



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 22.06

### PENSIONS ACT and Subsidiary Legislation

**Revised Edition**  
showing the law as at 31 December 2017

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**CHAPTER 22.06**

**PENSIONS ACT**

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**CHAPTER 22.06**  
**PENSIONS ACT**

AN ACT TO PROVIDE FOR THE GRANT OF GRATUITIES, PENSIONS AND AWARDS TO PERSONS SERVING IN THE PUBLIC SERVICES OF THE STATE AND OTHER PUBLIC SERVICE IN A CIVIL CAPACITY; AND TO PROVIDE FOR THE CIRCUMSTANCES UNDER WHICH SUCH GRATUITIES, PENSIONS AND AWARDS MAY BE GRANTED; AND TO PROVIDE FOR RELATED AND INCIDENTAL MATTERS.

PART I  
PRELIMINARY

**Short title.**

1. This Act may be cited as the Pensions Act.

**Interpretation.**

2. (1) In this Act—

“house allowance” includes the estimated value of free quarters as defined in Regulations under this Act;

“inducement allowance” means the inducement allowance referred to in paragraph (a) of clause 3 of the Overseas Service (Saint Christopher and Nevis) Agreement, 1961, contained in the Schedule to the Overseas Service Act (Act overspent in 1971);

*(Inserted by Act 19 of 1969)*

“non-pensionable office” means an office which is not a pensionable office;

“other public service” means public service not under the Government of the State;

“pensionable emoluments”—

- (a) in respect of service under the Government of the State, include salary, personal allowance, house allowance, inducement allowance, and, in the case of a teacher, any charge pay that may be paid to such teacher when in charge of a government elementary school, but does not include duty allowance, entertainment allowance or any other emoluments whatever;

*(Amended by Act 19 of 1969)*

- (b) in respect of other public service, means emoluments which count for pension in accordance with the law or regulations in force in such service;

“pensionable office” means—

- (a) in respect of service under the Government of the State, an office which, by virtue of the provision for the time being in force in an Order made by the Governor-General and published in the *Gazette*, is declared to be a pensionable office; and any such Order may from time to time be amended, added to, or revoked by an Order so made and published; but where by virtue of any such amendment or revocation any office ceases to be a pensionable office, then, so long

as any person holding that office at the time of the amendment or revocation continues therein, the office shall, as respects that person, continue to be a pensionable office;

- (b) in respect of other public service, an office which is for the time being a pensionable office under the law or regulations in force in such service;

*(Amended by Act 4 of 1975)*

“personal allowance” means a special addition to salary granted personally to the holder for the time being of the office, but does not include such an addition if it is granted subject to the condition that it shall not be pensionable;

“public service” means service in a civil capacity under the Government of the State or the Government of any other part of the Commonwealth or of any British protectorate, protected state or mandated or trust territory administered by the Government of any part of the Commonwealth, or of the New Hebrides or the Anglo-Egyptian Sudan, or service which is pensionable under the Teachers’ (Superannuation) Act, 1925 or any Act amending or replacing the same, or under the Colonial Superannuation Scheme, or in a Colonial University College or pensionable employment under a local authority in the United Kingdom, or in such other service as the Governor-General may determine to be “public service” for the purpose of any provision of this Act and, except for the purposes of computation of pension or gratuity and of section 9, includes service as a Governor-General, Governor or High Commissioner in any part of the Commonwealth, any British protected state or protectorate, any mandated or trust territory administered by the Government of any part of the Commonwealth, or the Anglo-Egyptian Sudan (Legislation referred to in this definition is U.K. Legislation and can’t be found);

“salary” means the salary attached to a pensionable office or, where provision is made for taking service in a non-pensionable office into account as pensionable service, the salary attached to that office;

“State” means the state of Saint Christopher and Nevis.

*(Inserted by Act 4 of 1975)*

(2) For the avoidance of doubt, it is hereby declared that, where an officer has been confirmed in a pensionable office and is thereafter appointed to another pensionable office, then, unless the terms of such appointment otherwise require, such last mentioned office is, for the purposes of this Act, an office in which he or she has been confirmed.

(3) For the purposes of sections 4(2), 21 and 23 of this Act—

“public office” means any office of emolument in the public service;

“public officer” means the holder of any public office and includes any person appointed to act in any such office;

“the public service” means the service of the Crown in a civil capacity in respect of the Government of the State and includes service as a member of the Judicial and Legal Service Commission or the Police Service Commission, but does not include service as a Judge of the Supreme Court.

*(Transferred from Cap. 196. Formerly section 2 of that Act)*

*(Sections 1 and 2 converted into Part I by Act 13 of 2012)*

PART II  
PENSION GRANTS

**Pension Regulations.**

3. (1) Pensions, gratuities and other allowances may be granted by the Governor-General in accordance with the Regulations contained in the First Schedule to this Act to officers who have been in service under the Government of the State.

(2) Except as is otherwise provided in this section, the said Regulations may, from time to time, be amended, added to, or revoked by regulations made by the Governor-General and all regulations so made shall be laid before the National Assembly and published in the *Gazette*.

(3) Whenever the Governor-General is satisfied that it is equitable that any of the regulations contained in the First Schedule to this Act or any other regulations amending or adding to the same should have retrospective effect in order to confer a benefit upon or remove a disability attaching to an officer that regulation may be given retrospective effect for that purpose:

Provided that no such regulation shall have retrospective effect unless it has received the prior approval of the National Assembly signified by resolution.

(4) All Regulations made under this section shall have the same force and effect as if they were contained in the First Schedule to this Act and the expression "this Act" shall, wherever it occurs in this Act, be construed as including a reference to the First Schedule.

(5) Any pension or gratuity granted under this Act shall be computed in accordance with the provisions in force at the actual date of an officer's retirement.

*(Amended by Act 4 of 1975)*

**Pensions, etc., to be charged and apportioned on revenues of State.**

4. (1) There shall be charged on and paid out of the general revenues of the State as in this section provided all such sums of money as may from time to time be granted by way of pension, gratuity or other allowance in pursuance of this Act.

(2) Awards granted under any law for the time being in force in the State shall be charged on and paid out of the revenues of the State.

*(Transferred from Cap. 196. Formerly section 4 of that Act)*

**Pensions, etc. not of right.**

5. (1) No officer shall have an absolute right to compensation for past services or to pension, gratuity, or other allowance; nor shall anything in this Act affect the right of the Crown to dismiss any officer at any time and without compensation.

(2) Where it is established to the satisfaction of the Governor-General that an officer has been guilty of negligence, irregularity or misconduct, the pension, gratuity, or other allowance may be reduced or altogether withheld.

*(Amended by Act 4 of 1975)*

**Circumstances in which pension may be granted.**

6. No pension, gratuity or other allowance shall be granted under this Act to any officer except on his or her retirement from the public service in one of the following cases:

- (a) after he or she shall have served twenty-five years in the public service or on or after attaining the age of fifty years (whichever is the earlier);  
*(Substituted by Act 4 of 1975)*
- (b) in the case of transfer to other public service, on or after attaining the age at which he or she is permitted by the law or regulations of the service in which he or she is last employed to retire on pension or gratuity:  

Provided that if his or her service in such other public service is superannuated under the Federated Superannuation System for Universities or a similar insurance scheme, he or she has retired on one of the grounds mentioned in paragraphs (a), (c), (d), (e) and (f);
- (c) on the abolition of his or her office;
- (d) on compulsory retirement for the purpose of facilitating improvement in the organization of the department to which he or she belongs, by which greater efficiency or economy may be effected;
- (e) on medical evidence to the satisfaction of the Governor-General that he or she is incapable by reason of any infirmity of mind or body of discharging the duties of his or her office and that such infirmity is likely to be permanent;  
*(Amended by Act 4 of 1975)*
- (f) in the case of termination of employment in the public interest as provided in this Act;
- (g) on retirement in circumstances, not mentioned in the preceding paragraphs of this section, rendering him or her eligible for a pension under the Pensions (Governors of Dominions &c.) Acts, 1911 to 1936, or any Act amending or replacing those Acts:

Provided that a gratuity may be granted to a female officer, in accordance with the provisions of this Act, who retires for the reason that she has married or is about to marry, notwithstanding that she is not otherwise eligible under this section for the grant of any pension, gratuity or other allowance:

Provided further that a gratuity may be granted to any officer who resigns from the public service and who has served in the public service for ten years or upwards, and, in addition, in the case of any officer who resigns from the public service and who has served in the public service for fifteen years or upwards a pension may be granted; and be it further provided that any such officer gives three months notice of his or her intention to resign.

*(Proviso Inserted by Act 7 of 1994)*

### **Termination of service.**

7. Where an officer's service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the officer to the public service and all the other circumstances of the case, such termination is desirable in the public interest, and a pension, gratuity or other allowance cannot otherwise be granted to him or her under the provisions of this Act, the Governor-General may, if he or she thinks fit, grant such pension, gratuity or other allowance as he or she thinks just and proper, not exceeding an amount that for which the officer would be eligible if he or she retired from the public service in the circumstances described in paragraph (e) of section 6.

**Optional and compulsory retirement.**

**8.** (1) Every officer at any time after he or she shall have served twenty-five years in the public service or at any time after he or she attains the age of fifty years, whichever is the earlier, may retire from service under the Government of the State, and shall be under an obligation to retire from service under the Government of the State if required to do so by the Governor-General and, when so required, such officer shall vacate his or her appointment.

(2) It shall, without prejudice to the operation of subsection (1) of this section, be lawful for the Governor-General to require any officer to retire from service under the Government of the State at any time after he or she attains the age of fifty-five years and when so required such officer shall vacate his or her appointment.

*(Substituted by Act 4 of 1975)*

**Maximum Pension.**

**9.** (1) Except in cases provided for by subsection (2), a pension granted to an officer under this Act shall not exceed two-thirds of the highest pensionable emoluments drawn by him or her at any time in the course of his or her service under the Government of the State.

(2) An officer who shall have been granted a pension in respect of other public service shall not at any time draw from the funds of the State an amount of pension which, when added to the amount of any pension or pensions drawn in respect of other public service, exceeds two-thirds of the highest pensionable emoluments drawn by him or her at any time in the course of his or her public service:

Provided that where an officer receives in respect of some period of public service both a gratuity and a pension, the amount of such pension shall be deemed for the purposes of this subsection to be four-thirds of its actual amount.

(3) Where the limitation prescribed by subsection (2) operates, the amount of pension to be drawn from the funds of the State shall be ascertained after consultation with the Governor-General in order that it may be determined with due regard to the amount of any pension or pensions to be drawn in respect of other public service.

*(Amended by Act 4 of 1975)*

(4) For the purposes of subsections (1), (2) and (3) an additional pension granted in respect of injury shall not be taken into account, but where the officer is granted such an additional pension under this Act, the amount thereof together with the remainder of his or her pension or pensions shall not exceed five-sixths of his or her highest pensionable emoluments at any time in the course of his or her public service.

**Increase in pension in cases of retirement for ill-health with more than ten but less than twenty years' service.**

**10.** Subject to the provisions of this Act and of the Regulations contained in the First Schedule, every officer holding a pensionable office in the State who has been in service under the Government of the State in a civil capacity for more than ten but less than twenty years, and who retires from service in the circumstances mentioned in paragraph (e) of section 6 of this Act may, on retirement, be granted a pension as if his or her pensionable service had been twenty years.

**Liability of pensioners to be called upon to take further employment.**

11. (1) Every pension granted under this Act shall be subject to the condition that unless or until the officer shall have attained the age of fifty years, he or she may, if physically fit for service, be called upon to accept, *in lieu* of his or her pension, an office, whether in the State or in other public service, not less in value, due regard being had to circumstances of climate, than the office which he or she held at the date of his or her retirement.

*(Amended by Act 4 of 1975)*

(2) If a pensioner called upon, as provided in subsection (1), declines to accept the office the payment of his or her pension may be suspended until he or she has attained the age of fifty years.

(3) The provisions of subsection (2) shall not apply in any case where the Governor-General being of opinion that the officer is not qualified for other employment in the public service or that there is no reason to expect that he or she can be shortly re-employed therein, otherwise directs.

**Suspension of pension on re-employment.**

12. If an officer to whom a pension has been granted under this Act is appointed to another office in the public service, the payment of his or her pension may, if the Governor-General thinks fit, be suspended during the period of his or her re-employment.

*(Amended by Act 4 of 1975)*

**Pensions, etc., not to be assignable.**

13. A pension, gratuity or other allowance granted under this Act shall not be assignable or transferable except for the purpose of satisfying—

- (a) a debt due to the Government of the State; or
- (b) an order of any Court for the payment of periodical sums of money towards the maintenance of the wife or former wife or minor child of the officer to whom the pension, gratuity or other allowance has been granted,

and shall not be liable to be attached, sequestered or levied upon for or in respect of any debt or claim whatever except a debt due to the Government as aforesaid.

**Pensions, etc., to cease on bankruptcy.**

14. (1) If any person to whom a pension or other allowance has been granted under this Act is adjudicated bankrupt or is declared insolvent by judgment of any competent Court, then such pension or allowance shall forthwith cease.

(2) If any person is adjudicated bankrupt or is declared insolvent as provided in subsection (1) either—

- (a) after retirement in circumstances in which he or she is eligible for pension or allowance under this Act but before the pension or allowance is granted; or
- (b) before such retirement, and he or she shall not have obtained his or her discharge from bankruptcy or insolvency at the date of his or her retirement,

then, in the former case any pension or allowance eventually granted to him or her shall cease as from the date of the adjudication or declaration, as the case may be,

and, in the latter case, the pension or allowance may be granted, but shall cease forthwith and not become payable.

(3) Where a pension or allowance ceases by reason of this section, it shall be lawful for the Governor-General from time to time during the remainder of such person's life, or during such shorter period or periods, either continuous or discontinuous, as the Governor-General shall think fit to direct all or any part of the moneys to which such person would have been entitled by way of pension or allowance, had he or she not become bankrupt or insolvent to be paid to, or applied for the maintenance or benefit of, all or any to the exclusion of the other or others, of the following, that is to say, such person and any wife, child or children of his, in such proportions and manner as the Governor-General thinks proper, and such moneys shall be paid and applied accordingly.

*(Substituted by Act 4 of 1975)*

(4) Moneys applied for the discharge of the debts of the person whose pension or allowance has so ceased shall, for the purposes of this section, be regarded as applied for his or her benefit.

(5) When a person whose pension or allowance has so ceased obtains his or her discharge from bankruptcy or insolvency, it shall be lawful for the Governor-General, to direct that the pension or allowance shall be restored as from the date of such discharge or any later date, and the pension or allowance shall be restored accordingly.

*(Amended by Act 4 of 1975)*

#### **Pensions, etc., may cease on conviction.**

**15.** (1) If any person to whom a pension or other allowance has been granted under this Act is sentenced to a term of imprisonment by any competent Court for any offence, such pension or allowance shall, if the Governor-General so directs, cease as from such date as the Governor-General, determines.

*(Amended by Act 4 of 1975)*

(2) If any person is sentenced as aforesaid after retirement in circumstances in which he or she is eligible for pension or allowance under this Act but before the pension or allowance is granted, then the provisions of the foregoing subsection shall apply as respects any pension or allowance which may be granted to him or her.

(3) Where a pension or allowance ceases by reason of this section it shall be lawful for the Governor-General to direct all or any part of the moneys to which such person would have been entitled by way of pension or allowance had he or she not been sentenced as aforesaid to be paid, or applied, in the same manner in all respects as prescribed in section 14, and such moneys shall be paid or applied accordingly.

*(Amended by Act 4 of 1975)*

(4) If such person after conviction at any time receives a free pardon, the pension or allowance shall be restored with retrospective effect; but in determining whether arrears of such pension or allowance are payable to such person and in computing the amount thereof, account shall be taken of all moneys paid or applied under subsection (3).

#### **Pensions, etc., may cease on accepting certain appointments.**

**16.** If any person to whom a pension or other allowance has been granted under this Act otherwise than under section 18 becomes either a director of any company the principal part of whose business is in any way directly concerned with the State, or an officer or servant employed in the State by any such company, without the prior

permission of the Governor-General, in writing, such pension or allowance shall cease if the Governor-General so directs:

Provided that it shall be lawful for the Governor-General, on being satisfied that the person in respect of whose pension or allowance any such direction shall have been given has ceased to be a director of such company or to be employed as an officer or servant of such company in the State, as the case may be, to give directions for the restoration of such pension or allowance, with retrospective effect, if he or she shall see fit, to such a date as he or she shall specify, and the pension or allowance shall be restored in accordance with any such directions.

**Gratuity where officer dies in the service or after retirement.**

17. (1) Where an officer holding a pensionable office who is not on probation or agreement, or an officer holding a non-pensionable office to which he or she has been transferred from a pensionable office in which he or she has been confirmed, dies while in service under the Government of the State, it shall be lawful for the Governor-General to grant to his or her legal personal representative a gratuity of an amount not exceeding either his or her annual pensionable emoluments, earned pension gratuity or his or her commuted pension gratuity, if any, whichever is the greater.

*(Amended by Act 7 of 1994)*

(2) For the purposes of this section—

- (a) “annual pensionable emoluments” means the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer if he or she had retired at the date of his or her death in the circumstances described in paragraph (e) of section 6;
- (b) “commuted pension gratuity” means the gratuity, if any, which might have been granted to the officer under regulation 25 of the First Schedule to this Act if his or her public service had been wholly in the State and if he or she had retired at the date of his or her death in the circumstances described in paragraph (e) of section 6 and had elected to receive a gratuity and reduced pension.

(3) Where any such officer to whom a pension, gratuity or other allowance has been granted under this Act dies after retirement from service under the Government of the State, and the sums paid or payable to him or her at his or her death on account of any pension, gratuity or other allowance in respect of any public service are less than the amount of the annual pensionable emoluments enjoyed by him or her at the date of his or her retirement, it shall be lawful for the Governor-General to grant to his or her legal personal representative a gratuity equal to the deficiency.

(4) The provisions of this section shall not apply in the case of the death of any officer where benefits corresponding to the benefits which may be granted under this section are payable under the Colonial Superannuation Scheme in respect of such death.

(5) Notwithstanding the provisions contained in subsections (1), (2) and (3), the Governor-General may, in any case where the amount of the gratuity payable does not exceed the sum of four hundred and eighty dollars, dispense with the production of probate or letters of administration and cause the gratuity to be paid to the dependant or dependants of the officer and, where there is more than one such dependant, may divide the gratuity among the dependants in such proportion as he or she may think fit.

**Pensions to dependants when an officer dies as a result of injuries received or disease contracted in the discharge of his duties.**

18. (1) Where an officer dies—
- (a) in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct; or
  - (b) as a result of contracting a disease to which he is specifically exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct;

while in service under the Government of the State, and such death occurs within seven years of the date of the injury or contracting the disease, it shall be lawful for the Governor-General to grant, in addition to the grant, if any, made to his legal personal representative or in addition to the payment, if any, made to his dependant or dependants under section 16 of this Act, a pension as specified in subsection (2).

(2) The additional grant that the Governor-General may make by virtue of subsection (1) is as follows—

- (a) if the deceased officer leaves a widow, the Governor-General may grant a pension to her, while unmarried, at a rate not exceeding ten-sixtieths of his annual pensionable emoluments at the date of the injury or ninety-six dollars a year, whichever is the greater;
- (b) if the deceased officer leaves a widow to whom a pension is granted under the preceding paragraph and a child or children, the Governor-General may grant a pension in respect of each child, until such child attains the age of nineteen years, of an amount not exceeding one-eighth of the pension prescribed under the preceding paragraph;
- (c) if the deceased officer leaves a child or children, but does not leave a widow, or no pension is granted to the widow, the Governor-General may grant a pension in respect of each child, until such child attains the age of nineteen years, of double the amount prescribed by the preceding paragraph;
- (d) if the deceased officer leaves a child or children and a widow to whom a pension is granted under paragraph (a) and the widow subsequently dies, the Governor-General may grant a pension in respect of each child as from the date of the death of the widow until such child attains the age of nineteen years, of double the amount prescribed in paragraph (b);
- (e) if the deceased officer does not leave a widow, or if no pension is granted to his widow, and if his mother were wholly or mainly dependant on him for her support, the Governor-General may grant a pension to the mother, while without adequate means of support, of an amount not exceeding the pension which might have been granted to his widow;
- (f) if the deceased officer does not leave a widow or mother, or if no pension is granted to his widow or mother, and if his father were wholly or mainly dependant on him for his support, the Governor-General may grant a pension to the father while without adequate

means of support, of an amount not exceeding the pension which might have been granted to his widow;

- (g) if the deceased officer does not leave a child or children who is or are eligible for a pension under the provisions of this section, and if any brother or sister were wholly or mainly dependant on him for support, the Governor-General may grant a pension to any such brother or sister until he or she attains the age of nineteen years while without adequate means of support, of an amount not exceeding the pension which might have been granted under paragraphs (b), (c) or (d):

Provided that—

- (i) if, in the opinion of the Governor-General, there are compassionate grounds for so doing, he or she may grant to any child of a deceased officer being a child who at the date of the death of the officer was wholly or mainly dependant on him for support and who had attained the age of nineteen years, a pension for such period as the Governor-General may determine, of an amount not exceeding the pension which may be granted under paragraphs (b), (c) or (d);
- (ii) where a deceased officer leaves a child who was incapacitated at the time of the officer's death (hereinafter in this section referred to as an "incapacitated child") the Governor-General may, notwithstanding any pension which may have been granted under paragraphs (b), (c) or (d), grant an additional pension in respect of such incapacitated child after he or she has attained the age of nineteen years and so long as his or her incapacity shall continue, of an amount not exceeding one half of the pension which may be granted under paragraph (b) or paragraph (c) aforesaid;
- (iii) where compensation in respect of the death is payable under the Social Security Act, Cap. 22.10, or where benefits corresponding to benefits granted under this section are payable under the Colonial Superannuation Scheme in respect of death, the Governor-General may reduce the pension which may be payable under this section to such extent as he or she may consider reasonable;
- (iv) no pension shall be payable under subsection (1) at any time in respect of more than six children exclusive of incapacitated children;
- (v) in the case of a pension granted under paragraph (e), if the mother is a widow at the time of the grant of the pension and subsequently re-marries such pension shall cease as from the date of re-marriage; and if it appears to the Governor-General at any time that the mother is adequately provided with other means of support, such pension shall cease as from such date as the Governor-General may determine;
- (vi) a pension granted to a female child under this section shall cease upon the marriage of such child under the age of nineteen years.

(3) In the case of an officer not holding a pensionable office, the expression "pensionable emoluments" in the subsections (1) and (2) shall mean the emoluments enjoyed by him which would have been pensionable emoluments if the office held by him had been a pensionable office.

(4) If an officer proceeding by a route approved by the Governor-General to or from the State, or from one Island in the State to another, at the commencement or termination of his service in the State, or of a period of leave therefrom, dies as the result of damage to the vessel, aircraft or vehicle in which he is travelling, or of any act of violence directed against such vessel, aircraft or vehicle, and the Governor-General is satisfied that such damage or act is attributable to circumstances arising out of war in which Her Majesty may be engaged, such officer shall be deemed, for the purposes of this section, to have died in the circumstances described in paragraph (a) of subsection (1):

Provided that this subsection shall not apply in the case of an officer who is eligible to receive an award under subsection (5).

(5) An officer who dies as a result of an injury received while travelling by air in pursuance of official instructions, which injury is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, shall be deemed for the purposes of this section to have died in the circumstances described in paragraph (a) of subsection (1):

Provided that in such a case the rates of pension prescribed in subsection (2) (a) and (b) shall be fifteen-sixtieths and one-sixth respectively.

(6) Where the Governor-General is satisfied that damages have been or will be recovered in respect of the death for which an additional pension or pension may be granted under subsections (1) and (2), the Governor-General may take those damages into account against such additional pension or pension in such manner and to such extent as he or she may think fit and may withhold or reduce the additional pension or pension accordingly.

(7) For the purposes of subsection (6) an officer shall be deemed to recover damages whether they are paid in pursuance of a judgment or order of a court or by way of settlement or compromise of his claim and whether or not proceedings are instituted to enforce that claim.

(8) For the purposes of this section—

(a) the word “brother” includes in relation to a person, every male child of his father or his mother;

(b) the word “child” shall include—

(i) a posthumous child;

(ii) a step-child or child born out of wedlock born before the date of the injury or contracting the disease, as the case may be, and wholly or mainly dependant upon the deceased officer for support; and

*(Amended by Act 19 of 1983)*

(iii) an adopted child, adopted in a manner recognised by law, before the date of the injury or contracting the disease, as the case may be, and dependant as aforesaid;

(c) the expression “incapacitated” means, in relation to a child, incapable by reason of some specific bodily or mental disability of earning his or her own living, and a child who is in any event too young to earn his or her own living shall be treated as incapacitated for the purposes of this section if it appears that, by reason of any specific bodily or mental disability, he or she will be incapable of earning his or her own

living when he or she attains the age at which he or she would otherwise be capable of doing so;

- (d) the word “father” includes, in relation to a person, his or her stepfather and a male person by whom he or she has been adopted;
- (e) the word “mother” includes, in relation to a person, his or her stepmother and a female person by whom he or she has been adopted;
- (f) the word “sister” includes, in relation to a person, every female child of his father or his mother.

#### **Act not applicable to Police Force.**

**19.** (1) The members of the Police Force, except the Gazetted Police Officers, shall not come under the provisions of this Act.

(2) For the purposes of this section, Gazetted Police Officer has the meaning assigned to a Gazetted Police Officer by section 2 of the Police Act, Cap. 19.07.

*(Substituted by Act 25 of 2008)*

#### **Application of Act.**

**20.** (1) The provisions of this Act shall apply—

- (a) to every officer appointed to the public service of the State—
  - (i) after the commencement of this Act; or
  - (ii) before the commencement of this Act, to whom it was intimated before appointment that he or she would be liable to be affected by any change in the pensions law of the State; and
- (b) to every officer serving in the State at the commencement of this Act, or transferred from the State to any other public service before the date of such commencement and still in the public service on that date, unless not later than twelve months after such commencement or within such further period as the Governor-General may in any special case allow, he or she gives notice in writing to the Governor-General of his or her desire that the provisions of the Acts set out in the Second Schedule to this Act and the Regulations made thereunder shall apply to him or her, in which case they shall continue to apply accordingly.

(2) If any officer who shall have given notice under subsection (1) (b) is thereafter re-appointed to the service of the State, the provisions of this Act shall apply to him or her in respect of his or her whole service:

Provided that except where such an officer shall eventually become eligible for a pension or gratuity under this Act in respect of his or her service both before and after his or her re-employment, a pension or gratuity granted to him or her solely in respect of service prior to such re-employment shall not be recomputed.

#### **Applicability of pensions law.**

**21.** (1) Subject to the provisions of section 23, the law applicable to the grant and payment to any officer, or to his widow, children, dependants or personal representatives, of any pension, gratuity or other like allowance (in this section and sections 4(2) and 23 referred to as an “award”) in respect of the service of that officer in a public office shall be that in force on the relevant day or any later law not less favourable to the person concerned.

(2) For the purposes of this section, the relevant day is—

- (a) in relation to an award granted before the date of commencement of this Act, the day on which the award was granted;
- (b) in relation to an award granted or to be granted on or after the date of commencement of this Act to or in respect of a person who was a public officer before that date, the day immediately before that date;
- (c) in relation to an award granted or to be granted to or in respect of a person who first becomes a public officer on or after the date of commencement of this Act, the day on which he or she becomes a public officer.

(3) For the purposes of this section, in so far as the law applicable to an award depends on the option of the person to or in respect of whom it is granted or to be granted, the law for which he or she opts shall be taken to be more favourable to him or her than any other law for which he or she might have opted.

*(Transferred from Cap. 196. Formerly section 3 of that Act.)*

#### **Exercise of powers of Governor-General.**

**22.** The Governor-General shall exercise the powers vested in him or her by this Act in accordance with the provisions of the Constitution.

*(Inserted by Act 4 of 1975 as section 20A)*

#### **Grant and withholding of pensions, etc.**

**23.** (1) The power to grant any award under any pensions law enacted by the Legislature of the State (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf contained in any such law, to withhold, reduce in amount or suspend any award payable under any such law is hereby vested in the Governor-General acting in his or her discretion.

(2) In this section, “pensions law” means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of that person, of an award in respect of the services of that person in a public office, and includes any instrument made under any such law.

*(Sections 3 to 23 converted into Part II by Act 13 of 2012)*

### PART III

#### CONTRIBUTORY PENSION PLAN

##### *Pension Fund and its Management*

#### **Interpretation.**

**24.** In this Part, unless the context otherwise requires—

“Board” means the Public Service Pension Board established under section 27 of this Act;

“contributor” means a person who contributes to the Fund by virtue of the provisions of this Act and the Government Auxiliary Employees Act;

- “contributory service” means service in respect of which a contributor contributes to the Fund;
- “deferred pensioner” means an officer who is entitled to a pension by virtue of section 40;
- “Fund” means the Pensions Fund established under section 26 of this Act;
- “legal personal representative” means the executor, original or by representation, or administrator for the time being of a deceased person;
- “Minister” means the Minister of Finance;
- “pensionable service” means service which shall be taken into account in computing a pension under this Act;
- “Social Security Board” means the Saint Christopher and Nevis Social Security Board established by section 3 of the Social Security Act, Cap. 22.10.

### **Application and commencement of Part III.**

- 25.** (1) The provisions of this Part shall only apply to—
- (a) every officer who joins the public service on or after the coming into force of the provisions of this Part and is required to contribute to the Fund in accordance with the provisions of this Act;
  - (b) all Government Auxiliary Employees;
  - (c) employees who are over forty-five years and cannot be appointed into the public service;
  - (d) employees who, before the coming into force of this Part, cannot be appointed into the public service.
- (2) The provisions of this Part shall come into force on such date as the Minister may, by Order, appoint.

### **Pension Fund.**

- 26.** (1) There is established a Fund to be known as the Pensions Fund, into which shall be paid—
- (a) all contributions;
  - (b) all interest, investments or other income derived from the assets of the Fund;
  - (c) all sums properly accruing to the Fund under this Act, including the repayment of benefit; and
  - (d) such other sums as may be provided by the Consolidated Fund for the purposes of the Act or as may be received by the Board on behalf of the Fund with the approval of the Governor-General.
- (2) There shall be paid out of the Fund—
- (a) all benefits;
  - (b) refunds of contributions; and
  - (c) all expenses properly incurred in the implementation of the provisions of this Part.

(3) Subject to the provisions of this Part, the administration of the Fund shall be the responsibility of the Board.

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

(5) The funds paid into the Fund shall be invested in accordance with the guidelines set out in the Second Schedule to this Act, and the income derived from such investments shall be paid into the Fund.

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

(7) The financial year of the Fund shall be from the 1st day of January to the 31st day of December.

(8) The accounts of the Fund shall be submitted to the Director of Audit for audit not later than 30th June next following the end of the financial year.

(9) The accounts of the Fund shall be audited by the Director of Audit, and he or she shall make an annual report in respect of the preceding financial to the Minister who shall lay the report before the National Assembly if it is then in session or, if it is not then in session, at the next ensuing session.

(10) The Minister shall, within one year from the date the Fund becomes operational, cause an actuary to be appointed to review the operation of the Fund, and thereafter, an actuary shall be appointed every third year.

(11) An actuary appointed to make a review pursuant to the provisions of subsection (10) shall make a report on the adequacy of the Fund to the Minister who shall then lay the report before the National Assembly if it is then in session or, if it is not then in session, at the next ensuing session.

(12) Except where otherwise specifically provided by this Act, interest payable under this Act shall be at a rate to be determined by the Board compounded annually on the 31st day of December.

(13) The cost incurred in the administration of the provisions of Parts III, IV and V of this Act shall be paid out of the Fund.

#### **Public Service Pension Board.**

27. (1) There is established a Board to be known as the Public Service Pension Board.

(2) The Board shall consist of—

- (a) the Head of the Public Service who shall be the Chairperson of the Board;
- (b) the Accountant-General;
- (c) a representative of the Attorney-General;
- (d) the Chief Personnel Officer;
- (e) a person appointed by the Minister in his or her discretion from persons who possess special expertise in financial services;
- (f) four members appointed by the Minister, acting on the advice of Cabinet, from nominees of the associations or unions recognised by

the Government as representing public officers and other employees of the Government.

(3) A person who is appointed pursuant to the provisions of subsection (2)(e) shall, unless his or her appointment is terminated sooner, hold office for a period of three years from the date of his or her appointment, except that he or she may be eligible for re-appointment upon the expiration of his or her term of office.

(4) The Minister may, after consultation with the association or union, revoke the appointment of any member appointed pursuant to the provisions of subsection (2)(e) if the Minister considers it expedient to do so.

(5) Where a member appointed pursuant to the provisions of subsection (2)(e) is absent or unable to act the Minister may appoint a person to act temporarily in the member's place.

(6) The provisions of the Third Schedule to this Act shall have effect with respect to the operation of the Board and otherwise in relation thereto.

(7) The Board shall, subject to the general directions of the Minister—

- (a) have the powers conferred upon it by this Act; and
- (b) discharge the duties imposed upon it by this Act.

#### **Functions of the Board.**

**28.** The Board shall—

- (a) consider the claim of a contributor who retires from, or ceases to be employed in the public service in circumstances entitling him or her to a pension or to a refund of his or her contributions under this Act; and
- (b) be required to perform such other functions as may be assigned to it by or under any provision of this Act or, subject thereto, by the Minister;
- (c) provide policy directions to the Saint Christopher and Nevis Social Security Board;
- (d) advise the Minister on matters pertaining to pensions;
- (e) report annually to the contributors to the Fund on matters relating to the management of the affairs of the Fund.

#### **Management of the Fund.**

**29.** (1) Subject to the provisions of subsection (2), the day to day management of the funds of the Fund is vested in the Social Security Board, established by the Social Security Act, Cap. 22.10.

(2) The management of the funds of the Fund which is vested in the Social Security Board pursuant to the provisions of subsection (1) shall be for such a period as the Minister, after consultation with the Board, may determine.

(3) The Social Security Board shall, with the approval of the Board, be responsible for effecting payments required to be made out of the Fund pursuant to the provisions of section 26(5) of this Act.

(4) The Social Security Board shall be responsible for investing the funds of the Fund in accordance with the provisions of section 26(5) of this Act and in accordance with the advice of the Board.

**Report to be laid before the National Assembly.**

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

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

*Contributions*

**Contributions to be deducted from salary.**

**31.** (1) Monthly deductions shall be made from the salary or wage of every contributor to the Fund of an amount equal to a minimum of 3% of his or her pensionable emoluments and the amount so deducted shall be deposited in the Fund to the credit of the contributor.

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

**Government's contribution.**

**32.** Where an amount deducted under section 31(1) is credited to the Fund, or where a contributor makes payment of contributions pursuant to any provision of this Act, the Accountant-General shall, in each case, pay out of the Consolidated Fund into the Fund as Government contribution an amount of not less than the minimum contributions of the contributor.

**Cessation of contributions.**

**33.** Subject to the provisions of this Act, every contributor shall cease to contribute to the Fund on the day on which he or she ceases to be employed in the public service, or upon attaining the normal retirement age, whichever is the earlier.

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

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

(2) A contributor who is granted leave of absence without salary for a period of one month or more for special or educational purposes may make contributions to the Fund for the period of leave, in which case he or she shall contribute an amount equal to the amount he or she would have contributed to the Fund if he or she had not been granted the leave.

(3) The payment of the contributions referred to in subsection (2) shall commence not later than one month after the contributor resumes duty.

(4) The payment referred to in subsection (3) may extend over a period of time not exceeding the period of leave.

(5) Where the contributor elects not to make the contributions referred to in this section, then, the period during which the contributor did not contribute to the

Fund shall not be counted as pensionable service, and the Government's contribution to the Fund shall not be made in respect of that period.

(6) Where the contributor elects to make the contributions referred to in this section, then, the Government's contribution to the Fund shall be made in respect of that period.

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

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

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

*Pensions and Gratuity*

**Entitlement to pension.**

**36.** (1) A contributor who has served for fifteen continuous years and contributed to the Fund for fifteen continuous years and having satisfied other requirements relating to the qualifications for the payment of pension, shall be entitled to a pension under this Part as of a right.

(2) In calculating the contributor's pensionable service, any service rendering the contributor eligible for a pension under this Act, shall be counted as pensionable service.

**Circumstances entitling contributor to payment.**

**37.** (1) Subject to the provisions of this Act, a contributor who has continuously contributed to the Fund for a period of ten years or more but retires from the public service or employment of Government in circumstances specified in this Act or prescribed by regulations made under this Act before the contributor has qualified for pension under this Act, shall be, in addition to the refund of his or her contributions, entitled to payment of gratuity upon his or her retirement from the service or employment.

(2) The amount of gratuity payable under the provisions of this section shall be prescribed by regulations made under this Act.

**Service not qualifying for pension.**

**38.** A pension shall not be certified or paid to a contributor under this Part and Part IV of any service rendered—

- (a) while the contributor is on probation unless, without break of service, the contributor is confirmed in the office; or
- (b) while the contributor is under seventeen years.

**Refund of contributions where service is terminated in the public interest.**

**39.** Where a contributor's service is terminated on the ground that, having regard to the conditions of the public service, the usefulness of the contributor thereto and all other circumstances of the case, it is desirable in the public interest to terminate the contributor's service, and a pension cannot lawfully be paid to the contributor under this Act, the Board shall approve and certify the refund to the contributor of the amount contributed by him or her to the Fund together with interest thereon and shall, if the Governor-General so directs, approve and certify the refund to the contributor of the Government's contribution to the contributor's account in the Fund with interest thereon.

**Age of compulsory retirement.**

**40.** (1) Subject to the provisions of section 7, a contributor shall retire from the public service on attaining the normal retirement age.

(2) Notwithstanding the provisions of subsection (1), the contributor may, having regard to—

- (a) the conditions of the public service;
- (b) the usefulness of the contributor to the public service;
- (c) all other circumstances of the case; and
- (d) whether it is desirable in the public interest that the service of the contributor should be retained,

be permitted by the Governor-General, acting in accordance with the advice of the Public Service Commission, to continue in the public service until a later age.

(3) Where a contributor is permitted to continue in the public service after attaining the normal retirement age the contributor shall not, after that age—

- (a) contribute to the Fund; and
- (b) earn any further benefits or acquire any further rights under this Act.

**Maximum pension.**

**41.** (1) A pension payable to a contributor under this Part or Part IV shall not exceed  $\frac{1}{2}$  of his or her pensionable emoluments.

(2) An officer who shall have been awarded age pension under the Social Security Act shall not at any time draw from the Fund an amount of pension which, when added to the amount of age pension exceeds 100% of the highest pensionable emoluments drawn by him or her at any time in the course of his or her public service.

(3) Where the limitation prescribed by subsection (2) operates, the amount of pension to be drawn from the Fund shall be determined with due regard to the amount of age pension.

(4) For the purposes of subsection (1), an additional pension certified by the Board shall not be taken into account.

**Deferred pensions.**

**42.** (1) Subject to the provisions of subsections (2) and (3) of this Act, a contributor who has contributed continuously to the Fund for a period of not less than

fifteen years shall be entitled to a deferred pension payment which shall commence when he or she attains the normal retirement age.

(2) A contributor who has contributed continuously to the Fund for a period of not less than fifteen years, and who ceases to be employed by reason of any of the circumstances contained in the provisions of this Part, shall be entitled to a deferred pension payment which shall commence when he or she attains the normal retirement age.

(3) Notwithstanding the provisions of subsection (2), a contributor may, *in lieu* of the deferred pension, opt for the refund of an amount equal to his or her total contributions in the Fund together with interest thereon.

(4) The refund referred to in subsection (3) shall be made immediately upon the cessation of the contributor's service, and the provisions of subsections (2) to (5) of section 55 shall apply *mutatis mutandis* to an option exercisable under subsection (3).

(5) A contributor who has contributed continuously to the Fund for a period of not less than ten years, and who is not otherwise entitled to a pension under this Part, retires from service on satisfactory medical evidence that he or she is incapable, by reason of any infirmity of mind or body, of discharging the duties of his or her office and that such infirmity is likely to be permanent shall be entitled to payment of pension as from the date he or she ceases to be employed.

(6) Where a contributor is permitted to continue in any office in the public service after the age of retirement specified in section 40 payment of any pension to which he or she may be entitled at that age shall be deferred until he or she ceases to be employed in the public service.

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

**43.** (1) If a pensioner is re-employed in the public service, his or her pension shall cease on his or her beginning to receive the salary of the office in which he or she is re-employed if such salary is equal to or greater than the salary of the office formerly held by him or her at the date of retirement from or ceasing to be employed in the former office.

(2) If the pensioner's salary is less than the salary of the pensioner's former office, then no more of the pension shall be paid to him or her than that which, together with the salary of his or her new office, is equal to the salary of his or her former office.

(3) Where a contributor is, pursuant to section 41, entitled to a deferred pension, any period during which he or she is re-employed shall be counted as separate pensionable service.

#### **Refunds.**

**44.** Where a contributor—

(a) ceases to be employed in the public service and is not entitled to a pension under this Part or Part IV; or

(b) dies before becoming entitled to a pension under this Part or Part IV,

an amount equal to the total of his or her contributions to the Fund, with interest thereon, shall be paid to his or her estate or to his or her legal personal representative, as the case may be.

**Option to re-instatement in the Fund in certain circumstances.**

45. (1) Where a contributor ceases to be employed in the public service in the circumstances set out in paragraph (a) of section 44 then, if within a period of one year after the contributor ceased to be so employed he or she is re-employed in the public service he or she may, within twenty-one days of being so re-employed, elect either—

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

(2) If a person elects—

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

(3) Where a refund of a contributor's contributions has been made to a contributor pursuant to section 44 and the contributor elects to retain the amount so refunded, the Government's contributions to the Fund in respect of that contributor shall remain in the Fund.

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

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

**Payment of pension or refund where there is no legal personal representative.**

46. (1) Where a person dies in circumstances under which a pension or refund is payable under this Part, then the pension or refund shall be paid to the estate of the deceased or to the deceased's legal representative, and if there is no legal

representative, the refund shall be paid to the estate of the deceased or such person as the Board may, after consultation with the Attorney-General, determine.

(2) The period of time in which a pension referred to in subsection (1) of this section shall be payable shall be prescribed by regulations made under this Act.

**Proof that pensioner is alive.**

47. The Board shall require such proof, as it may think desirable, that any person claiming to be entitled to a pension, or on behalf of whom such claim is made, is alive and entitled to a pension, and the payment of the pension shall be refused until such proof is furnished to the Board.

**Notification of certain particulars to Board.**

48. (1) Every person shall, within three months after the coming into force of Parts III and IV of this Act or immediately upon his or her appointment to an established office, notify the Board in writing—

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

(2) The widow or widower of any contributor shall notify the Board, in writing, within three months, of the event—

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

(3) The widow or widower of any contributor shall notify the Board in writing, within three months, of the event—

- (a) of the birth of any posthumous child born to the contributor;
- (b) of the death of any child below the eighteen years of the contributor;
- (c) of his or her re-marriage.

(4) The notification that is required to be made by virtue of the provisions of subsections (1), (2) and (3) shall be proved by the production of a certificate of birth, death, marriage or divorce, as the case may be, or by affidavit or otherwise to the satisfaction of the Board.

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

**Payment of pensions.**

49. A pension shall begin to accrue to a contributor on the day following the last day of his or her service and shall be paid to the contributor in arrears in monthly installments.

*Pensionable Service and Computation of Pensions***Rate of pension.**

**50.** Subject to section 53 and 54, any contributor who has been in the service of the Government for a period of fifteen years or upwards and who retires in accordance with this Part shall be paid a pension at a rate to be prescribed by regulations made under this Act of his or her pensionable emoluments for each complete month of his or her pensionable service.

**Service qualifying for pension.**

**51.** Subject to the provisions of section 37, service qualifying for pension under this Part shall be the period during which a contributor was employed in the public service.

**Period which shall be taken into account as pensionable service.**

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

- (a) any period during which the contributor has been on duty;
- (b) any period during which the contributor has been absent from duty on leave with full or half salary; and
- (c) subject to the provisions of sections 34 and 35, any period during which the contributor has been absent from duty on leave without salary.

**Retirement by reason of abolition of office.**

**53.** (1) Where a contributor is compelled to retire from the public service in consequence of the abolition of the contributor's office, the contributor shall be paid a pension at the rate specified in section 49, but in the case of a contributor who does not qualify for a pension under that section he or she shall be entitled to be refunded the amount of the Government's contributions to the Fund in respect of his or her service, together with the amount of his or her own contributions, and interest on the contributions.

(2) A contributor who is compelled to retire from office by reason only of the abolition of the contributor's office, may also be paid an additional pension at a rate to be prescribed by regulations made under this Act of his or her pensionable emoluments for each complete period of three years' pensionable service except that—

- (a) the addition shall in no case exceed the rate prescribed by regulations made under this Act of his or her pensionable emoluments; and
- (b) no addition shall be made so as to qualify a contributor for a pension of higher annual value than that for which the contributor would have been qualified by length of service on reaching the age at which he or she could be required to retire under section 40 or for a pension of higher annual value than the maximum specified in section 41.

**Reorganization of office and compulsory retirement.**

**54.** (1) Where a contributor is removed from the public service for the purpose of facilitating improvement in the administration of the public service by which greater efficiency can be effected, the contributor shall be paid a pension at the rate specified in section 50, but in the case of a contributor who does not qualify for a pension under that section the contributor shall be entitled to a refund of his or her contributions with interest on the contributions.

(2) The Board may certify the entitlement to an additional pension of a contributor removed from the public service pursuant to the provisions of subsection (1) as though the contributor had retired from the public service in consequence of the abolition of his or her office if it is considered by the Board that the circumstances of the case justify the payment of such an additional pension and in any such case the provisions of section 53(2) shall have effect.

**Commutation of pension and reduced pension.**

**55.** (1) Subject to the provisions of this Act a contributor to whom a pension is payable under this Part shall, if the contributor has exercised his or her option as hereinafter provided, but not otherwise, be paid *in lieu* of the pension a pension at a rate prescribed by regulations made under this Act, as specified in the exercise of his or her option, together with a lump sum payment equal to 12½ times the amount of the annual reduction so made in the pension.

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

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

(4) If a contributor who has not exercised the option dies after he or she has retired but before a pension has been paid or certified for payment under this Act, the Board may certify the payment of a lump sum to his or her legal personal representative and a reduced pension as provided in subsection (1), as if the contributor before his or her death had exercised his or her option to receive a lump sum payment and 75% of the pension granted to him or her.

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

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

*(Part III inserted by Act 13 of 2012)*

PART IV

WIDOWS', WIDOWERS', AND CHILDREN'S PENSIONS

**Interpretation.**

**56.** In this Part—

“child” includes—

- (a) a posthumous child;
- (b) a step-child; and
- (c) an adopted child, adopted in a manner recognised by law;

“pensioner” means a person who has retired from the public service and is in receipt of a pension under Part II by virtue of the provisions of section 36(2) or Part III and includes a deferred pensioner as well as a person who has satisfied the conditions required for the payment of a pension under Part III although no payment has been actually made to him or her.

**Application and commencement of Part IV.**

**57.** (1) The provisions of this Part shall, *mutatis mutandis*, apply—

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

(2) The provisions of this Part shall come into force on such date as the Minister may, by Order, appoint.

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

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

(2) If the deceased leaves a widow, but no children, the widow shall be entitled to—

- (a) if she is a widow who has reached the age of fifty years on the date of death of the pensioner, a one-half of his pension or, as the case may be, one-half of the pension to which he would have been entitled, until her re-marriage or death;
- (b) if she is a widow below the age of fifty years on the date of death of the pensioner, the payment of pension for five years at a rate to be prescribed by regulations from the date of death of the pensioner or until she re-marries.

(3) Where the widow reaches the age of fifty years while drawing the pension, the Board shall, if it thinks fit, recommend that the payment of pension be continued until her death or until she re-marries.

(4) If the deceased leaves a widow or widower and children by such widow or widower or by any other relationship, the widow or widower shall be entitled, until his or her re-marriage or death, to one-half of the amount of his or her pension or, as the case may be, one-half of the pension to which he or she would have been entitled.

(5) The children shall, subject to the provisions of subsections (2) and (3) of this section, be entitled to the other one-half of such pension in equal shares, provided that where the deceased dies leaving a widow or widower and children by the widow or widower or by any other relationship, the Board may either in the first instance or at any time while pensions are payable to the children, direct the payment to the widow or widower of part only of such pension and to direct the payment of the balance of such pensions for or towards the maintenance or education of the children in such manner as the Board may think fit.

(6) If the deceased leaves children but no widow such children shall, subject to the provisions of subsections (2) and (3) of this section, be entitled to one-half of his pension, or as the case may be, one-half of the pension to which he would have been entitled, in equal shares.

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

(8) Where a contributor dies before payment of a pension has been made to him or her, the amounts payable to his widow or her widower or children shall be calculated upon the pension which would have been payable to him or her had he or she not exercised the option referred to in section 55(1).

(9) Where a contributor dies before payment of a pension has been made to the contributor and leaves no widow or widower, or no child under eighteen years, the total amount of pensionable emoluments payable to that contributor shall be paid to his or her legal personal representative or to his or her estate.

(10) Where a widow to whom a pension is being paid under this Part re-marries a widower who is also being paid a pension under this Part, the pension shall be payable to one such spouse only, and shall cease to be payable in respect of the other, and the spouse who elects to take the pension shall inform the Board within a month of re-marriage.

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

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

(2) Any pension payable to or for a child shall cease on that child attaining eighteen years, but such payment shall continue to be made to or for a child over eighteen and under twenty-one years if that child is wholly or mainly dependant and continuously receiving full-time instructions at any University, College, school or other educational establishment.

#### **Adjustments to pensions.**

**60.** Pension awarded upon retirement to officers whose normal retirement age is sixty-two years, shall be adjusted whenever a general increase in salaries is applied to pensionable public officers, and such adjustment shall be made as recommended by the Board.

*(Part IV inserted by Act 13 of 2012)*

PART V

APPLICATION OF ACT TO GOVERNMENT AGENCIES

**Interpretation and commencement of Part V.**

**61.** (1) In this Part, “government agency” has the meaning assigned to it by the Finance Administration Act, Cap. 20.13.

(2) The provisions of this Part shall come into force on such date as the Minister may, by Order, appoint.

**Regulations in respect to public officers seconded to Government Agency.**

**62.** (1) Subject to the provisions of subsection (2), the Public Service Commission may second specified public officers employed by the government to the service of any government agency at a remuneration and on terms and conditions of service that are not less favourable than the remuneration and terms and conditions of service that were enjoyed by the public officer immediately before the secondment.

(2) The rights of a public officer referred to in subsection (1) to a pension, allowance or gratuity for which the officer would have been eligible had he or she remained in the public service are preserved, and his or her service with the government agency shall be pensionable under the Pensions Act as if the public officer had not been so seconded.

**Transitional provisions.**

**63.** (1) Where, at the coming into force of the provisions of Parts III, IV and V, any rights, benefits or privileges have accrued or been earned, or any payments made under Part II, such rights, benefits, privileges or payments, as the case may be, shall continue as if this Act had not come into force.

(2) Nothing in this Act shall be construed so as to affect adversely anything done, or the calculation of any amount payable to—

- (a) any person in receipt of or eligible for a pension, in accordance with the provision of Part II; or
- (b) any person in respect of the period of pensionable service in which he or she was engaged prior to the coming into force of the provisions of Parts III, IV and V of this Act.

(3) Subject to the provisions of this Act, where, after the coming into force of the provisions of Parts III, IV and V of this Act, a contributor retires or otherwise ceases to be employed—

- (a) having pensionable service prior to that day as well as service entitling him or her to a pension under this Act; or
- (b) having pensionable service prior to that day and has contributed to the Fund for less than ten years after the coming into force of the provisions of Parts III, IV and V of this Act,

the whole of his or her service before and after the coming into force of the provisions of Parts III, IV and V of this Act shall be taken into consideration in the computation of his or her pensionable service.

(4) Notwithstanding anything to the contrary in any other provisions of this Act, the Government shall, in respect of persons who were employed as non-pensionable persons by the Government and persons referred to in paragraphs (c) and

(d) of section 25(1), pay from the Consolidated Fund into the Fund within a period not exceeding ten years from the appointed date such sums of money by way of compassionate gratuity, allowance or other refunds that would be payable to the persons referred to in this section in respect of the period when they were non-pensionable.

**Regulations.**

**64.** The Minister may generally make regulations to give effect to the provisions of Parts III, IV and V of this Act.

*(Part V inserted by Act 13 of 2012)*

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**FIRST SCHEDULE**

*(Section 3)*

**REGULATIONS FOR THE GRANTING OF PENSIONS, GRATUITIES AND  
OTHER ALLOWANCES TO OFFICERS.**

**PART I**

**PRELIMINARY MATTERS**

**Citation.**

1. These Regulations may be cited as the Pensions Regulations.

**Interpretation.**

2. In these Regulations—

“Act” means the Pensions Act, Cap. 22.06;

“pensionable service” means service which may be taken into account in computing pension under these Regulations;

“qualifying service” means service which may be taken into account in determining whether an officer is eligible by length of service for pension, gratuity or other allowance.

**PART II**

**OFFICERS WITHOUT OTHER PUBLIC SERVICE**

**Application of Part II.**

3. Save when the Governor-General in any special case otherwise directs, this Part of these Regulations shall not apply in the case of any officer transferred to or from the service of the State from or to other public service except for the purpose of determining whether such officer would have been eligible for pension or gratuity, and the amount of pension or gratuity, for which the officer would have been eligible, if the service of the officer had been wholly under the Government of the State.

**Pension to whom and at what rates to be granted.**

4. (1) Subject to the provisions of the Act and of these Regulations, every officer holding a pensionable office under the Government of the State, who has been in service under the Government of the State in a civil capacity for ten years or more, may be granted on retirement a pension at the annual rate of one six-hundredth of his or her pensionable emoluments for each complete month of his or her pensionable service.

(2) Subject to the provisions of the Act and of these Regulations, every officer holding a pensionable office under the Government of Saint Christopher and Nevis and who has been in service under the Government in a civil capacity for ten years or more, may be granted, on resignation from the service, a gratuity not exceeding five

times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him or her under regulation 4(1).

*(Inserted by Act 7 of 1994)*

(3) Subject to the provisions of the Act and of these Regulations, every officer holding a pensionable office under the Government of Saint Christopher and Nevis and who has been in service under the Government in a civil capacity for fifteen years or more may be granted, on resignation from the service, in addition to the gratuity provided by regulation 4(2), a pension at the annual rate of one six-hundredth of his or her pensionable emoluments for each complete month of his or her pensionable service.

*(Inserted by Act 7 of 1994)*

#### **Gratuities where length of service does not qualify for pension.**

5. Every officer, otherwise qualified for a pension, who has not been in service under the Government of the State in a civil capacity for ten years, may be granted on retirement a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him or her under regulation 4.

#### **Marriage Gratuities.**

6. Where a female officer having been in public service under the Government of the State for not less than five years and having been confirmed in a pensionable office, retires or is required to retire for the reason that she is about to marry, or has married, and is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part of these Regulations, she may be granted, on production within six months after her retirement, or such longer period as the Governor-General may in any case allow, of satisfactory evidence of her marriage, a gratuity of an amount not exceeding—

- (a) one year's annual pensionable emoluments; or
- (b) five times the annual amount of the pension which might have been granted to her under Regulation 4 of these Regulations had there been not qualifying period and had that Regulation been applicable to her,

whichever amount shall be the less.

*(Substituted by S.R.O. 6/1962)*

### PART III

#### TRANSFERRED OFFICERS

#### **Application of Part III.**

7. This Part of these Regulations shall apply only in the case of an officer transferred to or from service under the Government of the State from or to other public service.

#### **Interpretation.**

8. (1) In this Part and Part IV of these Regulations—

“Scheduled Government” means the Government of any territory, or any authority, mentioned in Schedule 1 to these Regulations and includes the Government of Ceylon, in respect of any officer appointed to the service of that Government prior to the 4th February, 1948, and the Government of Palestine, in respect of any officer appointed to the service of that Government prior to the 15th May, 1948;

“Service in the Group” means service under the Government of the State and under a Scheduled Government or Scheduled Governments.

(2) Where an officer to whom this Part of these Regulations applies is, on his or her retirement from the public service, not granted a pension or gratuity in respect of his or her employment in the service in which he or she is last employed, solely by reason of the fact that he or she has not held office or pensionable office therein for a specified period, he or she should nevertheless be deemed for the purposes of this Part of these Regulations to have retired in circumstances in which he or she is permitted by the law or regulation of the service in which he or she is last employed to retire on pension or gratuity.

#### **Pension for service wholly within the Group.**

9. (1) Where the other public service of an officer to whom this Part of these Regulations applies has been wholly under one or more Scheduled Governments and his or her aggregate service would have qualified him or her had it been wholly under the Government of the State for a pension under the Act, he or she may, subject as mentioned in the proviso to paragraph (b) of section 6 of the Act on his or her retirement from the public service in circumstances in which he or she is permitted by the law or regulations of the service in which he or she is last employed to retire on pension or gratuity, be granted in respect of his or her service under the Government of the State a pension of such an amount as shall bear the same proportion to the amount of pension for which he or she would have been eligible had his or her service been wholly under the Government of the State as the aggregate amounts of his or her pensionable emoluments during his or her service under the Government of the State shall bear to the aggregate amounts of his or her pensionable emoluments throughout his or her service in the Group.

(2) In determining, for the purposes of this regulation, the pension for which an officer would have been eligible if his or her service had been wholly under the Government of the State—

- (a) in the application of regulation 19, his or her pensionable emoluments shall be determined by reference to the pensionable emoluments enjoyed by him or her at the date of retirement from the public service or during the three years or lesser period preceding that date, as the case may be, except that where the officer is not serving under a Scheduled Government at that date, the date upon which he or she was last transferred from the service of the Scheduled Government shall be deemed to be the date of his or her retirement for the purposes of this subparagraph;
- (b) no regard shall be had to an additional pension under regulation 23 or regulation 24;
- (c) regard shall be had to the condition that pension may not exceed two-thirds of his or her highest pensionable emoluments;

- (d) no period of other public service under a Scheduled Government in respect of which no pension or gratuity is granted to him or her shall be taken into account.

(3) For the purposes of this regulation, the aggregate amount of an officer's pensionable emoluments shall be taken as the total amount of pensionable emoluments which he or she would have received or enjoyed had he or she been on duty on full pay in his or her substantive office or offices throughout his or her period of service in the Group subsequent to the attainment of the age of twenty years:

Provided that—

- (a) in calculating the aggregate amount of his or her pensionable emoluments, no account shall be taken of any service under the Government of Saint Christopher and Nevis or a Scheduled Government in respect of which no pension or gratuity is granted to him or her by that Government or a Scheduled Government, as the case may be;

*(Substituted by S.R.O. 13/1964)*

- (b) where any service in a civil capacity otherwise than in a pensionable office is taken into account as pensionable service, the officer's aggregate pensionable emoluments during that service shall be taken into account to the same extent as that service is taken into account as pensionable service.

*(Substituted by S.R.O. 13/1964)*

#### **Pension where other service not within the Group.**

**10.** (1) Where the other public service of an officer to whom this Part of these Regulations applies has not included service under any of the Scheduled Governments, and his or her aggregate service would have qualified him or her, had it been wholly under the Government of the State, for a pension under these Regulations, he or she may, subject as mentioned in the proviso to paragraph (b) of section 6 of the Act, on his or her retirement from the public service in circumstances in which he or she is permitted by the law or regulations of the service in which he or she is last employed to retire on a pension or gratuity, be granted in respect of his or her service under the Government of the State a pension at the annual rate of one six-hundredth of his or her pensionable emoluments for each complete month of his or her pensionable service under the Government of the State.

(2) Where the officer is not in service under the Government of the State at the time of such retirement, his or her pensionable emoluments for the purposes of sub-regulation (1) shall be those which would have been taken for the purposes of computing his or her pension if he or she had retired from the public service and been granted a pension at the date of his or her last transfer from service under the Government of the State.

#### **Pension when other service both within and not within the Group.**

**11.** Where a part only of the other public service of an officer to whom this Part of these Regulations applies has been under one or more of the Scheduled Governments, the provisions of regulation 9 shall apply, but in calculating the amount of pension, regard shall be had only to service in the Group.

**Gratuities where length of service does not qualify for pension.**

12. Where an officer to whom this Part of these Regulations applies retires from the public service in circumstances in which he or she is permitted by the law or regulations of the service in which he or she is last employed to retire on pension or gratuity, but has not been in the public service in a civil capacity for ten years, he or she may, subject as mentioned in the proviso to paragraph (b) of section 6 of the Act, be granted in respect of his or her service under the Government of the State a gratuity not exceeding five times the annual amount of the pension which, if there had been no qualifying period, might have been granted to him or her under regulation 9, 10 or 11, as the case may be.

**Marriage gratuities.**

13. Where a female officer to whom this Part of these Regulations applies retires or is required to retire for the reason that she is about to marry or has married, and—

- (a) would have been eligible for a gratuity under Regulation 6 of these Regulations if her public service had been wholly under the Government of the State; and
- (b) is not eligible for the grant of any pension or otherwise eligible for gratuity under this Part of these Regulations she may be granted in respect of her public service under the Government of the State a gratuity of an amount not exceeding five times the annual amount of the pension for which she would have been eligible under Regulation 9, 10 or 11 had there been no qualifying period and had Regulation 9, 10 or 11, as the case may be, been applicable to her:

Provided that for the purpose of computing the amount of such a gratuity—

- (i) in relation to Regulation 9 or 11, subparagraph (c) of paragraph (2) of Regulation 9 shall have effect as if the reference to two-thirds of her highest pensionable emoluments were a reference to one-fifth of her annual pensionable emoluments;
- (ii) in relation to a pension under Regulation 9, 10 or 11, the annual amount of that pension shall not exceed one-fifth of her annual pensionable emoluments.

*(Substituted by S.R.O. 6/1962)*

## PART IV

## GENERAL

**General rules as to qualifying service and pensionable service.**

14. (1) Subject to the provisions of these Regulations, qualifying service shall be the inclusive period between the date on which an officer begins to draw salary in respect of public service and the date of his or her leaving the public service, without deduction of any period during which he or she has been absent on leave.

(2) No period which is not qualifying service by virtue of the foregoing paragraph shall be taken into account as pensionable service.

(3) No period during which the officer was not in public service shall be taken into account as qualifying service or as pensionable service.

**Continuity of service.**

**15.** (1) Except as otherwise provided in these Regulations, only continuous service shall be taken into account as qualifying service or as pensionable service:

Provided that any break in service caused by temporary suspension of employment not arising from misconduct or voluntary resignation resulting in absence for a period of more than one year shall be disregarded for the purposes of this paragraph.

*(Amended by Act 7 of 1994)*

(2) An officer—

- (a) whose pension has been suspended under section 12 of the Act or under a corresponding provision in any law or regulation relating to the grant of pensions in respect of public service;
- (b) who has retired from the public service without pension on account of ill-health, abolition of office, or re-organisation designed to effect greater efficiency or economy, and has subsequently been re-employed in the public service; or
- (c) who has left pensionable service under the Teachers (Superannuation) Act, 1925, with a view to entering public service not being service pensionable under the said Act and has, not later than three months after leaving such first mentioned service, received any salary in respect of employment in public service not so pensionable,

may, if the Governor-General thinks fit, be granted the pension or gratuity for which he or she would have been eligible if any break in his or her public service immediately prior to such suspension, re-employment or employment had not occurred, such pension to be *in lieu* of any pension previously granted to him or her from funds of the State, and any gratuity so granted which is required to be refunded as a condition of the application to the officer of this regulation, but additional to any gratuity so granted which is not required to be refunded as aforesaid.

**Leave, without salary.**

**16.** No period during which an officer shall have been absent from duty on leave without salary shall be taken into account as pensionable service unless such leave shall have been granted on grounds of public policy with the approval of the Governor-General.

**Service in Her Majesty's Forces.**

**17.** When an officer, during some period of his or her service, has been on the active list of the Royal Navy, the Army or the Royal Air Force, and pension contributions have been paid in respect of that period from the funds of the State or of any Scheduled Government and have not been refunded, such period shall not be taken into account as pensionable service.

**Teaching service may be counted as pensionable service etc.**

**18.** (1) Where an officer who holds a pensionable office retires from the service of the State in circumstances in which the officer is eligible—

- (a) for a pension or gratuity under these Regulations; and
- (b) for a pension or gratuity under the Denominational School Teachers' Pension Act in this regulation hereinafter referred to as "the Act",

then, if his or her service which, but for this regulation, would be pensionable only under the Act, was immediately followed by pensionable service under these Regulations (which said services are in these Regulations referred to as “combined service”) the Governor-General may, subject to sub-regulation (2), either generally or in any particular case, direct that such service which is pensionable under the Act may be taken into account as though it were pensionable service under these Regulations.

(2) Where any direction referred to in sub-regulation (1) has been given, any pension or gratuity granted under these Regulations shall—

- (a) in the case of an officer whose combined service shall have been wholly in the State, be *in lieu* of any pension or gratuity for which the officer is eligible under the Act; or
- (b) in the case of an officer whose service as a teacher within the meaning of the Act shall have been partly in the State and partly in another State of the Leeward Islands, be *in lieu* of any pension or gratuity for which the officer is eligible under the Act, and be paid, charged and apportioned in the manner provided in section 4 of the Act and for that purpose such service shall be deemed to be service under the Government of the State, and

any break in service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining for the purposes of this regulation whether the period of service which is pensionable under the Act was immediately followed by pensionable service under these Regulations.

(3) Where an officer who holds a pensionable office retires from the service of this State, then if his or her service which is pensionable under these regulations immediately follows a period of service as a Subordinate Police Officer or Constable within the meaning of the Police Act, Cap. 19.07 the Governor-General may, either generally or in any particular case direct that such period of service may for the purposes of these Regulations be taken into account as pensionable service or as qualifying service, and notwithstanding anything to the contrary, any pension or gratuity awarded to him or her under these Regulations shall—

- (a) where such period has been taken into account as pensionable service, be *in lieu* of; or
- (b) where the period has been taken into account as qualifying service, be in addition to, any pension or gratuity for which he or she may be eligible under the Police Act, Cap. 19.07 and any break in service which may be disregarded under the provisions of regulation 15 of these Regulations may likewise be disregarded in determining, for the purposes of this sub-regulation, whether the period of service as a subordinate Police Officer, or Constable was immediately followed by pensionable service under these Regulations.

*(Inserted by Act 4 of 1975)*

#### **Emoluments to be taken for computation of pensions, etc.**

**19.** (1) For the purpose of computing the amount of the pension or gratuity of an officer who has had a period of not less than three years’ pensionable service before his or her retirement—

- (a) in the case of an officer who has held the same office for a period of three years immediately preceding the date of his or her retirement, the

full annual pensionable emoluments enjoyed by him or her at that date in respect of that office shall be taken;

- (b) in the case of an officer who at any time during such period of three years has been transferred from one office to another, but whose pensionable emoluments have not been changed by reason of such transfer or transfers, otherwise than by the grant of any scale increment, the full annual pensionable emoluments enjoyed by him or her at the date of his or her retirement in respect of the office then held by him or her shall be taken;
- (c) in other cases, one third of the aggregate pensionable emoluments enjoyed by the officer in respect of his or her service during the three years of his or her service immediately preceding the date of his or her retirement shall be taken:

Provided that—

- (i) if such one third is less than the highest annual pensionable emoluments enjoyed by him or her at the date of any transfer within such period of three years those annual pensionable emoluments shall be taken; and
- (ii) if such one third is less than the annual pensionable emoluments which would have been enjoyed by him or her at the date of his or her retirement, if he or she had continued to hold any office from which he or she has been transferred at any time during such period of three years, and had received all scale increments which, in the opinion of the Governor-General, would have been granted to him or her, the annual pensionable emoluments which would have been so enjoyed shall be taken.

(2) For the purpose of determining under sub-regulation (1) the pensionable emoluments that an officer has enjoyed or would have enjoyed, as the case may be, he or she shall be deemed—

- (a) to have been on duty on full pensionable emoluments throughout the period of three years immediately preceding the date of his or her retirement; and
- (b) to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him or her as if such increase had been payable throughout such period of three years.

(3) For the purpose of computing the amount of pension or gratuity of an officer who has had a period of less than three years' pensionable service before his or her retirement—

- (a) the average annual pensionable emoluments enjoyed by him or her during such period shall be taken;
- (b) he or she shall be deemed to have been on duty on full pensionable emoluments throughout such period; and
- (c) he or she shall be deemed to have enjoyed the benefit of any increase due to a revision of salaries in the pensionable emoluments of any office held by him or her as if such increase had been payable throughout such period.

(4) The estimated value of free quarters in respect of service under the Government of the State shall be calculated at the rate of one-sixth of the actual salary of the office.

**Service in non-pensionable office.**

**20.** Only service in a pensionable office shall be taken into account as pensionable service:

Provided that—

- (a) where a period of service in a civil capacity otherwise than in a pensionable office is immediately followed by service in a pensionable office and the officer is confirmed therein, such period may, with the approval of the Governor-General, be so taken into account;
- (b) any break in service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining, for the purposes of the preceding proviso, whether one period of service immediately follows another period of service;
- (c) where an officer has been transferred from a pensionable office in which he or she has been confirmed to a non-pensionable office and subsequently retires either from a pensionable office or a non-pensionable office, his or her service in the non-pensionable office may, with the approval of the Governor-General, be taken into account as though it were service in the pensionable office which he or she held immediately prior to such transfer and at the pensionable emoluments which were payable to him or her at the date of the transfer;
- (d) where a period of service in a non-pensionable office is taken into account under this regulation, the officer shall, during that period, be deemed for the purpose of regulations 6, 23 and 24 to be holding a pensionable office, and, where that period is taken into account under the preceding proviso, to have been confirmed therein.

**Acting service.**

**21.** Any period during which an officer has performed only acting service in an office may be taken into account as pensionable service (subject, if the office is a non-pensionable office, to the provisions of the preceding regulation) if the period of such acting service—

- (a) is not taken into account as part of his or her pensionable service in other public service; and
- (b) is immediately preceded or followed by service in a substantive capacity in a pensionable office under the same government or authority,

and not otherwise.

**Service under age of 20 or on probation or agreement.**

**22.** Save as otherwise provided in these Regulations, there shall not be taken into account as pensionable service—

- (a) any period of service while the officer was under eighteen years; or

- (b) any period of service while he or she was on probation or agreement, unless, without break of service, he or she is confirmed in a pensionable office in the public service:

Provided that any break of service which may be disregarded under the provisions of regulation 15 may likewise be disregarded in determining whether the officer is confirmed in a pensionable office without break of service.

*(Amended by Act 7 of 1994)*

## PART V

### SUPPLEMENTARY

#### **Abolition of office and re-organization.**

**23.** If an officer who holds a pensionable office retires from the public service in consequence of the abolition of his or her office or for the purpose of facilitating improvements in the organization of the department to which he or she belongs, by which greater efficiency or economy may be effected—

- (a) he or she may, if he or she has been in the public service for less than ten years, be granted *in lieu* of any gratuity, under regulation 5 or regulation 12, a pension under regulation 4, 9, 10 or 11, as the case may be, as if the words “for ten years or more” were omitted from regulation 4;
- (b) he or she may, if he or she retires from the service of the State, be granted an additional pension at the annual rate of one-sixtieth of his or her pensionable emoluments for each complete period of three years’ pensionable service:

Provided that—

- (i) the addition shall not exceed ten-sixtieths; and
- (ii) the addition together with the remainder of the officer’s pension shall not exceed the pension for which he or she would have been eligible if he or she had continued to hold the office held by him or her at the date of his or her retirement, and retired on reaching the age of fifty-five years, having received all increments for which he or she would have been eligible by that date.

*(Amended by Act 4 of 1975)*

#### **Officers injured or contracting diseases in the discharge of their duties.**

**24.** (1) This Regulation shall apply to an officer who, while in the service of the State, either—

- (a) is permanently injured in the actual discharge of his or her duty by some injury specifically attributable to the nature of his or her duty which is not wholly or mainly due to, or seriously aggravated by, his or her own serious and culpable negligence or misconduct; or
- (b) contracts a disease to which he or she is specifically exposed by the nature of his or her duty, not being a disease wholly or mainly due to, or seriously aggravated by, his or her own serious and culpable negligence or misconduct.

(2) In this regulation, unless the contrary intention appears, references to an officer being injured and to the date on which an injury is sustained shall respectively be construed as including references to him or her contracting such a disease as is mentioned in sub-regulation (1) and to the date on which such disease is contracted.

(3) Where an officer to whom this regulation applies is holding a pensionable office in which he or she has been confirmed—

- (a) he or she may, if his or her retirement is necessitated or materially accelerated by his or her injury and he or she has been in the public service for less than ten years, be granted, *in lieu* of any gratuity under regulation 5 or regulation 12, a pension under regulation 4, 9, 10 or 11, as the case may be, as if the words “for ten years or more” were omitted from the said regulation 4;
- (b) he or she may be granted on retirement an additional pension, at the annual rate of the proportion of his or her actual pensionable emoluments at the date of his or her injury appropriate to his or her case as shown in the following table:

when his or her capacity to contribute to his or her own support is—

slightly impaired—five-sixtieths;

impaired—ten-sixtieths;

materially impaired—fifteen-sixtieths;

totally destroyed—twenty-sixtieths:

Provided that the amount of the additional pension may be reduced to such an extent as the Governor-General shall think reasonable where the injury is not the cause or the sole cause of retirement.

(4) Where an officer to whom this regulation applies is not holding a pensionable office, or is holding a pensionable office in which he or she has not been confirmed, he or she may be granted on retirement a pension of the same amount as the additional pension which might be granted to him or her under sub-regulation (3), if his or her office were a pensionable office and he or she had been confirmed therein; and the provisions of regulation 25 shall not apply to a pension granted under this sub-regulation.

(5) If, for the purpose of assessing the amount of any additional pension or pension to be granted under paragraph (b) of sub-regulation (3) or under sub-regulation (4) to any officer to whom this regulation applies, the degree of permanent impairment of his or her capacity to contribute to his or her support is in doubt, he or she may be granted a provisional award to have effect until such time as the degree of permanent impairment can be determined; and the provisions of regulation 25 shall not apply to an award made under this sub-regulation.

(6) If an officer proceeding by a route approved by the Governor-General to or from the State or from one island in the State to another, at the commencement or termination of his or her service in the State, or of a period of leave therefrom is permanently injured as the result of damage to the vessel, aircraft or vehicle in which he or she is travelling, and the Governor-General is satisfied that such damage or act is attributable to circumstances arising out of any war in which Her Majesty may be engaged, such officer shall be deemed, for the purpose of this regulation, to have been injured in the circumstances described in sub-regulation (1).

(7) An officer who is permanently injured while travelling by air in pursuance of official instructions, and whose injury is not wholly or mainly due to, or seriously aggravated by, his or her own serious and culpable negligence or misconduct, shall be deemed, for the purposes of this regulation, to have been injured in the circumstances described in sub-regulation (1):

Provided that in such a case the rates of pension prescribed in sub-regulation (3) shall be seven and a half-sixtieths, fifteen-sixtieths, twenty-two and a half-sixtieths and thirty-sixtieths, respectively.

(8) Neither paragraph (b) of sub-regulation (3) nor sub-regulation (4) shall apply in the case of an officer selected for appointment to the service of the State on or after the coming into force of the Act who, in consequence of his or her injury, is entitled to compensation under the Social Security Act, Cap. 22.10.

(9) Neither sub-regulation (3) nor sub-regulation (4) shall apply in the case of an officer who in consequence of his or her injury is entitled under the State Superannuation Scheme to benefits corresponding to the benefits granted under those sub-regulations.

(10) Where the Governor-General is satisfied that damages have been or will be recovered by an officer in respect of an injury for which an additional pension or pension may be granted under paragraph (b) of sub-regulation (3) or under sub-regulation (4), the Governor-General may take those damages into account against such additional pension or pension in such manner and to such extent as he or she may think fit and may withhold or reduce the additional pension or pension accordingly.

(11) For the purpose of sub-regulation (10), an officer shall be deemed to recover damages whether they are paid in pursuance of a judgment or order of the Court or by way of settlement or compromise of his or her claim and whether or not proceedings are instituted to enforce that claim.

#### **Gratuity and reduced pension.**

**25.** (1) Any officer to whom a pension is granted under the Act may, at his or her option exercisable as in this regulation provided, be paid *in lieu* of such pension, a pension at the rate of three fourths of such pension together with a gratuity equal to fifteen times the amount of the reduction so made in the pension:

Provided that in the application of this regulation to cases where the limitation prescribed by subsection (2) of section 9 of the Act operates, the words “such pension” shall mean the amount of pension which the officer might have drawn from the funds of the State if he or she had not exercised his or her option under this regulation.

*(Amended by Act 7 of 1994)*

(2) The option referred to in sub-regulation (1) shall be exercisable not later than the day immediately preceding the date of such officer’s retirement:

Provided that the Governor-General may, if it appears to him or her in all the circumstances equitable so to do, allow him or her to exercise the option at any time between the date of his or her retirement and the date of award of pension under the Act.

(3) If an officer has exercised the option his or her decision shall be irrevocable after the date of his or her retirement.

(4) If an officer who has not exercised the option dies after the date of retirement but before a pension has been awarded under the Act, it shall be lawful for

the Governor-General to grant a gratuity and a reduced pension as provided in sub-regulation (1), as if the officer had exercised the option before his or her death.

(5) The date of the exercise of the option by an officer shall be deemed to be the date of the receipt of his or her written notification addressed either to the Governor-General or to the Crown Agents for Overseas Governments and Administrations.

**Gratuities for officers who have served in non-pensionable offices.**

**26.** (1) An officer holding a non-pensionable office who is not eligible for pension (other than a pension under regulation 24) or otherwise eligible for gratuity from the funds of the State may if he or she has been in the public service for not less than seven years and retired from the service in one of the cases mentioned in section 6 of the Act other than that mentioned in paragraph (g) thereof may be granted, if the Governor-General thinks fit, a compassionate gratuity not exceeding four dollars and eighty cents or one week's pay, whichever is the greater, for each year of his or her service in the State which would be pensionable service if he or she were eligible for pension under these Regulations.

(2) For the purpose of this regulation—

- (a) “pay” includes the value of free quarters and any allowance which the Governor-General may think fit to include;
- (b) regulation 15 may be disregarded, but directions may be given by the Governor-General, either generally or in any particular case, for disregarding periods of service prior to breaks of three years or more, to dismissal for misconduct or to voluntary resignation, or periods during which an officer has served less than a number of days prescribed in the directions, and such directions shall have effect as if they were contained in this regulation;
- (c) an officer who, having held a non-pensionable office, is serving on probation in a pensionable office, shall be deemed to hold a non-pensionable office and his or her pay shall be deemed to be the pensionable emoluments of the pensionable office or the pay last received by him or her in respect of his or her service in a non-pensionable office, whichever shall be the greater.

PART VI

TRANSITIONAL REGULATIONS

**Definition of “serving officer”.**

**27.** The expression “serving officer” means an officer who is serving in the State at the commencement of the Act or has been transferred from the State to other public service before, and is still in the public service on that day:

Provided that if pension, gratuity or other allowance is granted to such an officer in respect of service which, owing to a break in service, does not include service in the State before the coming into force of the Act, the said expression shall not include him or her in relation to that pension, gratuity or allowance.

**Pensionable emoluments of serving officer to include fees paid as salary.**

28. The pensionable emoluments of a serving officer shall include fees paid out of the Treasury of the State by way of salary.

**Application to regulation 20.**

29. In the case of a serving officer, the following shall, if to his or her advantage, be deemed to be substituted for regulation 20:

No service other than service in a pensionable office, will be taken into account in computing pensions or gratuities, except that where the service in a pensionable office has been immediately preceded by an unbroken period of service in an appointment other than a pensionable office, or of service paid for out of an open vote, or of both such services, or of service in the Police Force such period, or any part of such period, may be taken into account:

Provided always that, of the period of service paid for out of an open vote, only two-thirds shall be counted for the purposes of these Regulations:

Provided that when any office shall be declared a pensionable office, the Governor-General may, by a notification published in the *Gazette*, declare, with or without any terms, conditions or limitations, that service in such office before the same was declared pensionable may be taken into account in computing an officer's pension, gratuity or allowance, and it shall be taken into account accordingly:

Provided further that in the case of an officer transferred to or from the service of the State from or to other public service, service otherwise than in a pensionable office in the State or in other public service shall be taken into account only if he or she has served in a pensionable office in the State or that service, as the case may be.

**Application to regulation 24(4).**

30. In the case of an officer selected for appointment to the service of the State before the coming into force of the Act, paragraph (4) of regulation 24 shall not apply, but the amount of additional pension under that regulation may be reduced to such an extent as the Governor-General shall think reasonable if compensation in respect of the injury is payable under the provisions of the Social Security Act.

**Preserving rights of serving officers with professional qualifications.**

31. (1) The following provisions contained in sub-regulations (2), (3) and (4) shall apply in the case of a serving officer.

(2) In computing the pension of such an officer, other than one to whom Part III of these Regulations applies, who on retirement from the service, holds one of the offices mentioned in Schedule 2 to these Regulations, the additions in the said Schedule mentioned may be made to his or her period of service:

Provided that no addition shall be made which, together with the number of years of actual service, shall amount to more than thirty-three and a third years:

Provided also that the full addition shall not be made unless he or she has served ten years in the office from which he or she retires, or in an office of the same class in the said Schedule; but, if he or she has served less than ten years in such an office, an addition may be made which shall have the like proportion to the full addition which the number of years he or she has served in such capacity bears to ten years:

Provided further that no addition of years shall be made under this regulation in excess of the number of years by which the officer's age at the date of his or her entering the pensionable service of the Crown exceeded twenty years.

(3) Where an officer has been transferred to or from the service of the State from or to other public service and held at the date of his or her transfer or retirement, as the case may be, from the service of the State, and had held for twelve consecutive months prior thereto, one of the offices mentioned in the Second Schedule to these Regulations he or she may on his or her ultimate retirement from the public service in circumstances in which he or she is permitted by the law or regulations of the service in which he or she is last employed to retire on pension or gratuity be granted in addition to the pension granted to him or her under regulation 9, 10 or 11, as the case may be, an additional pension which shall bear to the additional pension which he or she might have received under paragraph (1) if he or she had no other public service the same proportion which the length of his or her pensionable service in the State bears to the length of his or her total pensionable service in the public service:

Provided that—

- (a) he or she shall not be disqualified from receiving an additional pension by reason of the fact that his or her service in the State would not by itself have rendered him or her eligible for a pension;
- (b) in determining the additional pension which he or she might have received if he or she had had no other public service, regard shall be had to his or her age at the date of his or her entering the public service but regard shall not be had save for the purposes of the following proviso to the second proviso to sub-regulation (2);
- (c) the additional pension actually granted under this regulation shall not be greater than that which might have been granted under sub-regulation (2) if he or she had had no other public service.

(4) This regulation shall apply only to an officer who shall have held an office mentioned in the Second Schedule to these Regulations before the coming into force of the Act.

(5) In computing an addition to his or her service or pension under this regulation no service subsequent to his or her appointment on or after the coming into force of the Act to any other office, whether in the State or other public service, except an office in the same class in the said Schedule, shall be taken into account as service in an office mentioned in that Schedule, and the addition shall be that appropriate to the last office held by him or her which may be so taken into account and his or her service in that office (including any other office in the same class).

#### **Application to Regulation 26.**

**32.** (1) In the case of a serving officer the following provisions contained in sub-regulations (2) and (3) shall, if to his or her advantage, apply *in lieu* of regulation 26.

(2) In the case of an officer who is not qualified for a pension or gratuity under these Regulations, but has continuously served in the State for fifteen years or upwards, during which period he or she has been required to give his or her whole time to the service of the Government, a monthly allowance may be granted to such officer not exceeding three-fourths of the pension to which he or she would have been entitled had he or she been employed in a pensionable office, or *in lieu* of such allowance there may be paid to him or her a capital sum equal to the amount of sixty of such monthly payments, but no such capital sum shall be paid in any case of retirement on the ground of ill-health:

Provided that where an officer has been transferred from a pensionable to a non-pensionable office, he or she shall be entitled either—

- (a) to count his or her service in the non-pensionable office, as though it were service in a pensionable office at the pay which he or she received immediately prior to such transfer; or
- (b) to count his or her service in the pensionable office, as though it were service, in the non-pensionable office, and to take the benefit of this regulation accordingly.

(3) In sub-regulation (2)(a), the word “pay” means the emoluments enjoyed by the officer which would have been pensionable emoluments if the office held by him or her had been a pensionable office.

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### SCHEDULE 1 TO THE REGULATIONS

*(Regulation 8(1))*

Aden.

Antigua.

Bahamas.

Barbados.

Basutoland.

Bechuanaland Protectorate.

Bermuda.

British Guiana.

British Honduras.

Cayman Islands.

Ceylon.

Crown Agents for Overseas Governments and Administrations.

Cyprus.

Dominica.

East Africa High Commission.

East African Railways and Harbours Administration.

Eastern Region of Nigeria.

Falkland Islands.

Federated Malay States.

Federation of Malaya.

Federation of Nigeria.

Federation of Rhodesia and Nyasaland.

Federation of the West Indies.

Fiji.  
Gambia.  
Ghana.  
Gibraltar.  
Gold Coast.  
Grenada.  
Hong Kong.  
Jamaica.  
Kenya.  
Kenya and Uganda Railways and Harbours Administration.  
Leeward Islands (before 1st July, 1956).  
Malayan Establishment.  
Malayan Union.  
Mauritius.  
Montserrat.  
Nigeria.  
North Borneo.  
Northern Region of Nigeria.  
Northern Rhodesia.  
Nyasaland.  
Oversea Audit Service (Home Establishment).  
St. Helena.  
St. Lucia.  
St. Vincent.  
Sarawak.  
Seychelles.  
Sierra Leone.  
Singapore.  
Somaliland Protectorate.  
Straits Settlements.  
Swaziland.  
Tanganyika Territory.  
Trinidad.  
Turks and Caicos Islands.  
Uganda.  
United Kingdom of Great Britain and Northern Ireland.

The University of the West Indies *(Inserted by S.R.O. 28/1969)*

Virgin Islands.

Western Pacific:

Gilbert and Ellice Islands.

British Solomon Islands Protectorate.

New Hebrides.

Western Region of Nigeria.

Tonga.

Zanzibar.

## SCHEDULE 2 TO THE REGULATIONS

*(Regulation 31)*

The number of years to be added to the period of service under Regulation 31 for the purpose of computing pensions is as follows:

For the first class.....	Ten years.
For the second class.....	Five years.
For the third class.....	Three years.

First Class comprises:

Judges of the Supreme Court.

Second Class:

Attorney General.

Surveyor of Public Works, when a civil engineer.

Third Class:

Crown Attorneys.

Medical Officers.

District Magistrates, when barristers-at-law or advocates of the Scotch Bar.

Surveyor of Public Works, not a civil engineer.

## SECOND SCHEDULE

*(Section 26(5))*

### INVESTMENT OF MONEYS OF THE FUND

1. The money in the Fund which is not immediately required for any purpose may be invested by the Social Security Board in certificates of deposit or related obligations in domestic financial entities, on terms not less favourable than those

provided to institutional investors in Saint Christopher and Nevis, according to sound principles of diversification.

2. The money in the Fund shall not be invested by the Social Security Board in property, securities or offshore ventures until the Fund is adequately capitalized, based on actuarial advice.

*(Second Schedule inserted by Act 13 of 2012)*

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### THIRD SCHEDULE

*(Section 27(6))*

#### PROVISIONS RELATING TO THE OPERATION OF THE BOARD

1. Subject to the provisions of this Act and this Schedule, the Board shall be deemed to be properly constituted notwithstanding that there is a vacancy in the office of Chairperson or any other member.

2. (1) The Board shall meet at such times and on such days as may be necessary or expedient for the transaction of its business.

(2) The Chairperson may, at any time, call a meeting of the Board, and shall call a meeting to be held within a period of five days of a written request for that purpose addressed to him or her by any four members of the Board.

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

3. Subject to the provisions of paragraph 4, a member of the Board shall have one vote.

4. The Chairperson of the Board shall not have an original vote, except that in the event of an equality of votes he or she shall have a casting vote only.

5. Subject to the provisions of paragraphs 3 and 4, the decisions of the Board shall be by a majority vote.

6. The quorum of the Board shall be five.

7. Minutes of each meeting of the Board shall be kept in proper form.

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

(2) The constitution of a committee referred to in sub-paragraph (1) shall be determined by the Board.

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

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

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

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

(a) the full number of members for which provision is made in section 27 of the Act was not appointed or there was a vacancy or vacancies among such members; or

(b) a disqualified person acted as a member of the Board at the time the decision was taken or the act was done or authorised,

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

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

14. Subject to the provisions of this Act and this Schedule, the Board may regulate its own proceedings.

*(Third Schedule inserted by Act 13 of 2012)*

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