

BERMUDA

CONTRIBUTORY PENSIONS ACT 1970

1970 : 522

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FIRST SCHEDULE
Rates of Contributions

SECOND SCHEDULE
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THIRD SCHEDULE
Rates of Widow's Allowance and Relevant Contribution Conditions

[preamble and words of enactment omitted]

Interpretation

1 (1) In this Act, unless the context otherwise requires,—

"actuary" means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries of Great Britain or a Fellow of the Society of Actuaries of the United States of America or a person holding a corresponding Canadian qualification;

"appointed day" means 5 August 1968 (being the day appointed for the commencement of the repealed Act);

"beneficiary" means a person entitled to benefit;

"benefit" means benefit under this Act or, as respects any period before 1 February 1971, under the repealed Act;

"certificate of voluntary insurance" means a certificate of voluntary insurance granted under section 6;

"claimant" means a person claiming benefit;

"contract of employment" means any contract of service or apprenticeship, whether written or oral, and whether expressed or implied;

"contribution" means a contribution under this Act or, as respects any period before 1 February 1971, under the repealed Act;

"contribution week" means a period of seven days beginning at midnight between Sunday and Monday;

"contribution year" means a period beginning on the first Monday in the month in which the appointed day, or the anniversary of that day, occurs in any calendar year, and ending on the Sunday before that Monday in the next calendar year or, subject to section 9, such other period of fifty-two or fifty-three contribution weeks as may be prescribed;

"Director" means the public officer appointed as Director of Social Insurance to administer this Act;

"employed person", subject to subsection (3), means a person over school-leaving age who is gainfully occupied in employment under a contract of employment and includes employees of the Government or any Government Board;

"employment" includes any trade, business, profession, office or vocation;

"entry into insurance" means, in relation to any person, the date on which he becomes or became an insured person, whether under this Act or under the repealed Act;

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

"the Fund" means the Pension Fund established under the repealed Act;

"husband" in relation to a widow, means her late husband and in relation to a widow who has been married more than once, her last husband;

"insurable employment" means employment as an employed or self-employed person;

"insured person" means a person insured under this Act or, as respects any period before 1 February 1971, under the repealed Act;

"Minister" means the Minister responsible for social insurance;

"pension age" means the age of 65 or, in the case of a person who was, immediately before the appointed day, over the age of 60 and who thereafter became or becomes engaged in insurable employment, his age on the fifth anniversary of the appointed day;

"prescribed" means prescribed under regulations made under this Act;

"the repealed Act" means the Contributory Pensions Act 1967;

"relevant contribution conditions", in relation to benefit of any description, means the contribution conditions for benefit of that description;

"school-leaving age" means –

(a) 18; or

(b) if a person is still a full time student at an educational institution after 18 the earlier of—

(i) the person's age at the termination or completion of their studies; or

(ii) 26.

"self-employed person" means a person over school-leaving age who is gainfully occupied, otherwise than as an employed person;

"the Tribunal" means the Appeal Tribunal constituted under section 26;

(2) For the purposes of this Act—

(a) a person shall be deemed to be over or under any age if he has or has not reached that age, as the case may be;

(b) a person shall be deemed not to have attained the age of 65 until the commencement of the sixty-fifth anniversary of his date of birth, and similarly with respect to any other age.

(3) Notwithstanding the definition of "employed person", where a person is a full-time student and employed on a Saturday or a public holiday or a period of vacation, including a half-term holiday then, for the purposes of such employment and this Act that person is deemed not to be an employed person and accordingly the Minister shall, for the duration of such employment, exempt that person and that employer from the provisions of this Act relating to contributions.

[NB All references to "Insurance Officer" in this Act were changed to "Director" by 2002:2(b) effective 6 December 2002, these amendments are not noted in each place they occur.]

[section 1 amended by 1994:27 effect 19 July 1994; by 1994:27 effect 19 July 1994; "Director" inserted by 2002:27 s.2(a) effective 6 December 2002; by 2008:35 s.2 effective 1 September 2008; "Minister" deleted and substituted by BR 5/2011 para.5 effective 25 February 2011]

Application of Act

2 (1) Subject to this section, every person who—

(a) immediately before 1 February 1971 was insured under the repealed Act; or

(b) on or after 1 February 1971, being over school-leaving age is gainfully occupied in Bermuda,

shall be insured under this Act and shall continue throughout his life to be so insured.

(2) A person gainfully occupied as a member of the armed forces of any country who is present in Bermuda by reason only of his service in such armed forces shall not by reason of such gainful occupation be insured under this Act or be an employed or self-employed person.

(3) A citizen of the United States of America gainfully occupied in the employment of the Government of the United States of America who is present in Bermuda by reason only of such employment, or as a dependant of such a person, shall not by reason of such gainful occupation be insured under this Act or be an employed or self-employed person.

(4) This Act shall apply to the employment of any person ordinarily resident in Bermuda who is the master or member of the crew of any ship or vessel which is engaged in regular trade with Bermuda, notwithstanding that such employment occurs wholly or mainly outside Bermuda.

(5) A person gainfully occupied in employment by any one employer for four hours or less in any one contribution week shall not by reason of such gainful occupation be insured under this Act or be an employed or a self-employed person.

(6) A person not ordinarily resident in Bermuda shall not be insured under this Act or be an employed or self-employed person until he has been gainfully occupied in Bermuda for a period of 26 consecutive weeks.

(7) Subject to subsection (4) and section 6, this Act shall not apply to any employed or self-employed person outside Bermuda.

Pension Fund

3 (1) For the purpose of this Act there shall continue to be maintained under the control and management of the Minister of Finance a Pension Fund into which shall be paid all contributions payable under this Act by employers and insured persons and out of which shall be paid all claims for benefit.

(2) All moneys standing to the credit of the Fund on 1 February 1971 shall be retained by the Fund, and all claims against the Fund on that date shall be pursued, as if this Act had not been passed.

(3) From time to time during each year the Accountant General shall determine, as accurately as practicable, the expenses incurred by the Consolidated Fund in carrying out this Act which sum, as so determined, shall include salaries of personnel, cost of audit, stationery and supplies, and all other expenses whatsoever and such sum shall be charged to the Fund and paid into the general revenue of Bermuda:

Provided that the expenses incurred in respect of the construction, structural maintenance or rental of any premises used for the purposes of this Act shall be met from the general revenue of Bermuda and not charged to the Fund.

(4) Accounts of the Fund shall be prepared in such form, in such manner and at such times as the Minister of Finance may direct and the Auditor shall examine and certify every such account, and the accounts so certified shall be laid by the Minister before both Houses of the Legislature together with the report of the Auditor thereon.

(5) Any moneys forming part of the Fund may from time to time be paid over to the Minister of Finance subject to and in accordance with the Public Funds Act 1954 [*title 15 item 1*], and invested by him, and in that event the Minister of Finance shall pay into

the Consolidated Fund for the credit of the Fund any interest or dividends received from time to time in respect of the investment of the Fund.

(6) Notwithstanding anything in the Public Funds Act 1954 [*title 15 item 1*], the Minister of Finance may lend to the Government for capital expenditure, at competitive rates of interest, such portion of the moneys paid to him pursuant to subsection (5), and on such terms and conditions, as he may determine.

Liability for contributions

4 (1) As from 1 February 1971 and subject to this section—

(a) every employed person of a description set out in Column 1 of the First Schedule shall be liable to pay weekly contributions at the rate set out in Column 2 of that Schedule for every contribution week during any part of which he is gainfully occupied, and a contribution payable under this paragraph is hereinafter referred to as "an employed person's contribution";

(b) every employer shall be liable to pay weekly contributions at the rate set out in Column 3 of the First Schedule in respect of any person in his employment of a description set out in Column 1 of that Schedule for every contribution week during any part of which such person is employed by him, and a contribution payable under this paragraph is hereinafter referred to as "an em-ployer's contribution"; and

(c) every self-employed person of a description set out in Column 1 of the First Schedule shall be liable to pay weekly contributions at the rate set out in Column 2 of that Schedule for every contribution week during any part of which he is gainfully occupied.

(2) An employer liable to pay an employer's contribution in respect of a person employed by him shall in the first instance be liable to pay also, on behalf of and to the exclusion of that person, the employed person's contribution payable by that person for the same contribution week, and for the purposes of this Act contributions paid by an employer on behalf of an employed person shall be deemed to be contributions paid by the employed person.

(3) A person shall not be liable to pay more than one contribution as an insured person for any contribution week, and not more than one employer's contribution shall be payable in respect of any person for any contribution week.

(4) Where a person is employed by two or more employers in any contribution week the employer employing him first in point of time in that contribution week shall be liable to pay the employer's contribution.

(5) Where a person is employed as an employed person during any part of a contribution week and is gainfully occupied as a self-employed person during another part of that same contribution week, a contribution shall be payable as an employed person and not as a self-employed person for that contribution week.

(6) Subject to this Act and except in so far as regulations may otherwise prescribe, no person shall be entitled to pay any contribution other than a contribution which he is liable to pay.

(7) Every employer liable to pay any contribution on behalf of an employed person under subsection (2) shall for every contribution week for which he is liable to pay a contribution in respect of an employed person, pay the contribution not later than the last working day of the following month.

[Section 4 amended by 2008:35 s.3 effective 1 September 2008]

Exception from liability for contributions

5 (1) Subject to subsection (2), regulations may provide for excepting employed and self-employed persons from liability to pay contributions under section 4 for any period during which they are not in receipt (or are deemed in accordance with the regulations not to be in receipt) of an income at a rate exceeding one thousand two hundred and fifty dollars a year or such higher annual income as may from time to time be prescribed, and for such other periods as may be prescribed.

(2) Regulations made under subsection (1) shall not provide for excepting a person from liability to pay contributions otherwise than on that person's own application, but may provide for so excepting a person with effect from any date not earlier than thirteen weeks before the date on which his application was made.

Voluntary insurance

6 (1) Any person who is not liable to pay contributions under this Act as an employed or self-employed person shall, on making application to the Director, be entitled to receive a certificate of voluntary insurance if he is under pension age and—

(a) he is ordinarily resident in Bermuda and has paid not less than fifty contributions; or

(b) he has paid not less than one hundred and fifty contributions.

(2) A person holding a certificate of voluntary insurance granted under this section shall be entitled to pay a voluntary contribution for any contribution week during which the certificate is in force, provided that no contribution is payable by or in respect of him under section 4 for that week.

(3) The contribution payable under this section by an insured person for any week shall be the amount which would have been payable for that week by him if he had been a self-employed person during any part of that week.

(4) A certificate of voluntary insurance issued under subsection (1) shall commence as from the date on which the application for such certificate is made, unless the applicant requests on his application a different date for its commencement, being a date not more than twelve months prior to the date of application or such earlier date as the Director may for good cause permit, in which case the certificate shall, subject to the approval of the Director, commence as from the requested date.

(5) The Director may make special arrangements for the payment of contributions under this section by a person holding a certificate of voluntary insurance during any period when that person is resident outside Bermuda and any such arrangement shall have effect as if set out in this Act.

(6) A certificate of voluntary insurance shall cease to have effect when the holder thereof attains pension age.

[section 6 amended by 2002:27 s.2(b) effective 6 December 2002]

Rights of employers to recover contributions

7 (1) Notwithstanding the provisions of any contract or agreement to the contrary, an employer shall not be entitled to deduct from the salary, wages or other remuneration of a person employed by him or otherwise to recover from such a person, the employer's contribution payable in respect of that person.

(2) Where an employed person receives any salary, wages or other pecuniary remuneration from his employer, the amount of any contribution paid by the employer on behalf of the employed person under section 4(2), shall, notwithstanding the provisions of any contract or agreement to the contrary, be recoverable by means of deductions from the salary or wages of that person or from any other remuneration due from the employer to that person and not otherwise:

Provided that no deduction may be made from any salary, wages or remuneration other than such as are paid wholly or partly in respect of the contribution week for which the contribution is payable.

(3) Where an employed person does not receive any salary, wages or other pecuniary remuneration from his employer, but receives such remuneration from some other person, the amount of any contribution paid by the employer on behalf of the employed person under section 4(2) shall (without prejudice to any other means of recovery) be recoverable from the employed person as a civil debt, provided that proceedings for the purpose are instituted within six months from the date on which the contribution was payable.

(4) Notwithstanding any contract or agreement to the contrary, an employer shall not be entitled to deduct from the salary, wages or other remuneration of a person employed by him, or otherwise to recover from such a person, more than the amount of the employed person's contribution paid by the employer on behalf of the employed person under section 4(2).

Social insurance number and account schedules

8 (1) A social insurance number shall—

(a) be provided by the Government without charge for each insured person, unless with the approval of the Director other arrangements have been made; and

(b) be valid for the life of the insured person.

(2) The Director shall prepare monthly account schedules in such a manner as the Minister of Finance may direct.

(3) Every person entering insurable employment shall register with the Director and shall produce such documents and furnish such information as the Director may require for the purpose of issuing a social insurance number.

(4) Every person shall—

(a) if they are an employed person, provide a social insurance number to the employer who is liable to pay the weekly contribution in respect of them for the relevant contribution week;

(b) if they are a self-employed person, register with the Director within 7 days of becoming a self-employed person on such forms as the Director may prescribe;

(c) if they are at any time not employed, report and provide such information to the Director on any such form as the Director may prescribe; and

(d) for every contribution week for which they are liable to pay a contribution as a self-employed person, pay the contribution not later than the last working day of the following month.

(5) Every employer liable to pay any contribution in respect of an employed person shall—

(a) immediately after the employment begins or becomes insurable, obtain a Social Insurance Number from the employed person or from the Director;

(b) if the insured person requests confirmation of paid contributions, provide a written record of contributions paid on behalf of the employee;

(c) when the employment comes to an end, report and provide such information to the Director on such form as the Director may prescribe; and

(d) for every contribution week for which he is liable to pay a contribution in respect of an employed person, pay the contribution not later than the last working day of the following month.

(6) Notwithstanding subsections (4) and (5), the Director may make special arrangements with any employer for the purpose of those subsections and any such arrangement shall have effect accordingly as if set out in this Act.

[section 8 amended by 2002:27 s.2(b) effective 6 December 2002; repealed and replaced by 2008:35 s.4 effective 1 September 2008]

Contribution year

9 Regulations may provide for contribution years to be on any occasion shorter than fifty-two or longer than fifty-three weeks and may modify the conditions for any

benefit and any other provisions of this Act in such manner as appears to the Minister to be expedient to take account of the shorter or longer contribution year.

Crediting contributions to widows

10 (1) Every widow shall be credited with a contribution for every complete contribution week during which she is entitled to a widow's allowance and is not liable to pay a contribution under this Act.

(2) Not more than one contribution shall be credited for any contribution week.

(3) This section shall not apply to any person over pension age.

Crediting contributions to insured persons incapacitated by illness or injury

11 (1) Subject to this section, every insured person shall, on making application to the Director in the prescribed form, be credited with a contribution for every complete contribution week during which he is incapacitated for work by reason of illness or injury if, immediately prior to the date of his incapacity,—

(a) he was an employed person; and

(b) he had paid not less than one hundred and fifty contributions.

(2) Not more than one contribution shall be credited to an insured person for any contribution week.

(3) If in insured person is in receipt of more than half the average remuneration of his employment (calculated by reference to the four weeks preceding the date of his illness or injury) for any contribution week during which he is incapacitated for work by reason of illness or injury, he shall for the purposes of section 4 be deemed to be an employed person gainfully occupied during that week and, in relation to any person deemed to be an employed person under this subsection, both an employed person's contribution and an employer's contribution shall be payable for that contribution week.

(4) A contribution shall not be credited to an insured person for any, contribution week in respect of which he is liable to pay a contribution under section 4.

(5) Any compensation received by an insured person under any other enactment in respect of any illness or injury shall be disregarded for the purposes of this section.

(6) A certificate signed by a registered medical practitioner shall be accepted by the Director as sufficient evidence of the fact that an insured person has been incapacitated for work by illness or injury in respect of any period.

(7) A contribution shall not be credited under this section in respect of any contribution week earlier than thirteen weeks before the date on which application is made:

Provided that if the Director is satisfied that there was good cause for the delay, the period of thirteen weeks may be extended.

(8) This section shall not apply to any person over pension age.

[section 11 amended by 2002:27 s.2(b) effective 6 December 2002]

Benefits

12 (1) Benefits shall be of the following kinds—

(a) non-contributory old age pension;

(b) contributory old age pension;

(c) contributory old age gratuity (referred to in this Act as an "old age gratuity");

(d) contributory widow's allowance (referred to in this Act as a "widow's allowance");

(e) contributory widow's gratuity (referred to in this Act as a "widow's gratuity");

(f) contributory disability benefit;

(g) non-contributory disability benefit.

(2) For the purpose of determining whether a person is entitled to a contributory benefit of any kind—

(a) subject to sections 10 and 11 and subsection (3), the contributions taken into account shall be those actually paid by, or in respect of or credited to, the person on whose contribution record the relevant contribution conditions have to be satisfied;

(b) no account shall be taken of any contribution paid in respect of sham employment or of any contribution paid otherwise than in accordance with this Act or any regulations made thereunder.

(3) Where a widow claims a contributory old age pension she may elect to substitute her husband's record of contributions for her own in respect of any complete contribution year during the period when they were married:

Provided that this subsection shall not apply in any case where all or any of the husband's contributions have been taken into account in the calculation of any gratuity payable under section 15 or 17.

(4) Any reference in this Act to the yearly average of contributions paid by, or in respect of or credited to, any person shall be construed as referring to that average over the period—

(a) in the case of a person over 21 years of age on 5 August 1968, beginning with 5 August 1968;

(b) in the case of a person who paid contributions before the date on which the Age of Majority Act 2001 comes into operation, beginning with the first day of the contribution year in which he attains the age of 21 years;

(bb) in any other case, beginning with the first day of the contribution year in which he attains the age of 18 years;

(c) in all cases ending with the last day of the last complete contribution year before the date as at which the average is to be ascertained.

(5) Notwithstanding anything in this Act, no non-contributory old age pension shall be paid in respect of any period before 5 August 1968, and no other benefit shall become payable before 5 August 1973 or in respect of any period or death before 5 August 1973.

[section 12 subsection (4)(b) substituted and (bb) inserted by 2001:20 s.7(2) effective 1 November 2001. NB reference to 21 years in subsection (4)(a) not amended by 2001:20 – see s.6(3) & Sch 1 of that Act; section 12 subsection 12(2)(a) amended by 2008:35 s.5 effective 1 September 2008]

Non-contributory old age pensions

13 (1) Subject to this Act, where a person resident in Bermuda is over the age of 65 and—

(a) possesses Bermudian status as defined in the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*]; and

(b) has been ordinarily resident in Bermuda for a period of at least ten years during the twenty years immediately preceding the application for a non-contributory pension,

and is not entitled to a contributory old age pension under section 14, he shall be entitled to a non-contributory old age pension of $129.68 a week for life:

Provided that where a person entitled to a pension under this section can establish that his total income from all sources (excluding any pension granted to him under this section) does not exceed $4,000 a year he shall be entitled to a non-contributory old age pension of $133.46 per week for so long as his income does not exceed $4,000 a year:

Provided further that in any case where a person is in receipt of social security pension from another country the pension payable to him under this section shall be reduced by an amount equal to the pension receivable by him from that country.

(2) In this section, the reference to a period of at least ten years shall be construed as referring to any period or periods amounting to ten years during the twenty years immediately preceding the date of application for such pension, and for the purpose of calculating any period of ordinary residence, such temporary absences from Bermuda as may be prescribed shall be disregarded.

(3) Without derogation from section 22, where a person who is entitled to a pension under this section is in the care of any hospital, home or other institution established under any provision of law, the Director may appoint such person as he thinks fit to receive the pension, or any portion thereof, for the benefit of the person so

entitled, and any person so appointed shall, for all the purposes of this Act, be conclusively deemed to be the lawful representative of such person so entitled.

[section 13 amended by BR 43/1990 effective 16 August 1990; by BR 36/1991 effective 16 August 1991; by BR 37/1992 effective 16 August 1992; by BR 33/1993 effective 16 August 1993; by BR 44/1995 effective 16 August 1995; by BR 49/1998 effective 16 August 1998; by BR 31/2000 effective 16 August 2000; by BR 31/2002 effective 16 August 2002; by 2002:27 s.2(b) effective 6 December 2002; by BR 56/2003 effective 16 August 2003; by BR 42/2004 effective 16 August 2004; by BR 32/2006 effective 16 August 2006; by BR17/2007 effective 16 August 2007; by BR 23/2008 effective 16 August 2008; by BR 29/2009 effective 16 August 2009; by BR 41 / 2011 para. 2 effective 16 August 2011; by BR 63 / 2016 para. 2 effective 16 August 2016; amended by BR 121 / 2017 para. 2 effective 16 August 2017; amended by BR 51 / 2020 para. 2 effective 16 August 2019; amended by BR 22 / 2023 para. 2 effective 16 August 2021; amended by BR 75 / 2023 para. 2 effective 16 August 2023; amended by BR 133 / 2024 para. 2 effective16 August 2024; amended by BR 68 / 2025 para. 2 effective 16 August 2025; amended by BR 80 / 2026 para. 2 effective 16 August 2026]

Contributory old age pensions

14 (1) Subject to this Act, a person shall be entitled to a contributory old age pension for life if—

(a) he is over pension age; and

(b) he satisfies the relevant contribution conditions.

(2) The rates of contributory old age pension and the relevant contribution conditions appropriate thereto shall be as set out in the Second Schedule.

Old age gratuity

15 Subject to this Act, where a person has reached pension age but is not entitled to a contributory old age pension by reason only of failure to satisfy the relevant contribution conditions, he shall be entitled to an old age gratuity of a sum equal to the total value of all contributions paid by or in respect of him.

Other Gratuities

15A (1) Subject to this Act, where the widow of a man who died before pension age is not entitled to a widow's allowance by reason only that her husband failed to satisfy the relevant contribution conditions, she shall be entitled to a widow's gratuity of a sum equal to the total value of all contributions paid by or in respect of him.

(1a) Where a person dies before becoming entitled to a pension under this Act and leaves no widow but leaves a child or children under the age of 18 an amount equal to the total value of all contributions paid by or in respect of that person shall be paid to the child or paid equally between the children.

(1b) Where a person dies before becoming entitled to a pension under this Act and leaves no widow or no child under the age of 18 an amount equal to the total of all contributions paid by or in respect of that person shall be paid to the contributor's estate representative.

(2) Where the widow of a man who died after pension age is not entitled to a widow's allowance by reason only that her husband failed to satisfy the relevant

contribution conditions and no claim has been made by or in respect of her husband for any old age gratuity to which he was entitled under section 15, she shall be entitled to a widow's gratuity calculated in accordance with subsection (1).

(3) Notwithstanding subsection (1a), where a person dies under the circumstances under which a gratuity under this Act is payable to their estate representative, if there is no such estate representative, the gratuity shall remain in the Fund.

(4) The whole or part of a gratuity paid to a child under subsection (1a) may be paid to the legal guardian of that child or such person as the Director considers fit and proper to apply the gratuity for the benefit of the child.

[Section 15A renumbered from section 17, section heading "Other Gratuities" substituted, subsections 1(1a) & 1(1b) inserted, and subsections 3 & 4 added by 2008:35 s.7 effective 1 September 2008]

Widow's allowance

16 (1) A widow shall be entitled to a widow's allowance if at the date of her husband's death he satisfied the relevant contributions conditions.

(2) The rates of widow's allowance and the relevant contribution conditions appropriate thereto shall be as set out in the Third Schedule.

(3) Subject to the following provisions of this section the period for which a widow's allowance is payable shall be the 26 weeks next following the husband's death.

(4) Where a widow would otherwise cease to be entitled to a widow's allowance at a time when she has care of a child who is under school leaving age, the period shall be extended until that child or the younger or youngest of such children reaches school leaving age.

(5) Where a widow would otherwise cease to be entitled to a widow's allowance at a time when she is incapable of self-support, the period shall be extended for as long as she remains so incapable.

(6) Where a widow would otherwise cease to be entitled to a widow's allowance at a time when she is over the age of fifty, the period shall be extended for life.

(7) Notwithstanding anything in the foregoing provisions of this section, a widow's allowance shall not be payable for any period after the widow remarries or after she begins to cohabit with a man as his wife.

(8) For the purposes of subsections (4) and (5), regulations may provide for determining the circumstances in which a widow may be deemed to have the care of a child or children, or may be deemed to be incapable of self-support.

[Section 16 amended by 2008:35 s.6 effective 1 September 2008]

Widower's allowance

16A The provisions of sections 10, 12, 16 and 17 and the Third Schedule shall, mutatis mutandis, be read and construed as applying to a widower.

Contributory disability benefit

17A (1) An insured person over 18 years of age and under pension age who is incapacitated for gainful employment by reason of—

(a) any physical or mental disability;

(b) any terminal illness,

shall be entitled to a contributory disability benefit of $188.35 a week in accordance with subsection (1A).

(1A) For the purposes of subsection (1), the insured person is entitled to a contributory disability benefit where—

(a) he has paid not less than 150 contributions;

(b) the yearly average of contributions paid by or credited to him is not less than 50; and

(c) he produces a certificate from a registered medical practitioner—

(i) certifying the incapacity; or

(ii) in the case of an insured person who is terminally ill, certifying that he is terminally ill:

Provided that where the yearly average of contributions is 25 or over but less than 50 the benefit shall be reduced pro rata.

(2) In calculating the time for which a person is incapacitated separate periods of incapacity occurring not more than 13 weeks apart shall be reckoned as continuous:

Provided that short periods of incapacity of one week or less shall not be added together to form a continuous period of incapacity.

(3) Where for any reason the Director is not satisfied that an insured person is incapacitated for gainful employment he may refer that person to the standing medical board appointed under section 6 of the Pensions and Gratuities (War Service) Act 1947 [*title 9 item 39*] who shall examine that person and report to the Director.

(4) For the purposes of this section, an insured person is terminally ill if a medical practitioner certifies that he suffers from a progressive disease and his death in consequence of that disease can reasonably be expected within twelve months.

[section 17A amended by BR 43/1990 effective 16 August 1990; by BR 36/1991 effective 16 August 1991; by BR 37/1992 effective 16 August 1992; by BR 33.1993 effective 16 August 1993, by BR 44/1995 effective 16 August 1995; by BR 49/1998 effective 16 August 1998; by BR 31/2000 effective 16 August 2000; by 2001:21 s.2 effective 6 December 2002; by BR 31/2002 effective 16 August 2002; by 2002:27 s.2(b) effective 6 December 2002; by BR 56/2003 effective 16 August 2003; by BR 42/2004 effective 16 August 2004; by BR 32/2006 effective 16 August 2006; by BR 17/2007 effective 16 August 2007; by BR 23/2008 effective 16 August 2008; by 2008:35 s.8 effective 1 September 2008; by BR 29/2009 effective 16 August 2009; by BR 41 / 2011 para. 2 effective 16 August 2011; by BR 63 / 2016 para. 2 effective 16 August 2016; amended by BR 121 / 2017 para. 2 effective 16 August 2017; amended by BR 51 / 2020 para. 2 effective 16 August 2020; amended by BR 22 / 2023 para. 2 effective 16 August 2021; amended by BR 75 / 2023 para. 2 effective 16 August 2023; amended by BR 133 / 2024 para. 2 effective 16 August 2024; amended by BR 68 / 2025 para. 2 effective 16 August 2025; amended by BR 80 / 2026 para. 2 effective 16 August 2026]

Non-contributory disability benefit

17B (1) A non-contributory disability benefit of $129.68 a week shall be payable to a person who is incapacitated for gainful employment and who has not paid any contributions if, and only if—

(a) he is over the age of 18 years and under pension age;

(b) he has been ordinarily resident in Bermuda for 10 years immediately preceding the application for the benefit;

(c) he produces to the Director a certificate from a registered medical practitioner certifying that he is incapacitated for gainful employment; and

(d) the incapacity for gainful employment is of a permanent nature.

(2) Subsection (3) of section 17A shall apply in the case of an applicant for a benefit under this section.

[section 17B amended by BR 43/1990 effective 16 August 1990; by BR 37/1991 effective 16 August 1991; by BR 37/1992 effective 16 August 1992; by BR 33/1993 effective 16 August 1993; by BR 44/1995 effective 16 August 1995; by BR 49/1998 effective 16 August 1998; by BR 31/2000 effective 16 August 2000; by BR 31/2002 effective 16 August 2002; by 2002:27 s.2(b) effective 6 December 2002; by BR 56/2003 effective 16 August 2003; by BR 42/2004 effective 16 August 2004; by BR 32/2006 effective 16 August 2006; by BR 17/2007 effective 16 August 2007; by BR 23/2008 effective 16 August 2008; by BR 29/2009 effective 16 August 2009; by BR 41 / 2011 para. 2 effective 16 August 2011; by BR 63 / 2016 para. 2 effective 16 August 2016; amended by BR 121 / 2017 para. 2 effective 16 August 2017; amended by BR 51 / 2020 para. 2 effective 16 August 2020; amended by BR 22 / 2023 para. 2 effective 16 August 2021; amended by BR 75 / 2023 para. 2 effective 16 August 2023; amended by BR 133 / 2024 para. 2 effective 16 August 2024; amended by BR 68 / 2025 para. 2 effective 16 August 2025; amended by BR 80 / 2026 para. 2 effective 16 August 2026]

Overlapping benefits

18 (1) Where a person would be entitled but for this section to two benefits at the same time, he shall not be entitled to both benefits but may elect, by written notice to the

Director, to receive that benefit which is at the higher rate or otherwise more advantageous to him:

Provided that this section shall not apply to any gratuity payable under this Act.

(2) Regulations may provide for adjusting benefit payable to or in respect of any person, or the conditions for the receipt thereof, where that person is undergoing medical or other treatment as an in-patient in a hospital or similar institution.

[section 18 amended by 2002:27 s.2(b) effective 6 December 2002]

Disqualifications

19 (1) A person shall be disqualified for receiving benefit for any period during which he is undergoing imprisonment or preventive detention in pursuance of a sentence passed on conviction for an offence.

(2) A person shall be disqualified for receiving a non-contributory pension for any period during which he is not ordinarily resident in Bermuda, and for the purpose of calculating any period during which a person is not ordinarily resident in Bermuda, such temporary absences from Bermuda as may be prescribed shall be disregarded.

(3) Any person who would be entitled to any benefit for any period but for the operation of subsections (1) and (2) shall be treated as if entitled thereto for all the purposes of this Act except the payment of that benefit for that period.

Claims

20 (1) It shall be a condition of any person's entitlement to any benefit that he makes a claim in writing in the prescribed form to the Director or in such manner as the Director may accept as sufficient in the circumstances of the case.

(2) Every claim shall be made to the Director within 13 weeks after the day on which the benefit is claimed, but the Director may extend the 13 week period if the claimant demonstrates to the Director's satisfaction that there was good cause for the delay.

(3) Every claimant shall produce such certificates, documents, information and evidence for the purpose of determining his claim as the Director may require, and for that purpose shall attend at such office or place as the Director may direct.

(4) The provisions of this section shall apply mutatis mutandis to any person who wishes to raise a question under or in connection with this Act.

[section 20 amended by 2002:27 s.2(b) effective 6 December 2002; amended by 2008:35 s.9 effective 1 September 2008]

Payments

21 (1) Where a person is entitled to any benefit, arrangements shall be made by the Accountant General to pay that benefit—

(a) in the case of a gratuity, as soon as practicable after the award thereof; and

(b) in any other case, monthly in arrears at a rate equal to one-twelfth of the annual rate of benefit for each complete month of entitlement.

(2) Where payment is made to any beneficiary who is absent from Bermuda, the monthly rate of benefit payable under subsection (1)(b) shall be reduced by such amount as the Accountant General may certify as being the additional cost of payment due to such absence.

(3) In computing the annual rate of benefit, the weekly rate of benefit shall be divided by seven and the result multiplied by three hundred and sixty-five.

[section 21(3) amended by 2000:19 s.2(1), deemed effective from enactment of this Act – see section 2(2) of 2000:19]

Persons unable to act; deceased persons

22 Where a claimant or beneficiary or a person who is alleged to be or to have been entitled to benefit is unable to act or dies, the Director may appoint such person as he thinks fit to proceed with the claim or to receive the benefit, and any person so appointed shall, for all the purposes of this Act, be conclusively deemed to be the lawful representative of the claimant, beneficiary or other person or of his estate.

[section 22 amended by 2002:27 s.2(b) effective 6 December 2002]

Benefit to be inalienable

23 Subject to this Act, no benefit granted thereunder shall be assignable or transferable, or be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatsoever; and on the bankruptcy of a beneficiary, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.

Repayment of benefit

24 (1) If it is found that any person has received any sum by way of benefit to which he was not entitled, he shall be liable to repay the sums so received by him:

Provided that he shall not be so liable if he proves to the satisfaction of the Director that he did not know, and could not reasonably be expected to have known, that he was not entitled to the benefit.

(2) Where a person is liable to repay any sum in accordance with this section that sum may, without prejudice to any other remedy, be recovered by means of deductions from any benefit to which he thereafter becomes entitled.

(3) Nothing in this section shall derogate from the right of the Director or Tribunal to take into account any benefit already paid in awarding any other benefit, of the same or a different description, on appeal or review.

[section 24 amended by 2002:27 s.2(b) effective 6 December 2002]

Determination of claims and questions

25 (1) Every claim to benefit and every question arising under or in connection with this Act shall be determined by the Director in the first instance, after such inquiry as he may deem necessary.

(2) If the Director disallows a claim or determines a question adversely to the applicant he shall notify the claimant or applicant in writing of his decision, the reasons therefor and the right of appeal to the Tribunal.

(3) The decision of the Director on any claim or question arising under or in connection with this Act shall, unless an appeal to the Tribunal is pending or the time for appealing has not expired, be conclusive for the purpose of any proceedings under this Act.

[section 25 amended by 2002:27 s.2(b) effective 6 December 2002]

Appeals to Tribunal

26 (1) Any person who is aggrieved by the decision of the Director on any claim or question arising under or in connection with this Act shall have the right of appeal to the Tribunal:

Provided that no such appeal shall lie unless notice of appeal is given in writing to the Director within thirty days after the date on which the decision was given, or such longer period as the chairman of the Tribunal may for good reasons allow.

(2) The Tribunal shall consist of three members, appointed as follows—

(a) a chairman, appointed by the Governor;

(b) one member selected by the chairman from a panel of persons nominated by the Governor as representative of the interests of employers; and

(c) one member selected by the chairman from a panel of persons nominated by the Governor as representative of the interests of insured persons:

Provided that no member of the Tribunal shall serve during the consideration of a case in which he has taken part or may take part as an interested party or as a representative of an interested party, and if the chairman of the Tribunal is disqualified to serve in any such case the Governor shall appoint a deputy chairman to serve in his place.

(3) Reasonable notice of the time and place of the hearing of the appeal by the Tribunal shall be given to the claimant and to any other person who appears to be an interested party.

(4) The Director shall be entitled to appear and be heard at the hearing of any appeal by the Tribunal.

(5) A certificate given by the Director as to whether or not a contribution has been recorded as paid by or in respect of any person for any contribution week or

credited to any person for any contribution week shall be conclusive evidence of that fact for the purpose of any appeal to the Tribunal.

(6) Subject to this section, the procedure for the consideration and determination of any appeal to the Tribunal shall be such as the chairman of the Tribunal may decide, due regard being had to the principles of natural justice.

(7) The decision of the Tribunal on any claim or question arising under or in connection with this Act shall, unless an appeal to the Supreme Court is pending or the time for appealing has not expired, be conclusive for the purpose of any proceedings under this Act.

(8) Fees shall be paid to members of the Tribunal in accordance with the Government Authorities (Fees) Act 1971 [*title 14 item 6*].

(9) In the exercise of his functions under this section the Governor may act in his discretion.

[section 26 amended by 2002:27 s.2(b) effective 6 December 2002]

Review

27 (1) Subject to the following provisions of this section, any decision of the Director or Tribunal may be reviewed at any time by the Director or Tribunal, as the case may be, if—

(a) the decision was given in ignorance of, or was based on a mistake as to, some material fact; or

(b) there has been a material change of circumstances since the date of the decision.

(2) Every application for the review of a decision shall be made in writing in the prescribed from to the Director or Tribunal, as the case may be, or in such other manner as the Director or Tribunal, as the case may be, may accept as sufficient in the circumstances of the case.

(3) Where a decision is revised so as to make benefit payable, or payable at a higher rate, the decision on review shall have effect from such date not earlier than thirteen weeks before the date of application for review as the Director or Tribunal may decide:

Provided that if the applicant shows to the satisfaction of the Director or Tribunal, as the case may be, that there was good cause for any delay in making the application, the period of thirteen weeks may be extended.

[section 27 amended by 2002:27 s.2(b) effective 6 December 2002]

Appeals to Supreme Court

28 (1) Any person who is aggrieved by the decision given on any appeal or review by the Tribunal shall have the right to appeal to the Supreme Court on any question of law or on any question of mixed fact and law.

(2) The Civil Appeals Act 1971 [*title 8 item 85*] shall apply mutatis mutandis to any appeal under this section.

Inspectors

29 (1) For the purposes of this Act, there may be appointed such number of inspectors as the Minister may determine.

(2) An inspector, for the purpose of performing his functions under this Act, may—

(a) enter without previous notice at all reasonable times any premises or place liable to inspection under this section;

(b) make such examination and enquiry as may be necessary for ascertaining whether the provisions of this Act are or have been complied with;

(c) examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Act on which he may reasonably require information, every person whom he finds in any such premises or place, or whom he has reasonable cause to believe to be or to have been an insured person, and to require every such person to be so examined;

(d) to exercise such other powers as may be necessary for carrying this Act into effect.

(3) Where any premises or place are or is under the control of a department of the Crown, the Government, a Government Board, a Dominion Government or the United States Government, the Director may make such special arrangements with that Authority regarding inspections as meet the circumstances of the case.

(4) The occupier of any premises or place liable to inspection under this section, and any other person who is or has been employing any person, and the servants or agents of any such occupier or other person, and any insured person, shall furnish to an inspector all such information and shall produce for inspection all such documents, including wages records, as the inspector may reasonably require.

(5) The premises and places liable to inspection under this section are any premises or place where the inspector has reasonable grounds for supposing that any insured person is employed.

(6) Every inspector shall be furnished with a certificate of his appointment signed by the Director or someone duly authorized by him, and on applying for admission to any premises or place for the purpose of this Act shall, if so required, produce that certificate.

[section 29 amended by 2002:27 s.2(b) effective 6 December 2002]

Offences

30 (1) Any person commits an offence who, for the purpose of obtaining any benefit or other payment under this Act, whether for himself or some other person, or for any purpose connected with this Act—

(a) knowingly makes any false statement or false representation; or

(b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular:

Punishment on summary conviction: imprisonment for 6 months or a fine not exceeding $10,000 or both such imprisonment and fine.

(2) If any employer or self-employed person fails or neglects to pay every contribution which he is liable to pay under this Act, including every contribution which an employer is liable to pay on behalf of an employed person under section 4(2), he commits an offence:

Punishment on summary conviction: a fine not exceeding $1,000.

(3) If any person—

(a) wilfully delays or obstructs an inspector in the exercise of any power under this Act; or

(b) refuses or neglects to answer any questions or to furnish any information or to produce any document when required to do so under this Act,

he commits an offence:

Punishment on summary conviction: a fine not exceeding $10,000.

(4) If any employer deducts or attempts to deduct the employer's contribution or more than the amount of the employed person's contribution paid by him on behalf of any person employed by him from the salary, wages or other remuneration of that person he commits an offence:

Punishment on summary conviction: a fine of $1,000 per offence.

(5) If any person who is required to register with the Director under section 8(3) fails to do so, he commits an offence:

Punishment on summary conviction: a fine of not less than $2,500.

(6) If any person contravenes or fails to comply with any of the requirements of this Act in respect of which no special penalty is provided, he commits an offence:

Punishment on summary conviction: a fine not exceeding $10,000.

(7) Where an employer deducts an employee's contribution payable under this Act from the employee's salary, wages or other remuneration and fails or neglects to pay such deducted funds to the Department of Social Insurance, he commits an offence:

Punishment on summary conviction: a fine of $1,000 for each offence.

(8) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate, such person as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

[section 30 amended by 2002:27 s.2(b) effective 6 December 2002; and amended by 2008:35 s.10 effective 1 September 2008]

Criminal proceedings

31 (1) Proceedings for an offence under this Act shall not be instituted except by or with the consent of the Director of Public Prosecutions or by an inspector or other officer authorized in writing in that behalf by special or general directions of the Director of Public Prosecutions.

(2) Any such inspector or other officer may, although not a barrister and attorney, prosecute or conduct before a court of summary jurisdiction any such proceedings as aforesaid.

(3) Notwithstanding any other provision of law, proceedings for an offence under this Act may be commenced at any time within three months after the date on which evidence, sufficient in the opinion of the Director of Public Prosecutions to justify a prosecution for the offence, comes to His knowledge or within the period of twelve months after the commission of the offence, whichever period last expires.

(4) For the purpose of subsection (3) a certificate, purporting to be signed by the Director of Public Prosecutions as to the date on which Such evidence as aforesaid came to his knowledge shall be conclusive evidence thereof.

(5) Notwithstanding any provisions of the Evidence Act 1905 [*title 8 item 10*], in any proceedings for an offence under this Act, the wife or husband of the accused person shall be competent to give evidence, whether for or against the accused person:

Provided that the wife or husband shall not be compellable either to give evidence, or in giving evidence, to disclose any communication made to her or him by the accused person during the marriage.

(6) Where an employer or a self-employed person has been convicted under section 30(2) of the offence of failure to pay a contribution, the court shall, by the same judgment, in addition to any penalty imposed, order the employer or, as the case may, be, the self-employed person, on proof of the amount, to pay to the Fund a sum equal to the amount he has failed to pay during the week of the offence and at any time up to six years before the date of the offence, and any such order by the court shall before the date of the offence, and any such order by the court shall have the same force and effect and be enforceable in the same manner as if it had been a civil action duly instituted by or on behalf of the Director against the employer or, as the case may be, the self-employed person concerned.

(7) Any sum paid by an employer under subsection (6) shall be treated as a payment in satisfaction of the unpaid contributions, and no part of those contributions shall be recoverable from the employed person.

(8) Any proceedings undertaken for any offence under this Act shall be instituted before a court of summary jurisdiction.

[section 31 subsections (1), (3) and (4) amended by 1999:8 s.2 & Sch 1 effective 1 April 1999; and amended by 2002:27 s.2(b) effective 6 December 2002]

Civil proceedings

32 (1) All sums due to the Fund shall be recoverable as debts due to the Crown, and without prejudice to any other remedy, may be recovered summarily as a civil debt by the Director.

(2) Without prejudice to any other remedy for recovery of sums due to the Fund, the directors and officers of a company or other body corporate that owes sums to the Fund are liable jointly and severally for sums that became due while they were directors or officers, and proceedings may be taken under this section against all or any of them for recovery of those sums.

(3) For greater certainty, proceedings may be taken under this section against persons who were directors or officers after they cease to be directors or officers, including persons who ceased to be directors or officers before the coming into force of this section.

(4) A director or officer who has paid sums pursuant to proceedings under this section has a right of contribution against any other directors and officers of the company or other body corporate who are liable under this section for the sums paid by that director or officer, and a right to be indemnified by the company or body corporate in respect of those sums.

(5) For the purposes of subsections (2) to (4), "officer" means—

(a) in the case of a company as defined in section 2 of the Companies Act 1981, an individual appointed as an officer of the company pursuant to section 91(4) of that Act; and

(b) in the case of other companies and bodies corporate, an individual who performs functions for a company or other body corporate similar to those normally performed by an individual appointed as an officer of a company pursuant to section 91(4) of the Companies Act 1981.

(6) Proceedings under this section for the recovery of sums due to the Fund may be instituted by an inspector or other officer authorized in writing in that behalf by special or general directions of the Attorney-General, and any such inspector or officer may, although not a barrister and attorney, conduct such proceedings.

[section 32 amended by 2002:27 s.2(b) effective 6 December 2002; subsections (2) to (6) substituted for (2) and (3) by 2006:31 s.2 effective 7 December 2006]

Proceedings against employer for benefit lost by his default

33 (1) Where an employer has failed or neglected—

(a) to pay any contributions which under this Act he is liable to pay in respect of any employed person in his employment; or

(b) to comply, in relation to any such person, with the requirements of this Act or any regulations made thereunder relating to the payment and collection of contributions,

and by reason thereof that person or his widow has lost, in whole or in part, any benefit to which he or she would have been entitled, that person or his widow, as the case may be, shall be entitled to recover before a court of summary jurisdiction from the employer as a civil debt a sum equal to the amount of the benefit so lost.

(2) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other section of this Act in respect of the same failure or neglect.

(3) Proceedings under this section may, notwithstanding the provisions of any Act to the contrary, be brought at any time within one year after the date on which the employed person or his widow, but for the failure or neglect of the employer, would have become entitled to the benefit which he or she has lost.

Priority of contributions in winding-up and bankruptcy

34 There shall be included amongst the debts which—

(a) under section 39 of the Bankruptcy Act 1989 [*title 8 item 49*] are in the distribution of the property or assets of a bankrupt to be paid in priority to all other debts; and

(b) under section 236 of the Companies Act 1981 [*title 17 item 5*] are in the winding-up of a company to be paid in priority to all other debts,

the amount due in respect of any contributions or liability for contributions accrued, in relation to paragraph (a) before the date of the receiving order, and in relation to paragraph (b), before the date of the commencement of the winding-up of the company.

Actuarial review

35 (1) The Director shall arrange for an actuary—

(a) to review the operation of this Act within one year from the coming into operation of this Act and thereafter every third year; and

(b) to make an interim review of the operation of this Act if at any time the Director is not satisfied that the Fund is sufficient to discharge its liabilities,

and on each review, to make a report to the Minister on the financial condition of the Fund.

(2) The Minister shall cause to be laid before both Houses of the Legislature a copy of every report made to him under this section.

[section 35 amended by 2002:27 s.2(b) effective 6 December 2002]

Review of rates of benefit

36 (1) As soon as may be after a copy of any report under section 35 has been laid before both Houses of the Legislature, the Minister shall cause the rates and amounts of benefit to be reviewed in relation to—

(a) the economic circumstances, at that time; and

(b) any changes in economic circumstances since the rates and amounts of benefit were laid down by this Act or were last amended under section 37.

(2) On the completion of any review under this section the Minister shall cause a report thereon to be laid before both Houses of the Legislature.

Minister may amend rates of contributions and benefit by order

37 (1) The Minister may, on the completion of a review under section 36 or at such other time as he may determine, amend by an order under this section—

(a) the weekly rates of contributions set out in the First Schedule;

(b) the rates of contributory old age pension and the relevant contribution conditions set out in the Second Schedule;

(c) the rates of widows' allowance and the relevant contribution conditions set out in the Third Schedule;

(d) the rate of non-contributory old age pension set out in section 13;

(e) the rate of contributory disability benefit set out in section 17A; and

(f) the rate of non-contributory disability benefit set out in section 17B.

(1A) An order made under subsection (1) increasing the ratesof old age pensions, widows' allowances and disability benefits may provide for such increases to have effect retrospectively.

(2) The affirmative resolution procedure shall apply to an order made under this section.

[section 37 subsection (1A) inserted by 2003:13 s.2 effective 2 December 2003]

Minister may make regulations

38 (1) The Minister may make regulations for the purpose of carrying this Act into effect and, in particular, but without prejudice to the generality of the foregoing, for—

(a) prescribing any matter required to be or which may be prescribed under this Act;

(b) providing for the imposition of imprisonment not exceeding three months or a fine not exceeding one hundred dollars or both such imprisonment and fine for any contravention thereof;

(c) providing for the voluntary payment of contributions by an insured person in order to make up deficiencies in that person's record, arising from default, unemployment, sick leave without pay or otherwise;

(d) prescribing the form in which applications and claims shall be made;

(e) providing for the return of contributions paid in error;

(f) requiring employers, or any class of employers, to maintain wages and salary records relating to all persons in their employment and for prescribing the form of such records.

(2) For the purpose of giving effect to any agreement with the Government of any other country, providing for reciprocity in matters relating to social security, the Minister may make provision by regulations for modifying or adapting this Act in its application to cases affected by the agreement.

(3) The affirmative resolution procedure shall apply to regulations made under this section.

Insured persons over 65

39 For the avoidance of doubt it is hereby declared that any person who, being over the age of 65 on 5 August 1968, was engaged in insurable employment under the repealed Act and in respect of whom contributions were paid under that Act, shall, as from 5 August 1968 or the date of entry into such employment, be deemed for the purpose of section 2(1) to have been a person who was insured under the repealed Act; and for the purposes of this Act the pension age of any such person shall be the fifth anniversary of 5 August 1968.

Repeal, savings and transitional

40 *[omitted]*

Commencement

41 *[omitted]*

FIRST SCHEDULE

RATES OF CONTRIBUTIONS

		Description of Insured Person	Weekly Rates of Contributions: Payable by Insured Person	Weekly Rates of Contributions: Payable by Employer
1	(a)	Employed person over school-leaving age and under the age of 65.	$39.25	$39.25
	(b)	Employed person over the age of 65.	—	$39.25
2	(a)	Self-employed person over school-leaving age of and under the age of 65.	$78.50	—
	(b)	Self-employed person over the age of 65.	$39.25	—

[First Schedule amended by BR 43/1990 effective 6 August 1990; by BR 36/1991 effective 5 August 1991; by BR 37/1992 effective 3 August 1992; by BR 33/1993 effective 2 August 1993, by BR 44/1995 effective 16 August 1995; by BR 49/1998 effective 3 August 1998; by BR 31/2000 effective 7 August 2000; by BR 31/2002 effective 5 August 2002; by BR 56/2003 effective 1 August 2004; by BR 32/2006 effective 1 August 2006; by BR17/2007 effective 6 August 2007; by BR23 / 2008 effective 4 August 2008; by BR 41 / 2011 para. 3 effective 6 August 2012; by BR 63 / 2016 para. 3 effective 1 August 2016; by BR 121 / 2017 para. 3 effective 1 August 2018; amended by BR 68 / 2025 para. 3 effective 1 August 2025; amended by BR 80 / 2026 para. 3 effective 1 August 2026]

SECOND SCHEDULE

RATES OF CONTRIBUTORY OLD AGE PENSIONS AND RELEVANT CONTRIBUTION CONDITIONS

1 Subject to the following provisions of this Schedule, the contribution conditions for receipt of a contributory old age pension at the rate of $282.58 a week are as follows:—

(1) The first contribution condition is that not less than 484 contributions have been paid by, or in respect of or credited to, the claimant in respect of the period between his entry into insurance and pension age; and

(2) The second contribution condition is that the yearly average of the contributions paid by, or in respect of or credited to him (ascertained at pension age), is not less than 50.

2 Subject to paragraph 3, the weekly rate of pension shall be increased by $1.67 for every 26 contributions paid by, or in respect of the claimant and in excess of the minimum number specified in the first contribution condition, in respect of the period between his entry into insurance and pension age.

3 Where the first contribution condition is satisfied but the second contribution condition is not, then, if the yearly average of the contributions paid by, or in respect of or credited to, the claimant (ascertained as at pension age) is not less than 25, the contribution conditions shall be deemed to be satisfied for the receipt of a reduced rate of pension calculated as a proportion of the pension which would otherwise be payable, in accordance with the following scale:—

(1)	For a yearly average of not less than 45 but less than 50	Nine-tenths
(2)	For a yearly average of not less than 40 but less than 45	Four-fifths
(3)	For a yearly average of not less than 35 but less than 40	Seven-tenths
(4)	For a yearly average of not less than 30 but less than 35	Three-fifths
(5)	For a yearly average of not less than 25 but less than 30	One-half

Provided that the reduced rate of pension shall not be less than a weekly rate of $133.46 where the claimant can establish that his total income from all sources (excluding any contributory old age pension granted under this Act) does not exceed $4,000 a year for so long as his income does not exceed $4,000 a year.

4 (1) Where contributions are paid by or in respect of a claimant after he has attained pension age, his entitlement to a contributory old age pension in relation to the

period after pension age shall be calculated on the basis of one half of the contribution rate paid by or in respect of an insured person under pension age.

(2) The entitlement to an old age pension of a person in respect of whom contributions are paid after he has attained pension age but who has not received a contributory old age pension or an old age gratuity, shall be re-assessed by the Director on the anniversary of the date on which he attained pension age; and if on such re-assessment his entitlement is established a contributory old age pension shall be payable.

(3) Where a person has received an old age gratuity on attaining pension age and contributions are paid by or in respect of him after that age by reason of his gainful employment, his entitlement to a contributory old age pension shall be re-assessed when such contributions cease.

(4) Where a person in respect of whom contributions are paid after he has attained pension age is in receipt of a contributory old age pension, his entitlement to an old age pension at the higher rate shall be re-assessed after such contributions cease.

[Second Schedule amended by BR 43/1990 effective 16 August 1990; by BR 36/1991 effective 16 August 1991; by BR 37/1992 effective 16 August 1992; by BR 33/1993 effective 16 August 1993 by BR 44/1995 effective 16 August 1995; by BR 49/1998 effective 16 August 1998; by BR 31/2000 effective 16 August 2000; by BR 31/2002 effective 16 August 2002; by 2002:27 s.2(b) effective 6 December 2002; by BR 56/2003 effective 16 August 2003; by BR 42/2004 effective 16 August 2004; by BR 32/2006 effective 16 August 2006; by BR17/2007 effective 16 August 2007; by BR 23/2008 effective 16 August 2008; by BR 29/2009 effective 16 August 2009; by BR 41 / 2011 para. 2 effective 16 August 2011; by BR 63 / 2016 para. 2 effective 16 August 2016; amended by BR 121 / 2017 para. 2 effective 16 August 2017; amended by BR 51 / 2020 para. 2 effective 16 August 2020; amended by BR 22 / 2023 para. 2 effective 16 August 2021; amended by BR 75 / 2023 para. 2 effective 16 August 2023; amended by BR 133 / 2024 para. 2 effective 16 August 2024; amended by BR 68 / 2025 para. 2 effective 16 August 2025; amended by BR 80 / 2026 para. 2 effective 16 August 2026]

[10 March 2017: It has come to the attention of the Attorney-General that para 1(1) of the Second Schedule was mistakenly changed to read "250 contributions", probably when a similar amendment was made to the Third Schedule by BR 31/1987 or during the 1989 Revision. The figure of 484 contributions was inserted in para 1(1) by BR 39/1986 with effect from 16 July 1986, and the figure has not been amended since that date.]

THIRD SCHEDULE

RATES OF WIDOW'S ALLOWANCE AND RELEVANT CONTRIBUTION CONDITIONS

1 Subject to the following provisions of this Schedule, the contribution conditions for receipt of a widow's allowance at the rate of $282.58 a week are as follows:—

(1) The first contribution condition is that not less than 250 contributions have been paid by, or in respect of or credited to, the claimant's husband in respect of the period between his entry into insurance and the relevant time; and

(2) The second contribution condition is that the yearly average of the contributions paid by, or in respect of or credited to him (ascertained as at the relevant time), is not less than 50:

Provided that the second of these conditions shall be deemed not to apply where the husband died before the end of the contribution year in which he attained the age of 21 years.

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

2 Where the first contribution condition is satisfied but the second contribution condition is not, then, if the yearly average of the contributions paid by, or in respect of or credited to, the husband (ascertained as at the relevant time) is not less than 25, the contribution conditions shall be deemed to be satisfied for the receipt of a reduced rate of widow's allowances calculated as a proportion of the allowance which would otherwise be payable, in accordance with the following scale:—

(1)	For a yearly average of not less than 45 but less than 50	Nine-tenths
(2)	For a yearly average of not less than 40 but less than 45	Four-fifths
(3)	For a yearly average of not less than 35 but less than 40	Seven-tenths
(4)	For a yearly average of not less than 30 but less than 35	Three-fifths
(5)	For a yearly average of not less than 25 but less than 30	One half

Provided that the reduced rate of widow's allowance shall not be less than a weekly rate of $133.46 where the claimant can establish that her total income from all sources (excluding any widow's allowance granted under this Act) does not exceed two thousand five hundred dollars a year for so long as her income does not exceed two thousand five hundred dollars a year.

3 (1) For any period during which a widow in receipt of widow's allowance has the care of a child or children under school-leaving age, the rate of widow's allowance

calculated in accordance with the foregoing provisions of this Schedule shall be increased by $28.18 a week for every such child.

(2) Any regulations made under section 16(2) for determining the circumstances in which a widow may be deemed to have the care of a child or children shall apply equally to this paragraph.

4 In this Schedule, "relevant time" means the date on which the husband died or on which he attained pension age, whichever is earlier.

[Third Schedule amended by BR 43/1990 effective 16 August 1990; by BR 36/1991 effective 16 August 1991; by BR 37/1992 effective 16 August 1992; by BR 33/1993 effective 16 August 1993, by BR 44/1995 effective 16 August 1995; by BR 49/1998 effective 16 August 1998; by BR 31/2000 effective 16 August 2000; by BR 31/2002 effective 16 August 2002; by BR 56/2003 effective 16 August 2003; by BR 42/2004 effective 16 August 2004; by BR 32/2006 effective 16 August 2006; by BR17/2007 effective 16 August 2007; by BR 23/2008 effective 16 August 2008; by BR 29/2009 effective 16 August 2009; by BR 41 / 2011 para. 2 effective 16 August 2011; by BR 63 / 2016 para. 2 effective 16 August 2016; amended by BR 121 / 2017 para. 2 effective 16 August 2017; amended by BR 51 / 2020 para. 2 effective 16 August 2020; amended by BR 22 / 2023 para. 2 effective 16 August 2021; amended by BR 75 / 2023 para. 2 effective 16 August 2023; amended by BR 133 / 2024 para. 2 effective 16 August 2024; amended by BR 68 / 2025 para. 2 effective 16 August 2025; amended by BR 80 / 2026 para. 2 effective 16 August 2026]

[Assent Date: 24 December 1970]

[This Act was brought into operation on 1 February 1971 by SR&O 2/1971]

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1971 : 43
1971 : 117
1975 : 66
1977 : 35
BR 12 / 1978
BR 19 / 1978
1980 : 53
BR 48 / 1980
1981 : 36
BR 33 / 1981
BR 34 / 1981
BR 33 / 1983
BR 48 / 1984
1985 : 3
1985 : 30
BR 31 / 1985
BR 39 / 1986
BR 31 / 1987

1988 : 25
BR 48 / 1988
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1994 : 27
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1999 : 8
BR 31 / 2000
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BR 41 / 2011
BR 63 / 2016
BR 121 / 2017
BR 51 / 2020
BR 22 / 2023
BR 75 / 2023
BR 133 / 2024
BR 68 / 2025
BR 80 / 2026]