

**PENSIONS (WIDOWS AND ORPHANS) ACT****Principal Act**

<b>Act. No. 1961-14</b>	<i>Commencement</i>	2.4.1958
	<i>Assent</i>	2.11.1961

Amending enactment	Relevant current provisions	Commencement date
Act. 1971-11	–	
1982-27	s. 12(1), (1A), (2)	
1989-31	s. 4A, 13(1)(a)-(c)	26.10.1989
1990-05	s. 13(1)(c), (5)	26.10.1989
1996-01	s. 13(5)	15.2.1996
2007-17	ss. 3(2), 4(1)-(2), 5, 7(1), 8-9, 10(5), 11(1), (3)-(4), 12(2), 13(5), 16, (b), 19, 20(3), 21(1)-(2), 22, 24(1)-(2), 25	14.6.2007
2009-13	s. 6(2)(c)	23.3.2009
2016-11	s. 18A	9.12.2011

English sources

None cited

**ARRANGEMENT OF SECTIONS.**

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**SCHEDULE.**

Provisions relating to incapacitated persons. Children's Pension.

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AN ACT TO MAKE PROVISION FOR GRANTING PENSIONS TO WIDOWS AND CHILDREN OF DECEASED PUBLIC OFFICERS, AND FOR PURPOSES CONNECTED THEREWITH.

## Short title.

1. This Act may be cited as the Pensions (Widows and Orphans) Act.

## Interpretation.

2.(1) In this Act, unless the context otherwise requires,-

“child”, in relation to a person, includes an adopted child, an illegitimate child and a step-child;

“contributor” means a public officer making or liable to make contributions under this Act and includes any public officer who has ceased to contribute and whose contributions are not returnable;

“the Government” means the Government of Gibraltar;

“other public service” has the same meaning as in section 2 of the Pensions Act;

“pensionable emoluments” has the same meaning as in section 2 of the Pensions Act;

“pensionable office” has the same meaning as in section 2 of the Pensions Act;

“pensionable service” has the same meaning as in regulation 2 of the Pensions Regulations;

“public officer” and “officer” means a person serving in the public service in a permanent and pensionable appointment;

“public service” has the same meaning as in section 2 of the Pensions Act;

“qualifying service” has the same meaning as in regulation 2 of the Pensions Regulations;

“medical grounds”, in relation to the retirement of a public officer, means—

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- (a) in the case of retirement from the public service of the Government, retirement in circumstances in which subparagraph (iv) section 6(1)(a) of the Pensions Act would apply; or
- (b) in the case of retirement from other public service, retirement in circumstances in which the corresponding provisions of the law or regulations of the public service in which he is last employed would apply;

“service in the group” has the same meaning as in regulation 9 of the Pensions Regulations.

(2) When the marriage of any contributor has been annulled or dissolved by the decree of any competent court) the provisions of this Act shall, in relation to the contributor, have effect as if the wife had died and the contributor shall be deemed to have become a widower at the date of such decree of annulment or dissolution.

(3) Any reference in this Act to an adopted child of a person, shall be construed as a reference to a child adopted by him (whether alone or jointly with any other person) in accordance with the law of the place where he was resident at the time of the adoption and reference to a person by whom another person has been adopted shall be construed accordingly.

(4) Any reference in this Act to a person ceasing to be a public officer includes a reference. to the death of” a person who dies while he is a public officer.

(5) In this Act, the expression “incapacitated” means, in relation to a person, incapable by reason of old age or some specific bodily or mental disability of earning his own living, and a person who is in any event too young to earn his own living shall be treated as incapacitated for the purposes of this Act if it appears that, by reason of any specific bodily or mental disability, he will be incapable of earning his own living when he attains the age at which he would otherwise be capable of doing so.

### **Application of Act to male officers.**

3.(1) Subject to the provisions of this section, every male officer appointed temporarily or permanently to a pensionable office in the service of the Government after the date of commencement of this Act shall become a contributor under the provisions of this Act from the date on which he commences to draw any of the salary of the office.

(2) Every male officer who is at the date of the commencement of this Act the holder of a pensionable office in the service of the Government shall become a contributor under the provisions of this Act and be deemed to have so become a contributor on that date unless before the 1st day of January, 1962, he notifies the Financial Secretary in writing that he elects not to become a contributor.

(3) Any male officer who has elected not to become a contributor under the provisions of subsection (2) of this section and subsequently to so electing marries may within the period of six months next following the date of his marriage elect to become a contributor.

## **Application of Act to female officers.**

4.(1) A female public officer in the public service of the Government on the date of the commencement of this Act or appointed to the public service of the Government thereafter who has a husband may, on proof to the satisfaction of the Government that her husband is wholly or mainly dependent on her, elect to become a contributor.

(2) Where a female public officer becomes a contributor in accordance with the provisions of this section, all the provisions of this Act shall apply in relation to her as if references therein to a male person who is or was a public officer included references to her, and as if any reference to the wife or widow of such person included a reference to her husband or her widower:

Provided that—

- (a) where she leaves a widower, the Government may, if he thinks fit, direct that subsection (2) of section 11 shall apply to any children's pension payable in respect of her service to the exclusion of subsection (3) thereof, notwithstanding that some or all of the persons for whose benefit the pension can enure were not at the time of her death in the care of some person other than the widower; and
- (b) if her husband dies and she remarries, the subsequent marriage and the children thereof shall be left out of account for all the purposes of this Act unless she proves to the satisfaction of the Government at some time while she is still a civil servant, that her husband by that marriage is wholly or mainly dependent on her.

## **New entrants to the Public Service.**

4A. Sections 3 and 4 of the Act shall not apply to the male or female officer appointed to the public service of the Government on or after the 26 day of October, 1989.

**Power to grant widows' and children's pensions.**

5. Subject to the provisions of this Act the Government shall, on the death of a male contributor (hereinafter in this Act referred to as "the deceased") grant, in respect of his service—

- (a) where he leaves a widow, a pension to that widow (hereinafter in this Act referred to as "a widow's pension"); and
- (b) where he had a wife at any time after he became a contributor (whether or not the marriage continued until his death and whether or not a widow's pension is or can be granted), a pension for the benefit of the children of the marriage, and, in certain circumstances, of other children of his or hers (hereinafter in this Act referred to as "a children's pension"):

Provided that any marriage of the deceased which takes place after he has ceased to a public officer shall be left out of account for the purposes of this Act, and any reference in this Act to a marriage, a wife, the widow or the children of the deceased shall be construed accordingly.

**Pensions under Act to depend on deceased's eligibility for pension.**

6.(1) A pension shall not be granted under this Act unless—

- (a) the deceased had become eligible for the grant of a pension under the provisions of the Pensions Act (whether such a pension had actually been granted or not); or
- (b) the deceased was still serving as a public officer at the time of his death and would, if he had been retired on medical grounds, have been eligible for the grant of a pension under the provisions of the Pensions Act.

(2) In this Act—

- (a) references to the basic pension of an officer mean the pension for which, under the Pensions Act, he was eligible on the date of his death (whether such a pension at that or any other rate had actually been granted or not) or, as the case may be, for which he would have become eligible, calculated, in either case, with reference to his pensionable service only, and any

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abatement, addition or other pension or allowance which may or might be made under the provisions of the Pensions Act shall be left out of account; and

- (b) subject to the provisions of section 17 the expression “the rate of the pension of the deceased” means three-fourths of the annual rate of the basic pension of the deceased;
- (c) Any person who, on 1 July 2007 is in receipt of a pension under this Act shall be eligible to a revised pension with effect from this date, which takes into account as pensionable service all periods of public service by the deceased, irrespective of any breaks in service. The additional element of the pension payable will take account of any increases that would have been applied under the Pensions (Increase) Act from the date the pension commenced.

## **Widows’ pensions.**

7.(1) A widow’s pension shall not be granted if–

- (a) the widow was at the time of the death of the contributor cohabiting with a person other than the deceased; or
- (b) after the death of the contributor the widow re-marries or cohabits with any person,

and if, after the grant of a widow’s pension, the widow remarries or cohabits with any person, the pension shall cease as from the date of the remarriage or the commencement of the cohabitation:

Provided that where–

- (i) a pension is withheld or ceases under this section; and
- (ii) the Government is satisfied at a subsequent date that the marriage or cohabitation has come to an end or that there are compassionate grounds for the payment of pension notwithstanding the marriage,

the Government may, if he thinks fit, grant or regrant the pension as from that date.

(2) Subject to the provisions of subsection (1) a widow’s pension shall be paid in respect of the whole period from the death of the deceased to the death of the widow.

(3) The annual rate of a widow's pension shall amount to one-third of the rate of the pension of the deceased or to £26 per annum, whichever is the higher.

**Bankruptcy of a widow.**

8. If a person to whom a widow's pension has been granted is adjudicated bankrupt, or declared insolvent by any competent court such pension shall cease as from the date of the bankruptcy or insolvency:

Provided that where a pension ceases under this section the Government may, from time to time, during the remainder of her life, or during such shorter period or periods, either continuous or discontinuous as he thinks fit, authorize the payment to such widow of an allowance at a rate not exceeding the rate of such pension or may authorize the application of such allowance for the maintenance and personal support of such widow, in such manner and at such time as he thinks fit.

**Payment of pension in cases of desertion.**

9. Where the deceased leaves a widow who does not assist or deserts or abandons a child whom she is bound by law to maintain, the Government may direct that such portions of the widow's pension as he thinks fit shall be paid to such person as he may direct and be applied by him for the benefit of such child.

**Children's pensions: beneficiaries.**

10.(1) A children's pension shall be granted if, and be paid so long as and whenever, there are persons for whose benefit it can enure.

(2) Subject to the provisions of this section and to the provisions of the Schedule, the persons for whose benefit a children's pension can enure are the children of the deceased or of any wife of his who are for the time being in their period of childhood and full-time education.

(3) A children's pension cannot enure—

- (a) for the benefit of any person conceived after the deceased ceased to be a public officer;
- (b) for the benefit of any person by reason that he is the illegitimate or adopted child of the deceased if he was born, or, as the case may be, adopted, after the termination of the



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deceased's last marriage or after the deceased had ceased to be a public officer; or

- (c) for the benefit of any person by reason that he is the child of a wife of the deceased, if he was born or became her child after the termination of the marriage or after the deceased had ceased to be a public officer.

(4) A children's pension cannot enure for the benefit of any person by reason that—

- (a) he is the illegitimate child of the deceased; or
- (b) he is a step-child of the deceased and a child of a wife of his; or
- (c) he is the step-child, adopted child or illegitimate child of a wife of the deceased,

unless he was wholly dependent on the deceased at the time of his death.

(5) A children's pension cannot enure for the benefit of a female person who at the time of the death of the deceased was married or was cohabiting with any person, and if, after the death of the deceased, a female person marries or cohabits with any person, she shall thereupon cease to be a person for whose benefit a children's pension can enure :

Provided that where—

- (a) a pension is withheld from or does not enure for the benefit of a person by virtue of this subsection; and
- (b) the Government is satisfied at a subsequent date that the marriage or cohabitation has come to an end or that there are compassionate grounds for permitting the pension to enure for her benefit notwithstanding the marriage,

the Government, may, if he thinks fit, grant the pension, or as the case may be, permit the pension to enure for her benefit, as from that date.

## **Children's pensions: rate and mode of payment.**

11.(1) Only one children's pension shall be granted in respect of the service of any one person, but—

- (a) the rate thereof may vary according to the number of persons for whose benefit it can for the time being enure; and

- (b) it shall be paid to such person or persons as the Government may from time to time direct, and different parts thereof may be directed to be paid to different persons; and
  - (c) the person to whom all or any part thereof is paid shall apply the sum paid to him, without distinction, for the benefit of all the persons for whose benefit the pension can for the time being enure or for the benefit of such of them as the Government may from time to time direct.
- (2) Where the deceased leaves no widow, and, if he leaves a widow, alter her death, the annual rate of a children's pension—
- (a) while the persons for whose benefit it can enure are three or more in number, shall amount to one-third of the rate of the pension of the deceased or £26 per annum, whichever is the higher;
  - (b) while such persons are two in number, shall amount to one-quarter of the rate of the pension of the deceased, or to £19.50 per annum whichever is the higher;
  - (c) while there is only one such person, shall amount to one-sixth of the rate of the pension of the deceased or to 113 per annum, whichever is the higher.
- (3) Subject to the provisions of subsection (4), where the deceased leaves a widow, the annual rate of a children's pension during her life—
- (a) while the persons for whose benefit it can enure are four or more in number, shall amount to one-third of the rate of the pension of the deceased or to £26 per annum whichever is the higher;
  - (b) while such persons are three in number, shall amount to one-quarter of the rate of the pension of the deceased, or to £19.50 per annum, whichever is the higher;
  - (c) while such persons are two in number, shall amount to one-sixth of the rate of the pension of the deceased, or to £13 per annum, whichever is the higher;
  - (d) while there is only one such person, shall amount to one-twelfth of the rate of the pension of the deceased or to £6.50 per annum whichever is the higher;

Provided that—

- (i) where all the persons for whose benefit a children's pension can enure were at the time of the death of the deceased in the care of some person other than the widow, the Government may, if he thinks fit, direct that subsection (2) shall apply notwithstanding that the widow is still alive; and
- (ii) where some but not all those persons were at that time in the care of some person other than the widow, the annual rate of the children's pension may, if the Government thinks fit, amount to the sum of the rate to which it might have amounted if those persons were left out of account and the rate to which it might have amounted if the widow were dead and the other persons were left out of account, so, however, that in no case shall the annual rate of the pension amount to more than either one-third of the rate of the pension of the deceased or £26 per annum, whichever is the higher.

(4) Notwithstanding anything in the preceding provisions of this section, where the deceased leaves a widow and no widow's pension is granted to her or, if one is granted to her, it ceases to be paid before her death, no children's pension shall be payable as respects any period comprised within the life-time of the widow or within the time in respect of which no widow's pension is payable, as the case may be, unless the Government specially directs that such a pension shall be so payable, but if the Government does specially so direct, he may, if he thinks fit, further direct that subsection (2) shall apply as respects any such period notwithstanding that the widow is alive.

## **Periodical contributions.**

12.(1) Every officer other than an officer referred to in section (1A) may, before the 1st day of January, 1962, or within three months of his becoming a contributor under this Act, whichever is the later, elect to make contributions under this section.

(1A) Every officer who first becomes a contributor under this Act on or after the 1st day of January, 1983, shall make contributions in the manner set out in this section.

- (2) Contributions by an officer under this section—

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- (a) (i) shall be equal to one and one-half per cent of the amount of the annual pensionable emoluments from time to time enjoyable by him; and
- (ii) in addition to the contribution payable under subparagraph (1) of paragraph (a) of this subsection, shall be three and one-half per cent of the amount of the annual pensionable emoluments from time to time enjoyable by him until such time as the amount of the contributions which he would have paid had he been a contributor from the commencement of his pensionable service under the Government, together with compound interest at the rate of three per cent per annum, has been paid;
- (b) shall be payable in respect of his pensionable emoluments—
  - (i) from the date as from which his election to pay contributions becomes effective or, in the case of an officer referred to in subsection (1A), from the date on which he becomes a contributor, until he ceases to be a public officer under the Government; and
  - (ii) in the case of an officer transferred to other public service who subsequently re-enters the public service of the Government, from the date of his re-entry until he ceases to be a public officer under the Government :  
  
Provided that no contributions shall be payable in respect of any period which is not taken into account as pensionable service;
- (c) shall be paid by monthly abatements from the officer's salary, or in exceptional cases, at such other times or in such other manner as the Government shall determine.

(3) An election by an officer under subsection (1) shall be effective as from the date of his first appointment to be a public officer in the service of the Government or the 1st day of January, 1962, whichever is the later:

Provided that in the case of a person who—

- (a) on the date of his first appointment to be a public officer in the service of the Government or at the date of the commencement of this Act, is unmarried; and

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- (b) marries thereafter; and
- (c) has not already elected under subsection (1) to make contributions under this section,

an election shall be effective as from the first day of the month following that in which he marries or the 1st day of January, 1962, whichever is the later.

(4) Contributions under this section are in this Act referred to as periodical contributions.

## **Return of periodical contributions.**

13.(1) If—

- (a) when a contributor who has made periodical contributions ceases to be a public officer, it appears that he has had no wife throughout the period commencing with the date of his first appointment as a public officer in the service of the Government and terminating on the date when he ceases to be a public officer; or
- (b) a contributor who has made periodical contributions ceases to be a public officer under such circumstances that he is not eligible for the grant of a pension under the Pensions Act, and would not have become eligible under the circumstances described in section 6(1)(b); or
- (c) a contributor (except a contributor who has ceased to be public officer and is not a person to whom paragraph (a) or (b) of this subsection applies) who has made periodical contributions gives written notice to the Government on or after the 26 day of October 1989 that with effect from such date as may be specified in such notice he no longer wishes to be a contributor.

the whole of his periodical contributions shall be returned to him or to his legal personal representative.

(2) If a contributor who has made periodical contributions has no wife when he ceases to be a public officer, here shall be returned to him or to his legal personal representative such of those contributions, beginning with the last of them, as is necessary to secure that the period in respect of which such contributions have been paid by him without being returned does not extend beyond the date on which he last had a wife.

(3) Where a contributor who has made periodical contributions ceases to be a public officer, there shall be returned to him or to his legal personal representative such of those contributions, if any, beginning with the last of them, as is necessary in order to secure that the period in respect of which such contributions are paid by him—

- (a) is an exact number of months;
- (b) does not extend beyond the date on which his pensionable service amounted to four hundred months.

(4) Where any contributions are returned under this section, they may be returned with an addition of one-and-a-quarter per cent of the aggregate amount of the returned contributions for each year and part of a year of service in respect of which the contributions were made.

Provided that the Government may authorize the addition payable under this subsection to be at such increased rate as he may from time to time determine.

(5) Any notice given to the Government in accordance with subsection (1)(c) of this section shall be regarded as an election for the purposes of this Act and such election shall be made on or before 30 March 1996.

**Contribution by reduction in pension or commuted gratuity.**

14.(1) Subject to the provisions of this Act, where a pension or commuted gratuity under the Pensions Act becomes payable to or in respect of a contributor, payment shall be made in respect of the contributions due from him under this Act, in the form of a reduction—

- (a) in the gratuity, where one is payable; or
  - (b) where no such gratuity is payable, or the payment due under this section exceeds the gratuity, then to the extent of such excess, in any such pension payable.
- (2) A payment shall not be made under this section where—
- (a) the contributor has no wife when he ceases to be a public officer and has had no wife throughout the period commencing with the date of his first appointment as a public officer in the public service of the Government and terminating on the date when he ceases to be a public officer; or

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(b) the number of relevant months, as defined in subsection (4), is nil.

(3) (a) Where the payment by a contributor under this section takes the form of a reduction in the amount of the pension, it shall be made at an annual rate of two-twenty-fifths of the total amount of the contribution.

(b) Where the payment takes the form of a reduction in gratuity it shall be equal to the total amount of the contribution.

(c) For the purpose of this subsection—

“the total amount of the contribution” means the sum equal to one-twelfth of one and one-half per cent of the person’s annual pensionable emoluments when he ceased to be a public officer, multiplied by the number of relevant months as defined in subsection (4);

“annual pensionable emoluments” means the emoluments which would be taken for the purpose of computing the public officer’s pension or gratuity in accordance with the provisions of regulation 19 of the Pensions Regulations.

(4) In this section, the expression “the number of relevant months” means—

(a) if the public officer has a wife when he ceases to be a public officer, the number of completed months of pensionable service under the Government which he then has;

(b) if the public officer has no wife when he ceases to be a public officer, the number of completed months of pensionable service under the Government which he had when he last had a wife before that date,

reduced in each case by the number of months, if any, for which periodical contributions have been made by him and are not returnable:

Provided that if the number of completed months of such pensionable service exceeds four hundred the number of relevant months shall be deemed to be four hundred.

(5) Where the payment due from a contributor takes the form of a reduction in his pension and that pension ceases under the provisions of section 14, 15 or 16 of the Pensions Act, sums equivalent to those by which

the pension would have been reduced had it not ceased, shall be deemed to have been paid on account of the payment due under this Act.

**Lump sum contribution by existing officers.**

15.(1) Where a public officer has been in the public service of the Government at any time between the date of the commencement of this Act and the 1st day of January, 1962, and becomes a contributor under the provisions of section 3 he may, at the same time as he exercises his election under section 12, further elect to make a lump sum contribution equal to the amount of the contributions which he would have paid had he been a contributor from the commencement of his pensionable service under the Government, together with compound interest at the rate of three per cent per annum.

(2) Where a contributor has made a lump sum contribution under the provisions of subsection (1) he shall be deemed to have made periodical contributions for the period of his pensionable service taken into account in calculating the amount of such lump sum contribution.

**Contribution by reduction in pension or gratuity in respect of a transferred officer.**

16. Where a payment on account of contribution falls to be made under section 14 by or in respect of a contributor whose service includes service otherwise than under the Government, then—

- (a) if such payment becomes due on his death while in the public service of the Government, or on his retirement from the public service, the amount by which the pension or gratuity payable to or in respect of him under the Pensions Act may be reduced under section 14 shall be limited to such an amount as shall bear the same proportion to the aggregate amount of the contributions which would fall to be made by or in respect of him under section 14 had his service in the group been wholly in the public service of the Government as the aggregate amount of his pensionable emoluments during his public service under the Government bears to the aggregate amount of his pensionable emoluments throughout his service in the group:

Provided that for the purposes of this paragraph the aggregate amount of a contributor's pensionable emoluments shall be calculated in accordance with regulation 10 (3) of the Pensions Regulations;



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- (b) if such payment becomes due on the death of a contributor while he is in other public service, no pension shall be payable to his widow or to any children of his or hers under the provisions of this Act unless a sum equal to the amount by which, if he had died in the public service of the Government, the gratuity payable in respect of him would have been reduced under the provisions of the preceding paragraph is paid to the Financial Secretary within six months next following his death or within such extended period as the Government may allow.

### **Lump sum contribution in respect of certain transferred officers.**

17.(1) Where a contributor has transferred from other public service to public service under the Government and in respect of any period of his other public service—

- (a) he had no opportunity of participating in a scheme or fund for the granting of pensions to widows and children of officers in such other public service; or
- (b) he has been a participant in a scheme or fund for the granting of pensions to widows and children of officers in such other public service and, upon transfer, has been required by the law or regulations of that scheme or fund to cease to participate in circumstances in which no benefit, other than a return of contributions, is payable, he may elect within six months of the date of his transfer or before the 1st day of January, 1962, whichever is the later, to make a lump sum contribution and, in consequence, to have his pensionable service during that period of other public service taken into account in computing the rate of the pension of the deceased applicable in his case.

(2) The lump sum contribution payable under subsection (1) shall be equal to the amount of the contributions which he would have paid had he been a contributor during the period of his pensionable service in such other public service, together with compound interest at the rate of three per cent per annum.

(3) The expression “the rate of the pension of the deceased” in section 6 shall, in relation to a contributor who had made the lump sum contribution payable under subsection (1) means three-fourths of the basic pension for which he would have been eligible if the period of pensionable service during other public service reckonable under the provisions of subsection (1) had been pensionable service in the public service of the Government and his pensionable emoluments had been the pensionable emoluments actually enjoyed by him.

(4) Where a contributor has made a lump sum contribution under subsection (1) he shall be deemed to have made periodical contributions for the period of his pensionable other public service reckonable under that subsection.

**Contributions payable in respect of re-employed pensioner.**

18. Where a public officer, whose pension has been suspended under section 12 of the Pensions Act, or whose earlier public service is taken into account in accordance with the provisions of regulation 16(2) (b) of the Pensions Regulations, has had a reduction made in the pension or gratuity granted to him under that Act in accordance with the provisions of section 14 of this Act he shall—

- (a) if such reduction had been made from the aforesaid gratuity, be deemed to have made periodical contributions in respect of the period of his pensionable service taken into account in calculating the amount of such reduction;
- (b) if such reduction had been made from the aforesaid pension, be deemed to have made periodical contributions in respect of that proportion, not exceeding the whole, of his pensionable service taken into account in calculating the amount of such reduction as the actual amount of the contribution paid by way of reduction in pension bears to the total amount of the contribution used in determining the amount of the reduction.

**Contributions by former contributors.**

18A.(1) A person may resume contributions if—

- (a) he was formerly a contributor as defined in section 2;
- (b) the Government agrees that he may resume contributions;
- (c) at any time during the period from 9 December 2011 to 30 September 2016 he has communicated in writing his intention to resume contributions; and
- (d) he contributes either in a lump sum or in instalments such sum as the Government shall determine in order to bring his contributions up to date.

(2) The resumption of contributions in subsection (1) may be made in the contributor's stead by his widow, who shall thereby be awarded a

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widow's pension, if the contributor had, before his death, communicated in writing his intention to resume his contributions and the contributor, but for his death, would have been approved by the Government to resume contributions.

## **Duty of officers to give information.**

19. It is hereby declared that it is the duty of every officer to give to the Government or other proper authority all such information as is necessary for the proper operation of this Act in relation to him, whether he is asked to give the information or not.

## **Meaning of “period of childhood and full-time education.”**

20.(1) Subject to the provisions of subsection (4), a person shall be deemed for the purposes of this Act to be in his period of childhood and full-time education while either—

- (a) he is under the age of sixteen; or
- (b) he is receiving full-time instruction at any university, college, school or other educational establishment; or
- (c) he is undergoing training by any person (hereinafter referred to as “the employer”) for any trade, profession or vocation in such circumstances that—
  - (i) he is required to devote the whole of his time to the training for a period of not less than two years; and
  - (ii) while he is undergoing the training, the emoluments receivable by him, or payable by the employer in respect of him, do not exceed £13 a year, exclusive of any emoluments receivable or payable by way of return or premium paid in respect of the training:

Provided that a person shall not be deemed for the purposes of this section to satisfy the condition specified in paragraph (b) or the condition specified in paragraph (c) of this subsection unless there has up till then been no time since he attained the age of sixteen when he did not satisfy one or other of those conditions.

(2) In subsection (1), the expression “emoluments” means any salary, fees, wages, perquisites, or profits or gains whatsoever, and includes the value of free board, lodging or clothing, and, for the purposes of section (1)(c)(ii), where a premium has been paid in respect of the training of a

person, all emoluments at any time receivable by him, or payable by the employer in respect of him, shall be deemed to be receivable or payable by way of return of the premium, unless and except to the extent that the amount thereof exceeds in the aggregate the amount of the premium.

(3) As respects any period during which neither of the conditions specified in paragraphs (b) and (c) of subsection (1) is satisfied in relation to a person, the Government may, if it thinks fit and is satisfied that that person's full-time education ought not to be regarded as completed, direct either—

- (a) that that period shall be ignored for the purposes of the proviso to subsection (1); or
- (b) that that period shall be so ignored and shall also be treated as part of his period of childhood and full-time education for all the other purposes of this Act, except such purposes, if any, as may be specified in the direction.

(4) Notwithstanding anything in the preceding provisions of this section, the period of childhood and full-time education shall not, in the case of a person who is permanently incapacitated, be deemed for any of the purposes of this Act to continue after he attains the age of sixteen or his permanent incapacity becomes known, whichever is the later,

#### **Penalty for false statements.**

21.(1) An officer to whom this Act applies or a widow of such officer, who makes any false statement respecting any of the requirements of section 19, for each default, is liable, at the discretion of the Government, to pay a fine not exceeding £5 which may be deducted from his salary, or, as the case may be, from his or her pension.

(2) If an officer to whom this Act applies or a widow of such officer, makes any false statement respecting any of the particulars required by this Act to be given to the Financial Secretary, all or any part of the rights or benefits which would or might enure to him or his widow and children under this Act are liable to be forfeited at the discretion of the Government.

#### **Marriages of contributors whose early death is to be foreseen.**

22. Where a contributor marries and—

- (a) he dies within the year beginning with the date of the marriage; and

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- (b) there are no children born of the marriage; and
- (c) the Government is of the opinion that his death within the year beginning with the date of the marriage was, at that date, to be foreseen by the contributor,

the Government may direct that this Act shall have effect as if the marriage had not taken place and all the necessary adjustments shall be made accordingly.

### **Pension not to be assigned.**

23. Except as may be expressly provided in this Act no pension payable, and no rights of any person, under the provisions of this Act shall be assignable or transferable or liable to be attached, sequestered or levied upon for, or in respect of, any debt or claim whatsoever.

### **Mode of making elections.**

24.(1) Any election authorized to be made under this Act shall be in writing and shall be made to the Financial Secretary.

(2) The date of the making of the election shall be deemed to be the date of the receipt of the written notification of the election by the Financial Secretary.

(3) After the expiry of any period within which an election under this Act is required to be made, any such election shall be irrevocable.

### **Proof of claim to pensions.**

25. The Financial Secretary may require such proof as he considers desirable that any person who claims to be entitled to a pension under this Act, or on behalf of whom such claim is made, is alive and entitled to the pension, and the payment of any pension may be refused until such proof is furnished to the satisfaction of the Financial Secretary.

### **Application of Pensions Act and Mental Health Act 2016.**

26. Section 15 of the Pensions Act (which provides for forfeiture of pensions in certain cases of conviction) and section 131 of the Mental Health Act (which relates to pensions payable to persons suffering from mental disorder) shall apply in relation to a pension or part of a pension under this Act which is applied for the benefit of any person as if that pension or part of the pension, as the case may be, were a pension paid to that person:

Provided that where part only of such a pension is applied for the benefit of the person in question, section 15 shall have the effect as if, instead of providing that the pension should determine and cease to be payable, it had provided that that pension could not enure for his benefit.

**Effect of certain nullity decrees.**

27. Where a marriage which is voidable but not void from the beginning is declared to be null by any court of competent jurisdiction, the same results shall follow under this Act as would have followed thereunder if the marriage had not been voidable and had been dissolved at the date of the declaration of nullity.

**Financial provisions.**

28.(1) There shall be paid out of the Consolidated Fund—

- (a) any pension or return of contribution with or without interest which is payable under or by virtue of any of the provisions of this Act;
- (b) any expenses incurred in the administration of the provisions of this Act.

(2) Contributions under this Act shall be paid into the Consolidated Fund.

**SCHEDULE.**

Section 10.

**PROVISIONS RELATING TO INCAPACITATED  
PERSONS.**

**CHILDREN'S PENSIONS.**

1. Where a person for whose benefit, if he were still in his period of childhood and full-time education, a children's pension could enure under this Act in respect of the service of any deceased person is for the time being incapacitated by any incapacity which arose or first arose during that period, then, subject as hereinafter provided, a children's pension may enure for the benefit of that person notwithstanding that he is no longer in his period of childhood and full-time education:

Provided that this paragraph shall not apply where the incapacity is a permanent one which arose before the deceased ceased to be a public officer, and the deceased, before he ceased to be a public officer, knew or might reasonably be expected to have known that it had arisen and was permanent.

2. If in any case to which section 11(2) applies a children's pension can enure for the benefit of any person by virtue only of the preceding paragraph, then, whether or not that pension can also enure for the benefit of any other person or persons, the annual rate thereof may account to one-third of the rate of the pension of the deceased or to £26 per annum, whichever is the higher.