

Chapter 76.
Defence Force Retirement Benefits Act 1974.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 76.

Defence Force Retirement Benefits Act 1974.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Defence Force Retirement Benefits Act 1974,

Being an Act to provide benefits for members of the Defence Force on retirement and for their families on death, and for related purposes, to be incorporated and read as one with the *Defence Act 1974*.

PART I. – PRELIMINARY.

1. INTERPRETATION.

(1)¹ In this Act, unless the contrary intention appears—

²“**benefit**” means a benefit under this Act;

³“**the Board**” means the Defence Force Retirement Benefits Fund Board of Trustees established under Section 8 of the *Superannuation (General Provision) Act 2000*;

⁴“**child**” means a person under the age of 18 years;

¹ Section 1 (definition of “actuarial member of the Board”) repealed by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s1(a); Section 1 (definition of “actuary”) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s1(b); Section 1 Subsection (1) amended by No. 4 of 2002, s. 1; Section 1 (definition of “approved builder”) inserted by *Defence Force Retirement Benefits (Amendment) Act 1996*, (No. 10 of 1996), s1; Section 1 Subsection (1) amended by No. 4 of 2002, s. 1; Section 1 Subsection (1) amended by No. 4 of 2002, s. 1; Section 1 Subsection (1) amended by No. 4 of 2002, s. 1; Section 1 Subsection (1) amended by No. 4 of 2002, s. 1; Section 1 (definition of “insurance”) inserted by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s1(e); Section 1 Subsection (1) amended by No. 4 of 2002, s. 1.

² Section 1 (definition of “actuarial member of the Board”) repealed by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s1(a); Section 1 (definition of “actuary”) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s1(b); Section 1 Subsection (1) amended by No. 4 of 2002, s. 1; Section 1 (definition of “approved builder”) inserted by *Defence Force Retirement Benefits (Amendment) Act 1996*, (No. 10 of 1996), s1; Section 1 Subsection (1) amended by No. 4 of 2002, s. 1; Section 1 Subsection (1) amended by No. 4 of 2002, s. 1; Section 1 Subsection (1) amended by No. 4 of 2002, s. 1; Section 1 (definition of “insurance”) inserted by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s1(e); Section 1 Subsection (1) amended by No. 4 of 2002, s. 1.

³ Section 1 Subsection (1) amended by No. 4 of 2002, s. 1.

- “contribution”** means a contribution under this Act to the Fund;
- “contributor”** means a person who is required or permitted to contribute to the Fund;
- ⁵**“daily rate of pay”** in relation to a member of the Defence Force, and in relation to a particular time, means the daily rate of pay for his level, excluding allowances, for the rank held at that time as prescribed for the purposes of this definition;
- ⁶**“the Fund”** means the Defence Force Retirement Benefits Fund Board of Trustees established under Section 8 of the *Superannuation (General Provision) Act 2000*;
- “gratuity”** means a gratuity under this Act;
- ⁷**“interest”** means, in relation to a member’s contributions, the amount determined by the application of the yearly interest rate, as determined by the Board from time to time, on the member’s total contribution.
- “invalidity benefit”** means benefit to which a member is entitled under Section 34;
- ⁸**“Life Insurance Act”** means the Life Insurance Act 2000 (as amended from time to time) including the regulations and prudential standards made under this Act;
- “non-commissioned member of the Defence Force”** means a member of the Defence Force other than an officer;
- “officer”** includes a cadet enrolled at an officer cadet school;
- “pension”** means pension under this Act;
- “rank”**, in relation to a member of the Defence Force, means—
- (a) his substantive rank or, if he is appointed on probation, the rank to which he is so appointed; or
 - (b) if he is promoted provisionally to a rank and the appointing authority certifies to the Board that he is expected to hold the rank for at least six months—the rank to which he is so promoted;
- “the regulations”** means any regulations made under this Act;
- “retiring age for the rank held”**, in relation to a member of the Defence Force, means the prescribed age for compulsory discharge of a member of the rank and employment of the member;

⁴ Section 1 (definition of “child”) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s1(c).

⁵ Section 1 (definition of “daily rate of pay”) repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s1(d).

⁶ Section 1 Subsection (1) amended by No. 4 of 2002, s. 1.

⁷ Section 1 (definition of “interest”) inserted by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s1(e).

⁸ Section 1 Subsection (1) amended by No. 90 of 2006, Sched. 1.

⁹**“retrenchment”**, in relation to a contributor, means the termination of his service because—

- (a) his services are, or his position is, no longer required; or
- (b) the work for which he was engaged is finished; or
- (c) of a reduction in the size of the Defence Force;

“service” means service as a member of the Defence Force;

“service for pension” means continuous full-time service as a member of the Defence Force but, subject to Subsection (5), does not include service in respect of which a member is not permitted or required to contribute;

¹⁰**“Superannuation Act”** means the Superannuation Act 2000 (as amended from time to time) including the regulations and prudential standards made under this Act;

“this Act” includes the regulations.

(2) For the purposes of this Act, a member of the Defence Force on continuous full-time service shall not be deemed to have ceased to be on continuous full-time service during any period when he is—

- (a) absent with or without leave; or
- (b) awaiting or undergoing trial for a disciplinary or other offence; or
- (c) undergoing punishment, detention or imprisonment,

and any such period shall be deemed to be a period of service.

(3) In calculating any period of continuous service for the purposes of this Act no account shall be taken of any breaks in the service that are considered by the Board to be reasonable in all the circumstances.

(4) For the purposes of this Act, where a member of the Defence Force not on continuous full-time service commences continuous full-time service, he shall be deemed to have been enlisted on that commencement for the period for which he is to serve on continuous full-time service.

(5) For the purposes of Sections 33, 35(4) and 48, service in respect of which, by virtue of Section 28, a member of the Defence Force is not permitted or required to contribute shall be deemed to be service for pension.

(6) In determining the service for pension of a member of the Defence Force for the purposes of this Act (other than Sections 33 and 35(4)), service of the member—

- (a) immediately before a period in respect of which he was not permitted or required to contribute to the Fund under Section 28; and
- (b) immediately after such a period,

⁹ Section 1 (definition of “retrenchment”) repealed by *Defence Force Retirement Benefits (Amendment) Act 1991*, (No. 10 of 1991), s1(f); inserted by *Defence Force Retirement Benefits (Amendment) Act 1996*, (No. 10 of 1996), s1(b).

¹⁰ Section 1 Subsection (1) amended by No. 90 of 2006, Sched. 1.

shall be deemed to be continuous.

(7) For the purposes of this Act, where a member of the Defence Force on continuous full-time service ceases to be on continuous full-time service but continues to be a member, he shall be deemed to have been discharged on the day on which he ceases to be on continuous full-time service.

(8) Subject to Subsection (9), for the purposes of this Act a member of the Defence Force who is discharged ceases to be a member on the day following the date of his discharge.

(9) For the purposes of this Act, where a contributor is discharged and, without a break in the continuity of his service, again becomes a member of the Defence Force he shall be deemed not to have ceased to be a member by reason of that discharge.

2. MARRIAGE AFTER RETIREMENT AND ATTAINING AGE OF 55 YEARS TO BE DISREGARDED.

Where a male member of the Defence Force marries after he has attained the age of 55 years and has been discharged, no pension is payable under this Act on his death to the wife or in respect of a child of the marriage and the marriage shall be disregarded for the purposes of Section 3.

3. POLYGAMOUS MARRIAGES.

(1) In this section—

“**designated wife**” means the person designated in a notice in effect under this section;

“**polygamous husband**” means a person who has two or more wives at the one time.

(2) Where—

(a) a polygamous husband becomes a contributor; or

(b) a contributor becomes a polygamous husband; or

(c) a pensioner who was unmarried at the time of his discharge becomes a polygamous husband,

he must, within a period of one month afterwards or such longer period as the Board allows (unless during that period or extended period he ceases to be a polygamous husband) give written notice to the Board designating one of his wives as the person who, for the purposes of this Act, is to be regarded as being his wife.

(3) A notice given under this section may not be revoked, but ceases to have effect on the death of the designated wife or on the dissolution or annulment of her marriage.

(4) Where—

(a) after a person has given a notice under this section, his designated wife dies or her marriage is dissolved or annulled; and

(b) at the time of her death or of the dissolution or annulment of her marriage, as the case may be, he continues to be a polygamous husband, he shall, within a period of one month after the death or the dissolution or annulment of the marriage or such longer period as the Board allows (unless during that period or extended period he ceases to be a polygamous husband), give written notice to the Board, designating one of his wives as the person who, for the purposes of this Act, is to be regarded as being his wife.

(5) Where at a time when a notice given by a person under this section is in effect he gives a second or subsequent notice under this section, the second or subsequent notice has no effect.

(6) As long as a contributor or pensioner is a polygamous husband no person shall be regarded for the purposes of this Act as being his wife except—

(a) in the case of a pensioner who was married before his discharge and becomes a polygamous husband after his discharge—the person to whom he was married immediately before he became a polygamous husband; or

(b) in any other case—the person (if any) who is his designated wife.

(7) Subject to Subsection (8), on the death of a contributor or pensioner who was a polygamous husband at the time of his death no person shall be regarded for the purposes of this Act as being his widow except—

(a) in the case of a pensioner who was married before his discharge and becomes a polygamous husband after his discharge—the person to whom he was married immediately before he became a polygamous husband; or

(b) in any other case—the person (if any) who is his designated wife at the time of his death.

(8) Where a person who is required to give a notice under this section fails to give the notice and dies within the period or the extended period prescribed for giving the notice, no person shall be regarded for the purposes of this Act as being his widow except the person (if any) who, according to the records of the Defence Force, was recognized by the Force as being his wife at the time of his death.

PART II. – THE DEFENCE FORCE RETIREMENT BENEFITS BOARD.

Division 1.

Establishment and Constitution of the Board.

4 - 15¹¹. [**REPEALED.**]

16. ANNUAL REPORTS BY THE BOARD.

(1)¹² ¹³As soon as practicable between 1 January and 30 March of each year, the Board shall submit to the Minister–

- (a) a report of its operations during the preceding 12 months; and
- (b) financial statements in respect of that year, in such form as the Minister for Finance approves.

(1A)¹⁴ ¹⁵Where the Board is unable to submit a report within the period specified in Subsection (1), the Board shall forward a written statement to the Minister setting out the reasons for the delay, and shall thereafter submit to the Minister a fortnightly written statement on the progress of the report.

(2)¹⁶ ¹⁷In addition to submitting financial statements under Subsection (1), the Board shall submit them to the Auditor-General who shall report to the Minister–

- (a) whether the statements are based on proper accounts and records; and
- (b) whether the statements are in agreement with the accounts and records; and
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the Board during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(3) The Minister shall cause the report and financial statements of the Board, together with the report of the Auditor-General, to be laid before the Parliament as soon as practicable after their receipt.

¹¹ Section 1 Subsection (1) amended by No. 90 of 2006, Sched. 1.

¹² Section 16(1) repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s6(a).

¹³ Section 16(1) repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s6(a).

¹⁴ Section 16(1A) inserted by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s6(b).

¹⁵ Section 16(1A) inserted by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s6(b).

¹⁶ Section 16(2) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s6(c).

¹⁷ Section 16(2) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s6(c).

PART III. – THE DEFENCE FORCE RETIREMENT BENEFITS FUND.

17¹⁸. **[REPEALED.]**

18. PAYMENTS BY STATE TO THE FUND.

(1) Payments by the State to the Fund shall be made from the Consolidated Revenue Fund, which is, to the necessary extent, appropriated accordingly.

(2) A payment by the State to the Fund in respect of a benefit shall be made when, or as soon as practicable after, the benefit becomes payable.

19. BENEFITS TO BE PAID FROM THE FUND.

(1) Subject to Subsection (2), payments in respect of benefits shall be made from the Fund.

(2) Where, but for this subsection, the State would be liable to pay to the Fund an amount equal to the whole or a part of a payment to be made to a person from the Fund under this Act, that amount may be paid to that person by the State instead of from the Fund, and the Consolidated Revenue Fund is, to the necessary extent, appropriated accordingly.

20. INVESTMENT OF THE FUND.

¹⁹The Board shall invest all moneys belonging to the Fund in accordance with the provisions of the Superannuation Act.

21 - 23²⁰. **[REPEALED.]**

24. ACTUARIAL INVESTIGATIONS.

(1)²¹ ²²The actuary of the Board shall make an investigation as to the state and sufficiency of the Fund as at 30 June 1977 or an earlier date determined by the Board, and as at the expiration of each succeeding period of three years.

(2)²³ ²⁴The actuary shall—

- (a) report to the Board the result of each investigation under Subsection (1); and
- (b) state whether any reduction or increase is necessary in—

¹⁸ Section 17 Repealed by No. 4 of 2002, s. 5.

¹⁹ Section 20(2) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s7; Section 20 Substituted by No. 90 of 2006, Sched. 1.

²⁰ Section 20(2) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s7; Section 20 Substituted by No. 90 of 2006, Sched. 1.

²¹ Section 24(1) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s8.

²² Section 24(1) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s8.

²³ Section 24(2) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s8.

²⁴ Section 24(2) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s8.

- (i) the rates of contributions payable to the Fund; or
- (ii) the proportion payable by the State in respect of any pension; and
- (c) where the Fund is found to be more than sufficient to provide for the benefits that are a charge on the Fund—state what additional benefits (if any) could, in his opinion, be provided out of the surplus.

(3)²⁵ ²⁶The Board shall furnish the Minister and the Minister responsible for finance matters and the Central Bank with a copy of a report made under Subsection (2), together with its recommendations on the report.

(4)²⁷ ²⁸The actuary shall be paid, in respect of an investigation and report made by him under this section, such fees (if any) as the Board of Trustees determines.

²⁵ Section 24 Subsection (3) amended by No. 4 of 2002, s. 7.

²⁶ Section 24 Subsection (3) amended by No. 4 of 2002, s. 7.

²⁷ Section 24 Subsection (4) amended by No. 4 of 2002, s. 7; Section 24(4) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s8.

²⁸ Section 24 Subsection (4) amended by No. 4 of 2002, s. 7; Section 24(4) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s8.

PART IV. – CONTRIBUTIONS.

Division 1.

Contributions by Members.

25. COMMENCEMENT AND CESSATION OF CONTRIBUTIONS.

(1) Except as otherwise provided by this Act, a person who becomes a member of the Defence Force shall contribute to the Fund from the date on which he becomes a member.

(2) Notwithstanding Subsection (1), where, but for this subsection, a member of the Defence Force would be required to contribute to the Fund from a date that is not a pay-day, he shall contribute to the Fund from the pay-day immediately after that date.

(3) A member of the Defence Force serving in the Reserve Force who is—

- (a) an officer or employee of the Public Service; or
- (b) a member of the Police Force; or
- (c) in any other employment by virtue of which superannuation or retirement benefits are or may become available under an Act to and in respect of him,

shall not contribute to the Fund.

(4) A member shall not contribute to the Fund unless he is serving in continuous full-time service for a period of one year or longer.

(5) A person shall not contribute to the Fund in respect of any period—

- (a) after the date on which he ceases to be a member of the Defence Force; or
- (b) more than two years after he attains the retiring age for the rank held by him; or
- (c)²⁹ after the date on which he attains the age of 55 years,

whichever first occurs, or if that day is not a pay-day after the pay-day immediately before that day.

(6) For the purposes of the application of Part VI, in determining whether a person who has ceased to be a member of the Defence Force, but has again become a member, is required by this section to contribute to the Fund, the reference in Subsection (5) to the day on which he ceased to be a member shall be read as a reference to the day on which he ceases to be a member after he again became a member.

(7)^{30 31}A constitutional office-holder who, immediately before his appointment to the constitutional office, was required to contribute to the Fund, shall continue to

²⁹ Section 25(5)(c) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s9.

contribute to the Fund during his period of tenure of the constitutional office, and his period of tenure of the constitutional office shall be deemed to be service at the rank which he held immediately before his appointment to the constitutional office.

(8)³² ³³For the purpose of this section—

“**constitutional office**” means the office held by a constitutional office-holder;

“**constitutional office-holder**” has the same meaning as in Section 221 (*definitions*) of the Constitution.

26. RATE OF CONTRIBUTIONS.

(1) A contributor shall contribute to the Fund at the rate of an amount per fortnight equal to 1/26 of an amount equal to 6% of his annual rate of pay at the time when the contribution is due.

(2) For the purposes of Subsection (1), the annual rate of pay of a contributor at a particular time is—

(a) if the amount ascertained by multiplying his daily rate of pay at that time by 365 is a multiple of K100.00—the amount so ascertained; or

(b) if the amount so ascertained is not a multiple of K100.00—the next lower amount that is such a multiple.

(3) The amount of a contribution payable in respect of a day is 1/14 of the amount of a fortnightly contribution.

27. DEDUCTION OF CONTRIBUTIONS.

(1) The contributions of contributors shall be deducted fortnightly from their pay and paid, without deduction for postage, forwarding or exchange, to the Board.

(2) Notwithstanding Subsection (1), where a contributor is on leave of absence, without pay or at less than full pay, the Board may permit the contributions falling due during his absence to be paid by him, or deducted from his pay, in such smaller sums, and at such periods, as the Board approves.

28. ABSENCE WITHOUT LEAVE.

A member of the Defence Force is not permitted, and shall not be required, to contribute to the Fund in respect of any continuous period of more than 21 days during which he is absent without leave.

³⁰ Section 25(7) inserted by *Constitutional Office-Holders Retirement Benefits (Consequential Amendments) Act 1986* (No. 71 of 1986), s5.

³¹ Section 25(7) inserted by *Constitutional Office-Holders Retirement Benefits (Consequential Amendments) Act 1986* (No. 71 of 1986), s5.

³² Section 25(8) inserted by *Constitutional Office-Holders Retirement Benefits (Consequential Amendments) Act 1986* (No. 71 of 1986), s5.

³³ Section 25(8) inserted by *Constitutional Office-Holders Retirement Benefits (Consequential Amendments) Act 1986* (No. 71 of 1986), s5.

Division 2.

Contributions by the State.

29. STATE CONTRIBUTIONS IN RESPECT OF PENSIONS.

(1)³⁴ ³⁵Subject to this Act, the State shall pay to the Fund an amount equal to 60% of each payment of pension and each payment under Section 33A(1)(a).

(2) Notwithstanding Subsection (1), the Minister responsible for finance matters, after considering—

(a)³⁶ a report made under Section 24 by the actuary; and

(b) the recommendations of the Board on the report,

may direct that the State pay to the Fund, in respect of each payment of pension, such amount as he considers appropriate, not being less than 60% of that payment.

30. STATE CONTRIBUTIONS IN RESPECT OF CERTAIN OTHER BENEFITS.

Subject to Section 19(2), the State shall pay to the Fund an amount equal to the amount of each payment of benefit other than a pension, refund of the amount of a member's contributions or payment under Section 33(5).

31. STATE CONTRIBUTIONS IN RESPECT OF PENSIONS RESULTING FROM OPERATIONAL SERVICE.

(1) In this section, “**period to which this section applies**” means the period 6 March 1975 to 30 June 1975, or a financial year commencing after 30 June 1975.

(2) Where, after receiving a report from the Board in respect of a period to which this section applies, the Minister responsible for finance matters is of the opinion that, by reason of contributors having, while on operational service after 6 March 1975—

(a) died; or

(b) been injured; or

(c) contracted disease; or

(d) otherwise suffered disabilities,

the number of pensions that have become payable under this Act during that year by reason of—

(e) the death of contributors during that year; or

(f) the discharge of contributors during that year on the ground of invalidity or incapacity,

³⁴ Section 29(1) amended by *Defence Force Retirement Benefits (Amendment) Act 1996*, (No. 10 of 1996), s2.

³⁵ Section 29(1) amended by *Defence Force Retirement Benefits (Amendment) Act 1996*, (No. 10 of 1996), s2.

³⁶ Section 29(2)(a) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s10.

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is greater than the number of pensions that would otherwise have become payable during that year, he may direct that the State, in addition to any amounts that have or may become payable to the Fund under this Division, pay to the Fund such amount as he considers appropriate.

PART V. – BENEFITS.

Division 1.

Benefits on Retirement.

32. PENSIONS ON RETIREMENT.

³⁷(1) Where a contributor (other than a contributor entitled to an invalidity benefit)–

- (a) is a member of the Defence Force and is discharged after completing 20 years' service for pension; or
- (b) is a member of the Defence Force who has attained the retiring age for the rank held by him and has completed 15 years' service for pension,

he is entitled, on his discharge, to a pension in accordance with this section.

(2) Subject to this Act, the rate of pension payable to a person on discharge is an amount per annum calculated in accordance with the formula–

ab

where–

“**a**” is the annual salary of the member at the time of discharge; and

“**b**” is the factor specified in Schedule 1 in relation to his time in Service for pension.

33. GRATUITIES.

³⁸(1) A contributor who–

- (a) on discharge, has completed eight years' service for pension; and
- (b) is not entitled to a pension or an invalidity benefit,

is entitled to a gratuity in addition to the amount of contribution plus interest payable under Section 44.

(2) A gratuity payable under Subsection (1)–

- (a) to an officer whose period of service for pension does not include service as a non-commissioned member of the Defence Force is an amount determined by the Board from time to time multiplied by the number of years of service for pension completed by him; or
- (b) to an officer whose period of service for pension includes service as a non-commissioned member of the Defence Force–is an amount equal to the sum of–

³⁷ Section 32 repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s11.

³⁸ Section 33 repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s12.

- (i) an amount determined by the Board from time to time multiplied by the number of years of service for pension as a non-commissioned member completed by him; and
- (ii) an amount determined by the Board from time to time multiplied by the difference between the number of years of service for pension, and the number of years of service for pension as a non-commissioned member, completed by him; or
- (c) to a non-commissioned member of the Defence Force—is an amount determined by the Board from time to time multiplied by the number of years of service for pension as a non-commissioned member completed by him.

Division 1A.³⁹

Benefits on Retrenchment.

33A. BENEFITS ON RETRENCHMENT.

⁴⁰(1) A contributor who is retrenched is entitled on retrenchment to the sum of—

- (a) all contributions made by him plus interest accrued at the Fund earning rate; and
- (b) the State contribution.

(2) A person entitled to a benefit under Subsection (1) may opt to receive the benefit in one of the following methods:—

- (a) a cash payment;
- (b) a payment of 50% of the sum payable under Subsection (1) and a residual pension;
- (c) the full amount of the sum payable in the form of a pension.

Division 2.

Invalidity Benefits.

34. ENTITLEMENT TO INVALIDITY BENEFIT.

(1) Subject to Subsection (4), where—

- (a) a contributor is discharged before attaining the retiring age for the rank held by him; or
- (b) a contributor whose period of service has been extended beyond the attainment by him of the retiring age for the rank held by him is discharged before the expiration of the period of the extension,

³⁹ Division 1A inserted by *Defence Force Retirement Benefits (Amendment) Act 1996*, (No. 10 of 1996), s3.

⁴⁰ Section 33A inserted by *Defence Force Retirement Benefits (Amendment) Act 1996*, (No. 10 of 1996), s3.

on the ground of invalidity or of physical or mental incapacity to perform his duties (not, in the opinion of the Board, due to wilful action on his part for the purpose of obtaining benefit), he is entitled to benefit in accordance with Sections 35 and 36, but, subject to Section 44, is not otherwise entitled to benefit.

(2) Where a person is, or is about to become, entitled to benefits under Subsection (1), the Board shall—

- (a) determine the percentage of total incapacity of the person in relation to civil employment; and
- (b) classify the person—
 - (i) if the percentage of incapacity is not less than 60—as Class A; or
 - (ii) if the percentage of incapacity is not less than 30 but less than 60—as Class B; or
 - (iii) if the percentage of incapacity is less than 30—as Class C.

(3) Where a person is classified under Subsection (2) after the date of his discharge, he shall be deemed to have been so classified on and from that date and is entitled to benefit accordingly.

(4) Where—

- (a) a contributor has, within six months after becoming a contributor, been discharged on the ground of invalidity or of physical or mental incapacity to perform his duties; and
- (b) the Board is satisfied that—
 - (i) the invalidity or incapacity was caused, or was substantially contributed to, by a physical or mental condition that existed at the time when he became a contributor (whether or not it was disclosed to the Board); and
 - (ii) the condition was not aggravated, or if it was aggravated was not materially aggravated, by his service as a member of the Defence Force,

Subsection (1) does not apply in relation to him.

(5) Where a person who has ceased to be a member of the Defence Force again becomes a member, Subsection (4) applies in relation to him as if he had become a contributor at the time when he commenced to make contributions after again becoming a member.

35. AMOUNT OF INVALIDITY BENEFIT.

⁴¹(1) A person who is entitled to an invalidity benefit and is classified under Section 34 as Class A is entitled to a pension at the rate of an amount per annum ascertained in accordance with the formula—

⁴¹ Section 35 repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s13.

ab

where—

“a” is the salary at the time of discharge; and

“b” is 53%.

(2) A person who is entitled to an invalidity benefit and is classified under Section 34 as Class B is entitled to a pension at the rate of an amount per annum—

(a) equal to his salary on discharge multiplied by 28%; or

(b) if the member has completed 23 years of service or more for pension, a pension determined in accordance with Section 32.

(3) A person who—

(a) is entitled to an invalidity benefit; and

(b) is classified under Section 34 as Class C; and

(c) on discharge, has completed 20 years’ service for pension,

is entitled to a pension of the rate of an amount per annum equal to an amount per annum of pension to which he would have been entitled under Section 32.

(4) A person who—

(a) is entitled to an invalidity benefit; and

(b) is classified under section 34 as Class C; and

(c) has not on discharge, completed 20 years’ service for pension,

is entitled to a refund of the amount of his contributions plus interest and a gratuity payment as determined in accordance with Section 33(2).

36. RECLASSIFICATION OF PERCENTAGE OF INCAPACITY.

(1) If the Board is satisfied that the percentage of incapacity of a person classified under Section 34 has altered, or because of the nature of his employment should be varied, it may reclassify him accordingly.

(2) Where a person is reclassified, the Board shall specify the date from which the reclassification has effect and, on and from that date, the person shall be deemed to have been, or to be, as the case may be, classified, for the purposes of this Act, accordingly.

(3) The power of the Board to specify a date under Subsection (2) extends to specifying a date earlier than the date on which the relevant reclassification is made, but in the case of a pensioner not being earlier than the day immediately following the day on which the last payment of his pension became due before the reclassification.

(4)⁴² ⁴³If but for this subsection, a person would, on reclassification as Class C be entitled to invalidity benefit—

- (a) in accordance with Section 35(3), he is entitled to that benefit only from the date of reclassification; or
- (b) in accordance with Section 35(4), he is entitled to that benefit only to the extent that it exceeds the sum of the payments of pension received by him as invalidity benefit.

37. BOARD MAY REQUIRE INVALID PENSIONERS TO BE MEDICALLY EXAMINED.

(1) The Board may, by written notice to a person to whom a pension is being paid as invalidity benefit, require him to submit himself for medical examination by a medical practitioner at a time and place specified in the notice.

(2) A notice to a person under Subsection (1) may be given by delivering it to him personally or by sending it by post addressed to him at his address last known to the Board.

(3) Where a person fails to comply with a notice given to him under this section and does not satisfy the Board that there was a reasonable excuse for the failure, the Board may suspend the person's pension.

(4) Where the Board suspends a person's pension under this section, his pension is not payable in respect of the period commencing on the day on which he was required by the notice to submit himself for examination and ending on the day immediately before the day on which he submits himself for examination at a time and place approved by the Board.

(5) The cost of any medical examination carried out for the purposes of this section, including reasonable expenditure incurred in travelling to and from the place of the examination, shall be treated as part of the cost of the administration of this Act.

38. INCAPACITY OF CONTRIBUTOR DUE TO WILFUL ACTION.

⁴⁴Where a contributor is discharged on the ground of invalidity or physical or mental incapacity to perform his duties and the invalidity or incapacity is, in the opinion of the Board, due to wilful action on his part for the purpose of obtaining benefit, no benefit (other than a refund of the amount of his contributions plus interest) is payable to or in respect of the contributor.

⁴² Section 36(4) repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s14.

⁴³ Section 36(4) repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s14.

⁴⁴ Section 38 amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s15.

Division 3.**Benefits on Death.****39. WIDOW'S PENSION ON DEATH OF CONTRIBUTOR.**

On the death before discharge of a contributor who is survived by a widow, there shall be paid to the widow a pension at the rate equal to five-eighths of the rate of the pension that would have been payable to the contributor if, on the date of his death, he had become entitled to invalidity benefit and had been classified under Section 34 as Class A.

40. WIDOW'S PENSION ON DEATH OF PENSIONER.

(1) On the death of a pensioner who is survived by a widow, there shall be paid to the widow—

- (a) if the pensioner, at the time of his death, was in receipt of a pension as invalidity benefit, and the Board is satisfied that his death was due to the disease or injury that was the cause of his discharge—a pension at the rate at which a pension would be paid to her if Section 39 applied; or
- (b) in any other case—a pension at the rate equal to five-eighths of the rate of the pension that was payable to the pensioner at the time of his death.

(2) For the purposes of Subsection (1), where a male pensioner has commuted any portion of his pension, the pension payable to his widow shall be calculated on the rate of pension that would have been payable to him at the time of his death if no portion of his pension had been commuted.

41. CHILDREN'S PENSIONS.

(1) On the death of a male contributor or male pensioner, a pension shall be paid in respect of—

- (a) each child of the contributor or pensioner and his widow; and
- (b) each child (other than a child specified in Paragraph (a)) who was dependent on the contributor or pensioner immediately before his death and is—
 - (i) a child of the contributor or pensioner; or
 - (ii) a child of the widow of the contributor or pensioner (not being a child by her remarriage); or
 - (iii) a child of a person who, but for Section 3, would be a widow of the contributor or pensioner (not being a child by her remarriage).

(2) Where the deceased contributor or pensioner is also survived by a widow and a pension is payable under this section in respect of a child of the widow, the pension shall be paid to the widow during her lifetime.

(3) A pension payable under this section in respect of a child (otherwise than in accordance with Subsection (2)) shall, in the discretion of the Board—

- (a) be paid to the guardian of the child to be used for the support and education of the child; or
- (b) be expended by the Board for the benefit of the child.

(4)⁴⁵ ⁴⁶A pension payable under this section in respect of a child is at the rate per annum determined by the Board.

(5) Where—

- (a) a pension is or pensions are payable under this section by reason of the death of a contributor or pensioner who is not survived by a widow; and
- (b)⁴⁷ the present value, as determined by the actuary, of the pension or pensions is less than the amount of the contributions made by the deceased contributor or pensioner,

the amount of the difference shall be paid to the personal representatives of the deceased contributor or pensioner or, failing them, to such persons (if any) as the Board determines.

42. DEATH OF CERTAIN MEMBERS.

⁴⁸Where—

- (a) a male member of the Defence Force who is unmarried or is a widower without children; or
- (b) a female member of the Defence Force,

dies before discharge, the amount of the contributions paid by the member plus interest and 50% of his contributions shall be paid to the personal representatives of the member or, failing them, to such persons (if any) as the Board determines, and no other benefit is payable in respect of the member.

43. MAXIMUM AMOUNT OF PENSION PAYABLE UNDER THIS DIVISION.

Notwithstanding this Division, the aggregate amount per annum of a pension or pensions payable under this Division by reason of the death of a contributor shall not exceed—

- (a) if he died before his discharge—the amount per annum of the pension that would have been payable to him if, on the date of his death, he had become entitled to invalidity benefit and had been classified under Section 34 as Class A; or

⁴⁵ Section 41(4) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s16(a).

⁴⁶ Section 41(4) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s16(a).

⁴⁷ Section 41(5)(b) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s16(b).

⁴⁸ Section 42 amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s17.

- (b) if he was entitled to a pension at the date of his death—the amount per annum of that pension.

Division 4.

General Provisions.

44. REFUND OF CONTRIBUTIONS.

⁴⁹Where a contributor ceases to be a member of the Defence Force and is not entitled to a pension, he is entitled to a refund of the amount of his contributions plus an amount in lieu of interest as determined by the Board.

45. GENERAL PROVISIONS AS TO PENSIONS.

(1) Subject to Subsections (2) and (3), a pension ceases on the death of the pensioner.

(2)⁵⁰ ⁵¹A pension payable to a pensioner under Section 39 or Section 40 ceases—

- (a) on the death of the pensioner; or
 (b) on the remarriage of the pensioner, whereupon a lump sum payment equal to one year's pension is payable to the pensioner.

(3) A pension payable in respect of a child ceases when the child—

- (a)⁵² attains the age of 18 years; or
 (b) dies; or
 (c) in the case of a child specified in Section 41(1)(b)—ceases to be dependent,

whichever first occurs.

46. COMMUTATION OF PENSIONS.

⁵³(1) In this section, “**commutation factor**” means the factor determined by the Board from time to time for the purposes of this section.

(2) Subject to the regulations, a person who is entitled to a pension under Section 32 may apply to the Board for a commutation of a portion, not exceeding 50%, of his pension, multiplied by the commutation factor.

(3) Subject to the regulations, a person who is entitled to a benefit under Section 34 and has completed 20 years or more service for pension, may apply to the

⁴⁹ Section 44 repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s18.

⁵⁰ Section 45(2) repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s19(a).

⁵¹ Section 45(2) repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s19(a).

⁵² Section 45(3)(a) repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s19(b).

⁵³ Section 46 repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s20.

Board for the commutation of a portion, not exceeding 50%, of the pension to which he would have been entitled under Section 32, multiplied by the commutation factor.

(4) In the event of a grant of an application under Subsection (3), the reduced invalidity benefit shall be equal to the invalid benefit less the amount multiplied by the commutation factor.

(5) An application under this section shall be submitted to the Board no later than 12 months from the effective date of discharge, or within such further period as the Board, under special circumstances, allows.

47. ABSENCE OR DESERTION.

A pension or gratuity is not payable to, or in respect of, a member of the Defence Force who—

- (a) absents himself without leave for more than 21 consecutive days; or
- (b) becomes a deserter,

and, during the period of absence or desertion, becomes incapacitated or dies.

48. NON-EFFECTIVE SERVICE TO REDUCE GRATUITY.

(1) In this section, “**period of non-effective service**”, in relation to a person, means any period of service of the person exceeding 21 consecutive days during which period—

- (a) he was on leave of absence without pay; or
- (b) he was absent without leave; or
- (c) he was awaiting trial on a charge in respect of a disciplinary or other offence of which he was later convicted; or
- (d) he was undergoing trial on such a charge; or
- (e) he was undergoing detention, imprisonment or suspension without pay.

(2) Where a person is entitled to a gratuity and his period of service for pension includes a period of non-effective service, the amount of the gratuity that, but for this section, would be payable to him is reduced by an amount that bears to that first-mentioned amount the same proportion as the period of non-effective service bears to the period of service for pension.

49. INSANITY OF PENSIONER.

(1) Where a male pensioner is detained as a patient in an institution for persons of unsound mind, the Board may cause the whole or part of his pension to be paid during the period of detention, in such manner and subject to such conditions as the Board directs, to his wife or, if his wife is dead or divorced, for the benefit of such of his children as are dependent on him.

(2) Where a female pensioner is detained as a patient in an institution for persons of unsound mind, the Board may cause the whole or part of her pension and of any pension payable to her in respect of children to be paid during the period of detention, in such manner and subject to such conditions as the Board directs, for the benefit of such of the children of the pensioner and such of the children of her late husband as are dependent on her.

50. DESERTION BY MALE PENSIONER OF WIFE OR CHILDREN.

(1) Where a pensioner deserts his wife or leaves her without means of support, the wife may from time to time apply to a District Court and, on proof that the wife has been deserted or left without means of support, the Court may order the payment to the wife, during such period as it thinks proper, of the whole or part of the pension that otherwise would be payable to the pensioner.

(2) Where a pensioner whose wife is dead or divorced deserts any of his children who are dependent on him, or leaves them without means of support, the guardian of the children, or the Board, may from time to time apply to a District Court and, on proof that any such child has been deserted or left without means of support, the Court may order the payment to the guardian of the child, during such period as it thinks proper, of the whole or part of the pension that otherwise would be payable to the pensioner.

(3) The Board shall comply with any order made under this section, and the amount of the pension payable to the pensioner is reduced by the amount payable to the wife or the guardian, as the case may be, under the order.

51. IMPRISONMENT OF PENSIONER.

(1) Where a male pensioner is sentenced to imprisonment for a period exceeding one month, the Board may cause the whole or part of his pension to be paid during the period of imprisonment, in such manner and subject to such conditions as the Board directs, to his wife, or if his wife is dead or divorced for the benefit of such of his children as are dependent on him.

(2) Where a female pensioner is sentenced to imprisonment for a period exceeding one month, the Board may cause the whole or part of her pension, and of any pension payable to her in respect of children, to be paid during the period of imprisonment in such manner and subject to such conditions as the Board directs, for the benefit of such of the children of the pensioner and such of the children of her late husband as are dependent on her.

52. INSTALMENTS OF PENSION.

(1)⁵⁴ ⁵⁵Subject to Subsection (4), pensions shall be paid in fortnightly instalments.

⁵⁴ Section 52(1) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s21(a).

⁵⁵ Section 52(1) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s21(a).

(2) In order to ascertain the amount of a fortnightly instalment of a pension, the annual amount of the pension shall be divided by 26.

(3) The amount of a pension payable in respect of each day is 1/14 of the amount of a fortnightly instalment.

(4)⁵⁶ ⁵⁷At the discretion of the Board and with the agreement of the pensioner, fortnightly pension instalments payable under this section which are less than the minimum amount determined by the Board from time to time for purposes of this subsection, may be paid as a lump sum payment six monthly in advance.

53. PAYMENT OF BENEFITS OTHERWISE THAN TO PENSIONERS.

Where, in the opinion of the Board, payment of pension, refund of contributions or other benefit should be made to a person other than the pensioner or beneficiary the Board may, subject to this Act, authorize payment accordingly.

53A. INDEXATION OF PENSIONS.

⁵⁸(1) Subject to Subsection (2), the Board may from time to time approve such indexation of pensions, including suspended pensions, payable under this Act at such rate as it considers appropriate to the rate of inflation, and the capacity of the Fund to accommodate such indexation.

(2)⁵⁹ Indexation in the first year during which a pension is payable shall be on a *pro-rata* basis based on the number of months that a pensioner has been in receipt of the pension.

⁶⁰53B⁶¹. [REPEALED.]

⁵⁶ Section 52(4) inserted by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s21(b).

⁵⁷ Section 52(4) inserted by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s21(b).

⁵⁸ Section 53A inserted by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s22.

⁵⁹ Section 53B inserted by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s22.

⁶⁰ Section 53B inserted by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s22.

⁶¹ Section 53B Repealed by No. 4 of 2002, s. 8.

PART VI. – FORMER MEMBERS WHO AGAIN BECOME CONTRIBUTORS.***Division 1.******Former Members who were Pensioners.*****54. APPLICATION OF DIVISION 1.**

(1)⁶² ⁶³This Division applies to a person who, being in receipt of or entitled to a pension that became payable by reason of his having been a member of the Defence Force has again become, and is, a contributor.

(2) For the purposes of this section, a person shall not be deemed to have ceased to be entitled to a pension by reason only of the fact that the pension has been suspended under this Act.

55⁶⁴. [REPEALED.]**56. BENEFITS PAYABLE.**

⁶⁵(1) The application of Part V to and in relation to a person to whom this Division applies is subject to this section.

(2) For the purposes of determining the pension payable on the retirement or death of a person to whom this Division applies—

- (a) where the member again becomes a contributor within a period of 12 months after his discharge, his service for pension shall be deemed to be the aggregate of the periods of service for pension served by him before and after he becomes a person to whom this Division applies; or
- (b) where the member again becomes a contributor more than 12 months after the date of discharge, his service for pension shall be deemed to commence from the date of becoming a contributor again.

(3) Where—

- (a) the pension of a person to whom this Division applies became payable by virtue of Section 32 or Section 34 and the pension was determined under Section 35(3); and
- (b) Subsection (2)(a) applies,

his previous pension is to be cancelled and he is entitled on discharge to a pension determined under Section 32.

(4) Where—

⁶² Section 54(1) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s23.

⁶³ Section 54(1) amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s23.

⁶⁴ Section 55 repealed by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s24.

⁶⁵ Section 56 repealed by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s25.

- (a) the pension of a person to whom this Division applies became payable by virtue of Section 32 or Section 34 and the pension was determined under Section 35(3); and
- (b) Subsection (2)(b) applies,

he is entitled on discharge—

- (c) to any pension that was suspended when he became a person to whom this Division applies; and
- (d) to a refund of the amount of the contributions paid by him after he became a person to whom this Division applies plus interest; and
- (e) to any gratuity payable to him in respect of service in accordance with Section 33 after he became a person to whom this Division applies.

(5) Where—

- (a) the pension of a person to whom this Division applies became payable by virtue of Section 34; and
- (b) Subsection (2)(a) or (2)(b) applies; and
- (c) on discharge, after becoming a person to whom this Division applies, he again became entitled to a pension under Section 34 on being classified under that section as Class A or Class B,

he is entitled on discharge to an invalidity benefit determined under Section 35.

(6) Where—

- (a) the pension of a pensioner became payable under Subsection (5); and
- (b) he is later reclassified under Section 36 as Class C,

within Subsection 36(4)(b)—

- (c) **“that benefit ”**is to mean the sum of his contributions plus interest and gratuity for both periods of service as a contributor of the fund; and
- (d) **“the sum of payments of pension”** is to mean the sum of the payments of pension received by him as invalidity benefit in relation to both periods of service as a contributor to the fund.

(7) Where a person is entitled to a benefit under Subsection (4), Sections 38 and 47 do not apply in relation to that benefit except as to any gratuity payable.

(8) Where a person, to whom this Division applies, dies before discharge and Section 42 applies in relation to him, the reference in that section to the contribution paid by a member of the Defence Force shall be read as a reference to the contributions paid by the person after he became a person to whom this Division applies.

(9) Where—

- (a) a person to whom this Division applies dies before discharge; and

- (b) but for this subsection, a pension would not be payable in respect of him by reason of the application of Section 47,

that section does not apply in relation to him, and for the purposes of this Act—

- (c) he shall be deemed to have been, on the date on which he died, a pensioner in receipt of the pension that was suspended when he became a person to whom this Division applies; and
- (d) the amount of the contributions paid by him after he became such a person, plus interest, shall be paid to his personal representatives, or, failing them, to such persons (if any) as the Board determines.

57. PENSION PAYABLE AFTER COMMUTATION OF PREVIOUS PENSION.

⁶⁶Where a pension becomes payable to a person to whom this Division applies and who, before he became such a person, commuted a portion of his pension, the pension payable shall be paid at such rate as is determined by the Board as being appropriate, having regard to the advice of the actuary of the Board and to all the circumstances of the case.

58. PENSIONS NOT TO BE DOUBLED OR REDUCED BY DIVISION 1.

This Division does not have effect—

- (a) to entitle a person to pension, at the one time, under more than one provision of this Act; or
- (b) to reduce the rate of pension payable to a person to whom this Division applies below the rate of pension that was payable to him before he became a person to whom this Division applies.

Division 2.

Former Members who were not Pensioners.

59⁶⁷. [REPEALED.]

⁶⁶ Section 57 amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s26.

⁶⁷ Section 59 amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s27; Repealed by No. 4 of 2002, s. 9.

PART VIA.⁶⁸ – PAYMENTS FROM THE FUND.**59A. ADVANCES FROM THE FUND TO PURCHASE, ETC., A DWELLING HOUSE.**

⁶⁹(1) Subject to the availability of funds and to the approval of the Minister, the Board may, upon application by a contributor, permit the payment to the contributor from the Fund of an amount not exceeding—

- (a) 52 times the contributor's fortnightly pay; or
- (b) in accordance with Subsection (2), the total amount of benefits standing to the credit of the contributor's account,

whichever is the lesser amount, for the purpose of—

- (c) purchasing an approved dwelling house either outright or on a deposit and instalment basis; or
- (d) payment of the construction by an approved builder of a dwelling house either outright or on a deposit and instalment basis.

(2) For the purpose of Subsection (1)(b) the total amounts of benefits standing to the credit of a contributor's account shall consist of—

- (a) the contributor's contributions plus interest accrued at the Fund earning rate; and
- (b) an employer benefit determined as if the contributor had resigned on the date of applying for a payment under Subsection (1),

and the amounts paid under Paragraphs (a) and (b) shall relate to the same period of service.

(3) Where payment has been made to a contributor under Subsection (1)—

- (a) the amount paid and outstanding from time to time shall be shown as a debit balance in a housing advance account in the name of the contributor; and
- (b) interest shall be payable to the Fund on the outstanding balance from time to time at the Fund's earning interest rate.

(4) Interest payable from a contributor's housing advance account under Subsection (3) shall be satisfied by offsetting the appropriate amount from interest payable to that contributor under Subsection (2)(a).

(5) Where the contributor withdraws his benefit in accordance with Subsection (1)(c) or (d) he shall continue to contribute to the Fund.

(6) Payments payable pursuant to Parts V and VI to, or in respect of a contributor who has received an advance under Subsection (1) shall be adjusted by

⁶⁸ Part VIA inserted by *Defence Force Retirement Benefits (Amendment) Act 1996*, (No. 10 of 1996), s4.

⁶⁹ Section 59A inserted by *Defence Force Retirement Benefits (Amendment) Act 1996*, (No. 10 of 1996), s4.

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the Board on the advice of the actuary to take into account the payment of that advance.

PART VII. – MISCELLANEOUS.

60. DISPUTES.

(1) A dispute under this Act shall be determined in the first instance by the Board.

(2) A person aggrieved by a decision of the Board on a dispute may appeal to the National Court.

(3) A decision of the National Court under this section is final.

61. AUDIT.

⁷⁰(1) The Auditor-General shall inspect and audit the accounts and records kept under Section 23, and shall promptly draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his doing so.

(2) The Auditor-General may, in his discretion, dispense with all or any part of the detailed inspection and auditor of any accounts or records specified in Subsection (1).

(3) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under Subsection (1).

(4) The Auditor-General, or an officer authorized by him, is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Board relating directly or indirectly to the receipt or payment of moneys by the Board, or to the acquisition, receipt, custody or disposal of assets by the Board.

(5) The Auditor-General or an officer authorized by him may make copies of, or take extracts from, any accounts, records, documents or papers specified in Subsection (4).

(6) The Auditor-General, or an officer authorized by him, may require any person to furnish him with such information in the possession of the person, or to which the person has access, as the Auditor-General or authorized officer thinks necessary for the purposes of the performance of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

(7) A person who contravenes Subsection (6) is guilty of an offence.

Penalty: A fine not exceeding K200.00.

⁷⁰ Section 61 replaced by No. 30 of 1982, s6, amended by No. 8 of 1983, s4; amended by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s28.

62⁷¹. [REPEALED.]**63. ANNUAL AMOUNT OF PENSION TO BE CALCULATED TO NEAREST KINA.**

Where the amount per annum of a pension ascertained under this Act includes an amount in toea—

- (a) if that last-mentioned amount is less than 50t—the amount of the pension shall be deemed to be reduced by that last-mentioned amount; and
- (b) in any other case—the amount of the pension shall be deemed to be increased by treating the toea as K1.00.

64⁷². [REPEALED.]**65. BOARD MAY REQUIRE INFORMATION.**

(1) The Board may require a contributor or pensioner to furnish, in a statutory declaration or in such other form as the Board requires, such information as the Board thinks necessary for the purpose of any investigation in connection with the Fund.

(2) A contributor or pensioner who, without reasonable excuse (proof of which is on him), fails to comply with a requirement under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K20.00.

66. ASSIGNMENT OF BENEFITS.

Subject to Section 67, benefits are not capable of being assigned or charged or of passing by operation of law, and any moneys payable out of the Fund on the death of a member of the Defence Force are not liable to be applied or made available in payment of his debts or liabilities.

67. ATTACHMENT OF BENEFITS.

(1) Where a judgement given by a court for the payment of a sum of money has not been fully satisfied by the judgement debtor and the judgement debtor is entitled to benefit, the judgement creditor may serve on the Board, in the prescribed manner—

- (a) a copy of the judgement, certified under the hand of the registrar or other proper officer of the court by which the judgement was given; and
- (b) a statutory declaration by the judgement creditor—

⁷¹ Section 62 Repealed by No. 4 of 2002, s. 10.

⁷² Section 64 repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1986* (No. 8 of 1986); Repealed by No. 4 of 2002, s. 11.

- (i) stating that the judgement has not been fully satisfied by the judgement debtor; and
- (ii) specifying the amount due by the judgement debtor under the judgement.

(2) Where a copy of a judgement and a statutory declaration are served on the Board in accordance with Subsection (1), the Board shall, as soon as practicable, by written notice given to the judgement debtor—

- (a) inform him of the service of those documents; and
- (b) require him, within the period and in the manner specified in the notice—
 - (i) to notify the Board whether the amount specified in the declaration is still due under the judgement; and
 - (ii) if no amount or a lesser amount is due under the judgement, to furnish to the Board, in the manner specified in the notice, evidence establishing that fact.

(3) A person to whom a notice is given under Subsection (2) and who fails to comply with the requirement contained in the notice is guilty of an offence.

Penalty: A fine not exceeding K40.00.

(4) Where, at the end of the period specified in the notice, the Board is satisfied that an amount is due under the judgement, the Board may, in its discretion, deduct from the benefit and pay to the judgement creditor a sum or sums not exceeding in total that amount.

(5) A deduction shall not be made from—

- (a) an instalment of pension payable in respect of a child; or
- (b) an instalment of any other pension if the deduction would reduce the amount of the instalment payable to less than half the amount that, but for this section, would be payable.

(6) Where, after a copy of a judgement given against a pensioner or beneficiary (being a judgement on which the Board is satisfied that an amount is due) has been served in accordance with Subsection (1), a copy of another judgement given (whether before or after the first-mentioned judgement) against the same pensioner or beneficiary in favour of the person in whose favour the first-mentioned judgement was given, or in favour of another person is served in accordance with that subsection, the Board shall not make a payment in accordance with this section to the judgement creditor under the other judgement in respect of the amount due under that judgement until the amount due under the first-mentioned judgement has been paid.

(7) As between the Board and the pensioner or beneficiary, a payment to a judgement creditor in accordance with this section shall be deemed to be a payment from the Fund to the pensioner or beneficiary.

(8) A judgement creditor who serves a copy of a judgement on the Board under Subsection (1) must notify the Board, in the prescribed manner, immediately the judgement debt is satisfied.

Penalty: A fine not exceeding K100.00 or imprisonment for a term not exceeding three months.

(9) If the amounts paid in accordance with this section to a judgement creditor in respect of a judgement exceed, in the aggregate, the amount due under the judgement, the excess is repayable by the judgement creditor to the judgement debtor and, in default of payment, may be recovered by the judgement debtor from the judgement creditor as a debt.

68. RECOVERY OF CONTRIBUTIONS.

The Board may recover arrears of contributions under this Act as a debt.

69. REGULATIONS.

(1) The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and, in particular—

- (a) prescribing the manner in which the accounts of the Fund shall be kept; and
- (b) prescribing penalties of fines not exceeding K100.00 for offences against the regulations.

(2) Where regulations for the purposes of the definition of “daily rate of pay” in Section 1(1) are in force in relation to members of the Defence Force included within a class of members, and the pay, service allowance or living-out allowance applicable to that class of members is increased or reduced, regulations made for the purposes of that definition after the date on and from which the increase or reduction took effect may be expressed to have taken effect on and from that date.

SCHEDULE 1 – ⁷³PERIODS OF SERVICE QUALIFYING CERTAIN OFFICERS FOR PENSIONS.

Sec. 32.

PENSION FACTORS

Completed years of Service Percentage

15	21
16	22
17	23
18	24
19	25
20	26
21	27
22	28
23	29
24	30
25	31
26	32
27	33
28	35
29	37
30	39
31	41
32	43
33	45
34	47
35	49
36	51
37	53.

⁷³ Schedule 1 repealed and replaced by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s29.

SCHEDULE 2 -

SCHEDULE 3 – GRATUITIES ON RETIREMENT OF NON-COMMISSIONED MEMBERS NOT ENTITLED TO PENSION.

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⁷⁴ Schedule 3 repealed by *Defence Force Retirement Benefits (Amendment) Act 1991* (No. 10 of 1991), s30 (The Act has “25”).