

**PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT.**

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 53, 1971.

An Act to establish a contributory superannuation scheme for members of the Legislative Council and the Legislative Assembly in substitution for the scheme contained in the Legislative Assembly Members Superannuation Act, 1946; to repeal that Act and certain other Acts; and for purposes connected therewith. [Assented to, 14th December, 1971.]

BE

Parliamentary Contributory Superannuation.

BE it enacted by the Queen's Most Excellent Majesty, by No. 53, 1971
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.**PRELIMINARY.**

1. (1) This Act may be cited as the "Parliamentary Short title
and com-
mencement.
Contributory Superannuation Act, 1971".

(2) This Act shall commence upon a day to be
appointed by the Governor and notified by proclamation
published in the Gazette.

2. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—ADMINISTRATION—*ss.* 5–17.

DIVISION 1.—*The Parliamentary Contributory
Superannuation Fund—ss.* 5–13.

DIVISION 2.—*The Trustees of the Fund—ss.* 14–17.

PART III.—CONTRIBUTIONS, PENSIONS AND BENEFITS
—*ss.* 18–28.

PART IV.—TRANSITIONAL PROVISIONS—*ss.* 29, 30.

PART V.—MISCELLANEOUS—*ss.* 31–33.

SCHEDULE.

3. In this Act, except in so far as the context or subject- Interpreta-
tion.
matter otherwise indicates or requires—

“actuary” means a Fellow or Associate of the Institute
of Actuaries (London) or a Fellow or Associate
of the Faculty of Actuaries (Edinburgh);

“contributions”,

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“contributions”, in relation to a person, means amounts deducted from that person’s salary pursuant to the provisions of this Act;

“financial year” means the period commencing on the first day of July in any year and ending on the thirtieth day of June in the next following year;

“member” means member of the Legislative Council or the Legislative Assembly or a person who has ceased to be such a member but is in receipt of salary;

“other benefits” includes a refund of contributions, and any interest payable thereon;

“salary” means, in relation to a member or a former member, all moneys payable, whether before or after the commencement of this Act, by way of salary or special allowance to him under the Constitution Act, 1902, the Parliamentary Allowances and Salaries Act, 1956, or any corresponding previous enactment, and includes any allowance (other than a living away from home allowance) payable to a member under section 17G or twenty-eight of the Constitution Act, 1902, as in force at any time before the commencement of the Parliamentary Allowances and Salaries (Amendment) Act, 1966, but does not include any electoral allowance payable under section twenty-eight of the Constitution Act, 1902;

“the former Act” means the Legislative Assembly Members Superannuation Act, 1946;

“the Fund” means the Parliamentary Contributory Superannuation Fund established under this Act;

“trustees” means the trustees of the Fund appointed under this Act.

Repeal.

4. The Acts specified in the Schedule to this Act are hereby repealed.

PART

Parliamentary Contributory Superannuation.

PART II.

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ADMINISTRATION.

DIVISION 1.—*The Parliamentary Contributory Superannuation Fund.*

5. (1) There shall be established and kept in the Treasury a fund to be called the Parliamentary Contributory Superannuation Fund.

Parliamentary
Contributory
Super-
annuation
Fund.

(2) The income of the Fund shall not be subject to taxation under any Act.

6. (1) The Fund shall consist of—

Payments
into and
out of
the Fund.

- (a) the moneys and investments that immediately before the commencement of this Act constituted the Legislative Assembly Members Provident Fund under the Legislative Assembly Members Superannuation Act, 1946;
- (b) all deductions from the salaries of members made pursuant to Part III of this Act;
- (c) payments, advances and loans made by the Treasurer as provided for by this Act; and
- (d) all moneys howsoever arising by reason of investment of the Fund.

(2) There shall be paid from the Fund all pensions and other benefits, lump sums, allowances and other payments provided for in this Act.

7. The Fund shall as far as practicable be invested—

Investment
of Fund.

- (a) in securities of the Government of the Commonwealth;

(b)

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- (b) in loans to the councils of cities, or municipalities, or shires or to county councils or the State Planning Authority of New South Wales;
- (c) upon mortgage of land in the State of an estate in fee-simple or upon mortgage of leasehold interests in any such land; or
- (d) in any other manner for the time being allowed by Act of Parliament or by rules of court for the investment of trust funds.

Uninvested moneys.

8. Moneys which are at credit of the Fund and are not invested in accordance with section seven of this Act may be lodged either at call or on fixed deposit or partly at call and partly on fixed deposit with the Treasurer or with any bank, and while in any such bank shall be held to be moneys of the Crown.

Borrowing powers.

9. (1) The trustees may borrow for the Fund from the Treasurer and the Treasurer may lend to the Fund moneys not exceeding two-thirds of the value, as determined by the Treasurer, of, and on the security of, the investments of the Fund.

(2) Every sum borrowed under subsection one of this section shall be a temporary advance at interest at a rate determined by the Treasurer and shall be repaid out of the Fund by the trustees to the Treasurer together with accrued interest not later than the thirtieth day of June in the financial year next following the financial year in which the amount was borrowed.

Actuarial investigation.

10. (1) An investigation as to the state and sufficiency of the Fund shall be made as at the thirtieth day of June, one thousand nine hundred and seventy-two, and as at the expiration of each period of three years thereafter

(2)

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(2) Any such investigation shall be made by an actuary appointed by the trustees. No. 53, 1971

(3) When the actuary has completed an investigation of the Fund he shall report to the trustees the result of his investigation and shall certify to the Treasurer the amount that, in addition to any other moneys payable into the Fund (including any interim advances which, before the completion of the investigation, have been paid into the Fund, or which he has, under subsection four of this section, certified should be paid into the Fund), should, in his opinion, be paid into the Fund in respect of each financial year during the period of twenty-five years following the completion of that investigation to enable the Fund to meet its liabilities.

(4) Where an actuary appointed by the trustees to make an investigation of the Fund is of the opinion that an interim advance to the Fund should be made to enable current liabilities of the Fund to be paid without realisation of investments before any of the annual amounts certified or to be certified in accordance with subsection three of this section are payable he may, at any time before the appointment of an actuary to make the next following investigation of the Fund, certify to the Treasurer amounts that in his opinion should be paid into the Fund by way of interim advance.

11. (1) The Treasurer shall pay into the Fund the annual amounts from time to time last certified in accordance with subsection three of section ten of this Act and the interim advances certified in accordance with subsection four of that section. Payments by
Treasurer
into the
Fund.

(2) Where any interim advance or the aggregate of any interim advances certified in accordance with subsection four of section ten of this Act during the period commencing on the day on which this Act commences and ending on the thirtieth day of June, one thousand nine hundred and seventy-three, is less than one hundred and fifty thousand dollars or no interim advance is so certified during that period,
the

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No. 53, 1971 the Treasurer shall, during the financial year commencing on the first day of July, one thousand nine hundred and seventy-two, pay into the Fund interim advances totalling one hundred and fifty thousand dollars, less any interim advance or aggregate of interim advances so certified.

(3) Payments to be made under this Act by the Treasurer into the Fund shall be paid from the Consolidated Revenue Fund which is hereby appropriated accordingly.

**Accounts
and audit.**

12. (1) The trustees shall keep complete and proper accounts of all their financial transactions.

(2) The accounts relating to the Fund shall be audited by the Auditor-General who shall have, in respect thereof, all the powers conferred on him by any law now or hereafter in force relating to the audit of public accounts, and the Audit Act, 1902, shall apply to the trustees in the same manner as it applies to accounting officers of Public Departments, and to the moneys belonging to the Fund in the same manner as it applies to public moneys.

(3) The Auditor-General shall report to the trustees and the Treasurer—

(a) whether or not in his opinion—

(i) due diligence and care have been shown in the collection and banking of moneys payable to the trustees;

(ii) any expenditure incurred has been duly authorised, vouched and supervised; and

(iii) any of the moneys or other property belonging to the Fund have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or which are prescribed.

13.

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13. Cheques drawn on any account containing moneys belonging to the Fund in any bank shall be signed as prescribed by the regulations. No. 53, 1971
Cheques.

DIVISION 2.—*The Trustees of the Fund.*

- 14.** (1) The trustees of the Fund shall be— Trustees
of the
Fund.
- (a) two members of the Legislative Council who shall be appointed and may be removed by order of the Legislative Council;
 - (b) four members of the Legislative Assembly who shall be appointed and may be removed by order of the Legislative Assembly; and
 - (c) The Under Secretary of the Treasury.

(2) The Under Secretary of the Treasury shall be the custodian trustee of the Fund and the other trustees shall be managing trustees.

(3) For the purposes of the exercise and discharge of the powers, authorities, duties, functions and obligations conferred and imposed upon the Under Secretary of the Treasury as custodian trustee, the Under Secretary of the Treasury from time to time is hereby constituted a corporation sole under the name of the "Under Secretary of the Treasury".

(4) The provisions of section thirty-eight (subsection two excepted) of the Interpretation Act, 1897, apply to and in respect of the corporation sole constituted by subsection three of this section.

(5) The seal of the corporation sole shall not be affixed to any instrument or writing except in the presence of the Under Secretary of the Treasury who shall attest by his signature the fact and date of the seal being so affixed.

(6) Any managing trustee who ceases to be a member shall thereupon vacate his office as trustee.

15.

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No. 53, 1971 **15.** (1) All sums payable to or out of the Fund shall be paid to or by the custodian trustee, and the assets of the Fund shall be vested in him as if he were sole trustee.

Functions
of
trustees.

(2) The management of the Fund and the exercise of any power or discretion exercisable in relation thereto shall be vested in the managing trustees.

(3) As between the custodian trustee and the managing trustees the custodian trustee shall have the custody of all securities and documents of title relating to the property of the Fund but the managing trustees shall have free access thereto and be entitled to take copies thereof or extracts therefrom.

(4) The custodian trustee shall concur in and perform all acts necessary to enable the managing trustees to exercise their powers of management or any other power or discretion vested in them, unless the matter in which he is requested to concur is a breach of trust or involves a personal liability upon him in respect of calls or otherwise, but unless he so concurs the custodian trustee shall not be liable for any act or default on the part of the managing trustees or any of them.

(5) The custodian trustee, if he acts in good faith, shall not be liable for accepting as correct and acting upon the faith of any statement of the managing trustees as to any matter of fact, or for acting upon any legal advice obtained by the managing trustees independently of the custodian trustee, or for acting in accordance with any directions given to him in writing and purporting to be signed by or on behalf of the managing trustees.

Meetings
of
trustees.

16. (1) There shall be a chairman and a vice-chairman of the managing trustees, each of whom shall be appointed by the managing trustees.

(2)

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(2) The chairman, or in his absence from any meeting, the vice-chairman, shall preside at any meeting of the managing trustees and in the absence from any meeting of both the chairman and the vice-chairman the managing trustees may elect one of their number to preside at that meeting. No. 53, 1971

(3) The managing trustees may act by a majority of those present at any meeting of the managing trustees at which a quorum is present.

(4) The procedure at any meeting of the managing trustees shall, subject to the provisions of the regulations, be such as the managing trustees may determine, and the quorum for any meeting of the managing trustees shall be three managing trustees.

(5) A direction of the managing trustees shall continue in force until revoked by a subsequent direction of the managing trustees, notwithstanding any changes in the persons who are managing trustees and notwithstanding that, by reason of a dissolution of Parliament or for any other reason, there are for a time no managing trustees.

17. The Minister may appoint the Deputy Under Secretary of the Treasury or some other officer of the Treasury to act in place of the Under Secretary as custodian trustee during the illness or absence of the Under Secretary and any person so appointed shall while so acting exercise and perform all the powers, authorities, duties, functions and obligations of the custodian trustee and shall be deemed to be the corporation sole constituted under subsection three of section fourteen of this Act. Appoint-
ment of
person to
act in
absence of
Under
Secretary.

PART

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PART III.

CONTRIBUTIONS, PENSIONS AND BENEFITS.

Deductions
from
salaries of
members.

18. From each instalment of salary payable to a member, commencing with the first instalment made after the commencement of this Act, there shall be deducted in the case of a male member, an amount equal to eleven and one-half per centum of the gross amount of the instalment before any deductions, and in the case of a female member ten per centum of that gross amount.

Members'
super-
annuation
benefit.

19. (1) Subject to this Act, a person who has been entitled to salary (either after or partly before and partly after the commencement of this Act)—

- (a) in respect of an aggregate period of fifteen years or more and ceases, for any reason, to be a member;
- (b) in respect of an aggregate period of eight years or more but less than fifteen years, and ceases to be a member by reason of the dissolution of Parliament or the effluxion of time and—
 - (i) does not become a candidate at the general election next following that dissolution or that time by reason of his not securing the support of the political party to which he belonged immediately before his so ceasing to be a member;
 - (ii) becomes a candidate but is defeated at that general election; or
 - (iii) does not stand for election at that general election for reasons which to the trustees appear to be good and sufficient; or
- (c) in respect of an aggregate period of eight years or more but less than fifteen years, and ceases to be a member by reason of his resignation for reasons which to the trustees appear to be good and sufficient,

shall

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shall, on his so ceasing to be a member and on his ceasing to be entitled to payment of salary, be entitled to be paid out of the Fund an annual pension at the rate ascertained in accordance with the formula $A \times \frac{B}{C}$, where—

- A** is an amount calculated at the rate equal to the aggregate of forty-one and one-fifth per centum of current basic salary and, in respect of each month during which he was entitled to receive salary as a member exceeding in the aggregate eight years, one-fifth of one per centum of current basic salary, or the rate of seventy per centum of current basic salary, whichever is the lesser;
- B** is the total salary received by that person; and
- C** is the total basic salary in respect of the person entitled to the pension.

(2) For the purpose of calculating any instalment of pension payable under subsection one of this section at any particular time “current basic salary” means—

- (a) where the person entitled to the instalment last served as a member in the Legislative Council—the annual salary (not including the expense allowance) payable to members of the Legislative Council under section 17G of the Constitution Act, 1902, at that particular time; or
- (b) where the person entitled to the instalment last served as a member in the Legislative Assembly—the annual salary (not including the electoral allowance) payable to members of the Legislative Assembly under section twenty-eight of the Constitution Act, 1902, at that particular time.

(3) For the purpose of subsection one of this section, the total salary received by a person shall not include any salary which that person received in respect of any period before the first day of January, one thousand nine hundred and fifty-two.

(4)

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(4) For the purpose of subsection one of this section, the total basic salary in respect of a person entitled to a pension is—

- (a) where that person last served in the Legislative Council—the total amount that, during any period (not being a period before the first day of January, one thousand nine hundred and fifty-two) during which that person was entitled to salary, was payable from time to time as salary or allowances to a member of the Legislative Council under section 17G of the Constitution Act, 1902, other than—
 - (i) any expense allowance or living away from home allowance; or
 - (ii) any amount payable as an allowance to that member only in his capacity as the person recognised as the principal representative of the members of the Legislative Council not being supporters of the Government or as salary to that member only in his capacity as the President, or Chairman of Committees, of the Legislative Council, or
- (b) where that person last served in the Legislative Assembly—the total amount that, during any period (not being a period before the first day of January, one thousand nine hundred and fifty-two) during which that person was entitled to salary, was payable from time to time as salary or allowances to a member of the Legislative Assembly under section twenty-eight of the Constitution Act, 1902, other than any electoral allowance or additional allowance.

(5) Notwithstanding anything contained in this section, other than this subsection, where the annual pension of a former member who last served in the Legislative Council would, but for this subsection, be greater than his entitlement

to

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to the annual pension ascertained on the basis of this sub- No. 53, 1971
section, he shall be entitled to an annual pension at the rate
to which he would have been entitled—

- (a) had he been a member of the Legislative Assembly during the whole of the period he was a member of the Legislative Council;
- (b) had he held an office in the Legislative Assembly of the like nature to that which he held in the Legislative Council (the office of Vice-President of the Executive Council being regarded for the purpose of this paragraph as the office of a Minister) for any period during which he held such an office in the Legislative Council; and
- (c) had his total salary included, if he held at any time the office of Leader or Deputy Leader of the Government in the Legislative Council, any salary which he was entitled to receive as the holder of that office.

(6) A person who ceases to be a member otherwise than by reason of his death and who is not entitled to a pension under this Act shall be entitled to have refunded to him his contributions and any contributions made by him under the former Act less any amount previously refunded to him under this subsection or under the former Act.

(7) Where a person ceases to be a member by reason of his death and is not survived by a widow, the personal representative of that person shall be entitled to have paid to him the contributions of that member and any contributions made by him under the former Act less any amount previously refunded to that person under subsection six of this section or under the former Act.

(8) Where by the operation of section nineteen or thirty-four of the Constitution Act, 1902, the seat of a member becomes vacant, he shall not be entitled to a pension under this Act but shall be entitled to have refunded to him the

amounts

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No. 53, 1971 amounts deducted under this Act or the former Act from salary paid to him less any amount previously refunded to him under this subsection or under the former Act.

(9) Notwithstanding anything contained in this Part, other than this subsection, where a former member has served in both the Legislative Council and the Legislative Assembly and the managing trustees are satisfied that the annual pension (in this subsection referred to as "basic annual pension") of that former member is less than the annual pension to which he would have been entitled under this Part, other than this subsection, had that former member not served in the Legislative Council, the managing trustees may in their absolute discretion direct payment to that former member of an annual pension, additional to his basic annual pension, of such amount as the managing trustees think fit, but so that the aggregate of the amount of the basic annual pension and the amount of the additional annual pension under this subsection does not exceed the annual pension that would have been payable to him under this Part had that former member not served in the Legislative Council.

Right to
convert
part of
entitlement
to lump sum
entitlement.

20. (1) In this section—

"former member" does not include a person who is entitled to a pension under section twenty-two of this Act;

"the prescribed part of his pension entitlement" means—

- (a) in relation to a person who is under the age of forty-five years on the date on which he ceased to be a member, not more than seventy-five per centum of his annual pension entitlement as at that date;
- (b) in relation to a person who is forty-five years of age or over but under the age of sixty years on the date on which he ceased to be a member, not more than fifty per centum of his annual pension entitlement as at that date; and

(c)

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(c) in relation to a person who is sixty years of age or over on the date on which he ceased to be a member, not more than thirty per centum of his annual pension entitlement as at that date, together with, in the case of a person who is not over the age of sixty-five years, one-third of one per centum for every complete month by which his age is less than sixty-five years at the date on which he ceases to be a member. No. 53, 1971

(2) Notwithstanding anything in this Act, a former member who is entitled to a pension under this Part may within the period of three months after ceasing to be a member, elect by notice in writing served on the custodian trustee to convert the prescribed part of his pension entitlement to a lump sum payment determined in accordance with subsection three of this section.

(3) A lump sum payment referred to in subsection two of this section shall be the amount that is ten times the amount of the annual pension entitlement in respect of which the election is made.

(4) A former member who makes an election under subsection two of this section shall be entitled to receive from the trustees a lump sum payment calculated under subsection three of this section and from the date of payment of that lump sum the annual pension payable to that former member shall be reduced by the amount of annual pension in respect of which the election was made.

(5) Notwithstanding any other provision of this section, any lump sum payment under this section shall first be applied by the managing trustees in or towards paying into the Fund the outstanding amount of any refund of contributions made under subsection six of section nineteen of this Act or under the former Act to the former member who made the election under this section in respect of that lump sum.

(6)

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(6) Notwithstanding anything in this section, where the trustees are of the opinion that a former member—

- (a) who has become entitled to a pension under this Part; and
- (b) who has, under subsection two of this section, made an election in respect of a prescribed part of his pension entitlement,

would, within twelve months after his so becoming entitled, be likely to have his pension cease or suspended under section twenty-five of this Act, the operation of that election shall, subject to subsection seven of this section, be deferred for such period not exceeding twelve months as the trustees may determine.

(7) The trustees may at any time reduce the period of deferment of an election under subsection six of this section.

(8) During the period of deferment of his election, a former member is entitled to payment of his annual pension entitlement under this Part.

(9) If, during the period of deferment of his election, the pension of a former member ceases or is suspended under section twenty-five of this Act, that election shall be deemed never to have been made.

(10) Where, during the period of deferment of his election, the pension of a former member does not cease or is not suspended under section twenty-five of this Act, the lump sum that would have been payable under subsection three of this section but for the deferment shall become payable to him less payments made to him pursuant to subsection eight of this section in respect of that part of his annual pension entitlement that was the subject of his election.

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21. Notwithstanding anything in this Act where a person who on his ceasing to be a member converted part of his pension entitlement to a lump sum payment under section twenty of this Act and again becomes a member and that person again becomes entitled to a pension under this Part, the amount of the annual pension payable to him shall be reduced by the amount of annual pension entitlement in respect of which the conversion was made.

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Provisions applicable when the person becomes a member after receiving a pension as a former member.

22. (1) Where a member produces to the managing trustees such medical and other evidence as satisfies them that he has ceased to be a member because he has been rendered incapable of performing the duties of a member by reason of ill-health or physical or mental incapacity, he shall if he is not entitled to a pension under this Part other than this section, be entitled to a pension calculated in accordance with the formula specified in subsection one of section nineteen of this Act.

Pension on retirement on grounds of ill-health.

(2) Notwithstanding the provisions of subsection one of this section, a person who, after the commencement of this Act, becomes, on any occasion, a member otherwise than by reason of his re-election at a general election immediately before which he was a member shall not be entitled to a pension under that subsection upon his next ceasing after that occasion to be a member unless between that occasion and his so next ceasing to be a member he has furnished to the managing trustees a certificate approved by the managing trustees of a medical practitioner so approved certifying that the medical practitioner has examined that person in accordance with the requirements of the managing trustees and that that person is not suffering from any physical or mental condition that is likely to render him incapable, before the expiration of fifteen years from the date of the certificate, of performing the duties of a member.

23.

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Pension
for
widows.

23. (1) On the death of a former member receiving a pension under this Part the widow (not being a woman who married a former member after he became entitled to that pension on his last ceasing to be a member) of that former member shall until her death or re-marriage be entitled to an annual pension at the rate of—

(a) five-eighths of the pension that would have been payable from time to time to her husband but for his death or if her husband, pursuant to section twenty of this Act, had converted part of his pension entitlement to a lump sum payment, five-eighths of the pension that would have been payable to her husband but for his death and if he had not so converted part of his pension entitlement; or

(b) forty per centum per annum of current basic salary, according to whichever rate of pension calculated under paragraph (a) or (b) of this subsection would have been the greater at the date of the husband's death.

(2) On the death of a member who has served for an aggregate period of eight years or more, the widow of that member shall until her death or re-marriage be entitled to an annual pension at the rate of—

(a) five-eighths of the pension that would have been payable from time to time to her husband but for his death if he had ceased to be a member on the date of his death and been entitled to a pension under section nineteen of this Act; or

(b) forty per centum per annum of current basic salary, according to whichever rate of pension calculated under paragraph (a) or (b) of this subsection would have been the greater at the date of the husband's death.

(3) On the death of a member before he has served for an aggregate period of eight years a pension shall be paid to his widow until her death or re-marriage at the rate of forty per centum per annum of **current** basic salary.

(4)

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(4) For the purposes of subsections one, two and No. 53, 1971 three of this section, "current basic salary" means—

- (a) where the member who has died last served in the Legislative Council—the annual salary (not including the expense allowance) payable from time to time to members of the Legislative Council under section 17G of the Constitution Act, 1902; or
- (b) where the member who has died last served in the Legislative Assembly—the annual salary (not including the electoral allowance) payable from time to time to members of the Legislative Assembly under section twenty-eight of the Constitution Act, 1902.

(5) Where payment of a pension to a member—

- (a) is suspended pursuant to section twenty-four of this Act; or
- (b) would be so suspended upon his ceasing, otherwise than by reason of his death, to be a member—

and his widow becomes entitled to a pension under this Part the payment of the pension to the widow shall likewise be suspended for the period or the balance of the period (as the case requires) for which the firstmentioned pension would have been suspended under section twenty-four of this Act if—

- (c) in the case of a person whose pension is when he dies suspended as referred to in paragraph (a) of this subsection, that person had not died; or
- (d) in the case of a member referred to in paragraph (b) of this subsection, that member had not died but had on the date of death become entitled to a pension calculated in accordance with the formula specified in subsection one of section nineteen of this Act.

(6) Subject to subsection seven of this section, where a widow to whom this section applies remarries and subsequently again becomes a widow, she shall be entitled to
pension

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No. 53, 1971 pension benefit at the same rate as she would have been receiving had she not remarried as from the date of the death of the husband of her re-marriage until her death or if she again remarries until her further re-marriage.

(7) Where a widow would, but for the provisions of this subsection, be entitled under subsection six of this section to more than one pension, she shall, subject to this Act (subsection six of this section excepted), be entitled to the pension which is the higher or highest, or the equal higher or highest, of those pensions.

(8) Where but for this subsection a person entitled to a pension under this section by reason of being the widow of a former member becomes entitled to a pension under section nineteen of this Act in respect of service as a member, that person shall, subject to this Act, only be entitled to receive such one of those pensions as she elects, by notice in writing served on the managing trustees within one month after becoming entitled to a pension as a former member, to receive.

(9) Notwithstanding anything contained in this Part, other than this subsection, where a former member has served in both the Legislative Council and the Legislative Assembly and the managing trustees are satisfied that the annual pension (in this subsection referred to as "basic annual pension") of the widow of that former member is less than the annual pension to which she would have been entitled under this Part, other than this subsection, had that former member not served in the Legislative Council, the managing trustees may in their absolute discretion direct payment to that widow of an annual pension, additional to her basic annual pension, of such amount as the managing trustees think fit, but so that the aggregate of the amount of the basic annual pension and the amount of the additional annual pension under this subsection does not exceed the annual pension that would have been payable to her under this Part had that former member not served in the Legislative Council.

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24. Where any refund of contributions is or was made **No. 53, 1971** under subsection six of section nineteen of this Act or under the former Act to a member and that member becomes entitled to a pension under this Part, section twenty-three excepted, the right of that person to receive the pension shall, unless the amount of that refund is or has been paid into the Fund or into the fund under the former Act, be suspended until such time as the aggregate of the pension which would have been payable but for this section would, if so paid, equal the outstanding amount of that refund.

Suspension of pension until previously refunded contributions repaid.

25. (1) If a person who is receiving or is entitled to receive a pension under this Part in respect of his service as a member again becomes a member his right to that pension shall cease.

Termination or suspension of pension if recipient becomes a member of Parliament or accepts office of profit under the Crown.

(2) If a person who is receiving or is entitled to receive a pension under this Part—

- (a) becomes a member of the Parliament of the Commonwealth or of any other State;
- (b) accepts an office or place of profit under the Crown (whether in right of the Commonwealth or of any State, including the State of New South Wales); or
- (c) becomes a member (not being a person to whom subsection one of this section applies),

the right of that person to receive a pension under this Part shall be suspended while that person continues to be such a member or to hold that office or place of profit, as the case may be.

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No. 53, 1971 **26.** (1) Where any person to whom a pension would be payable under this Part but for the provisions of this section has become entitled to payment of any pension by reason of having been a member or being the widow of a member of the Parliament of the Commonwealth or of any other State, his or her right to payment of a pension under this Part shall be suspended while he or she is so entitled.

Suspension
of pension
where
another
parliamen-
tary pension
received.

(2) Notwithstanding subsection one of this section, where a person has received a pension or other benefit pursuant to an entitlement referred to in subsection one of this section, the managing trustees may in their absolute discretion direct payment to that person of a pension of such amount as the managing trustees think fit, but so that the aggregate of the amount of the pension so directed to be paid and the amount of the pension, or the pension equivalent of the other benefit, that he has received pursuant to that entitlement does not exceed the annual pension that would be payable under this Part but for the provisions of this section.

Minimum
benefit.

27. (1) Where the aggregate of instalments of pension and any other benefit paid or payable under this Part in respect of any member is less than the amount contributed to the Fund by that member, the difference shall as soon as practicable after the death of the member and his widow, if any, be paid out of the Fund to such person or persons as the managing trustees direct.

(2) A reference in subsection one of this section to a member is, in the case of instalments of pension or other benefit paid or payable as determined under subsection six or seven of section twenty-three of this Act, a reference only to the member in respect of whom those instalments or that other benefit are or is paid or payable.

28.

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28. Pensions payable under this Part shall be paid by instalments at such intervals as the managing trustees may from time to time determine.

No. 53, 1971
Pensions
to be
paid by
instalments.

PART IV.

TRANSITIONAL PROVISIONS.

29. (1) Subject to subsection two of this section, this section applies to—

Continuation
of former
Act in
certain
circum-
stances.

- (a) any person who immediately before the commencement of this Act was receiving or entitled to receive a pension, allowance or other benefit under the former Act;
- (b) any person who upon the death, after the commencement of this Act, of a person referred to in paragraph (a) of this subsection would, but for the enactment of this Act, have been entitled to receive a pension, allowance or other benefit under the former Act;
- (c) any person whose pension under the former Act was, at the commencement of this Act, suspended; and
- (d) a person who—
 - (i) immediately before the commencement of this Act was a member to whom the former Act applied or, after that commencement, becomes the widow of such a person;

(ii)

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- (ii) would, but for the enactment of this Act, have become at any time after that commencement entitled to a pension, allowance or other benefit under the former Act;
- (iii) would, but for his or her being a person to whom this section applies by reason of this paragraph, have become at any time after that commencement entitled to a pension or other benefit under Part III of this Act; and
- (iv) elects, within one month after the time referred to in subparagraph (iii) of this paragraph, by notice in writing served on the custodian trustee, to receive a pension, allowance or other benefit under the former Act,

and so applies as on and from the time referred to in subparagraph (iii) of this paragraph.

(2) Where a person to whom this section applies becomes a member or the wife of a member after the commencement of this Act, any pension to which that person was entitled under the former Act immediately before he or she so became a member or, in the case of a person who was a widow when she so became a member, any pension or allowance to which she was entitled under the former Act immediately before she so became a member, shall be deemed to be a pension or other benefit payable to him or her under this Act and shall in all respects be subject to the provisions of Part III of this Act accordingly.

(3) Except as provided in subsection two of this section, the provisions of the former Act continue to apply to a person to whom this section applies to the exclusion of Part III of this Act in all respects as if section four of this

Act

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Act had not been enacted and continue to apply in respect of No. 53, 1971 any pension, allowance or other benefit for which the fund under the former Act was, immediately before the commencement of this Act, liable, and for the purpose of the application of those provisions a reference in those provisions to the trustees, the custodian trustee and the managing trustees shall respectively be construed as a reference to the trustees, the custodian trustee and the managing trustees under this Act and any pension, allowance or other benefit payable under those provisions shall be paid out of the Fund under this Act.

30. (1) Any member of the Legislative Council who before the commencement of this Act became a Minister of the Crown and did not exercise the right of election under the provisions of section 2A of the former Act to contribute to the fund under the former Act shall have a further right to make, within three months of the commencement of this Act, an election for the purposes of this section.

Persons
who elected
not to
contribute
under
former Act.

(2) A person who has made an election for the purposes of this section shall, in addition to any deduction in respect of him under section eighteen of this Act, pay into the Fund an amount equivalent to that which would have been payable by him as a contributor under the former Act had he been a member of the Legislative Assembly during the period before the commencement of this Act within which he held office as a Minister of the Crown.

(3) An amount which is required to be paid into the Fund under subsection two of this section shall be so paid within fifteen months after the commencement of this Act in such manner, whether by way of instalments or otherwise, as the managing trustees may approve with interest at the rate of four and one-half per centum per annum on any unpaid balance at the date upon which his right of election under this section expires.

(4)

Parliamentary Contributory Superannuation.

- No. 53, 1971** (4) Subject to this Act, a person entitled to make an election for the purposes of this section who has not made such an election shall for the purposes of the calculation of pension under subsection one of section nineteen of this Act be regarded as having received the annual salary (not including the expense allowance) payable from time to time under section 17G of the Constitution Act, 1902, in respect of the period during which he held office as a Minister of the Crown before the commencement of this Act.

PART V.

MISCELLANEOUS.

- Exemption from stamp duty.** **31.** No stamp duty shall be payable on any instrument in respect of which the custodian trustee would, but for the provisions of this subsection, be liable as the person primarily liable for stamp duty under the Stamp Duties Act, 1920.
- Non-assignability of benefits.** **32.** Pensions and other benefits under this Act shall not be in any way assigned or charged or passed by operation of law to any person other than the person who is entitled thereto under this Act.
- Regulations.** **33.** The Governor may make regulations, not inconsistent with this Act, for or with respect to all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

SCHEDULE.

Parliamentary Contributory Superannuation.

SCHEDULE.

No. 53, 1971

Sec. 4.

Year and number of Act.	Short title of Act.
1946 No. 32	Legislative Assembly Members Superannuation Act, 1946.
1949 No. 39	Legislative Assembly Members Superannuation (Amendment) Act, 1949.
1951 No. 50	Legislative Assembly Members Superannuation (Amendment) Act, 1951.
1954 No. 47	Legislative Assembly Members Superannuation (Amendment) Act, 1954.
1957 No. 64	Legislative Assembly Members Superannuation (Amendment) Act, 1957.
1958 No. 33	Legislative Assembly Members Superannuation (Amendment) Act, 1958.
1959 No. 35	Legislative Assembly Members Superannuation (Amendment) Act, 1959.
1962 No. 13	Legislative Assembly Members Superannuation (Amendment) Act, 1962.
1962 No. 34	Legislative Assembly Members Superannuation (Further Amendment) Act, 1962.
1967 No. 16	Legislative Assembly Members Superannuation (Amendment) Act, 1967.
1968 No. 1	Legislative Assembly Members Superannuation (Amendment) Act, 1968.

STATUTORY