaining that age;
  - (b) from 1 April 2027 a person has contributed continuously to the Fund for a period of not less than 8 years and that person is not otherwise entitled to a pension under this Act, that person shall be entitled to a deferred pension payment of which shall commence when he attains the age of sixty-one years if he ceases to be employed before attaining that age;
  - (c) from 1 April 2029 a person has contributed continuously to the Fund for a period of not less than 8 years and that person is not otherwise entitled to a pension under this Act, that person shall be entitled to a deferred pension payment of which shall commence when he attains the age of sixty-two years if he ceases to be employed before attaining that age;
  - (d) from 1 April 2031 a person has contributed continuously to the Fund for a period of not less than 8 years and that person is not otherwise entitled to a pension under this Act, that person shall be entitled to a deferred pension payment of which shall commence when he attains the age of sixty-three years if he ceases to be employed before attaining that age;
  - (e) from 1 April 2033 a person has contributed continuously to the Fund for a period of not less than 8 years and that person is not otherwise entitled to a pension under this Act, that person shall be entitled to a deferred pension payment of which shall commence when he attains the age of sixty-four years if he ceases to be employed before attaining that age;
  - (f) from 1 April 2035 a person has contributed continuously to the Fund for a period of not less than 8 years and that person is not otherwise entitled to a pension under this Act, that person shall be entitled to a deferred pension payment of which shall commence when he attains the age of sixty-five years if he ceases to be employed before attaining that age:

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Provided that if he ceases to be employed by reason of any of the circumstances contained in section 19(1)(e), (f), (g) or (h) he shall be entitled to payment of pension as from the date he ceases to be employed;

Provided further that section 19(1)(e), (f), (g) and (h) shall not apply to a contributor employed on contract for a term specified in the contract.

(2) Where a contributor falling within section 22(1) is permitted to continue in the same office in the public service after the age of retirement specified in section 22(1), payment of any pension to which he may be entitled at that age may, if he so elects, be deferred until he ceases to be employed in the public service.

(3) A contributor shall exercise his election under subsection (2) by delivering to the Accountant General a direction, in such form as the Accountant General may determine, before the expiry of 30 days after the day he attains the age of retirement specified in section 22(1).

(3A) Where a contributor falling within section 22(2) is permitted to continue in the same office in the public service after the age of retirement specified in section 22(2), payment of any pension to which he may be entitled at that age shall be deferred until he ceases to be employed in the public service.

(4) Where a contributor being a teacher continues as such in the public service after attaining the age specified in section 22(1A), payment of any pension to which he may be entitled at that age may, if he so elects, be deferred until he ceases to be employed in the public service.

(5) A teacher shall exercise his election under subsection (4) by delivering to the Accountant General a direction, in such form as the Accountant General may determine, before the expiry of 30 days after he attains the age specified in section 22(1A).

*[Section 24 subsection (2) amended, and (3) inserted, by 2007 : 18 s. 7 effective 14 September 2007; subsections (4) and (5) inserted by 2013 : 25 s. 3 effective 23 July 2013; Section 24 subsections (2) and (3) amended, and subsection (3A) inserted, by 2019 : 34 s. 4 effective 1 October 2019, subject to application provision in s.6(2) of that Act; Section 24 amended by 2025 : 19 s. 8 effective 1 October 2025]*

### **Special provision for certain contributors**

24A (1) This section shall apply to a contributor who is—

- (a) a contract officer;
- (b) a teacher, police officer, prison officer or fire officer, employed by the Government on contract for a fixed period of time whether appointed before or after the 1st day of November, 1985.

(2) Notwithstanding anything to the contrary in this Act a contributor to whom this section applies who ceases to be employed in the public service having contributed to the Fund for eight years or more but less than ten years shall have the right to elect whether—

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- (i) he will take a deferred pension under this Act, payment of which shall commence in accordance with the dates and ages set out in section 19(1)(d); or
- (ii) he will claim a refund of the total of his contributions to the Fund with interest thereon.

(3) The election referred to in subsection (2) shall be exercisable by the contributor not less than thirty days before the date of the cessation of employment in the public service and he shall notify the Board in writing of his election.

(4) An election referred to in subsection (2) shall be revocable up to five days before the effective date of the cessation of employment but not thereafter.

(5) Where a contributor elects to claim a refund of the total of his contributions to the Fund with interest thereon pursuant to subsection (2), that amount shall be refunded to him out of the Fund.

(6) For the avoidance of doubt a contributor to whom this section applies who ceases to be employed in the public service having contributed continuously to the Fund for ten years or more and who is not otherwise entitled to a pension under this Act shall be entitled to a deferred pension, payment of which shall commence in accordance with the dates and ages set out in section 19(1)(d), if he ceases to be employed before attaining that age.

*[Section 24A amended by 2025 : 19 s. 9 effective 1 October 2025]*

### **Effect of re-employment of pensioner on amount of pension**

25 (1) If a pensioner is re-employed in the public service, payment of his pension shall not be suspended when he is re-employed.

(2) [Repealed]

(3) For the avoidance of doubt where a contributor is by virtue of the proviso to section 19(1) or pursuant to section 24, entitled to a deferred pension, any period during which he is re-employed other than on a part-time or casual basis shall be counted as separate pensionable service.

*[Section 25 subsection (1) substituted, and (2) repealed, by 2007:18 s.8 effective 14 September 2007]*

### **Refunds**

26 (1) Subject to subsection (3), section 40A and to section 61, an amount equal to the total of a contributor's contributions to the Fund with interest thereon shall be paid—

- (a) to him, after the expiration of three months after the date he ceases to be employed in the public service, where the contributor is not entitled to a pension under this Act;
- (b) to his designated beneficiary where the contributor dies before becoming entitled to a pension under this Act and leaves no widow, or no child under the age of eighteen years; or

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(c) to the estate of the deceased contributor where no designated beneficiary has been appointed or where such beneficiary predeceases the deceased.

(2) In this section "designated beneficiary" means the person who has been appointed in writing by the deceased contributor as his beneficiary for the purposes of the Fund.

(3) A person may at any time apply in writing to the Accountant General for the early payment of the amount to which he is entitled under subsection (1)(a) and the Accountant General may make the payment before the expiration of the three month period if he is satisfied that the special circumstances of the applicant merit early payment.

*[Section 26 substituted by 2007:18 s.9 effective 14 September 2007; subsection (1) amended by 2012 : 9 s. 3 effective 1 April 2012]*

### **Option to elect re-instatement in the Fund in certain circumstances**

27 (1) Where a contributor ceases to be employed in the public service in the circumstances set out in paragraph (a) of section 26(1) then if within 4 years of his ceasing to be so employed he is re-employed in the public service otherwise than on a part-time or casual basis he may, within sixty days of being so re-employed, elect either—

- (a) to repay to the Fund the amount refunded to him together with interest thereon calculated from the date of the withdrawal from the Fund of his contributions to the date of repayment into the Fund; or
- (b) to make repayment into the Fund as provided in paragraph (a), and to pay contributions for the period during which he was not employed in the public service, such contributions to be calculated upon the salary at which he is re-employed at the rate of 10% per annum or such other rate as may be prevailing at the date of such reemployment; or
- (c) to retain the amount refunded to him and contribute to the Fund as from the date of his re-employment.

(2) If a person elects—

- (a) only to repay the amount refunded to him as provided in subsection (1)
  - (a) the period during which he was not employed in the public service shall not be counted as pensionable;
- (b) to reinstate his account in the Fund in accordance with subsection (1)(b) his service shall not, for the purpose of calculating his pensionable service, be regarded as having been broken by the fact of his not having been employed in the public service for the period between his ceasing to be employed and his re-employment therein;
- (c) to retain the amount refunded to him and contribute to the Fund as in subsection (1)(c) his pensionable service shall commence as from the date when he is re-employed.

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(3) Where a refund of his contributions has been made to a contributor pursuant to section 26 and he elects to retain the amount so refunded, the Government's contributions to the Fund in respect of that contributor shall remain therein.

(4) The Board may allow a person who has elected to reinstate his account in the Fund under subsection (1) to repay the amounts mentioned in subsection (1)(a) or (b) as the case may be, in monthly instalments with interest thereon calculated on the balance outstanding from month to month, over such period, not exceeding 4 years, as the Board may think fit.

(5) The purchase, under this section, of any period or periods of broken service shall not exceed in any case a total of 4 years.

*[Section 27 amended by 1993:6 effective 1 April 1993; subsection (1) amended by 2007:18 s.10 effective 14 September 2007]*

### **Refund where there is no estate representative**

28 Where a person dies in circumstances under which a refund under this Act is payable to his estate representative, if there is no such estate representative, the refund shall be paid to Such person as the Board may, after consultation with the Attorney-General, determine.

### **Restriction on assignment etc. of pensions**

29 (1) A pension paid or payable under this Act shall not be assignable or transferable except in the following circumstances—

- (a) in satisfaction of a debt due to the Government;
- (b) in satisfaction of an order of a court for the payment of periodical sums of money towards the maintenance of a spouse, former spouse, or minor child of the pensioner;
- (c) subject to paragraphs (a) and (b) where a pensioner is sentenced to a term of imprisonment by a competent court in or outside Bermuda for a period upward of one month, in accordance with the directions of the pensioner;
- (d) subject to paragraphs (a) and (b), in the case of a pensioner who is receiving treatment primarily for mental disorder in a hospital or is ascertained by the Board after such inquiry as the Board may direct to be suffering from mental disorder as defined in the Mental Health Act 1968, in accordance with an order of a judge made pursuant to section 51 of that Act.

(2) Section 51 of the Mental Health Act 1968 (judge's power to make provision for maintenance or other benefit of patients) shall apply to a pensioner who is suffering from mental disorder notwithstanding that the pensioner is not detained in a hospital or undergoing treatment in a hospital.

*[Section 29 amended by 1998 : 32 effective 13 July 1998]*

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### **Proof that pensioner is alive**

30 The Accountant General may require such proof as he may think desirable, that any person claiming to be entitled to a pension, or on behalf of whom such claim is made, is alive and entitled to a pension; and the payment of any such pension may be refused until such proof is furnished to the Accountant General.

### **Notification of certain particulars to Accountant General**

31 (1) Every person shall, within three months of his appointment to an established office, notify the Accountant General in writing—

- (a) of the date of his birth; and
- (b) if he is a married man, or a widower with children who have not attained the age of eighteen years, of the dates of his marriage and of the births of his children.

(2) Every pensioner or contributor shall notify the Accountant General in writing, within three months of the event—

- (a) of his marriage, with the name of his wife;
- (b) of the birth of any child born to him;
- (c) of the death of his wife or any of his children who have not attained the age of eighteen years;
- (d) of his bankruptcy;
- (e) of the dissolution or annulment of his marriage.

(3) The widow of any pensioner shall notify the Accountant General in writing, within three months of the event—

- (a) of the birth of any posthumous child born to such pensioner;
- (b) of the death of any child below the age of eighteen years of such pensioner;
- (c) of her re-marriage.

(4) Any such notification as is mentioned in (1) or (2) subsections (1), (2) and (3) shall be proved by the production of a certificate of birth, death, or marriage (as the case may be) or by affidavit or otherwise to the satisfaction of the Accountant General.

(5) Subsections (1) and (2) shall, mutatis mutandis, apply to every female person or pensioner and subsection (3) shall, in like manner, apply to widowers in respect of subsection (3)(b) and (c).

### **Payment of pensions**

32 (1) A pension shall begin to accrue to a contributor on the day following the last day of his service and shall be paid to him in arrear in monthly instalments.

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(2) Where a contributor falling within section 22(1) does not exercise an election to defer his pension under section 24(3) until he ceases to be employed in the public service, his pension shall begin to accrue to him on the day following the day he attains the applicable age of retirement specified in section 22(1), and shall be paid to him in arrears in monthly instalments.

(3) Where a teacher does not exercise an election under section 24(5) to defer his pension until he ceases to be employed in the public service, his pension shall begin to accrue to him on the day following the day he attains the age specified in section 22(1A), and shall be paid to him in arrears in monthly instalments.

*[Section 32 subsection (2) inserted by 2007:18 s.11 effective 14 September 2007; subsection (3) inserted by 2013 : 25 s. 4 effective 23 July 2013; Section 32 subsection (2) amended by 2019 : 34 s. 5 effective 1 October 2019, subject to application provision in s.6(2) of that Act; Section 32 subsection (3) amended by 2025 : 19 s. 10 effective 1 October 2025]*

### **PART V**

#### **PENSIONABLE SERVICE AND COMPUTATION OF PENSIONS**

##### **Rate of pension**

33 Subject to sections 36 and 37, a contributor who has been in the service of the Government for a period of 8 years or upwards and who retires in accordance with this Act—

- (a) on or before 31 March 2027, then that contributor shall be paid a pension at the rate of one eight-hundredth of the average salary payable to him immediately preceding the date of his retirement for each complete month of pensionable service;
- (b) from 1 April 2027, then that contributor shall be paid a pension at the rate of one eight-hundredth of the average salary payable to him in the twenty-four months immediately preceding the date of his retirement for each complete month of pensionable service;
- (c) from 1 April 2028, then that contributor shall be paid a pension at the rate of one eight-hundredth of the average salary payable to him in the thirty-six months immediately preceding the date of his retirement for each complete month of pensionable service;
- (d) from 1 April 2029, then that contributor shall be paid a pension at the rate one eight-hundredth of the average salary payable to him in the forty-eight months immediately preceding the date of his retirement for each complete month of pensionable service;
- (e) from 1 April 2030, then that contributor shall be paid a pension at the rate of one eight-hundredth of the average salary payable to him in the sixty months immediately preceding the date of his retirement for each complete month of pensionable service;

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- (f) from 1 April 2031, then that contributor shall be paid a pension at the rate of one eight-hundredth of the average salary payable to him in the seventy-two months immediately preceding the date of his retirement for each complete month of pensionable service;
- (g) from 1 April 2032, then that contributor shall be paid a pension at the rate of one eight-hundredth of the average salary payable to him in the eighty-four months immediately preceding the date of his retirement for each complete month of pensionable service;
- (h) from 1 April 2033, then that contributor shall be paid a pension at the rate of one eight-hundredth of the average salary payable to him in the ninety-six months immediately preceding the date of his retirement for each complete month of pensionable service;
- (i) from 1 April 2034, then that contributor shall be paid a pension at the rate of one eight-hundredth of the average salary payable to him in the one hundred and eight months immediately preceding the date of his retirement for each complete month of pensionable service;
- (j) on or after 1 April 2035, then that contributor shall be paid a pension at the rate of one eight-hundredth of the average salary payable to him in the one hundred and twenty months immediately preceding the date of his retirement for each complete month of pensionable service.

*[Section 33 repealed and replaced by 2025 : 19 s. 11 effective 1 October 2025]*

### **Service qualifying for pension**

34 Subject to section 20 (service not qualifying for pension) service qualifying for pension under this Act shall be the period during which a contributor was employed in the public service:

Provided that every police officer below the rank of Superintendent, every fire officer below the rank of Divisional Officer, and every prison officer below the rank of Deputy Commissioner, and every member of the Bermuda Regiment staff, who retires on or after attaining the age first occurring in section 19(1)(a)(i) to (vi) or (b)(i) to (vi) or specified in section 19(1)(c)(i) to (vi), as the case may be, shall have added to his service, in the computation of his service for pension, that number of years and months as is the difference between his actual age and the age set out in section 19(1)(d).

*[Section 34 amended by 2018 : 22 s. 5 effective 28 May 2018; Section 34 amended by 2025 : 19 s. 12 effective 1 October 2025]*

### **Periods which shall be taken into account as pensionable service**

35 For the purpose of computing the amount of a contributor's pension the following periods during which he has paid his full contributions shall be taken into account as pensionable service, that is to say—

- (a) any period during which he has been on duty;

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- (b) any period during which he has been absent from duty on leave with full or half salary; and
- (c) subject to sections 15 and 16, any period during which he has been absent from duty on leave without salary.

### **Retirement by reason of abolition of office**

36 (1) If a contributor is compelled to retire from the public service in consequence of the abolition of his office, he shall be paid a pension at the rate specified in section 33:

Provided that in the case of a contributor who does not qualify for a pension under that section he shall be entitled to be refunded the amount of the Government's contributions to the Fund in respect of his service together with the amount of his own contributions, and interest thereon.

(2) A contributor who is compelled to retire from office by reason only of the abolition of his office, may also be paid an additional pension at the rate of one-sixtieth part of his annual salary at the date of his retirement from office for each complete period of three years' pensionable service:

Provided that —

- (a) the addition shall in no case exceed ten-sixtieths of his annual salary; and
- (b) no addition shall be made so as to qualify a contributor for a pension of higher annual value than that for which he would have been qualified by length of service on reaching the age at which he could be required to retire under section 22 or for a pension of higher annual value than the maximum specified in section 23.

### **Reorganization of office and compulsory retirement**

37 (1) If a contributor is removed from the public service for the purpose of facilitating improvement in the administration of the public service by which greater efficiency can be effected, he shall be paid a pension at the rate specified in section 33:

Provided that in the case of a contributor who does not qualify for a pension under that section he shall be entitled to a refund of his contributions with interest thereon.

(2) It shall be lawful for the Board to certify the entitlement to an additional pension of a contributor removed from the public service under subsection (1) as though he had retired from the public service in consequence of the abolition of his office if it is considered by the Board that the circumstances of the case justify the payment of such an additional pension and in any such case section 36(2) shall have effect.

### **Pensions to contributors injured in discharge of duty**

38 Where a contributor has been permanently injured while in the public service—

- (a) in the actual discharge of his duty; and

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- (b) without his own default; and
- (c) by some injury specifically attributable to the nature of his duty,

and his retirement is thereby necessitated or materially accelerated, the Board shall, if he is qualified for a pension under section 33, certify his entitlement, in addition to the pension payable to him under that section, to an additional pension at the rate of the proportion of his actual salary at the date of his injury appropriate to his case as shown in the following table:—

**TABLE**

When his capacity to contribute to his own support is—

slightly impaired,	five-sixtieths;
impaired,	ten-sixtieths;
materially impaired,	fifteen-sixtieths;
totally destroyed,	twenty-sixtieths:

Provided that —

- (a) the amount of the additional pension shall be reduced to such an extent as the Board may think reasonable in the following cases—
  - (i) where the injured contributor has continued to actively serve for not less than one year after the injury in respect of which he retires;
  - (ii) where the injured contributor is at the date of the injury within ten years of the age at which he could be required to retire; or
  - (iii) where the injury is not the sole cause of retirement, but the retirement is caused partly by age or infirmity not due to the injury;
- (b) the total amount of the additional pension shall not exceed the amount prescribed in section 23(2); and
- (c) where in the opinion of the Board, the capacity of a contributor in respect of whom an additional pension has been certified under this section to contribute to his own support has altered sufficiently to justify his inclusion in a category of disability as set out in the table different from that on which his rate of additional pension was granted, his additional pension may be altered to the rate then appropriate to his case.

### **Payment to injured contributor where service is less than 8 years**

39 Notwithstanding any other provision of this Act a contributor injured in the circumstances mentioned in section 38 who has not qualified for a pension under section 33, or who is the holder of an established office upon probation shall, upon the termination of his employment due to such circumstances, be paid a pension, together with additional pension, as if he were a contributor provided for in section 38.

### **Commutation of pension and reduced pension**

40 (1) Subject to this Act a contributor to whom a pension is payable under this Act shall, if he has exercised his option as hereinafter provided, but not otherwise, be paid in

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lieu of such pension a pension at the rate of seventy-five, eighty, eighty-five, ninety or ninety-five per centum of such pension, respectively, as specified in the exercise of his option, together with a lump sum payment equal to eleven and one-half times the amount of the annual reduction so made in the pension.

(1A) The Minister may, after consultation with the Board, amend the conversion factor under subsection (1) in relation to the lump sum in accordance with the prevailing actuarial review, by Order subject to the negative resolution procedure.

(2) The option referred to in subsection (1) shall be exercisable, and if it has been exercised may be revoked, not later than thirty days preceding the date of such contributor's retirement, but the Board may, if it appears equitable in all the circumstances so to do, allow him to exercise the option or revoke an option previously exercised at any time between that date and the date of certification of the pension under this Act.

(3) Subject to subsection (2), if a contributor has exercised the option his decision shall be irrevocable so far as concerns any pension paid or payable to him under this Act.

(4) If a contributor who has not exercised the option dies after he has retired but before a pension has been paid or certified for payment under this Act, it shall be lawful for the Board to certify the payment of a lump sum to his estate representative and a reduced pension as provided in subsection (1), as if the contributor before his death had exercised his option to receive a lump sum payment and seventy-five per centum of the pension granted to him.

(5) The date of the exercise of the option by a contributor shall be deemed to be the date of the receipt by the Accountant General of his written notification of the exercise of the option.

(6) A re-employed contributor or re-employed pensioner shall be deemed to have exercised, or not to have exercised, in respect of his service subsequent to re-employment or retirement as the case may be, the said option, according as he exercised, or did not exercise, such option in respect of his previous service even if, in respect of such previous service, the option was not available to him.

*[Section 40 subsection (1A) inserted by 2025 : 19 s. 13 effective 1 October 2025]*

### **PART VA**

#### **PARTIAL REFUND OF CONTRIBUTIONS**

##### **Partial refund of contributions in circumstances of financial hardship**

40A (1) A contributor may, prior to his retirement, make application to the Commission for a refund in circumstances of financial hardship in accordance with Schedule 2.

(2) A contributor whose application has been approved by the Commission, shall receive payment in accordance with Schedule 2.

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(3) A contributor who has contributed to the Fund continuously for eight years or more, whose employment is terminated and whose application has been approved by the Commission, shall receive payment in accordance with Schedule 2.

(4) Where a contributor's application is approved by the Commission and payment is made under subsection (2) or (3), the contributor's contributions to the Fund plus the interest accrued thereon shall be reduced at the time payment is made by the amount of that payment.

(5) Subject to subsection (6), a reduced pension shall be paid to or in respect of a contributor to whom payment was made under subsection (2) or (3), in accordance with the provisions of this Act (in particular the commutation calculation provided for in section 40(1) with the necessary modifications).

(6) A contributor seeking to repay, in full or part, the refund approved by the Commission together with interest accruing from the date the payment was made up to the date of repayment of any amount, shall make repayment to the Accountant General not later than 90 days preceding the date of his retirement, and such repayment shall restore in full or part the reduced pension.

(7) Where a contributor who, having received payment under subsection (2) or (3) had his contributions reduced under subsection (4), makes repayment to the Accountant General in full or part, together with interest accruing from the date the payment was made up to the date of repayment of any amount, such repayment shall restore in full or part, that contributor's contributions.

(8) Schedule 2 has effect with respect to the circumstances of financial hardship, the application for refund and the payment process.

*[Section 40A inserted by 2012 : 9 s. 4 effective 1 April 2012]*

### **PART VI**

#### **WIDOWS', WIDOWERS', AND CHILDREN'S PENSIONS**

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

41 The provisions of this Part shall, mutatis mutandis, apply—

- (a) to the death of a female pensioner or contributor;
- (b) to the case of a deferred pensioner who dies before attaining the age at which the pension to which he is entitled would be payable.

##### **Pensions payable to widow, widower and children of pensioner of contributor**

42 (1) On the death of a male pensioner or contributor (hereafter in this Part called "the deceased") who has completed 8 years' pensionable service, there shall be paid to his dependants (if any) a pension as set out in subsections (2), (3) and (4) based on the amount of the pension he was drawing at the date of his death, or, as the case may be, to which he would have been entitled at the date of his death had he then retired in circumstances in which he would have been entitled to retire with a pension.

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(2) If the deceased leaves a widow but no children, the widow shall be entitled to sixty per cent of his pension or, as the case may be, sixty per cent of the pension to which he would have been entitled, until her remarriage or death.

(3) If the deceased leaves a widow and children by such widow or by a previous wife, the widow shall be entitled until her re-marriage or death to one-half of the amount of his pension or, as the case may be, one-half of the pension to which he would have been entitled, and the children shall, subject to section 43(2), be entitled to the other one-half of such pension in equal shares:

Provided that where the deceased dies leaving a widow and children by the widow or by a previous wife, it shall be lawful for the Board either in the first instance or at any time while pensions are payable to the children, to direct the payment to the widow of part only of such pension and to direct the payment of the balance of such pensions for or towards the maintenance or education of the children in such manner as the Board may think fit.

(4) If the deceased leaves children but no widow such children shall, subject to section 43(2), be entitled to sixty per cent of his pension, or as the case may be, sixty per cent of the pension to which he would have been entitled, in equal shares.

(5) For the avoidance of doubt it is hereby declared that if the deceased is survived by only one child that child shall take forty per cent of either the pension payable or the pension to which the deceased would have been entitled, as the case may be.

(6) Where a contributor dies before payment of a pension has been made to him, the amounts payable to his widow or children shall be calculated upon the pension which would have been payable to him had he not exercised the option referred to in section 40(1).

(7) If the deceased leaves no widow and no children, and has received his pension for a period of less than five years, his designated beneficiary shall receive the pension for the remainder of the five years.

(8) If the deceased leaves no widow and no children, and his death occurs before his pension is due to commence, his designated beneficiary shall receive a lump sum payment equal to the greater of—

- (a) the deceased's contributions plus interest thereon; or
- (b) the actuarial equivalent of the value of the pension at the time of the deceased's death.

(9) Where no designated beneficiary has been appointed, or where such beneficiary predeceases the deceased, the benefit described in subsections (7) and (8) shall be paid to the estate of the deceased.

(10) In this section "designated beneficiary" means the person who has been appointed in writing by the deceased as his beneficiary for the purposes of the Fund.

*[Section 42 subsection (2), (4) and (5) amended, and (7)-(10) inserted, by 2007:18 s.12 effective 14 September 2007]*

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### **Payment and administration of children's pensions**

43 (1) In all cases of children's pension under this Act, the whole or any part of such pension may be paid either to the mother, father, or legal guardian of such children, or to the children, or to such person or persons as the Board may in its discretion consider to be fit and proper persons to apply the same for the benefit of such children, and after such payment the Board shall be free of all liability in respect of such payment.

(2) Any pension payable to or for a child shall cease on that child attaining the age of eighteen years:

Provided that such payment shall continue to be made to or for a child over the age of eighteen and under twenty-five years if that child is wholly or mainly dependent, or is in full-time attendance at either a school, college or university which is recognized by the Board.

*[Section 43 proviso to subsection (2) amended 2007:18 s.13 effective 14 September 2007]*

## **PART VII TEACHERS**

### **Compulsory retirement of teacher**

44 *[Repealed by 2013 : 25 s. 5.]*

*[Section 44 repealed by 2013 : 25 s. 5 effective 23 July 2013]*

### **Contributions to be deducted from salaries of teachers**

45 *[Section 45 repealed by 2006:6 s.5]*

*[Section 45 repealed by 2006 : 6 s. 5 effective 1 April 2006]*

### **Teachers who seek election**

46 (1) Where a teacher relinquishes his post as a teacher in accordance with an undertaking given pursuant to the Legislature (Qualification and Disqualification) Act 1968 and is unsuccessful in the election in respect of which he gives the undertaking, the period during which he is not actually engaged in teaching shall not be counted as service entitling him to a pension under this Act unless within three months of his failure to be elected that teacher resumes teaching at a school.

(2) Where subsection (1) applies to any teacher, he shall, within three months of his resumption of teaching, contribute to the Fund an amount equal to the amount which he would have contributed had that subsection not applied.

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### **PART VIII**

#### **CAPITAL SUM PAYABLE ON DEATH**

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

- 47 (1) This Part applies to any contributor who—
- (a) dies while still in the service of the Government; and
  - (b) at the date of his death, has been in the service of the Government for a continuous period of not less than one year:

Provided that, in the case of a contributor whose death results from injury sustained —

- (i) in the actual discharge of his duty;
- (ii) without his own default; and
- (iii) which is specifically attributable to the nature of his duty,

the qualifying period of not less than one year's continuous service shall not apply.

(2) In this Part "nomination" means such a nomination as is referred to in section 48(1), and "nominate", "nominator" and "nominee" shall be construed accordingly.

##### **Nomination by contributor**

48 (1) Subject to this Part a contributor may, at any time before he ceases to be employed in the public service, nominate another person or persons, as a person or persons to whom or for whose benefit a payment may be made under this Part after the nominator's death in the circumstances set out in section 47, and, subject as aforesaid, the Accountant General shall, after the death of the nominator and if the nomination is still in force, make payment to or for the benefit of the nominee or nominees, as the case may be.

(2) The nominee or nominees referred to in subsection (1) must be any one or more persons specified by the nominator in writing addressed to the Accountant General.

(3) If a contributor to whom this Part applies dies without having made a nomination, the Accountant General shall make payment of the amount specified in section 49 to the duly appointed estate representative of the contributor.

(4) A nomination shall be in writing addressed to the Accountant General and may at any time be revoked by the nominator by notice in writing given to the Accountant General.

(5) A nomination shall, in relation to a nominee, become void on the death of that nominee in the lifetime of the nominator and while the nominator is still in the public service.

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### **Capital sum in case of death in the service of the Government**

49 (1) In the case of the death of a contributor to whom this Part applies, the Accountant General shall, notwithstanding any other provision of this Act, pay out of the Fund to one or more nominees a sum or sums not exceeding in the aggregate one year's salary of that contributor calculated by reference to the rate of the basic salary of which he was in receipt at the date of his death; and for the purpose of this subsection "basic salary" means the salary attached to the contributor's substantive office.

(2) Section 43(1) shall, mutatis mutandis, apply to a payment made under this section to or for a child under the age of twenty-one years and unmarried.

*[NB reference to 21 years in subsection (2) not amended by 2001:20 – see s.6(3) & Sch 1 to that Act.]*

### **Assessment of capital sum**

50 In assessing the amount to be paid under section 49, the Accountant General shall take into account any sum paid or payable by the Government to the estate or dependants of the deceased contributor under the Workmen's Compensation Act 1965, or in the case of the Bermuda Regiment staff, under section 44 of the Defence Act 1965, and any sum payable in respect of funeral expenses under the Government Employees (Disability, etc., Benefits) Act 1953, and may abate the aggregate sum to be paid under section 49 accordingly; but no account shall be taken of any pension payable to the widow or children of the deceased contributor under this or any other Act or of any refund of contributions made under this Act.

### **Payments to be additional**

51 Any payment made pursuant to this Part shall be in addition to any other benefits that may be payable under any other provisions of this Act or of any of the repealed Acts.

## **PART IX**

### **SPECIAL PROVISIONS RELATING TO CONTRIBUTORS IN NON-ESTABLISHED OFFICES**

#### **Application of Part**

52 This Part shall apply to Government employees in non-established offices who are contributors to the Fund in addition to the other provisions of this Act which shall apply mutatis mutandis to the circumstances of non-established employees.

#### **Contributions to be deducted from salary**

53 (1) Deductions shall be made from the salary of every contributor holding a non-established office in the public service of an amount equal to the following percentages of his salary—

(a) to (d) [omitted] [spent]

(e) from and after 1st January, 1983                      5%

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and the amount so deducted shall be placed to the credit of the contributor in the Fund.

(2) Deductions shall be made in relation to the salary attached to the post at the time the deduction is made whether or not the contributor is for any reason receiving less than that salary.

(3) Section 13 shall apply in relation to the Government's contributions to the Fund with respect to contributions deducted by virtue of subsection (1).

(4) The deduction of contributions from the salary of a contributor under subsection (1) shall be made either weekly or monthly according as payment of his salary is made weekly or monthly.

### **Computation of pension for service prior to and after the appointed day**

54 *[Repealed by 2007:18 ]*

*[Section 54 repealed by 2007 : 18 s. 14 effective 14 September 2007]*

## **PART X**

### **JUDGES' PENSIONS**

#### **Application and interpretation of Part**

55 (1) This Part shall apply to judges of the Supreme Court of Bermuda.

(2) For the purposes of this Part "judicial office" means the office of judge of a court having unlimited jurisdiction in civil and criminal matters in Bermuda.

(3) For the purposes of this Act, the office of judge shall be deemed to be an established office.

#### **Entitlement to pension on retirement**

56 (1) Notwithstanding any other provision of this Act, but subject to section 58, a pension shall be paid to a contributor on his retirement from a judicial office which he has held for not less than 8 years and has contributed to the Fund for at least that period—

- (a) on or after attaining the age of sixty-five years or, in special cases with the approval of the Governor, seventy years; or
- (b) on medical evidence to the satisfaction of the Governor that he is unable by reason of any infirmity of body or mind to perform the functions of his office and that such infirmity is likely to be permanent.

(2) Without prejudice to subsection (1) a contributor who has held a judicial office for less than 8 years and has pensionable service in some other office in the public service shall, subject to section 60(1), be entitled to a pension under this Part if—

- (a) he has contributed to the Fund for not less than 8 years; or

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- (b) his contributory service in such judicial service, when added to his pensionable service in such other office in the public service (whether contributory or not), amounts in the aggregate to not less than 8 years.

### **Removal from office in certain circumstances deemed retirement**

57 (1) A contributor who, in accordance with section 74 of the Constitution, is removed from a judicial office for inability, arising from infirmity of body or mind, to perform the functions of his office shall be deemed to have retired from that office under section 56 if he has served in that judicial office or some other office in the public service for a total of not less than 8 years.

(2) A contributor who, in accordance with section 74 of the Constitution, is removed from a judicial office for any cause, other than inability, arising from infirmity of body or mind, to perform the functions of his office shall be paid a pension, not exceeding one-half of the pension to which he would have been entitled had he retired from such office at the age of 65 years.

### **Rate of pension**

58 Subject to section 56, there shall be paid to a contributor who retires from a judicial office a pension at the rate of one six-hundredth of the salary payable to him immediately preceding the date of his retirement for each complete month of his pensionable service.

### **Determination of length of pensionable service**

59 Subject to sections 56(2) and 60, in determining, for the purposes of section 58, the length of pensionable service of a contributor who retires from a judicial office, account shall be taken of—

- (a) the full period during which such contributor was the substantive holder of a judicial office and contributed to the Fund; and
- (b) any other period of public service which immediately preceded the period of service referred to in paragraph (a) and was pensionable service under this Act or any of the repealed Acts, and during which period or periods he contributed to the Fund.

*[Section 59 paragraph (a) amended by 2020 : 35 s. 10 effective 27 July 2020]*

### **Retirement from judicial office with less than 8 years' service**

- 60 (1) Where a contributor—
- (a) has been the substantive holder of a judicial office for less than 8 years and retires from that office or from some office in the public service; or
  - (b) retires from a judicial office before the age of sixty-five years in the circumstances specified in paragraph (b) of section 56(1) without having been the substantive holder of a judicial office for at least 8 years,

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then in any such case every year's service in the judicial office shall be reckoned as one and one-third years' service.

(2) Where a contributor retires in the circumstances mentioned in subsection (1) (a) or (b) and is not entitled to a pension under this Act there shall be refunded to him an amount equal to the total of his contributions and the Government's contributions to the Fund, with interest thereon.

### **PART XI SUPPLEMENTAL**

#### **Transfer of contributions to another pension plan**

61 (1) A contributor who ceases to be employed in the public service is entitled to direct the Accountant General to pay the amount to the contributor's credit in the Fund together with the interest accrued thereon to—

- (a) the pension fund of a new employer;
- (b) a retirement product prescribed by the Pension Commission under the National Pension Scheme (Occupational Pensions) Act 1998; or
- (c) a pension plan established by a financial institution and approved by the Pension Commission under the National Pension Scheme (Occupational Pensions) Act 1998.

(2) A contributor may exercise his right under subsection (1) by delivering to the Accountant General a direction in such form as the Accountant General may determine within 90 days—

- (a) after the coming into operation of this Act, in the case of an employee who ceased to be employed in the public service before the coming into operation of this Act; or
- (b) after his ceasing to be employed in the public service, in the case of an employee who ceased to be employed in the public service after the coming into operation of this Act.

(3) The Accountant General shall, as soon as practicable after receiving the direction, comply with it.

(4) Where, in accordance with the direction of a contributor, the Accountant General makes payment under this section, the contributor shall thereafter be forever barred from making a claim against the Fund.

*[Section 61 substituted by 2007:18 s.15 effective 14 September 2007]*

#### **Repeals, savings and consequential amendments**

62 (1) The following Acts are hereby repealed—

- (a) The School Teachers' Superannuation Act 1934;

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- (b) The Hospital Nurses Superannuation Act 1948;
- (c) The Pensions Act 1970:

Provided that—

- (i) subject to subsection (1) of section 65 where, at the commencement of this Act, any rights, benefits or privileges have accrued or been earned, or any payments made under the provisions of any of those Acts, such rights, benefits, privileges or payments (as the case may be) shall continue as if this Act had not come into force; and
- (ii) nothing in this Act shall be construed so as to affect adversely anything done, or any amount payable to any person in receipt of or eligible for a pension, in accordance with the provisions of those Acts.

(2) Any period of employment which, before the first day of April 1978 as relates to a person in an established office, or before the first day of April 1979 as relates to a person employed in a non-established office or before 1 April 1983 as relates to a fire officer, had come to be counted as pensionable service by virtue of any Act or under any pension scheme relating to fire officers, shall continue to be counted as pensionable service in respect of the entitlement to pension under this Act.

(3) [omitted] [spent]

### **Transitional**

63 Subject to this Act, where after the appointed day a contributor retires or otherwise ceases to be employed—

- (a) having pensionable service prior to that day as well as service entitling him to a pension under this Act; or
- (b) having pensionable service prior to that day and has contributed to the Fund for less than 8 years after the first day of April 1978 as relates to a person in an established office or the first day of April 1979 as relates to a person in a non-established office (as the case may be), the whole of his service before and after the appointed day shall be taken into consideration in the computation of his pensionable service.

### **Obligation to elect under which Act pension will be taken**

64 (1) Where, on or after the appointed day, a contributor retires from or ceases to be employed in the public service in circumstances entitling him to or rendering him eligible for a pension or other benefit under this Act or any of the repealed Acts, he shall elect whether he will take such pension or other benefit under this Act or under the appropriate repealed Act and for the purpose of enabling him to so elect, the relevant provisions of the repealed Acts shall, for the purposes of this section, and notwithstanding their repeal by section 62(1), remain in full force and effect:

Provided that the right to so elect shall not apply to a person whose service commenced after the appointed day.

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(2) The election referred to in subsection (1) shall be exercisable not less than thirty days before the date of his retirement from or cessation of employment in the public service and he shall notify the Board in writing of his election.

(3) An election under this section shall be revocable up to five days before the effective date of retirement or cessation (as the case may be) but not thereafter.

(4) Where a contributor elects to take a pension or other benefit under any of the repealed Acts, then notwithstanding any provision to the contrary in any of those Acts, such pension or other benefit shall be a charge against the Fund and shall be paid accordingly.

### **Commencement**

65 *[omitted]*

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### **SCHEDULE 1**

(Section 4(2))

#### **THE BOARD**

- 1 The Board shall consist of 13 members of whom—
  - (a) the chairman of the Public Service Commission shall be ex officio a member and shall be the chairman;
  - (b) 6 members shall be appointed from the public service by the Governor acting on the advice of the Premier; and
  - (c) 6 members shall be appointed by the Governor from nominees of the associations or unions recognized by the Government as representing public officers and other employees of the Government.
- 2 Subject to this Schedule a member of the Board, other than the chairman, shall hold office at the Governor's pleasure and, unless his appointment is sooner terminated, it shall terminate three years from the date on which it took effect, but he shall be eligible for re-appointment upon the expiration of his term of office.
- 3 In the case of the absence or inability of any member to act the Governor may appoint a person to act temporarily in his place from the public service or the nominee of the representative associations or unions as the case may be.
- 4 Any member, other than the chairman, may at any time resign his office by instrument in writing addressed to the Governor and transmitted through the chairman and from the date of receipt by the Governor of such instrument such member shall cease to be a member.
- 5 The Governor, acting on the advice of the Premier in the case of members appointed as in paragraph 1(b) and in the case of the members appointed as in paragraph 1(c), may at any time revoke the appointment of any member other than the chairman if he considers it expedient to do so.
- 6 Subject to this Schedule the Board shall be deemed to be properly constituted notwithstanding that there is a vacancy in the office of chairman or any other member.
- 7
  - (1) The Board shall meet at such times and on such days as may be necessary or expedient for the transaction of its business.
  - (2) Minutes of each meeting of the Board shall be kept in proper form.
  - (3) The chairman may at any time call a meeting of the Board and shall call a meeting to be held within five days of a written request for that purpose addressed to him by any four members.

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(3A) The chairman shall preside at all meetings of the Board at which he is present and, in the case of the chairman's absence from any meeting, the members present and constituting a quorum shall elect a chairman from among their own number to preside at that meeting.

(4) Every member shall have one vote. The chairman shall not have an original vote but in the event of an equality of votes he shall have a casting vote only.

(5) Subject to sub-paragraph (4) the decisions of the Board shall be by a majority vote.

(6) The quorum of the Board shall be seven.

(7) Subject to this Schedule the Board may regulate its own proceedings.

(7A) The Board may appoint from among its members such committees as it may think fit and may delegate to any such committee the power and authority to carry out on its behalf such duties as the Board may consider necessary.

(2) The constitution of each such committee shall be determined by the Board.

(8) The validity of any proceedings of the Board shall not be affected by any defect in the appointment of a member.

8 Notwithstanding anything to the contrary no act done or proceeding taken under this Act by the Board shall be questioned on the ground of any omission, defect, or irregularity not affecting the merits of the case.

9 No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

10 The office of Chairman or member of the Board shall not, by virtue of this Act alone, be a public office.

11 No decision or act of the Board or act done under the authority of the Board shall be invalid by reason of the fact that—

- (a) the full number of members for which provision is made in paragraph 1 was not appointed or there was a vacancy or vacancies among such members; or
- (b) a disqualified person acted as a member of the Board at the time the decision was taken or the act was done or authorized,

if the decision was taken or the act was done or authorized by a majority vote of the persons who at the time were entitled to act as members.

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*[Schedule amended by 2010:7 s.4 effective 19 March 2010; amended by 2012 : 9 s. 6 effective 1 April 2012; amended by 2013 : 25 s. 6 effective 23 July 2013]*

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**SCHEDULE 2**

(section 40A )

**CIRCUMSTANCES OF FINANCIAL HARDSHIP**

**Interpretation**

1 In this Schedule—

“applicant” means a contributor who makes an application, but does not include a pensioner;

“application” means an application to the Commission under this Schedule for a refund from the Fund to pay expenses or arrears falling within paragraph 2;

“application date” means the date the application form was signed;

“child” means a child, step-child or adopted child of the applicant, and includes a child of a male applicant who is the registered father of the child or has been adjudged by a court to be the father of the child;

“dependant ” means—

- (a) the husband or wife of the applicant; or
- (b) a child or sibling of the applicant who is in fact dependant on the financial support of the applicant or the applicant’s husband or wife on the application date;

“landlord” in relation to a particular tenant, means the person entitled to receive rent from the tenant;

“tenant” means the person who, as between himself and the landlord, is entitled to exclusive possession of the premises in question;

“third party” means anyone other than the applicant or a dependant of the applicant, including—

- (a) an employer;
- (b) an insurer;
- (c) the Government of Bermuda and its agencies;
- (d) a charitable or philanthropic organisation; and
- (e) a relative or friend of the applicant;

“working day” does not include a Saturday, Sunday or other public holiday within the meaning of the Public Holidays Act 1947.

**Circumstances of financial hardship**

2 (1) An applicant may only make an application to cover—

- (a) eligible medical expenses (in accordance with paragraph 3);

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- (b) arrears of mortgage or other payments relating to a debt secured on the applicant's principal residence, the non-payment of which has resulted in the threat of loss of the principal residence (in accordance with paragraph 4);
- (c) arrears of rent on the applicant's home, the non-payment of which has resulted in the imminent threat of the applicant's eviction from the home (in accordance with paragraph 5); or
- (d) eligible educational expenses (in accordance with paragraph 6).

(2) An applicant may only make an application if he, or the person for whom the application is being made, has no other reasonable way of raising money to pay those expenses or arrears.

(3) An application may be made to cover two or more of the circumstances mentioned in subparagraph (1).

### **Eligible medical expenses**

3 (1) An application may be made in respect of eligible medical expenses of the applicant or a dependant or parent of the applicant.

(2) "Eligible medical expenses" means medically necessary goods or services of a medical or dental nature in respect of an illness or disability, recognised by the Commission for the purposes of this Schedule, and for which the applicant (or his dependant or parent, as the case may be) does not have medical insurance coverage, including—

- (a) medical or dental services provided by a hospital or a health care provider;
- (b) services provided by an attendant or a nursing home to a person suffering a severe and prolonged disability;
- (c) services provided by a caregiver;
- (d) ambulance services;
- (e) medical devices such as—
  - (i) wheelchairs;
  - (ii) artificial limbs; and
  - (iii) spectacles;
- (f) purchase, training and care of a guide dog;
- (g) dentures;
- (h) rehabilitative therapy;
- (i) prescription drugs; and
- (j) diagnostic testing.

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(3) An application under this paragraph shall include a certification by a registered health professional (as defined in section 2 of the Bermuda Health Council Act 2004), or a person with qualifications accepted as equivalent by the Commission, that the goods or services in question are medically necessary.

(4) An application shall include an invoice for, or estimate of, the expenses.

(5) Subject to paragraph 8 (maximum payment) the Commission may approve a payment of the full amount of the eligible medical expenses as indicated on the invoice or estimate.

(6) An application shall not be approved in respect of eligible medical expenses—

- (a) which have already been paid; or
- (b) which are due to be paid by a third party.

(7) “Third party” does not, in relation to an application made in respect of eligible medical expenses of a parent of the applicant, include that parent.

### **Imminent loss of principal residence - mortgage or debt arrears**

4 (1) An application may be made in respect of the imminent loss of the applicant’s principal residence due to arrears of mortgage or other payments relating to a debt secured on the principal residence.

(2) “Principal residence” means a housing unit located in Bermuda which is—

- (a) owned by the applicant or the husband or wife of the applicant; and
- (b) ordinarily inhabited by the applicant on the application date.

(3) An application shall be supported by a notice in writing from the mortgage provider or debt issuer which specifies—

- (a) the imminent threat of foreclosure on, or sale of, the principal residence if the arrears are not paid;
- (b) the amount of the arrears;
- (c) the amount of the monthly payments on the application date;
- (d) the names of the mortgagors or debtors.

(4) An application may not be approved if the names of the mortgagors or debtors specified under subparagraph (3)(d) do not include the applicant or husband or wife of the applicant.

(5) Subject to paragraph 8 (maximum payment), the Commission may approve a payment of—

- (a) the amount of the arrears of mortgage or other payments specified under subparagraph (3)(b); plus
- (b) up to an additional six months of payments calculated using the amount specified under subparagraph (3)(c).

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### **Imminent threat of eviction from home - rent arrears**

5 (1) An application may be made in respect of the imminent threat of eviction of the applicant from his home due to arrears of rent.

(2) This paragraph applies only in relation to a home in Bermuda that is—

- (a) rented by the applicant or the husband or wife of the applicant; and
- (b) ordinarily inhabited by the applicant on the application date,

regardless of whether anybody else is also renting or inhabiting the home or any part of the premises which contains the applicant's home.

(3) An application shall be supported by a notice in writing from the landlord which specifies—

- (a) the imminent threat of eviction from the home if the rental arrears are not paid;
- (b) the amount of the rental arrears;
- (c) the amount of the monthly rental payments on the application date; and
- (d) the names of all of the tenants.

(4) An application shall be accompanied by—

- (a) the rental agreement; and
- (b) a receipt for the most recent rental payment.

(5) An application may not be approved—

- (a) if the names of the tenants specified under subparagraph (3)(d) do not include the applicant or husband or wife of the applicant;
- (b) if the applicant or husband or wife of the applicant own or control, directly or indirectly (whether through a trust or otherwise) the home which is the subject of the application; or
- (c) if the application is made in respect of more than one home.

(6) Subject to paragraph 8 (maximum payment), the Commission may approve a payment of—

- (a) the amount of the arrears of rent specified under subparagraph (3)(b); plus
- (b) up to an additional six months of rental payments calculated using the amount specified under subparagraph (3)(c).

### **Eligible educational expenses**

6 (1) An application may be made in respect of eligible educational expenses on behalf of the applicant or a dependant of the applicant.

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(2) “Eligible educational expenses” means the following expenses payable directly to a relevant educational establishment—

- (a) tuition fees;
- (b) expenses for residence halls and meal plans operated by the establishment; and
- (c) other expenses recognised by the Commission for the purposes of this Schedule.

(3) “Relevant educational establishment” means the Bermuda College and any other accredited overseas university, college or educational institution providing tertiary education, and recognised by the Commission for the purposes of this Schedule.

(4) The application shall be supported by a statement in writing from the relevant educational establishment which includes an invoice for, or estimate of, the expenses.

(5) Subject to paragraph 8 (maximum payment) the Commission may approve payment of the full amount indicated under subparagraph (4).

(6) An application shall not be approved in respect of eligible educational expenses—

- (a) which have already been paid; or
- (b) which are due to be paid by a third party.

### **LIMITATIONS**

#### **Minimum payment**

7 An application which would result in a payment of less than \$1000 being made shall be rejected by the Commission.

#### **Maximum payment**

8 (1) The maximum refund which the Commission may approve per application is 25% of the applicant’s contributions with interest on the application date.

(2) The amount shown on a statement issued within 30 days of the application date shall, for the purposes of this Schedule, be deemed to be the balance of the applicant’s contributions with interest on the application date.

(3) A person who intends to make an application may request the balance (with interest), of a contributor’s contribution from the Accountant General who shall provide the information within 15 working days of receiving a written request from the applicant.

#### **Permitted number of applications**

9 (1) The Commission shall not approve more than two applications during the lifetime of an applicant.

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(2) The Commission shall not approve an application made within five years of the date on which a previous application by the applicant was approved (whether in whole or in part).

### **APPLICATION**

#### **Manner of making application**

10 (1) An application shall be made on a form distributed by the Commission for the purposes of this Schedule.

(2) The applicant shall submit with the application all the information required by this Schedule and the form, including the balance of the applicant's contributions with interest on the application date (see paragraph 8).

(3) The applicant shall certify—

(a) that he has no other reasonable way of raising money to pay the expenses or arrears;

(b) that he has not been required by any third party to make the application; and

(c) that all the information supplied is accurate to the best of his belief.

(4) If the application relates to expenses of the applicant's dependant or parent, the applicant shall also certify that, to the best of his knowledge and belief, the dependant or parent (as the case may be) has no other way of raising money to pay the expenses.

(5) The applicant shall sign and date the form.

#### **Application fee**

11 An application shall be accompanied by a non-refundable fee of \$100.

#### **Further information**

12 (1) The applicant shall supply any further information required by the Commission to support the application.

(2) An application shall not be considered complete for the purposes of paragraph 13 until—

(a) that further information has been supplied to the Commission in writing; or

(b) the deadline set by the Commission for submitting the further information has passed.

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### **DECISION, PAYMENT AND RECORD KEEPING**

#### **Decision of the Commission**

13 (1) The Commission shall consider the completed application, make a decision and notify the applicant of its decision and, if the application is rejected, give the reasons for the rejection.

(2) The Commission shall not approve an application which does not meet the conditions set out in this Schedule.

(3) If the application is approved, the Commission shall send notification to the Accountant General—

- (a) of the amount to be refunded; and
- (b) directing the Accountant General to make the payment.

#### **Duty of the Accountant General to make payment if application approved**

14 (1) Unless requested otherwise by the applicant, the Accountant General shall make the payment within 15 working days of receiving the notification under paragraph 13(3).

(2) In the case of payments approved under paragraphs 4(5)(b) and 5(6)(b), the applicant may request that the Accountant General make the payments on a monthly basis.

(3) The Accountant General shall make the payment directly to—

- (a) the provider of the medical or dental goods or services which are the subject of an application under paragraph 3;
- (b) the relevant mortgage provider or debt issuer, if the application is made under paragraph 4;
- (c) the landlord of the applicant or the landlord of the applicant's husband or wife, if the application is made under paragraph 5; or
- (d) the relevant educational establishment, if the application is made under paragraph 6.

(4) The Accountant General shall not make a payment in relation to an application which has been rejected by the Commission.

(5) The Accountant General shall not levy a fee against the applicant in relation to the provision of a statement or other information to support an application, or the making of a payment under this Schedule.

#### **Commission to keep records**

15 For the purposes in particular of paragraph 9 (permitted number of applications) the Commission shall keep a copy of each application with the following information relating to it—

## **PUBLIC SERVICE SUPERANNUATION ACT 1981**

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- (a) whether it was approved or rejected;
- (b) the amount (if any) permitted to be refunded to the applicant; and
- (c) the reasons given if the application was rejected,

and the Commission may keep copies of documentation submitted in support of an application.

*[Schedule 2 inserted by 2012 : 9 s. 5 effective 1 April 2012]*

[Assent Date: 23 December 1981]

[This Act was brought into operation on various dates: sections 12, 13 and 45 on 1 April 1978; section 53 on 1 April 1979; all other sections on 1 April 1982 ]

*Act No. 6 of 1993, section 3 provides:*

*“3 (1) Nothing contained in this Act shall be construed as affecting the eligibility or entitlement of a contributor who is a member of the Bermuda Regiment staff for a pension under the principal Act in any case where that contributor was eligible for or entitled to such pension before the coming into operation of this Act.*

*(2) Where on or after the coming into operation of this Act a contributor who is a member of the Bermuda Regiment staff before the coming into operation of this Act retires from or ceases to be employed in the Regiment in circumstances rendering him eligible to a pension or other benefit under the principal Act before its amendment by this Act, the contributor shall be entitled to such pension or other benefit under the principal Act before its amendment by this Act and for the purpose of enabling him to take such pension or benefit, sections 19(1)(c) and 22(1) of the principal Act shall for the purposes of this section and notwithstanding their amendment by this Act, be deemed not to have been amended by this Act.”*

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*[Amended by:*

1983 : 37  
1984 : 18  
1985 : 26  
1986 : 6  
1993 : 6  
1998 : 32  
2001 : 20  
2002 : 36  
2006 : 6  
2007 : 18  
2007 : 23  
2010 : 7  
2012 : 9  
2013 : 25  
2014 : 26

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2015 : 48  
2018 : 22  
2019 : 34  
2020 : 35  
BR 85 / 2021  
2025 : 19]