

No. 999 of 1990.

***Public Officers Superannuation Fund Act 1990.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. of 1990.

*Public Officers Superannuation Fund Act 1990.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*Public Officers Superannuation Fund Act 1990,<sup>1</sup>*

Being an Act—

- (a) to provide a scheme of superannuation rights for and in respect of—
  - (i) citizen officers and employees of —
    - (A) the National Public Service; and
    - (B) the Parliamentary Service; and
    - (C) the National Judicial Staff Service; and
    - (D) approved authorities; and
  - (ii) citizen members and employees of—
    - (A) the Teaching Service; and
    - (B) the Police Force; and
    - (C) the Correctional Service; and
- (b) to repeal—
  - (i) the *Public Officers Superannuation Fund Act* (Chapter 66); and
  - (ii) the *Retirement Benefits Act* (Chapter 70),

and for related purposes.

MADE by the National Parliament to come into operation on 1 January 1991.

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<sup>1</sup> Short title repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act* 1993 (No. 8 of 1993), s1.

## PART I. – PRELIMINARY.

## 1. INTERPRETATION.

(1)<sup>2</sup> In this Act, unless the contrary intention appears—

<sup>3</sup>“**Actuary**” means the Actuary appointed under Section 12;

<sup>4</sup>“**age of retirement**” means—

(a) in the case of a contributor who is a member of the Police Force or Correctional Service or Fire Service—the age of 50 years or, at the option of the contributor, after the completion of 20 years’ service; or

(b) in the case of any other contributor—the age of 55 years or, at the option of the contributor, after completion of 25 years’ service;

<sup>5</sup>“**approved authority**” means a public authority or any body (whether established by statute or otherwise) (except the National Provident Fund) declared to be an approved authority under Section 2;

“**approved builder**” means a builder approved by the Board;

<sup>6</sup>“**the Board**” means the State Services and Statutory Authorities Superannuation Fund Board established by Section 3 and after the coming into operation of Section 6 of the *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* means the Public Officers Superannuation Fund Board;

<sup>7</sup>“**Central Bank**” means the Central Bank of Papua New Guinea;

“**the commencement date**” means 1 January 1991;

“**contributor**” means a person liable to contribute to the Fund under Part IV;

<sup>8</sup>“**contributors’ representative**” means a member of the Board appointed under Section 4(1)(c);

<sup>2</sup> Section 1 (definition of “the Controller”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1991* (No. 6 of 1991), s1(a); Section 1 (definition of “the Controller”) repealed by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(g); Section 1 (definition of “Investment Committee”) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(l); Section 1 Subsection (1) amended by No. 78 of 2006, s. 3; Section 1 (definition of “investment panel”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1991* (No. 6 of 1991), s1(b); Section 1 (definition of “investment panel”) repealed by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(m).

<sup>3</sup> Section 1 (definition of “Actuary”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(a).

<sup>4</sup> Section 1 (definition of “age of retirement”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(b).

<sup>5</sup> Section 1 (definition of “approved authority”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(c).

<sup>6</sup> Section 1 (definition of “the Board”) amended by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(d).

<sup>7</sup> Section 1 Subsection (1) amended by No. 78 of 2006, s. 3.



<sup>9</sup>“**contributory service**” means the period from the date on which a person became a contributor until the date on which he ceases to be a contributor, less any period not counted as contributory service under Section 30;

<sup>10</sup>11“**dependant**” in relation to a contributor or pensioner or a deceased contributor or pensioner, means—

- (a) a spouse; and
- (b) a child under the age of 18 years who is wholly dependent on and maintained by the contributor or pensioner; and
- (c) a relative who is wholly dependent on and maintained by the contributor or pensioner in such circumstances that, in the opinion of the Board, he should be regarded as being a dependant of the contributor or pensioner;

“**disciplined Forces**” means the Police Force and the Correctional Service;

“**employer**” means the State or an approved authority;

“**the former Act**” means the *Public Officers Superannuation Fund Act* (Chapter 66);

<sup>12</sup>“**the former Fund**” means the Fund established under Section 13(1) of the *Public Officers Superannuation Fund Act* (Chapter 66) and the Fund established under Section 13(1) of the *Retirement Benefits Fund Act* (Chapter 70);

<sup>13</sup>“**the Fund**” means the State Services and Statutory Authorities Superannuation Fund established by Section 15 and after the coming into operation of Section 16 of the *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* means the Public Officers Superannuation Fund;

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<sup>8</sup> Section 1 (definition of “contributors' representative”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(e).

<sup>9</sup> Section 1 (definition of “contributory service”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(f).

<sup>10</sup> Section 1 (definition of “the Controller”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1991* (No. 6 of 1991), s1(a); Section 1 (definition of “the Controller”) repealed by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(g); Section 1 (definition of “Investment Committee”) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(l); Section 1 Subsection (1) amended by No. 78 of 2006, s. 3; Section 1 (definition of “investment panel”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1991* (No. 6 of 1991), s1(b); Section 1 (definition of “investment panel”) repealed by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(m).

<sup>11</sup> Section 1 (definition of “dependant”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(h).

<sup>12</sup> Section 1 (definition of “the former Fund”) amended by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(i).

<sup>13</sup> Section 1 (definition of “the Fund”) amended by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(j).

**“government charges”** means any charge prescribed by the Controller and may include an administration levy or an insurance benefit charge;

<sup>14</sup>**“inspector”** means an inspector appointed under Section 52B;

**“insurance”** means death and invalidity insurance as defined in Section 41;

**“juvenile dependant”** means a child, under the age of 18 years, of a contributor or pensioner or of a deceased contributor or pensioner;

<sup>15</sup>**“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;

**“member”** means a member of the Board;

<sup>16</sup>**“pensioner”** means a person in receipt of pension under this Act;

<sup>17</sup>**“public authority”** means any authority, body or instrumentality (corporate or unincorporate) established by or under an Act or a Constitutional law other than a body, authority or instrumentality incorporated under the *Companies Act 1997*;

**“resign”** in relation to a contributor, means to terminate service by a contributor other than by reason of death, disability or retrenchment before the contributor has attained the minimum age for retirement;

**“retrenchment”**, in relation to a contributor, means the termination of his services 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) a lessening in the quantity of work has made necessary a reduction in the number of employees;

<sup>18</sup>**“Retirement Benefits Fund”** means the Retirement Benefits Fund established under the *Retirement Benefits Act (Chapter 70) (Repealed)*;

<sup>19</sup>**“salary”** means the annual salary or wages of a contributor at the time of deducting contributions and includes any payment counted as annual salary, but excludes any other payment or allowance;

<sup>14</sup> Section 1 (definition of “inspector”) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(k).

<sup>15</sup> Section 1 Subsection (1) amended by No. 78 of 2006, s. 3.

<sup>16</sup> Section 1 (definition of “pensioner”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(n).

<sup>17</sup> Section 1 (definition of “public authority”) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(o).

<sup>18</sup> Section 1 (definition of “Retirement Benefits Fund”) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s3(p).

<sup>19</sup> Section 1 (definition of “salary”) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1991* (No. 6 of 1991), s1(c).

“**spouse**” means the legal or customary wife, or wives, of a contributor or pensioner or deceased contributor or pensioner;

<sup>20</sup>“**Superannuation Act**” means the Superannuation (General Provisions) Act 2000 (as amended from time to time) including the regulations and prudential standards made under this Act;

“**this Act**” includes the regulations;

“**transfers**” means a payment to the Fund under Section 31.

<sup>221</sup>. [REPEALED.]

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<sup>20</sup> Section 1 Subsection (1) amended by No. 78 of 2006, s. 3.

<sup>21</sup> Section 2(1) amended by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s4; Section 2 Repealed by No. 78 of 2006, s. 4.

**PART II.<sup>22</sup> – PUBLIC OFFICERS SUPERANNUATION FUND BOARD.****3 - 8<sup>23</sup>. [REPEALED.]****9. REMUNERATION OF MEMBERS.**

<sup>24</sup>A member of the Board shall be entitled to such allowances as are determined under the *Boards (Fees and Allowances) Act 1955*.

**10 - 14<sup>25</sup>. [REPEALED.]**

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<sup>22</sup> Part II: heading repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s5.

<sup>23</sup> Section 1 Subsection (1) amended by No. 78 of 2006, s. 3.

<sup>24</sup> Section 9 amended by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s9; Substituted by No. 78 of 2006, s. 6.

<sup>25</sup> Section 9 amended by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s9; Substituted by No. 78 of 2006, s. 6.

**PART III.<sup>26</sup> – PUBLIC OFFICERS SUPERANNUATION FUND.**

**15. ESTABLISHMENT OF THE FUND.**

(1) A State Services and Statutory Authorities Fund is hereby established.

(1A)<sup>27</sup> <sup>28</sup>On and from the date of the coming into operation of Section 16 of the *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* the name of the State Services and Statutory Authorities Fund shall be changed to the Public Officers Superannuation Fund.

(2) The Fund shall consist of–

- (a) the assets from the former Fund transferred under Section 16; and
- (b) the contributions of contributors pursuant to Section 28; and
- (c) any payments made by the State and approved authorities to the Fund under this Act; and
- (d) any income derived from the investments of the Fund; and
- (e) any transfers of contributions under Section 31; and
- (f) any proceeds from insurance under Section 41 upon the death of a contributor; and
- (g) any other monies, as approved by the Controller, received by the Board in or for the performance of its functions under this Act; and
- (h)<sup>29</sup> the assets of the Retirement Benefits Fund transferred under Section 16A.

**16. TRANSFER OF FORMER FUND.**

The former Fund is, as of 1 January 1991, transferred to the Fund to be dealt with in accordance with this Act.

**16A. TRANSFER OF RETIREMENT BENEFITS FUND.**

<sup>30</sup>The Retirement Benefits Fund is deemed to have been transferred to the Fund as at 1 January 1991 to be dealt with in accordance with this Act.

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<sup>26</sup> Part III: heading repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s15.

<sup>27</sup> Section 15(1A) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s16(a).

<sup>28</sup> Section 15(1A) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s16(a).

<sup>29</sup> Section 15(2)(h) added by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s16(b).

<sup>30</sup> Section 16A inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s17.

**17 - 19<sup>31</sup>. [REPEALED.]****19A. BONUSES.**

<sup>32</sup>The Board may from time to time declare that a bonus will be paid *pro rata* to each contributor's account in respect of any surpluses or realised capital gains approved by the Board after considering recommendations made by the Actuary.

**20 - 23<sup>33</sup>. [REPEALED.]****24. AUDIT.**

(1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Board and records relating to its assets, or assets in its custody and shall promptly draw the attention of the Minister and the Controller 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.

(2) The Auditor-General may, in his discretion, dispense with the whole or any part of, the detailed inspection and audit of any accounts or records referred to 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 a person 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 of payment of moneys by it, or to the acquisition, receipt, custody or disposal of assets by it.

(5) The Auditor-General or a person authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

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

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

Penalty: A fine not exceeding K1,000.00.

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<sup>31</sup> Section 16A inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s17.

<sup>32</sup> Section 19A inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s20.

<sup>33</sup> Section 19A inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s20.

**25. REPORTS AND FINANCIAL STATEMENTS.**

(1) The Board shall by the 30 April of each year, commencing 30 April 1992, prepare and furnish to the Minister a report of its operations during the year ending 31 December together with a financial statement in respect of that year in such form as the Minister approves.

(2) Before furnishing a financial statement to the Minister under Subsection (1), the Board shall submit it to the Auditor-General who shall report to the Minister—

- (a) whether the financial statement is based on proper accounts and records; and
- (b) whether the financial statement is in agreement with the accounts and records; and
- (c) whether the receipt and expenditure and the 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 thinks should be reported to the Minister; and
- (e)<sup>34</sup> [*Repealed.*]

(3) The Minister shall cause the report and financial statement, together with the report of the Auditor-General, to be laid before the Parliament within seven sitting days of the Parliament after receipt of the report by the Minister.

(4) When the report or a financial statement of the Board is reproduced for publication or for other purposes, the report of the Auditor-General on it shall be included in the reproduction.

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<sup>34</sup> Section 25(2)(e) repealed by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s22.

**PART IV. – CONTRIBUTORS.****26. CONTRIBUTORS.**

(1)<sup>35</sup> [*Repealed.*]

(2) This Act shall not apply to contributors to–

- (a) the Parliamentary Members' Retirement Benefits Fund; or
- (b) the Judges Pensions.

(3) A person specified in Subsection (1)(a) or (b) who, as at 31 December 1990 was employed by the State; and

- (a) was not contributing to the former Fund; and
- (b) was contributing to the Public Employees Association Superannuation Fund,

may opt, before 1 January 1991, to remain a contributor to the Public Employees Association Superannuation Fund on terms, agreed to by the actuary and the Board of the Public Employees Association Superannuation Fund and approved by the Minister, which provides contributors benefits determined by the same principles as are applied to contributor benefits under this Act and where the employer benefit is based upon the aggregate of the contributions by the contributor plus accrued interest at the rate applied by the Public Employees Association Superannuation Fund and is paid on an emerging cost basis.

(4)<sup>36</sup> [*Repealed.*]

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<sup>35</sup> Section 26(1) amended by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s23(a); Section 26 Subsection (1) omitted by No. 78 of 2006, s. 10.

<sup>36</sup> Section 26(4) added by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s23(b); Section 26 Subsection (4) omitted by No. 78 of 2006, s. 10.



**PART V. – CONTRIBUTIONS.**

***Division 1.***

***Contributions by contributors.***

**27 - 29<sup>37</sup>. [REPEALED.]**

**30. CONTRIBUTORY SERVICE.**

(1) In determining the period of a contributor's contributory service the following periods shall not be counted as contributory service:–

- (a) a period during which a contributor does not receive pay, where such period is in excess of one pay period;
- (b) subject to Subsection (2), a period during which a contributor is on secondment, other than in a State Service position;
- (c) a period during which a contributor is on leave without pay.

(2) A member on secondment under Subsection (1)(b) may have the option of continuing his contributions if the employer to whom he is seconded agrees to meet the contributions which would otherwise be payable by the State.

(3) An arrangement under Subsection (2) shall be as approved by the Board.

**31<sup>38</sup>. [REPEALED.]**

***Division 2.***

***Contributions by employers.***

**32 - 33<sup>39</sup>. [REPEALED.]**

**34. PAYMENT OF STATE'S CONTRIBUTIONS.**

The State shall pay to the Fund the component of any benefit under Section 38(1) that is in excess of the aggregate of–

- (a) contributors contributions; and
- (b) the contributor's lump sum benefit as determined under Section 35; and
- (c) transfers under Section 31,

and interest credits thereon.

- (d)<sup>40</sup> upfront state contribution made under Section 78 of the Superannuation (General Provisions) Act 2000.

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<sup>37</sup> Section 19A inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s20.

<sup>38</sup> Section 31 Repealed by No. 78 of 2006, s. 12.

<sup>39</sup> Section 19A inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s20.

**PART VI. – STATE LIABILITY IN RESPECT OF FORMER FUND, ETC.****35. DETERMINATION IN RESPECT OF NET ASSETS OF FORMER FUND AND STATE LIABILITY IN RESPECT OF FORMER FUND, ETC.**

(1) On the date of transfer of the former Fund under Section 16, the actuary shall determine from the net assets of the former Fund, the amount of–

- (a) contributor lump sum benefits, being contributions made by contributors to the former Fund, together with interest thereon from the date of commencement of payments by the contributor to the former Fund, at a rate approved by the Board on the advice of the actuary, which shall not exceed the average rate of interest declared by the former Fund for the years 1988-1990 inclusive; and
- (b) liabilities for pension payments under the former Fund which shall be adjusted to allow for increases in accordance with the Consumer Price Index since 1975, but not so as to be increased by more than 250%; and
- (c) any surplus after the determination of the amounts under Paragraphs (a) and (b).

(2) On the transfer of the former Fund under Section 16–

- (a) the contributor lump sum benefits under Subsection (1)(a) shall be held in the Fund for payment in accordance with this Act; and
- (b)<sup>41</sup> an amount equal to the liabilities determined under Subsection (1)(b) shall be paid by the State into the Fund; and
- (c) any surplus under Subsection (1)(c) shall be held in a reserve account.

(3) Subject to Subsection (4), the actuary shall determine the State’s liability to each contributor who contributed to the former Fund and who retires after achieving retirement qualifications under this Act based upon the following formula–

$$L = \left[ \frac{(10.5 \times S \times N) \times (45 + Z)}{70 \times 100} \right] - C$$

where–

“L” = the State liability

“S” = the average of last three years salary

<sup>40</sup> Section 34 Amended by No. 78 of 2006, s. 14.

<sup>41</sup> Section 35(2)(b) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s25(a).

“N” = the number of completed years as a contributor

<sup>42</sup>“C” = the lump sum benefit calculated in Subsection 1(a)

“Z” = the contributor’s age last birthday on 1 January 1991 provided that Z shall not exceed 55.

(4) In the case of a contributor under Section 26(1)(b), the State liability shall be—

$$L = \left[ \frac{10.5 \times S \times N}{70} + \frac{(50 + Z)}{100} \right] - C$$

Where L, C, S, N and Z have the same meaning as in Subsection (3) except that Z shall not exceed 50.

(5) Where, by virtue of the provisions of this Act, a person becomes a contributor under this Act, and that person immediately before becoming a contributor under this Act, was a contributor to or a member of any other State superannuation or retirement benefit scheme, the actuary shall determine the State liability under that other scheme, whether contributory or non contributory, in order to determine the benefit which would have applied, at the commencement of this Act, had the beneficiary continued to be employed by the State until he had reached the retirement qualification, and the benefit so determined shall be the benefit payable to the contributor.

(6)<sup>43</sup> <sup>44</sup>The State liability defined in Subsection (5) shall be payable into the Fund.

<sup>42</sup> Section 35(3) (definition of “C”) amended by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1991* (No. 6 of 1991), s2.

<sup>43</sup> Section 35(6) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s25(b).

<sup>44</sup> Section 35(6) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s25(b).

**PART VII. – PENSIONS AND RETIREMENT BENEFITS.**

**36<sup>45</sup>. [REPEALED.]**

**36A. PROCEDURE ON PRIVATIZATION OF APPROVED AUTHORITY.**

<sup>46</sup>(1) Subject to Subsection (2), where a contributor is an officer or employee of an approved authority which is privatized, the value of the contributor's account as at the date of privatization plus the value of State benefit shall be transferred to the superannuation fund of the new employer in accordance with a time schedule determined by the Minister on the recommendation of the Board.

(2) A transfer of benefit under Subsection (1) shall not be effected in such a way as to reduce the benefit which would otherwise be due to the contributor.

(3) For the purposes of Subsection (1), “**new employer**”, in relation to a contributor, means the person who has taken over the approved authority or that part of the approved authority in which the contributor is employed, and who employs the contributor.

**37. BENEFIT ON RETIREMENT.**

(1)<sup>47</sup> The benefit payable to a contributor upon retirement shall be determined from the equivalent of a lump sum equal to the greater of–

$$(a) \quad (A + C) + \frac{(A + C) \times 7}{5} + T; \text{ or}$$

$$(b) \quad A + C + \frac{(A \times 7)}{5} + L + T$$

where

<sup>48</sup><sup>49</sup>“**A**” = the aggregate of the contributor's contributions plus interest accrued at the Fund earnings rate; and

“**C**” = the contributor's lump sum benefit (if any) as determined under Section 35 plus interest accrued at the Fund earning rate; and

<sup>45</sup> Section 36(b) repealed by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s26; Section 36 Repealed by No. 78 of 2006, s. 15.

<sup>46</sup> Section 36A inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s27.

<sup>47</sup> Section 37 Subsection (1) amended by No. 78 of 2006, s. 16.

<sup>48</sup> Section 37 Subsection (1) amended by No. 78 of 2006, s. 16.

<sup>49</sup> Section 37 Subsection (1) amended by No. 78 of 2006, s. 16.

“L” = the State liability (if any) under Section 35 plus interest accrued at the Fund earning rate; and

“T” = any transfers under Section 31 plus interest accrued at the Fund earning rate,

and shall be paid in accordance with this section.

(2 - 8)<sup>50</sup> [Repealed.]

### 38. BENEFITS UPON RESIGNATION.

(1) Subject to Section 39 and to Subsection (2) the benefit payable to a contributor upon resignation shall be a lump sum equal to the total of—

(a) the aggregate of the contributor’s contributions from commencement date plus interest accrued at the Fund earning rate; plus the contributor’s lump sum benefit (if any) as determined under Section 35 plus interest accrued at the Fund earning rate; plus

(b)<sup>51</sup> an employer benefit equal to—

$$7 \times B$$

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$$5$$

where B is the lump sum calculated under Subsection (1)(a).

(c)<sup>52</sup> [Repealed.]

(2 - 6)<sup>53</sup> [Repealed.]

### 39 - 41<sup>54</sup>. [REPEALED.]

### 42. BENEFITS UPON THE DEATH OF A CONTRIBUTOR.

(1) Where a contributor dies prior to normal retirement age his benefit shall be determined as follows:—

(a) the deceased contributor’s benefit in the Fund shall be determined as if he had retired on the date of his death; plus

(b) the deceased contributor’s benefits from insurance (if any).

(2) The benefit under Subsection (1) shall be distributed as follows:—

<sup>50</sup> Section 37 Subsection (1) amended by No. 78 of 2006, s. 16.

<sup>51</sup> Section 38(1)(b) repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act* 1993 (No. 8 of 1993), s29(a); Section 38 Subsection (1) amended by No. 78 of 2006, s. 17.

<sup>52</sup> Section 38 Subsection (1) amended by No. 78 of 2006, s. 17.

<sup>53</sup> Section 37 Subsection (1) amended by No. 78 of 2006, s. 16.

<sup>54</sup> Section 37 Subsection (1) amended by No. 78 of 2006, s. 16.

- (a) where the deceased contributor has named a beneficiary and a method of payment—in accordance with his nomination;
- (b) where the deceased contributor has not named a beneficiary but has dependants—the Board shall approve payments to a spouse or, where there are more than one the spouses, who shall, with their juvenile dependants be treated equally by the Board in the distribution of benefits;
- (c) where the deceased contributor has no dependants—his benefits shall be paid in a lump sum to his next of kin as determined by the Board.

#### **43. PAYMENT OF PENSIONS.**

<sup>55</sup>(1) The Board shall determine the frequency of pension payments to a pensioner and may determine either fortnightly or monthly payments or, where in the opinion of the Board the amounts are small or the pensioner resides at a remote location the Board may, where the fortnightly pension is below K15.00, at the request of the pensioner, either—

- (a) commute the pension; or
- (b) pay it at periods in excess of one month.

(2)<sup>56</sup> <sup>57</sup>The Board may, from time to time, review the amount of each pension payable in accordance with—

- (a) this Act; and
- (b) the former Act; and
- (c) the *Retirement Benefits Act (Chapter 70) (repealed)*.

#### **44. INVALIDITY PENSIONS.**

(1) Where, in the opinion of the Board, having regard to professional advice, a contributor is unable to perform his or her duties due to invalidity or physical or mental incapacity not due to the contributor's wilful action, the contributor shall be entitled to a pension based on the benefit under Section 37 plus any insured benefit paid by the insurer under Section 41.

(2) The benefit from insurance (if any) shall be paid to the State in accordance with Section 17.

(3) The pension rate shall be determined by the Board on the advice of the actuary.

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<sup>55</sup> Section 43 amended by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s31(a).

<sup>56</sup> Section 43(2) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s31(b).

<sup>57</sup> Section 43(2) inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s31(b).

(4) Where a pensioner under Subsection (1) dies, a payment shall be made to the pensioner's dependants of an amount equal to the difference between the amount of pension actually paid and the aggregate of insured benefits plus retirement benefit under Section 37.

(5) The payment in Subsection (4) shall be made by the State.

**45. SUBSEQUENT EMPLOYMENT OF A PENSIONER.**

<sup>58</sup>Where a person in receipt of pension under Section 44 is subsequently gainfully employed by an approved authority, that person in receipt of pension may opt to contribute to the Fund and there shall be no reduction in that pension while he is a contributor under this section.

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<sup>58</sup> Section 45 repealed and replaced by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act* 1993 (No. 8 of 1993), s32.

**PART VIIA.<sup>59</sup> – VESTED BENEFITS IN RESPECT OF NON-CONTRIBUTORY PENSIONS PAYABLE BY THE STATE IN CERTAIN PUBLIC AUTHORITIES.**

**45A. VESTED BENEFITS IN RESPECT OF NON-CONTRIBUTORY PENSIONS PAYABLE BY THE STATE IN CERTAIN PUBLIC AUTHORITIES.**

<sup>60</sup>(1) A contributor who, immediately prior to becoming a contributor—

- (a) was an officer or employee of a public authority; and
- (b) by virtue of an Act or of an industrial agreement in force at that time was entitled to a non-contributory pension on retirement,

shall be entitled to a retirement pension in respect of that non-contributory service to be calculated in accordance with and subject to the conditions under this section.

(2) Upon—

- (a) retiring on attaining the age of 55 years; or
- (b) being retired early due to incapacity; or
- (c) attaining 20 years or more total service,

the retirement pension shall be actuarially determined by the Board on the basis of the contributor's prior non-contributory service and 25% of the contributor's final salary at retirement.

(3) The retirement pension so calculated shall be treated in every respect as pension earned under Section 37 and shall be added to pension earned under Section 37.

(4) The State shall pay to the Fund an actuarially calculated lump sum in respect of any pension payable under this Section.

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<sup>59</sup> Part VIIA inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s33.

<sup>60</sup> Section 45A inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s33.



**PART VIII. – PAYMENTS FROM THE FUND.**

**46 - 52<sup>61</sup>. [REPEALED.]**

**52A. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

<sup>62</sup>This Act, to the extent that it regulates or restricts a right or freedom conferred by Subdivision III.3.C. of the *Constitution (Qualified Rights)*, namely–

- (a) the right to freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to privacy conferred by Section 49 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public welfare.

**52B. INSPECTORS.**

<sup>63</sup>(1) The Minister may, by notice in the National Gazette, appoint members of the staff of the Board to be inspectors for the purposes of this Act.

(2) For the purposes of–

- (a) inquiring into the correctness of any information furnished in compliance with the provisions of this Act; or
- (b) ascertaining whether the provisions of this Act have been or are being complied with; or
- (c) ascertaining whether the provisions of this Act are applicable to any person,

an inspector may require an employer or a contributor to produce or furnish to him such information as the inspector considers relevant.

<sup>64</sup>(1) A person who–

- (a) for any purpose connected with this Act–
  - (i) knowingly makes a false statement; or
  - (ii) produces or furnishes or causes to be produced or furnished any document which he knows to be false in a material particular; or

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<sup>61</sup> Section 45A inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s33.

<sup>62</sup> Section 52A inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s35.

<sup>63</sup> Section 52B inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s36.

<sup>64</sup> Section 52C inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s37.

- (b) being an employer, fails to pay to the Fund, within such period as may be prescribed, any amount which he is liable to pay under this Act in respect of or on behalf of any employee in any month; or
- (c) obstructs any inspector or member of the staff of the Board in the discharge of his functions as such; or
- (d) fails to comply with any Regulations made under this Act; or
- (e) fails to transfer to the Fund any sum which he is required to transfer to it by virtue of Section 45 or 48 within such time as he is required by that section or to transfer it; or
- (f) fails to comply with any other requirements of this Act,

is guilty of an offence.

Penalty: For the first offence—a fine not exceeding K1,000 or imprisonment for a term not exceeding one year.

For a second or subsequent offence—a fine not exceeding K2,000 or imprisonment for a term not exceeding two years.

Default penalty: A fine not exceeding K100.00.

(2) Where a corporation does any act or makes any omission that is an offence under this Act, every person who at the time of the act or omission was a director or member of the governing body of the corporation or was concerned in the management of the corporation and who authorized or knowingly permitted the act or omission, shall, for the purposes of this Act, be deemed to have committed the offence.

(3) Where a person is convicted of an offence under Section 56(b), the court may, in addition to any sentence of fine or imprisonment, order him to pay to the Fund the amount in respect of non-payment of which he was convicted.

(4) No suit or other legal proceedings shall lie against an inspector or other person in respect of anything which is in good faith done or intended to be done under this Act.

### **53. REGULATIONS.**

The Head of State may, acting on advice, make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be made or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**PART X. – REPEAL.**

**54. REPEAL.**

The following Acts are hereby repealed:–

- (a) the *Public Officers Superannuation Fund* (Chapter 66);
- (b) the *Retirement Benefits Act* (Chapter 70).

**PART XI.<sup>65</sup> – TRANSITIONAL.****55. TRANSFER OF ASSETS, ETC., TO THE BOARD.**

<sup>66</sup>All assets and undertakings which, immediately prior to 1 January 1991, were held by or vested in the Public Officers Superannuation Board established under the former Act, and all obligations and liabilities of the Public Officers Superannuation Board immediately prior to 1 January 1991, are deemed to have been transferred to the Board on 1 January 1991.

**56. SAVING OF CONTRACTS, ETC.**

<sup>67</sup>All contracts and agreements entered into, made with or addressed to the Public Officers Superannuation Board established under the former Act, are, to the extent that they were immediately prior to 1 January 1991, binding on and of full force and effect against or in favour of the Public Officers Superannuation Board, binding on and of full force and effect against or in favour of the Board as fully and effectively as if the Board had been a party to them or entitled to the benefit of them.

**57. ACTIONS, ETC., NOT TO ABATE.**

<sup>68</sup>Where, immediately prior to 1 January 1991, any action, arbitration or proceeding was pending or existing by, against or in favour of the Public Officers Superannuation Board established under the former Act, it did not, on 1 January 1991 abate or discontinue or be in any way affected by the provisions of this Act, but it may be prosecuted, continued and enforced by, against or in favour of the Board.

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<sup>65</sup> Part XI inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s38.

<sup>66</sup> Section 55 inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s38.

<sup>67</sup> Section 56 inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s38.

<sup>68</sup> Section 57 inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s38.

**SCHEDULE 1 – <sup>69</sup>DECLARATION OF OFFICE.**

Sec. 4(4)(b)

“I, . . . , declare that I will well and truly serve the Independent State of Papua New Guinea and its peoples in the Office of member of the Public Officers Superannuation Fund Board.”

Office of Legislative Counsel, PNG

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<sup>69</sup> Schedule 1 inserted by *State Services and Statutory Authorities Superannuation Fund (Amendment) Act 1993* (No. 8 of 1993), s39.