

LOCAL GOVERNMENT
(SUPERANNUATION) ACT.

Act No. 35, 1927.

An Act to provide a scheme of Superannuation for certain employees of the Councils of Shires and Municipalities; and for purposes connected therewith. [Assented to, 25th March, 1927.]

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No. 35.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

INTRODUCTORY.

1. (1) This Act may be cited as the "Local Government (Superannuation) Act, 1927." Short title.

(2) In this Act the expression "the Principal Act" means the Local Government Act, 1919 (as amended by subsequent Acts).

(3) Unless the context necessarily requires a different meaning, expressions defined in the Principal Act shall bear the same meanings in this Act.

(4) This Act is divided into Parts as follows:—

PART I.—INTRODUCTORY—*ss.* 1-3.

PART II.—INSURANCE PROVISIONS—*ss.* 4-6.

PART III.—PROVIDENT FUND PROVISIONS—*ss.* 7-15.

PART IV.—THE LOCAL GOVERNMENT SUPERANNUATION BOARD AND MANAGEMENT PROVISIONS—*ss.* 16-20.

SCHEDULE.

2.

Local Government (Superannuation) Act.

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Commence-
ment.

2. (1) This Act shall commence on a day not earlier than the first day of July, one thousand nine hundred and twenty-seven, to be appointed by the Governor and notified by proclamation published in the Gazette not less than six weeks before the date of commencement.

Application
of Act.

(2) This Act shall apply to and in respect of town clerks, shire clerks, municipal engineers, shire engineers, and health inspectors of any council, and to such other class of servants of councils as the Governor may by proclamation published in the Gazette from time to time direct.

Interpreta-
tion.

3. In this Act, unless inconsistent with the context or subject-matter,—

“Approved” means approved by the Governor by notification published in the Gazette.

“Board” means the Local Government Superannuation Board appointed under this Act.

“Council” includes County Council.

“Fund” means the Local Government Provident Fund established under this Act.

“Future service factor” means the difference between the number of years of the age at next birthday of a permanent servant at the time of his taking out a policy of insurance under this Act and sixty-five years.

“Insurance Company” extends and applies to any company, society, or body of persons incorporated or regulated, or enabled to sue and be sued, by any charter or Act and associated together with the object solely, or amongst others, of granting policies upon lives or entering into contracts for future endowments by way of annuity or otherwise; and also includes any Government department, mutual indemnity association, or other body undertaking insurance under this Act.

“Past service factor” means the number of completed years of past service of a permanent servant at the time of his taking out a policy of insurance under this Act, not exceeding in any case twenty years.

“Permanent

- “Permanent servant” means town clerk, shire clerk, municipal engineer, shire engineer, health inspector, or other servant of a council to whom the provisions of this Act may by proclamation be extended. George V,
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- “Salary” means yearly salary, and includes wages.
- “Service” means service of a servant in any capacity, whether continuous or broken, with one or more councils.
- “Total service factor” means future service factor added to past service factor.

PART II.

INSURANCE PROVISIONS.

4. (1) Every permanent servant of a council shall effect in manner prescribed in this section with an approved insurance company within such time as may be prescribed an endowment insurance policy maturing at the age of sixty-five years (which shall be the retiring age of all permanent servants coming within the provisions of this Part) or previous death according to the scale of compulsory cover set forth in the Schedule to this Act. Compulsory
insurance.

(2) Proposals for insurance under this section shall be lodged with the board by the permanent servants concerned, and as agent for the proponents the board may with the approval of the Minister agree with an approved insurance company or companies for the issue of the policies applied for.

(3) The board may with the like approval arrange with any approved insurance company or companies for the insurance of a group or groups of permanent servants in such manner as to ensure that each permanent servant concerned in any group shall be covered to the extent provided in subsection one of this section.

The inclusion of any permanent servant under any group insurance policy shall be deemed to be sufficient compliance with subsection one of this section.

(4)

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(4) (a) All such policies shall be handed to and shall be held by the board until the policy moneys are payable, and shall then be delivered to the permanent servant who has been insured or to his personal representatives.

(b) In the event of any permanent servant ceasing to be employed by any council before the policy moneys become payable such person shall be entitled to receive from the board any policy held upon his behalf, subject to payment to the board of any moneys which may have been paid by the council in respect of the premium for any unexpired balance of the then current period covered by such premium.

Where any such permanent servant is included in a group policy of insurance the board may arrange with the insurance company or companies concerned to pay to such permanent servant the surrender value of his interest in any such group policy.

The board shall fix and the permanent servant shall pay to the board the part of the premium paid by the council on his behalf for the then current period of the policy attributable to the unexpired portion of that period.

(c) The board shall immediately upon receipt of any such moneys pay the same over to the council.

(d) The board, if it sees fit, may arrange with any insurance company or companies with which insurance of any group of permanent servants has been effected under this Act to enable any permanent servant who is a member of such group and who notifies the board that he desires so to do, to continue his insurance in such group after he ceases to be employed by any council provided that he undertakes to pay and pays to the board periodically at the proper times the amount for premiums and other moneys which would have been payable by a council under this Act on the council's and on his own behalf had he remained in the service of a council.

(5) Any permanent servant who has his life insured at the commencement of this Act or upon the provisions of this Act being applied to him or at the commencement of his employment with a council may
make

make arrangements with the board for the acceptance of his subsisting policy in lieu of effecting insurance as provided in subsection one of this section.

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If the board accepts such policy as satisfying the provisions of subsection one such permanent servant shall lodge the policy with the board, and thereupon such policy or policies shall for the purposes of this Act be deemed to be policies effected under subsection one of this section.

The council's quota payable as hereinafter defined, in respect of such policy or policies, shall not in any such case be calculated on the premium or premiums actually payable on such policy or policies, but shall be calculated on the rate of premium which would have been payable if a new policy were effected under subsection one of this section at the then age of such permanent servant.

(6) No policy effected under this section and no bonus declared in respect thereof shall be assigned, transferred, surrendered, mortgaged, charged, or encumbered in any manner whatsoever, so long as the permanent servant concerned is employed by any council.

(7) A policy effected in pursuance of this section shall have the protection afforded by section four of the Life, Fire, and Marine Insurance Act, 1902, whatever may be the time during which such policy has endured, and section five of the said Act shall not apply thereto.

(8) This section applies to every permanent servant employed by a council at or after the commencement of this Act, and not exempted from the obligations of this section by virtue of the provisions of section seven of this Act.

5. A permanent servant of a council who effects a policy of insurance under section four of this Act, and at the time of effecting such policy is not less than thirty-five years of age and has had not less than five years' past service, may effect one or more optional cover units of insurance of one hundred pounds each, but so that the total of the compulsory and optional cover so effected shall not exceed the maximum cover indicated in the said Schedule.

Application for such optional units shall be made in such manner and within such time as may be prescribed.

6.

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Payment of
premiums.

6. (1) Where a permanent servant of a council effects a policy of insurance in accordance with the foregoing provisions of this Act, the council for the time being employing him shall duly and punctually pay to the board the amount of all premiums which shall become payable while he remains in the service of such council, for payment to the insurance company concerned.

(2) Every permanent servant of a council in respect of whom the council shall have paid any such premium shall be liable to the council for so much thereof as shall remain after deducting the council's quota calculated as hereinafter provided.

The council may deduct such residue or any part thereof from any sum which may be or may become due by the council to such permanent servant by way of salary or otherwise by periodical instalments as prescribed.

The council may sue for and recover any balance due by any permanent servant in respect of premiums paid by the council under this section which it may not have recovered by deductions from salary or otherwise as aforesaid.

(3) Where a permanent servant leaves the service of one council and enters the service of another council the board shall certify to the councils concerned the proportion of the premium for the year in which such change takes place in respect of which each of such councils should be liable under this section and the amount so certified shall be paid by each such council to the board.

In the event of the first-mentioned council having paid the premium in respect of such servant at the date of the change such council shall be entitled to recover from the other council the amount so certified by the board as aforesaid as payable by that council.

(4) The council's quota shall be determined in accordance with the following rules, that is to say:—

- (a) As to so much of the premium as is payable in respect of the compulsory cover provided for in section four of this Act the council's quota shall be one moiety thereof or three and one-half pounds per centum of the salary for the time being

being of such permanent servant (any salary exceeding five hundred pounds to count for this purpose as five hundred pounds only) whichever is the less.

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- (b) As to so much (if any) of the premium as is payable in respect of the optional cover units provided for in section five of this Act the council's quota shall be a proportion thereof corresponding to the ratio that the past service factor bears to the total service factor.
- (c) Provided always that the council's quota shall not in any case exceed in the aggregate a sum calculated by multiplying a fortnight's salary of such permanent servant (according to the rate at which the same was payable to him at the time of his effecting such policy) by the total service factor divided by the future service factor.

(5) The board shall pay the amounts received by it for premiums into a special bank account to be called "The Local Government (Servants) Insurance Account."

From such account the board shall pay the premiums on the policies of insurance effected under section four of this Act.

Cheques drawn on this account by the board shall be signed as prescribed.

PART III.

PROVIDENT FUND PROVISIONS.

7. Every permanent servant of a council who at the commencement of this Act or at the date of the proclamation extending the provisions of this Act to him or at the date of his appointment (as the case may be)—

- (a) has attained the age of fifty-five years; or
- (b) having attained the age of fifty years and being in receipt of a salary of less than four hundred pounds per annum elects within such time and in such manner as may be prescribed to contribute to the Fund hereinafter mentioned; or
- (c)

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- (c) being under the age of fifty-five years duly applies through the board to an insurance company for a policy of insurance under section four of this Act and is either refused by such insurance company or informed that such insurance company will not accept the risk except upon the condition of his being charged a premium in respect of such policy at the rate charged by such insurance company for an age three years or more greater than his actual age;

shall be exempted from the obligation to effect insurance under section four of this Act.

Local
Government
Provident
Fund.

8. (1) There shall be established a "Local Government Provident Fund" into which shall be paid the contributions and out of which shall be paid the gratuities provided for in this Part of this Act.

(2) Interest derived from the investment of the fund shall form part thereof.

(3) The income of the fund shall not be subject to taxation.

Investment.

9. The fund shall as far as practicable be invested by the board—

- (a) in securities of the Government of New South Wales;
- (b) in loans to the councils of shires or municipalities or the Municipal Council of Sydney;
- (c) upon mortgage of land in the State of an estate of inheritance fee simple or on mortgage of leasehold interests in such land; or
- (d) in any other manner for the time being allowed by Act of Parliament or by the rules of court for the investment of trust funds.

Uninvested
moneys.

10. Moneys held uninvested by the board may be lodged either at call or on fixed deposit or partly at call and partly on fixed deposit with the Colonial Treasurer or with any bank, and while in such bank shall be held to be moneys of the Crown.

Cheques.

11. Cheques drawn on any account in any bank shall be signed as prescribed.

Power to
borrow.

12. The Colonial Treasurer may lend to the board for the purposes of the Local Government Provident Fund

Fund moneys to an amount not exceeding two-thirds of the moneys of the fund invested in Government securities upon security being given to his satisfaction. **George V,
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13. (1) Every council which at or after the commencement of this Act employs a permanent servant who is exempted from the obligations of section four of this Act shall make annual contribution to the fund in respect of such permanent servant at or within such time or times as may be prescribed: Contributions by councils in certain cases.

Provided that if a servant ceases to be employed by a council before the expiration of a year from the due date of such contribution there shall be refunded to such council such proportion of the total contribution as shall be attributable to the unexpired portion of the year.

(2) Every council which makes any such contribution as aforesaid shall be entitled to receive and recover from the permanent servant in respect of whom such contribution shall have been made one moiety thereof, and shall be at liberty to deduct the same or any part thereof from any sum or sums which may be or become due by the council to such permanent servant by way of salary or otherwise.

(3) The annual contributions to be made under this section shall be of such an amount as would, if paid at the beginning of each year and accumulated at compound interest after the rate of five pounds per centum per annum, produce a sum which would, if and when such permanent servant reached the retiring age mentioned in section fourteen, be equal to one-twentieth part of such permanent servant's salary at the commencement of this Act, or at the date of the proclamation extending the provisions of this Act to him or upon his appointment to the council's service (as the case may be), for each year of service which such permanent servant would have to his credit if he remained in the service of the council until he reached such retiring age, but so as not to include more than twenty years' service prior to the commencement of this Act or the date of such proclamation (as the case may be): Provided always that—

(a) in no case shall any annual contribution payable under this section be less than seven pounds per centum of the salary for the time being of such permanent servant; and

(b)

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(b) such contributions shall cease to be payable when such permanent servant ceases to be employed by a council or reaches such retiring age or dies, whichever event first happens.

(4) All amounts received in respect of contributions under this part of the system shall be recorded to credit of a separate account for each permanent servant, and at the end of each year the board shall ascertain the average rate of interest earned on the various investments of the fund, and each participating permanent servant's account shall be credited with such interest calculated at such ascertained rate per centum.

(5) Where a permanent servant leaves the service of one council and enters the service of another council the board shall certify to the councils concerned the proportion of the contribution for the year in which such change takes place in respect of which each of such councils should be liable under this section, and the amount so certified shall be paid by each such council to the board.

In the event of the first-mentioned council having paid the contribution in respect of such servant at the date of the change, such council shall be entitled to recover from the other council the amount so certified by the board as aforesaid as payable by that council.

Retiring age.

14. For the purposes of this Part the retiring age of a permanent servant shall be the age of sixty-five years :

Provided that where a permanent servant is over the age of fifty-five years at the commencement of this Act or at the date of the proclamation extending the provisions of this Act to him or at the date of his appointment (as the case may be) his retiring age shall be one year in excess of sixty-five years for each completed period of two years by which his age at the commencement of this Act or at the date of such proclamation or appointment (as the case may be) is in excess of fifty-five years :

Provided that the date of retirement of any servant shall be not less than four years from the date of commencement of this Act or the date of the proclamation extending the provisions of this Act to him or the date of his appointment (as the case may be).

15.

15. (1) Where a permanent servant of a council in respect of whom any contribution or contributions shall have been made to the fund under the foregoing provisions of this Act ceases to be employed by a council or dies, such permanent servant or his personal representatives (as the case may be) shall be entitled to receive from and out of the fund such amount as the board shall certify to be at the credit of such servant's account kept in accordance with section thirteen of this Act.

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Payment on
retirement or
death.

(2) Every certificate given by the board under this section shall be final and conclusive.

(3) No gratuity provided for under this section shall be in any way assigned or charged or passed by operation of law to any person other than the permanent servant entitled thereto or his personal representatives (as the case may be), nor shall any gratuity payable on the death of any permanent servant be assets for the payment of his debts or liabilities.

PART IV.

THE LOCAL GOVERNMENT SUPERANNUATION BOARD AND MANAGEMENT PROVISIONS.

16. (1) The Governor shall from time to time appoint a Local Government Superannuation Board, which shall consist of a president and two members.

Local
Government
Superannua-
tion Board.

(2) Such board shall be appointed for a term of seven years and any member shall be eligible for reappointment.

(3) Where an appointment is made to fill an extraordinary vacancy such appointment shall be for the remainder of the term of the vacant office.

(4) In case of the illness, suspension, or absence of the president or any member of the board the Governor may appoint a deputy to act for such president

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George V, president or member during his illness, suspension, or
No. 35. absence, and every such deputy shall during the time he acts as deputy have all the powers and authorities of such president or member as the case may be.

(5) The Governor for sufficient cause may suspend or remove any member of the board.

(6) A member of the board shall be deemed to have vacated his office if he—

- (a) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary or remuneration for their benefit;
- (b) absents himself from three consecutive meetings of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Governor;
- (c) becomes incapable of performing his duties;
- (d) resigns his office by writing under his hand addressed to the Governor; or
- (e) is removed from his office by the Governor.

(7) The president (if present) shall preside at meetings of the board and shall have a deliberative vote.

(8) The president and members of the board shall each be paid such remuneration as the Governor may from time to time determine.

(9) Two members of the board shall constitute a quorum of the board at any meeting of which reasonable notice has been given personally or by post to all the members, and any business transacted at a meeting at which a quorum is present shall be valid.

(10) Where the voting on any business is equal such business shall be postponed till the next meeting of the board, and notice of such business and of the fact that the voting was equal shall be given on the notice calling such next meeting.

If the voting at such next meeting be again equal the president may in his discretion further postpone such business, or may then or at any postponed consideration thereof, if the voting be again equal, give a casting vote and so decide the question at issue.

(11)

(11) The board shall be a corporate body having perpetual succession and a common seal. George V,
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Such seal shall not be attached to any document except on resolution of the board, and shall be authenticated by the signatures of two members of the board and of the secretary or other person appointed by the board.

(12) The board may authorise the president to determine such matters as it may specify by resolution under seal, and may at any time in like manner revoke such authority.

(13) The board may employ such clerical and other assistance as it from time to time deems necessary for the carrying out of the provisions of this Act.

17. (1) All costs of management of the board, including the remuneration (if any) of the president and members of the board, shall be met by annual per capita payments, to be contributed equally by the councils and the permanent servants: Provided that a council's contribution in respect of each of its permanent servants and each permanent employee's contribution for such management expenses shall not exceed five shillings in any one year. Costs of
management.

(2) The board shall advise councils of the amount of annual levy required for each year for each permanent servant not later than one month prior to the expiration of the year next preceding that in which the levy is to be made.

(3) The council concerned shall pay to the board the whole of the levy due by itself and each of its permanent servants as notified to it as aforesaid within one month of the date of such notice, and shall be entitled to receive and recover from each permanent servant in respect of whom such levy is paid one-half of the total amount so paid, and shall be at liberty to deduct the same or any part thereof from any sum or sums which may be or become due to such permanent servant by way of salary or otherwise.

18. The board may recover any moneys expressed to be payable to it under the provisions of this Act in any court of competent jurisdiction. Recovery of
contribu-
tions.

19.

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Audit.

19. The accounts of the board including the accounts relating to the fund shall be audited by the Auditor-General.

Regulations

20. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out and giving effect to this Act.

(2) The regulations may impose penalties not exceeding twenty pounds for any breach thereof and such penalties shall be recoverable in a summary manner before any two justices or a stipendiary or police magistrate.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication, or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after such publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing the regulation or any part thereof, the regulation or part shall thereupon cease to have effect.

THE SCHEDULE.
SCALE OF COMPULSORY COVER.

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Age next birthday, permanent servant at time of taking out policy.	Amount of compulsory cover if salary—						
	Up to £200.	Over £200 up to £250.	Over £250 up to £300.	Over £300 up to £350.	Over £350 up to £400.	Over £400 up to £450.	Over £450.
	£	£	£	£	£	£	£
25 or under ...	600	700	800	900	1,000	1,000	1,000
26 to 30... ..	500	600	700	800	900	1,000	1,000
31 to 35... ..	400	500	600	700	800	900	1,000
36 to 40... ..	300	400	500	600	700	800	900
41 to 45... ..	200	300	400	500	600	700	800
46 to 50... ..	200	200	300	400	500	600	700
51 to 55... ..	200	200	200	300	400	500	600

NOTE.—In the application of the above scale any bonus accrued or to accrue upon a policy shall be disregarded.