INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 76.

Defence Force Retirement Benefits.

GENERAL ANNOTATION.

ADMINISTRATION.

At the date of its preparation for inclusion, the administration of this Chapter was vested in the Minister for Defence with the exception of Section 9(1), which was vested in the Minister for Public Service, and Sections 20 and 21 which were vested in the Minister for Finance.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

References in or in relation to this Chapter to—

"the Departmental Head"—should be read as references to the Secretary for Defence;

"the Department"—should be read as references to the Department of Defence.

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Prepared for inclusion as at 1/1/1984.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 76.

Defence Force Retirement Benefits Act.

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Prepared for inclusion as at 1/1/1986.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 76.

Defence Force Retirement Benefits Act.

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*[1].

PART I.—PRELIMINARY.

1. Interpretation.

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

"actuarial member of the Board" means the member of the Board appointed under Section 5(1)(*a*);

"actuary" means a person of whose actuarial knowledge and experience the Head of State, acting on advice, approves;

"benefit" means a benefit under this Act;

"the Board" means the Defence Force Retirement Benefits Board established by Section 4;

"child" means a person under the age of 16 years;

"contribution" means a contribution under this Act to the Fund;

"contributor" means a person who is required or permitted to contribute to the Fund;

"contributors' representative" means a member of the Board appointed under Section 5(1)(*b*);

"daily rate of pay", in relation to a member of the Defence Force, and in relation to a particular time, means—

(*a*) the daily rate of pay for his rank, employment and seniority at that time as prescribed for the purposes of this definition; or

(*b*) if it is not so prescribed, the sum of the daily rate of—

(i) pay for his rank; and

(ii) service allowance; and

(iii) living-out allowance,

at that time, prescribed by or under the *Defence Act*;

"the Fund" means the Defence Force Retirement Benefits Fund established by Section 17;

"gratuity" means a gratuity under this Act;

"invalidity benefit" means benefit to which a member is entitled under Section 34;

"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;

[1] *See*, also, the *Public Officers Superannuation Act* and the *Retirement Benefits Act*.

"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;

"retrenchment" means the compulsory discharge of a member of the Defence Force because of a reduction in the size of the Defence Force or a part 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;

"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,

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. Establishment of the Board.

(1) A Defence Force Retirement Benefits Board is hereby established.

(2) The Board—

(*a*) is a corporation; and

(*b*) has perpetual succession; and

(*c*) shall have a seal; and

(*d*) may acquire, hold and dispose of property; and

(*e*) may sue and be sued in its corporate name.

(3) The seal of the Board shall be kept in such custody as the Board directs, and shall not be used except as authorized by the Board.

(4) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document, and shall presume that it was duly affixed.

5. Constitution of the Board.

(1) The Board shall consist of five members appointed by the Head of State, acting on advice, by notice in the National Gazette, of whom—

(*a*) one shall be an actuary; and

(*b*) two shall be members of the Defence Force appointed as contributors' representatives.

(2) Members other than the contributors' representatives may be dismissed at any time by the Head of State, acting on advice.

(3) Subject to Subsection (4) and to Section 11, a contributors' representative holds office for a term of three years, and is eligible for re-appointment.

(4) If in the opinion of the Head of State, acting on advice, it is necessary or desirable to do so, he may terminate the appointment of a contributors' representative.

6. Chairman of the Board.

(1) The Head of State, acting on advice, shall appoint one of the members of the Board (other than the actuarial member or a contributors' representative) to be the Chairman of the Board.

(2) The Chairman may resign his office as Chairman by writing under his hand delivered to the Minister.

7. Deputies of members of the Board.

(1) The Minister may appoint a person to be the deputy of a member of the Board.

(2) The deputy of the actuarial member shall be an actuary.

(3) The deputy of a contributors' representative shall be a member of the Defence Force.

(4) In the absence of a member from a meeting of the Board, his deputy is entitled to attend the meeting and, when so attending, shall be deemed to be a member, but shall not preside at the meeting.

8. Temporary appointments.

Where a member of the Board or the deputy of a member dies or resigns, the Minister may appoint a person to act in his place until a person is appointed to replace him.

9. Remuneration and allowances.

(1) For each day on which a member of the Board or the deputy of a member attends a meeting of the Board, he shall be paid such remuneration (if any) as is prescribed.

(2) Members and deputies of members shall be paid such allowances as are prescribed.

10. Leave of absence.

The Minister may grant leave of absence to a member of the Board on such terms and conditions as the Minister determines.

11. Resignation.

A member of the Board or the deputy of a member may resign his office by writing under his hand delivered to the Minister.

12. Meetings of the Board.

(1) In this section, unless the contrary intention appears, "member" includes a deputy of a member of the Board.

(2) Subject to this section, meetings of the Board shall be held at such times and places as the Board from time to time determines.

(3) The Chairman of the Board may at any time convene a meeting.

(4) If the Chairman is not available, the actuarial member may convene a meeting and, if the Chairman and the actuarial member are not available, the remaining member who is not a contributors' representative may convene a meeting.

(5) The Chairman shall preside at all meetings at which he is present.

(6) If the Chairman is absent from a meeting, the actuarial member shall preside at the meeting.

(7) If the Chairman and the actuarial member are both absent from a meeting, the members present shall elect one of their number (not being a deputy) to preside at the meeting.

(8) At a meeting of the Board—

(*a*) three members are a quorum; and

(*b*) all matters before the meeting shall be determined in accordance with the majority of votes; and

(*c*) the member presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

Division 2.—Functions and Powers of the Board.

13. Functions of the Board.

The functions of the Board are to control and administer the Fund in accordance with this Act.

14. General powers of the Board.

The Board has power to do all things that are necessary or convenient to be done for or in connexion with the performance of its functions.

15. Delegation.

The Board may, by instrument under its seal, delegate to any person all or any of its powers and functions under this Act (except this power of delegation).

16. Annual reports by the Board.

(1) As soon as practicable after the end of each financial year, the Board shall submit to the Minister—

(*a*) a report of its operations during that year; and

(*b*) financial statements in respect of that year, in such form as the Minister for Finance approves.

(2) Before 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.

PART III.—THE DEFENCE FORCE RETIREMENT BENEFITS FUND.

17. Establishment of the Fund.

(1) A Defence Force Retirement Benefits Fund is hereby established.

(2) The Fund shall consist of—

(*a*) the contributions of contributors; and

(*b*) any payments made by the State to the Fund under this Act; and

(*c*) any moneys paid into the Fund under the *Defence Force (Papua New Guinea) Retirement Benefits Act* 1973 of Australia, as in force from time to time; and

(*d*) any income derived from the investment of the Fund.

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, etc., of the Fund.

(1) In this section, "authorized short-term money market" means the group of dealer companies authorized by the Central Bank to be approved dealers in short-term loans, and to which that bank acts as lender of last resort.

(2) So far as practicable, moneys of the Fund shall be invested by the Board—

(*a*) in securities of or guaranteed by the State; or

(*b*) in the securities of any authorized short-term money market; or

(*c*) in any other manner approved by the Minister for Finance,

in such proportions, as between investments or classes of investments, as are approved by the actuarial member of the Board.

(3) The Board shall not invest moneys of the Fund at a rate of interest less than 4.75% per annum except with the approval of the Minister for Finance.

(4) Moneys of the Fund that are not invested by the Board may be lodged at call or on fixed deposit, or partly at call and partly on fixed deposit, with the Central Bank or any other bank approved by the Minister for Finance.

21. Borrowing.

The Board may borrow for the Fund, and the Minister for Finance may lend to the Board, on the security of moneys of the Fund invested in securities issued by the State, moneys not exceeding in the aggregate two-thirds of the amount of the moneys so invested.

22. Signing of cheques.

Cheques drawn on a bank account of the Board shall be signed in the prescribed manner.

23. Accounts and records.

The Board shall—

(*a*) cause proper accounts and records of its transactions and affairs to be kept; and

(*b*) do all things necessary to ensure that—

(i) all payments out of its moneys are properly made and authorized; and

(ii) adequate control is maintained over—

(A) its assets and assets in its custody; and

(B) the incurring of liabilities by it.

24. Actuarial investigations.

(1) The actuarial member 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) The actuarial member 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—

(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) The Board shall furnish the Minister and the Minister for Finance with a copy of a report made under Subsection (2), together with its recommendations on the report.

(4) The actuarial member shall be paid, in respect of an investigation and report made by him under this section, such fees (if any) as the Minister determines.

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*) after the date on which he attains the age of 60 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.

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.

Division 2.—Contributions by the State.

29. State contributions in respect of pensions.

(1) Subject 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 33(5).

(2) Notwithstanding Subsection (1), the Minister for Finance, after considering—

(*a*) a report made under Section 24 by the actuarial member; 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 for Finance 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,

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.

(1) Where a contributor (other than a contributor entitled to invalidity benefit)—

(*a*) is an officer and—

(i) is discharged on or after attaining the retiring age for the rank held by him; and

(ii) has completed 20 years' service for pension; or

(*b*) is an officer and—

(i) is discharged, with the approval of the Minister, before attaining the retiring age for the rank held by him; and

(ii) has completed the number of years of service for pension specified in Schedule 1 in relation to that rank; or

(*c*) is a non-commissioned member of the Defence Force and is discharged after completing 20 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 whose age on discharge is 60 years or more is an amount per annum calculated in accordance with the formula—

$$\frac{ab}{210}$$

where—

a is an amount equal to the total amount of pay that was applicable to him during the period of three years immediately before his discharge; and

b is the number of years of service for pension (to a maximum of 35) completed by him.

(3) Subject to this Act, the rate of pension payable to a person whose age on discharge is less than 51 years is an amount per annum ascertained in accordance with the formula—

$$\frac{abc}{210}$$

where—

a is an amount equal to the total amount of pay that was applicable to him during the period of three years immediately before his discharge; and

b is the factor specified in Schedule 2 in relation to his age on discharge; and

c is the number of years of service for pension (to a maximum of 35) that he would have completed if his period of service for pension had included the period commencing on the date of his discharge and ending on the date on which he attains the age of 60 years.

(4) Subject to this Act, the rate of pension payable to a person whose age on discharge is 51 years or more, but less than 60 years, is an amount per annum determined by the Board on the advice of the actuarial member of the Board, being—

(*a*) not more than the amount that would have been payable to the person if his age on discharge had been 60 years; and

(*b*) not less than the amount that would have been payable to him if his age on discharge had been 50 years.

(5) For the purposes of this section, the amount of pay that was applicable to a person during a period shall be calculated on the basis of the daily rate of pay that was from time to time applicable to him during that period, but any toea in the amount so calculated shall be disregarded.

33. Gratuities, etc.

(1) Where a contributor is an officer who—

(*a*) immediately before his discharge, was engaged for a period of service that was not expressed to terminate otherwise than on the attainment of the retiring age for the rank held by him; and

(*b*) is discharged on or after attaining the retiring age for the rank held by him; and

(*c*) on discharge, has completed 10 years' service for pension; and

(*d*) is not entitled to a pension or to invalidity benefit,

he is entitled to a gratuity calculated under Subsection (3), in addition to a refund of the amount of his contributions.

(2) Where a contributor is an officer who—

(*a*) immediately before his discharge, was engaged for a period of service that was expressed to terminate otherwise than on the attainment of the retiring age for the rank held by him; and

(*b*) is discharged on the completion of his period of service; and

(*c*) on retirement, has completed 12 years' service for pension; and

(*d*) is not entitled to a pension or invalidity benefit,

he is entitled to a gratuity calculated in accordance with Subsection (3), in addition to a refund of the amount of his contributions.

(3) A gratuity payable under Subsection (1) or (2)—

(*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 equal to K60.00 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—

(i) K40.00 multiplied by the number of years of service for pension as a non-commissioned member completed by him; and

(ii) K60.00 multiplied by the difference between the total number of years of service for pension, and the number of years of service for pension as a non-commissioned member, completed by him.

(4) Where a contributor is a non-commissioned member of the Defence Force who—

(*a*) on discharge, has completed eight years' service for pension; and

(*b*) is not entitled to a pension or invalidity benefit,

he is entitled to a gratuity equal to the amount specified in Schedule 3 in relation to the number of years of service for pension completed by him, in addition to a refund of the amount of his contributions.

(5) A contributor who is retrenched and is not entitled to a pension or gratuity or invalidity benefit is entitled to a lump sum payment of an amount equal to 2½ times the amount of his contributions or, if he so desires, to a pension at a rate that is certified by the actuarial member of the Board to be the actuarial equivalent of such a payment.

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,

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.

(1) A person who is entitled to 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—

$$\frac{ab}{70c}$$

where—

a is an amount equal to the total amount of pay that was applicable to him during the last three years of service for pension completed by him before his discharge, or if he had not, at the time of his discharge, completed three years' service for pension during the whole period of service for pension completed by him; and

b is the number of years of service for pension (to a maximum of 35) that he would have completed if his period of service for pension had included the period commencing on the date of his discharge and ending on the date on which he attains the age of 60 years; and

c is the number three or, if at the time of his retirement he had not completed three years' service for pension, the number (or fraction) ascertained by dividing the number of days in the whole period of service for pension completed by him by 365.

(2) A person who is entitled to invalidity benefit and is classified under Section 34 as Class B is entitled to a pension at the rate of an amount per annum equal to the amount per annum of pension to which he would have been entitled if he had been classified as Class A multiplied—

(*a*) if, immediately before his discharge he was an officer who was engaged for a period of service that was not expressed to terminate otherwise than on the attainment of the retiring age for the rank held by him, and that age is an age specified in Schedule 2—by the factor specified in that schedule in relation to that age; and

(*b*) if, immediately before his discharge, he was—

(i) an officer who was engaged for a period of service that was expressed to terminate otherwise than on the attainment of the retiring age for the rank held by him; or

(ii) a non-commissioned member of the Defence Force,

and the age that he would have attained on completion of his current engagement is an age specified in Schedule 2 or a lower age—by the factor specified in that schedule in relation to the age that he would have attained on completion of his engagement or the age of 40 years, whichever is the greater; and

(*c*) in any other case—by a percentage determined by the Board on the advice of the actuarial member, being not less than 62% nor more than 100%.

(3) A person who—

(*a*) is entitled to 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 at the rate of an amount per annum equal to the amount per annum of pension to which he would have been entitled if he had been classified as Class A multiplied—

(*d*) if his age on discharge is less than 51 years—by the percentage specified in Schedule 2 in relation to his age on discharge; and

(*e*) if his age on discharge is 51 years or more—by a percentage determined by The Board on the advice of the actuarial member, being a percentage not less than 62% nor more than 100%.

(4) A person who—

(*a*) is entitled to 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, in addition to a refund of the amount of his contributions—

(*d*) if he was an officer immediately before discharge and his period of service for pension does not include service as a non-commissioned member of the Defence Force—to a gratuity equal to K60.00 multiplied by the number of years of service for pension completed by him; and

(*e*) if he was an officer immediately before discharge and his period of service for pension includes service as a non-commissioned member of the Defence Force—to a gratuity equal to the sum of—

(i) K40.00 multiplied by the number of years of service for pension as a non-commissioned member completed by him; and

(ii) K60.00 multiplied by the difference between the total 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

(*f*) if he was a non-commissioned member of the Defence Force immediately before discharge—to a gratuity equal to K40.00 multiplied by the number of years of service for pension completed by him.

(5) For the purposes of this section, the amount of pay that was applicable to a person during a period shall be calculated on the basis of the daily rate of pay that was from time to time applicable to him during that period, but any toea in the amount so calculated shall be disregarded.

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) If, but for this subsection, on reclassification as Class C a person would be entitled in accordance with Section 35 to invalidity benefit consisting of a refund of the amount of his contributions and a gratuity, 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.

Where 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) is payable to or in respect of the contributor.

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) A pension payable under this section in respect of a child is at the rate of K130.00 per annum.

(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*) the present value, as determined by the actuarial member, 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.

Where—

(*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 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

(*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.

Where a contributor ceases to be a member of the Defence Force and is not entitled to a pension or to a benefit under Section 33(5) he is entitled to a refund of the amount of his contributions.

45. General provisions as to pensions.

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

(2) A pension under Section 39 or 40 ceases on the death or remarriage of the pensioner.

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

(*a*) attains the age of 16 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.

(1) Subject to the regulations, a person who is entitled to a pension under Section 32 may apply to the Board for the commutation of a portion, not exceeding one-third, of his pension.

(2) On an application under this section, the Board may, in its discretion, grant or refuse the application, or grant it subject to such conditions as the Board thinks proper.

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) Pensions shall be paid in fortnightly instalments.

(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.

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.

PART VI.—FORMER MEMBERS WHO AGAIN BECOME CONTRIBUTORS.

Division 1.—*Former Members who were Pensioners.*

54. Application of Division 1.

(1) This Division applies to a person who, being in receipt of or entitled to a pension (other than a pension under Section 33(5)) 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.

55. Cancellation of previous pension.

Where a pensioner (including a pensioner whose pension has been suspended under this Act) becomes a person to whom this Division applies, his pension is cancelled.

56. Benefits payable.

(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, 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 became a person to whom this Division applies, other than service in respect of which a refund of the amount of his contributions has been paid or is payable to him.

(3) Where—

(*a*) immediately before he became entitled to a pension, a person to whom this Division applies was a non-commissioned member of the Defence Force and had completed 20 years' service for pension; and

(*b*) on discharge after becoming a person to whom this Division applies, he is an officer but is not entitled to pension under Part V.; and

(*c*) his failure to be entitled to pension is not attributable to the operation of Section 38 or 47,

he is entitled on discharge (in place of any benefit to which, but for this subsection, he would be entitled)—

(*d*) to pension as if, on discharge, he held the rank last held by him before he became an officer; and

(*e*) to a refund of so much of the amount of his contributions as is equal to the difference between the amount of contributions that were actually paid by him and the amount of contributions that would have been paid by him if, at all times when he was an officer, he had held the rank last held by him before he became an officer.

(4) Where—

(*a*) the pension of a person to whom this Division applies became payable by virtue of Section 34; and

(*b*) immediately before he became entitled to that pension he was an officer and had completed 20 years' service for pension; and

(*c*) on discharge after having become a person to whom this Division applies, he is not entitled to pension under Part V., whether by reason of the operation of Section 38 or 47 or otherwise,

he is entitled on discharge (in place of any other benefit to which, but for this subsection, he would be entitled)—

(*d*) to the pension to which he would have been entitled immediately before he became a person to whom this Division applies if he had been reclassified under Section 34 as Class C immediately before he became such a person; and

(*e*) to a refund of the amount of the contributions paid by him after he became a person to whom this Division applies; and

(*f*) to any gratuity payable to him in respect of his service after he became such a person.

(5) Where—

(*a*) the pension of a person to whom this Division applies became payable by virtue of Section 34; and

(*b*) on discharge after having become a person to whom this Division applies, he is not entitled to pension under Part V., whether by reason of the operation of Section 38 or 47 or otherwise; and

(*c*) Subsections (3) and (4) do not apply to him,

he is entitled on discharge (in place of any other benefit to which, but for this subsection, he would be entitled)—

(*d*) to any refund of contributions, and any gratuity, to which he would have been entitled if he had been reclassified under Section 34 as Class C immediately before he became a person to whom this Division applies; and

(*e*) to a refund of the amount of the contributions paid by him after he became such a person; and

(*f*) to any gratuity payable to him in respect of his service after he became such a person.

(6) Where—

(*a*) the pension of a person to whom this Division applies became payable otherwise than under Section 34; and

(*b*) on discharge after becoming a person to whom this Division applies, he is not entitled to pension under Part V., whether by reason of the operation of Section 38 or 47 or otherwise; and

(*c*) Subsection (3) does not apply to him,

he is entitled on discharge (in place of any other benefit to which, but for this subsection, he would be entitled)—

(*d*) to a pension corresponding to the pension that was cancelled when he became a person to whom this Division applies; and

(*e*) to a refund of the amount of the contributions paid by him after he became such a person.

(7) Where a person is entitled to benefit under Subsection (4), (5) or (6), Sections 38 and 47 do not apply in relation to that benefit except as to any gratuity payable under Subsection (4)(*f*) or (5)(*f*).

(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 contributions 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 operation 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 cancelled 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 shall be paid to his personal representatives, or, failing them, to such persons (if any) as the Board determines.

(10) Where—

(*a*) the pension of a person to whom this Division applies became payable under Section 34; and

(*b*) on discharge after becoming a person to whom this Division applies, he again became entitled to pension under that section on being classified under that section as Class A or B; and

(*c*) he is later reclassified under Section 36 as Class C and, on being so reclassified, ceases to be entitled to a pension,

he is entitled, on being so reclassified—

(*d*) to any refund of contribution, and any gratuity, to which he would have been entitled if he had been so reclassified immediately before he became a person to whom this Division applies; and

(*e*) to a refund of the amount of the contributions paid by him after he became a person to whom this Division applies, and to a gratuity calculated in

accordance with Section 35 by reference to his service after he became such a person, to the extent that the sum of the amount of the refund and the amount of the gratuity exceeds the sum of the payments of pension received by him after his discharge after becoming such a person.

57. Pension payable after commutation of previous pension.

Where 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 actuarial member 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.

59. Former members who were not pensioners.

(1) Subject to Subsection (2), where a member of the Defence Force—

(*a*) has, on discharge, become entitled—

(i) only to a refund of the amount of his contributions; or

(ii) to benefit under Section 33; and

(*b*) again becomes a contributor,

he is not entitled to any further benefit in respect of his previous service.

(2) Where—

(*a*) a member of the Defence Force has, on discharge, become entitled to a refund of the amount of his contributions and to a gratuity under Section 35(4); and

(*b*) within a period of 12 months after discharge, he again becomes a contributor; and

(*c*) before—

(i) the end of a period of 12 months after he again becomes a contributor; or

(ii) he again ceases to be a member of the Defence Force,

whichever first occurs, he repays to the Fund the amount of contributions refunded to him and pays to the State an amount equal to the gratuity received by him,

his service before his retirement and his service after he again becomes a contributor shall be deemed to be continuous.

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[1].

61. Audit.

(1) For the purposes of this section, "subsidiary company" in relation to the Board, shall have the meaning given to a subsidiary company in relation to a public body under Section 1A of the *Public Bodies (Financial Administration) Act.*

(2) Subject to this section, the Auditor-General shall inspect and audit the accounts and records of financial transactions of the Board and of any subsidiary company and records relating to its assets or assets in its custody, 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 so doing.

(3) The Auditor-General may, in his discretion, dispense with the whole or any part of the detailed inspection and audit of any accounts referred to in Subsection (2).

(4) The Auditor-General shall, at least once in each year, report to the Minister the result of the inspection and audit of any accounts referred to in Subsection (2).

(5) The Auditor-General may, at his discretion, for the purpose of assisting him in an audit and inspection under Subsection (2), employ a registered company auditor who shall act under the direction of the Auditor-General and on the terms and conditions determined by the Auditor-General.

(6) The Auditor-General, or a person carrying out or assisting in carrying out an inspection or audit under this section—

(*a*) is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Board and of any subsidiary company, relating directly or indirectly to the receipt or payment of moneys by it, or to the acquisition, receipt, custody or disposal of assets by it; and

(*b*) may make copies of, or take extracts from, any such accounts, records, documents or papers; and

(*c*) may require any person to furnish him with such information in his possession or to which he has access as the Auditor-General or the person carrying out or assisting in carrying out the inspection or audit, thinks necessary for the purposes of the functions of the Auditor-General under the Constitution and this Act.

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

Penalty: A fine not exceeding K200.00.

(Replaced by No. 30 of 1982, s. 6, amended by No. 8 of 1983, s. 4.)

[1]But *see* Constitution, Section 155.

62. Transfer of insurance policies to the Board.

(1) With the consent of the Board, a contributor whose life is assured may transfer the policy, if it is unencumbered, to the Board or to a person approved by the Board, and request the Board to continue the payment of the premiums under the policy.

(2) Where a policy is transferred under Subsection (1), the Board shall duly pay the premiums and, on the maturity of the policy, pay to the contributor or, if he is dead, to his personal representatives, to be administered as part of his estate, any sums received on the policy, less the amounts of the premiums paid by the Board with compound interest on those amounts from the respective dates of payment at the prescribed rate.

(3) If the contributor desires that his policy be re-transferred to him before it matures or he is discharged, the Board, on receipt of a request for re-transfer or on the discharge, as the case may be, may re-transfer the policy, or cause it to be re-transferred, to the contributor on payment to the Board of the amounts of the premiums paid by the Board, with compound interest on those amounts from the respective dates of payment at the prescribed rate.

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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.

64. Costs of administration.

The costs of the administration of this Act shall be paid out of the Fund.

(Replaced by No. 8 of 1986.)

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 connexion 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—

(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.

SCHEDULES.

SCHEDULE 1.

Sec. 32.

PERIODS OF SERVICE QUALIFYING CERTAIN OFFICERS FOR PENSIONS.

Rank.	*Years of Service for Pension.*
Brigadier General Colonel	24
Lieutenant-Colonel Major Captain Lieutenant Second Lieutenant	22

SCHEDULE 2.

Sec. 32.

PENSION FACTORS.

Age in Years.	*Percentage.*
36	41
37	42
38	43
39	44
40	45
41	46
42	47
43	48
44	50
45	52
46	54
47	56
48	58
49	60
50	62

SCHEDULE 3.

Sec. 33.

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

Years of Service for Pension.	*Gratuity.* K	
8	160.00	
9	240.00	
10	320.00	
11	400.00	
12	480.00	
More than 12	480.00	plus K40.00 for each year in excess of 12.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 76.

Defence Force Retirement Benefits Regulation.

ARRANGEMENT OF SECTIONS.

1. How cheques signed.
2. Prescribed rate of compound interest.
3. Service, etc., of judgement.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 76.

Defence Force Retirement Benefits Regulation.

MADE under the *Defence Force Retirement Benefits Act.*

1. How cheques signed.

For the purposes of Section 22 of the Act, cheques drawn on a bank account of the Board shall be signed by two officers authorized by the Chairman to sign cheques drawn on the account.

2. Prescribed rate of compound interest.

The rate of compound interest payable under Section 62(2) of the Act is 4¼%.

3. Service, etc., of judgement.

(1) For the purposes of Section 67(1) of the Act, a copy of a judgement may be served on the Board by the judgement creditor by registered post to the address of the Board.

(2) For the purposes of Section 67(8) of the Act, the manner of notification to the Board of satisfaction of a judgement debt is by registered post to the address of the Board.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 76.

Defence Force Retirement Benefits.

APPENDIX 1.

SOURCE OF THE DEFENCE FORCE RETIREMENT BENEFITS ACT.

Previous Legislation.

Defence Force Retirement Benefits Act

as amended by—

Public Bodies (Audit Provisions) Act 1982 (No. 30 of 1982)

Public Bodies (Subsidiary Companies) Act 1983 (No. 8 of 1983)

Defence Force Retirement Benefits (Amendment) Act 1986 (No. 8 of 1986).

APPENDIX 2.

SOURCE OF THE DEFENCE FORCE RETIREMENT BENEFITS REGULATION.

Part A.—Previous Legislation.

Defence Force Retirement Benefits Regulation 1975.

Part B.—Cross References.

Section, etc., in Revised Edition.	Previous Reference[1].
1	2
2	3
3	4

[1]Unless otherwise indicated, references are to the regulation in Part A.

Prepared for inclusion as at 1/1/1986.