ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER P52

POLICE PENSIONS ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises and consolidates—

Act 9/2008, in force 1 July 2006
R.A. 28/2009, in force 1 November 2009
Act 24/2019, in force 18 December 2019

Published by the
Attorney General's Chambers
Printed under Authority by
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POLICE PENSIONS ACT

TABLE OF CONTENTS

PART 1

PRELIMINARY PROVISIONS

SECTION

1. Interpretation and application of Act
2. Pensionable pay
3. Pensionable service
4. Compulsory retirement age
5. Pensions and gratuities as of right

PART 2

CONTRIBUTIONS

6. Interpretation
7. Duty of police officers to contribute
8. Monthly contributions to be by deduction
9. Contributions during leave of absence without salary
10. Government's matching monthly contributions
11. Government's matching contributions in other circumstances

PART 3

PENSIONS AND GRATUITIES ON FULL RETIREMENT, ON EARLY RETIREMENT AND FOR SHORT SERVICE

Division 1

Annual Rate of Pension under this Part

12. Annual rate of pension

Division 2

Pension and Gratuity on Full Retirement

13. Pension on full retirement
14. Election
15. Reduced pension and gratuity on full retirement

Division 3

Pension and Gratuity on Early Retirement

16. Pension on early retirement

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17. Election
18. Reduced pension and gratuity on early retirement

Division 4

Pension or Gratuity for Short Service

19. Pension for short service
20. Election
21. Gratuity for short service

Division 5

General

22. Maximum annual pension
23. Reduction of pension payment when invalidity benefit or age pension payable
24. Refund of contributions
25. Reappointment
26. Reinstatement
27. Security

PART 4

SHORT SERVICE ILL-HEALTH, ILL-HEALTH AND INJURY PENSIONS AND GRATUITIES

Division 1

Interpretation and Application

28. Interpretation
29. Interpretation of "permanently disabled"
30. Interpretation of "injury received in the execution of the contributor's duty as a police officer without the contributor's default"
31. Application

Division 2

Short Service Ill-Health and Ill-Health Pensions and Gratuities

32. Short service ill-health pension
33. Rate for short service ill-health pension
34. Ill-health pension
35. Rate for ill-health pension
36. Election
37. Reduced pension and gratuity
38. Maximum annual pension
39. Reduction of pension payment when invalidity benefit or age pension payable

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Division 3

Injury Pension and Gratuity

40. Determination of degree of impairment
41. Injury pension
42. Rate for injury pension
43. Injury gratuity
44. Reassessment of injury pension
45. Reduction of pension payment when invalidity benefit or age pension payable

Division 4

General

46. Pensions immediately payable
47. Reduction of pension or gratuity in case of default
48. Cancellation of short service ill-health, ill-health and injury pensions

PART 5

SURVIVORS' PENSIONS AND GRATUITIES

49. Interpretation
50. Application of Part
51. Survivors' pensions to be based on pension amount
52. Surviving spouse's pension
53. Surviving child's pension
54. Determination of incapacity or continuing incapacity of surviving child
55. Gratuity when contributor dies in service
56. Gratuity when death due to injury received in the execution of duty
57. Payments to surviving children

PART 6

SPECIAL CONSTABLES' AND TEMPORARY POLICE OFFICERS' PENSIONS AND GRATUITIES

58. Interpretation
59. Special Constable gratuity
60. Pension and gratuity for injury received in the execution of duty
61. Survivors' pensions
62. Gratuity when death due to injury received in the execution of duty
63. Pensions and gratuities payable from Consolidated Fund

PART 7

GENERAL

64. Proof that pensioner is alive and entitled

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65. Pensions and gratuities not assignable or attachable

PART 8

MISCELLANEOUS

66. Regulations
67. Offence
68. Citation
69. Transitional regulations
70. Transitional provisions
71. Validation

SCHEDULE 1: Multiplier Table
SCHEDULE 2: Discount Rate Table
SCHEDULE 3: Injury Pension and Gratuity Table

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POLICE PENSIONS ACT

PART 1

PRELIMINARY PROVISIONS

Interpretation and application of Act

1. (1) In this Act—

"contributor" means a police officer referred to in section 7;

"Force" means the Royal Anguilla Police Force established under section 3 of the Anguilla Police Act;

"Pension Board" means the Pension Board established under section 25 of the Pensions Act[1];
(Am. in L.R. 15/12/2014)

"Pension Fund" means the Pension Fund established under section 28 of the Pensions Act[2];
(Am. in L.R. 15/12/2014)

"pensionable pay" means pensionable pay determined in accordance with section 2;

"pensionable service" of a police officer means pensionable service determined in accordance with section 3;

"pensioner" means a person entitled to a pension under this Act;

"personal representative" means the executor, original or by representation, or administrator of a deceased person;

"police officer" means a member of the Force, other than a special constable or a temporary police officer;

"prescribed" means prescribed by regulation under section 66;

"salary" of a police officer means the gross annual salary payable in respect of the rank substantively held by the police officer at the step attained as set out in the Police Salary Regulations, but when a police officer acts in a higher rank for more than 3 months, includes the salary payable in respect of that acting rank at the step assigned for any period in excess of the 3 months;

"senior police officer" means the Commissioner, a Deputy Commissioner or a Superintendent;

"special constable" means a special constable appointed to the Force under section 76 of the Anguilla Police Act[3];

"temporary police officer" means a temporary police officer appointed to the Force under section 8 of the Anguilla Police Act.

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[1] This section has been corrected to reflect the renumbering of the Pensions Act, R.S.A. c. P20 *(15/12/2014)*.
[2] This section has been corrected to reflect the renumbering of the Pensions Act, R.S.A. c. P20 *(15/12/2014)*.
[3] This section has been corrected to reflect the renumbering of the Anguilla Police Act, R.S.A. c. A70 *(31/12/2022)*.

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(2) This Act does not apply to a police officer or senior police officer who enters the force on or after 31 December 2019.

(Act 24/2019, s. 4)

Pensionable pay

2. (1) For the purpose of computing the amount of the pension or gratuity of a police officer who has pensionable service of 3 or more years and—

(a) held the same rank during the 3 year period immediately preceding his or her retirement, the highest salary the police officer was paid during that period, taking into account any retrospective increases that go into effect on or before the date of his or her retirement, shall be used; or

(b) held more than one rank during the 3 year period immediately preceding his or her retirement, the weighted average of his or her salary during that period, taking into account any retrospective increases that go into effect on or before the date of his or her retirement, shall be used.

(2) For the purpose of computing the amount of pension or gratuity of a police officer who has pensionable service for a period of less than 3 years, the weighted average of his or her salary during that period, taking into account any retrospective increases that go into effect on or before the date of his or her retirement, shall be used.

Pensionable service

3. (1) Subject to subsection (2), the pensionable service of a police officer who is a police officer on or after 1 July 2006 is the service for which the police officer receives a salary and includes—

(a) any period referred to in section 9(3);

(b) any period referred to in section 26(6) or (7);

(c) any period referred to in section 48(5); and

(d) any service of a police officer that constituted pensionable service under any of—

(i) Part 5 of the Anguilla Police Act,

(ii) Part 2 of the Pensions Act before 1 July 2006, or

(iii) Part 1 of the Pensions Act before 1 January 2004.

(2) Pensionable service of a police officer does not include—

(a) service while on probation unless, without a break of service, he or she is confirmed as a police officer; or

(b) any service after 30 years of service.

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Compulsory retirement age

4. (1) Subject to subsection (2), a police officer is required to retire on the day before the day on which he or she attains 55 years of age.

(2) At the request of a police officer, the date at which the police officer is required to retire under subsection (1) may be postponed—

(a) by the Governor, in the case of a senior police officer; and

(b) by the Commissioner, in the case of a police officer of the rank of Inspector or below.

(3) A postponement granted under subsection (2) shall not in any case exceed 5 years.

Pensions and gratuities as of right

5. (1) Subject to subsection (2)—

(a) a contributor who qualifies under this Act for payment of a pension or gratuity;

(b) a surviving spouse or child of a contributor who qualifies under Part 5 for payment of a pension or gratuity;

(c) a special constable or temporary police officer who qualifies under section 60 for payment of a pension or gratuity; and

(d) a surviving spouse or child of a special constable or temporary police officer who is entitled to be paid a pension under section 61 or a gratuity under section 62;

is entitled as of right to the pension or gratuity.

(2) Nothing in subsection (1) shall be interpreted to affect the rights of the Pension Board to determine qualification or continuing qualification in respect of a pension or gratuity or to reassess, revise or cancel a pension or gratuity.

PART 2

CONTRIBUTIONS

Interpretation

6. In this Part, "salary" of a police officer means the gross annual salary payable in respect of the rank substantively held by the police officer at the step attained as set out in the Police Salary Regulations together with any additional salary paid when a police officer acts in a higher rank.

Duty of police officers to contribute

7. (1) Every police officer shall contribute to the Pension Fund until he or she ceases to be a police officer.

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(2) Subsection (1) does not apply in respect of any period of one month or more when—

(a) a police officer is on leave without pay, unless the police officer, in accordance with section 9, elects otherwise; or

(b) as a result of disciplinary proceeding, a police officer is suspended without pay for a period of one month or more.

Monthly contributions to be by deduction

8. (1) Subject to section 7(2), the Accountant General shall make a monthly deduction from the salary of every contributor in the amount equal to 3%, or such other prescribed percentage, of the salary of the contributor.

(2) The amount deducted under subsection (1) shall, without delay after it is deducted, be placed in the Pension Fund to the credit of the contributor.

(3) This section applies, with appropriate modifications as circumstances require, in relation to retrospective salary increases.

Contributions during leave of absence without salary

9. (1) A contributor who is granted a leave of absence without salary for a period of one month or more may elect to contribute to the Pension Fund an amount equal to the amount that would have been contributed if the leave had not been granted.

(2) The election shall be in writing and shall be filed with the Pension Board not later than 21 days after the contributor returns from leave or such later date as the Pension Board may permit.

(3) When a contributor makes an election in accordance with this section and—

(a) pays the amount payable in accordance with the election; or

(b) the Pension Board enters into an agreement to permit the police officer to pay those contributions by instalments;

the contributions may be so paid and the period of leave shall be counted as pensionable service.

(4) An agreement under paragraph (3)(b) may provide that instalment payments may be paid by monthly deductions from the police officer's salary over a period not exceeding the period of the leave.

(5) The unpaid contributions shall bear interest at the rate prescribed for the purpose of this subsection calculated on the balance outstanding from month to month.

(6) The Pension Board shall without delay after a contributor pays or enters into an agreement under subsection (3) give written notice of the payment or agreement to the Accountant General.

(7) The amount of unpaid contributions and interest charged in accordance with subsection (5) are a first charge on any pension or gratuity or refund of contributions made to the police officer or to his or her surviving spouse or children under this Act.

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Government's matching monthly contributions

10. When a deduction is made under section 8, or without delay thereafter, the Accountant General shall out of the Consolidated Fund pay into the Pension Fund to the credit of a contributor as the Government's contribution an amount equal to the deduction made on behalf of the contributor.

Government's matching contribution in other circumstances

11. (1) When the Accountant General receives notice under section 9(6) of a contribution under section 9(3), he or she shall without delay out of the Consolidated Fund pay into the Pension Fund to the credit of the contributor as the Government's contribution an amount equal to the amount of the contribution.

(2) When the Accountant General receives notice under section 9(6) of an agreement to make contributions under section 9(3), he or she shall out of the Consolidated Fund pay into the Pension Fund to the credit of the contributor as the Government's contribution an amount equal to each instalment payment made, by deduction or otherwise, without delay after the instalment payment is made.

PART 3

PENSIONS AND GRATUITIES ON FULL RETIREMENT, ON EARLY RETIREMENT AND FOR SHORT SERVICE

Division 1

Annual Rate of Pension under this Part

Annual rate of pension

12. An annual rate of pension payable to a contributor under Division 2, 3 or 4 is the rate arrived at when the following formula is applied—

$$R = 1/60\ PY + 1/60\ PS$$

where—

R = annual rate of pension

P = pensionable pay

Y = number of completed years of pensionable service up to 20

S = number of completed 6 month periods of pensionable service from 20½ to 30 years.

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Division 2

Pension and Gratuity on Full Retirement

Pension on full retirement

13. (1) When a contributor retires—

(a) on the day before the day on which he or she attains the age of 55 years under section 4(1); or

(b) when he or she has 30 or more years of pensionable service;

he or she is entitled to a pension on full retirement at the annual rate set out in section 12, except when the contributor makes an election under section 14 to take a reduced pension and gratuity.

(2) Subject to subsection (3), a pension on full retirement becomes payable to a contributor who retires under subsection (1) on the day following his or her last day of service.

(3) When a contributor is permitted to postpone his or her retirement from the Force on or after the day on which he or she attains the age of 55 years in accordance with section 4(2), payment of a pension on full retirement shall be deferred until the day following his or her last day of service.

(4) The pension referred to in subsection (1) shall be paid in monthly instalments in arrears.

Election

14. (1) A contributor who is entitled to a pension on full retirement under section 13(1) may, instead of a pension on full retirement at the annual rate set out in that section, elect to take a reduced pension and gratuity on full retirement under section 15.

(2) An election under subsection (1) shall be in writing and shall be filed with the Pension Board 30 days before the effective date of retirement, unless that time is postponed by the Pension Board, in which case it shall be made no later than the day before the Pension Board certifies the pension.

Reduced pension and gratuity on full retirement

15. (1) A contributor who makes an election under section 14 shall be paid—

(a) a reduced pension on full retirement at the rate of ¾ of the annual rate set out in section 12; and

(b) a gratuity on full retirement in the amount arrived at when the following formula is applied—

$$G = (¼\ P \div 100)\ M$$

where—

G = gratuity amount

P = annual rate of pension set out in section 12

M = multiplier for the contributor determined under Schedule 1.

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(2) Payment of a gratuity under this section shall be made without delay after the Pension Board certifies the pension and gratuity to the contributor.

Division 3

Pension and Gratuity on Early Retirement

Pension on early retirement

16. (1) A contributor is entitled to a pension on early retirement at the annual rate set out in section 12 when he or she retires by resignation or dismissal having 10 or more but less than 30 years of pensionable service, except when the contributor makes an election under section 17 to take a reduced pension and gratuity.

(2) A pension on early retirement shall be—

(a) deferred until the pensioner attains the age of 60 years; and

(b) paid in monthly instalments in arrears.

Election

17. (1) A contributor who is entitled to a pension on early retirement under section 16(1) may, instead of a pension on early retirement at the annual rate set out in that section, elect to take a reduced deferred pension and gratuity under section 18.

(2) An election under subsection (1) shall be in writing and shall be filed with the Pension Board 30 days before the effective date of retirement, unless that time is postponed by the Pension Board, in which case it shall be made no later than the day before the Pension Board certifies the pension.

Reduced pension and gratuity on early retirement

18. (1) A contributor who makes an election under section 17 shall be paid—

(a) a reduced pension on early retirement at the rate of ¾ of the annual rate set out in section 12; and

(b) a gratuity on early retirement in the amount arrived at when the following formula is applied—

$$G = (¼ P \times 12½) D$$

where—

G = gratuity amount

P = annual rate of pension set out in section 12

D = discount rate for the contributor as determined under Schedule 2.

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(2) Payment of a gratuity under this section shall be made without delay after the Pension Board certifies the pension and gratuity to the contributor.

Division 4

Pension or Gratuity for Short Service

Pension for short service

19. (1) A contributor is entitled to a pension for short service at the annual rate set out in section 12 when he or she retires by resignation or dismissal having 2 or more but less than 10 years of pensionable service, except when the contributor makes an election under section 20 to take a gratuity.

(2) A pension for short service shall be—

(a) deferred until the pensioner attains the age of 60 years; and

(b) paid in monthly instalments in arrears.

Election

20. (1) A contributor who is entitled to a pension for short service under section 19(1) may, instead of the pension, elect to take a gratuity under section 21.

(2) An election under subsection (1) shall be in writing and shall be filed with the Pension Board 30 days before the effective date of retirement, unless that time is postponed by the Pension Board, in which case it shall be made no later than the day before the Pension Board certifies the pension.

Gratuity for short service

21. (1) A contributor who makes an election under section 20 shall be paid a gratuity for short service in the amount arrived at when the following formula is applied—

$$G = (1/24\ PS)\ D$$

where—

G = gratuity amount

P = pensionable pay

S = number of completed 6 month periods of pensionable service

D = discount rate for the contributor as determined under Schedule 2.

(2) Payment of a gratuity under this section shall be made without delay after the Pension Board certifies the gratuity to a contributor.

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Division 5

General

Maximum annual pension

22. Notwithstanding anything in this Part, the maximum annual pension certified by the Pension Board under this Part to a contributor shall not exceed ⅔ of his or her pensionable pay, including any retrospective increases applicable to the pensionable pay.

Reduction of pension payment when invalidity benefit or age pension payable

23. Notwithstanding anything in this Part, when in a year a pensioner is in receipt of a pension under this Part and an invalidity benefit or age pension under the Social Security Act, the amount of the pension under this Part shall be reduced by the amount arrived at when the following formula is applied—

$$R = (P + A) - 80\% \times \tfrac{3}{2}P$$

where—

R = the reduction of the annual amount of pension payable under this Part, but any reduction less than zero is deemed to be zero

P = the annual amount of pension of the pensioner that would have been payable but for this section

A = the annual amount of invalidity benefit or age pension of the pensioner in that year.

Refund of contributions

24. (1) When a contributor who has less than 2 years pensionable service retires by resignation or dismissal and is not entitled to any pension or gratuity under this Act, an amount equal to the total of his or her contributions to the Pension Fund with interest at the rate prescribed for the purpose of this subsection on the amount of contributions shall be paid to the contributor.

(2) When a contributor who has less than 2 years pensionable service dies without being entitled to any pension or gratuity under this Act and is not survived by a spouse or children, an amount equal to the total of his or her contributions to the Pension Fund with interest as provided in subsection (1) shall be paid to his or her personal representative and if he or she has no personal representative, to the person that the Pension Board may, after consultation with the Attorney General, determine.

(3) When a refund of contributions is made under subsections (1) or (2), the Government's contributions to the Pension Fund in respect of the contributor shall remain in the Pension Fund.

Reappointment

25. When a police officer is reappointed to the Force—

(a) pension payments to the police officer will be suspended during the period of reappointment; and

(b) any period during which he or she makes contributions shall be counted as separate pensionable service unless the police officer makes an election under section 26 and complies with that section.

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Reinstatement

26. (1) A police officer who—

(a) retires by voluntary resignation and takes a refund of contributions, a pension or a gratuity in relation to his or her pensionable service at the time of retirement (in this section referred to as the "first period of pensionable service"); and

(b) within a period of 4 years after the date on which he or she retires (in this section referred to as the "intervening period"), is reappointed to the Force;

may make an election under subsection (2).

(2) The police officer referred to in subsection (1) may elect to—

(a) repay to the Pension Fund the amount of any refund of contributions, pension or gratuity, together with interest at the rate prescribed for the purpose of this paragraph calculated from the date of payment thereof; or

(b) repay to the Pension Fund the amount of any refund of contributions, pension or gratuity, together with interest as provided in paragraph (a) and pay contributions for the intervening period calculated on the salary at which he or she is reappointed at the rate of 10% per annum or such other prescribed rate.

(3) The election shall be in writing and shall be filed with the Pension Board not later than 21 days after the police officer is reappointed or such later date as the Pension Board may permit.

(4) When a police officer makes an election under paragraph (2)(a) and—

(a) repays the amount of any refund of contributions, pension or gratuity, together with interest as provided in paragraph (2)(a); or

(b) the Pension Board enters into an agreement with the police officer in accordance with subsection (8);

the Pension Board shall—

(c) order the rescission of any pension or gratuity made to the police officer, as the case may be;

(d) place the repayment of any contributions, pension or gratuity in the Pension Fund to the credit of the contributor; and

(e) when the Pension Board has entered into an agreement with the police officer in accordance with subsection (8), place the payments under the agreement in the Pension Fund to the credit of the contributor.

(5) When a police officer makes an election under paragraph (2)(b) and—

(a) repays the amount of any refund of contributions, pension or gratuity, together with interest as provided in paragraph (2)(a) and pays contributions for the intervening

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period calculated on the salary at which he or she is reappointed at the rate of 10% per annum or such other prescribed rate; or

(b) the Pension Board enters into an agreement with the police officer in accordance with subsection (8);

the Pension Board shall—

(c) order the rescission of any pension or gratuity made to the police officer, as the case may be;

(d) place the repayment of any contributions, pension or gratuity and payment of contributions under paragraph (a) in the Pension Fund to the credit of the contributor; and

(e) when the Pension Board has entered into an agreement with the police officer under subsection (8), place the payments under the agreement in the Pension Fund to the credit of the contributor.

(6) When the Pension Board makes an order under subsection (4), the first period of pensionable service shall be counted as pensionable service in respect of the police officer's reappointment but the intervening period shall not be so counted.

(7) When the Pension Board makes an order under subsection (5), the first period of pensionable service and the intervening period shall be counted as pensionable service in respect of the police officer's reappointment.

(8) An agreement with a police officer under paragraph (4)(b) or (5)(b) may permit the police officer to pay or repay the amounts payable in accordance with his or her election in monthly instalments or in a lump sum and in monthly instalments over a period not exceeding 4 years on such terms and conditions as the Pension Board considers appropriate.

(9) An agreement under subsection (8) may provide that instalment payments may be paid by monthly deductions from the police officer's salary.

(10) The balance outstanding under an agreement referred to in subsection (8) shall bear interest at the rate prescribed for the purpose of this subsection.

(11) The Pension Board shall, without delay after a contributor enters into an agreement under subsection (8) and is permitted to pay instalment payments by monthly deduction under subsection (9), give written notice of the agreement to the Accountant General.

Security

27. (1) The amount remaining unpaid under an agreement referred to in section 26(8) is a first charge on any refund of contributions under this Part or any pension or gratuity payable to a contributor under this Part or Part 4 or to his or her surviving spouse or children under Part 5.

(2) When an amount is to be charged under subsection (1) and both a pension and gratuity are payable, the Pension Board may determine on which pension or gratuity and in what proportion the charge will fall.

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PART 4

SHORT SERVICE ILL-HEALTH, ILL-HEALTH AND INJURY PENSIONS AND GRATUITIES

Division 1

Interpretation and Application

Interpretation

28. (1) In this Part—

"disabled" means the inability by reason of infirmity of mind or body to perform the ordinary duties of a police officer;

"disease" means a disease whether of mind or body;

"impairment" means reduction in earning capacity caused by an injury received in the execution of duty.

(2) In this Part, "injury" includes disease and, when used in reference to a disease, "received" includes contracted or developed.

Interpretation of "permanently disabled"

29. (1) In this Part, "permanently disabled", in relation to a contributor, means that the contributor is disabled to such an extent that the disability is likely to be permanent.

(2) For the purposes of deciding if a contributor's disability is likely to be permanent, the contributor is assumed to receive normal appropriate medical treatment for his or her disability, which shall not include medical treatment that it is reasonable, in the opinion of the Medical Board, for the contributor to refuse.

Interpretation of "injury received in the execution of the contributor's duty as a police officer without the contributor's default"

30. (1) In this Part, an "injury received in the execution of the contributor's duty as a police officer without the contributor's default" means an injury received without the default of the contributor in the execution of the contributor's duty as a police officer as determined by a Medical Board in accordance with the Anguilla Police Act.

(2) For the purposes subsection (1), an injury shall be treated as received by a contributor in the execution of his or her duty as a police officer if—

(a) the contributor received the injury while on duty or while on a journey necessary to enable him or her to report for duty or return home after duty;

(b) the contributor would not have received the injury had he or she not been known to be a police officer; or

(c) the Pension Board is of the opinion that a condition in either paragraph (a) or (b) may be satisfied and that the injury should be treated as one received in the execution of duty.

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(3) For the purposes of subsection (1), an injury shall be treated as received without the default of the contributor unless the injury is wholly or mainly due to his or her own culpable negligence or misconduct.

(4) For greater certainty, subsection (3) shall not be interpreted to prevent the reduction of an injury pension when permitted under section 47.

Application

31. Unless otherwise provided for in this Part, a contributor who receives a pension or gratuity under this Part is not entitled to a pension or gratuity under Part 3.

Division 2

Short Service Ill-Health and Ill-Health Pensions and Gratuities

Short service ill-health pension

32. (1) Except when a contributor makes an election under section 36 to take a reduced pension and gratuity, the contributor is entitled, subject to section 48, to a short service ill-health pension at the annual rate determined under section 33 when the contributor retires on the grounds that he or she is permanently disabled having 1 or more but less than 10 years of pensionable service.

(2) The pension referred to in subsection (1) shall be paid in monthly instalments in arrears.

Rate for short service ill-health pension

33. Subject to section 47, a pension payable to a contributor under section 32(1) shall be at the annual rate arrived at when the following formula is applied—

$$I = {}^{2}\!/_{60}\ PY$$

where—

I = annual rate of short service ill-health pension

P = pensionable pay

Y = number of completed years of pensionable service up to 10.

Ill-health pension

34. (1) Except when a contributor makes an election under section 36 to take a reduced pension and gratuity, the contributor is entitled, subject to section 48, to an ill-health pension at the annual rate determined under section 35 when the contributor retires on the grounds that he or she is permanently disabled having 10 or more years of pensionable service.

(2) The pension referred to in subsection (1) shall be paid in monthly instalments in arrears.

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Rate for ill-health pension

35. Subject to section 47, a pension payable to a contributor under section 34(1) shall be at the annual rate that is the greater of—

(a) $^{20}\!/_{60}$ of the contributor's pensionable pay; or

(b) the annual rate arrived at when the following formula is applied—

$$I = {}^{7}\!/_{60}\ P + {}^{1}\!/_{60}\ PY_1 + {}^{2}\!/_{60}\ PY_2$$

where—

I = annual rate of ill-health pension

P = pensionable pay

Y_1 = number of completed years of pensionable service up to 20

Y_2 = number of completed years of pensionable service from 21 to 30.

Election

36. (1) A contributor who is entitled to a short service ill-health pension under section 32(1) or an ill-health pension under section 34(1) may elect to take a reduced pension and gratuity under section 37.

(2) An election under subsection (1) shall be in writing and shall be filed with the Pension Board 30 days before the effective date of retirement, unless that time is postponed by the Pension Board, in which case it shall be made no later than the day before the Pension Board certifies the pension.

Reduced pension and gratuity

37. (1) A contributor who makes an election under section 36 shall be paid—

(a) a reduced pension at the rate of ¾ of the annual rate determined under section 33 or 35, as the case may be; and

(b) a gratuity in the amount arrived at when the following formula is applied—

$$G = (¼\ P \div 100)\ M$$

where—

G = gratuity amount

P = annual rate of pension determined under section 33 or 35, as the case may be

M = multiplier for the contributor determined under Schedule 1.

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(2) Payment of a gratuity under this section shall be made without delay after the Pension Board certifies the pension and gratuity to the contributor.

Maximum annual pension

38. Notwithstanding anything in this Division, the maximum annual pension certified by the Pension Board under this Division to a contributor shall not exceed ⅔ of his or her pensionable pay, including any retrospective increases applicable to the pensionable pay.

Reduction of pension payment when invalidity benefit or age pension payable

39. Notwithstanding anything in this Division, when in a year a pensioner is in receipt of a pension under this Division and an invalidity benefit or age pension under the Social Security Act, the amount of the pension under this Division shall be reduced by the amount arrived at when the following formula is applied—

$$R = (P + A) - 80\% \times \tfrac{3}{2} P$$

where—

R = the reduction of the annual amount of pension payable under this Division, but any reduction less than zero is deemed to be zero

P = the annual amount of pension of the pensioner that would have been payable but for this section

A = the annual amount of invalidity benefit or age pension of the pensioner in that year.

Division 3

Injury Pension and Gratuity

Determination of degree of impairment

40. When it is necessary to determine the degree of a disabled contributor's impairment, the Pension Board shall determine the degree to which his or her earning capacity has been affected as a result of an injury received in the execution of the contributor's duty as a police officer without the contributor's default.

Injury pension

41. (1) Subject to section 48, a contributor is entitled to an injury pension at the annual rate determined under section 42 when he or she retires on the grounds that the contributor is permanently disabled as a result of an injury received in the execution of the contributor's duty as a police officer without the contributor's default.

(2) The pension referred to in subsection (1) shall be paid in monthly instalments in arrears.

Rate for injury pension

42. Subject to sections 44 and 47, a pension payable to a contributor under section 41(1) shall be at the annual rate that is the greater of—

(a) a pension calculated in accordance with Schedule 3; or

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(b) a pension determined under section 35.

Injury gratuity

43. (1) Subject to subsection (2) and to section 47, a contributor who is eligible for an injury pension under section 41(1) shall in addition be paid an injury gratuity calculated in accordance with Schedule 3.

(2) When a contributor dies from an injury received in the execution of the contributor's duty as a police officer without the contributor's default prior to certification of a pension and gratuity under this Division, the injury gratuity under subsection (1) is not payable, but instead the contributor's surviving spouse or children, as the case may be, shall be entitled to a gratuity under section 56.

(3) Subject to subsection (2), payment of an injury gratuity under this section shall be made without delay after the Pension Board certifies the gratuity to the contributor.

Reassessment of injury pension

44. When an injury pension is payable under this Division, the Pension Board shall consider, at such intervals as it thinks proper, whether the pensioner's degree of impairment has altered and, if after such consideration the Pension Board finds that the pensioner's degree of impairment has substantially altered, the Pension Board shall revise the injury pension accordingly.

Reduction of pension payment when invalidity benefit or age pension payable

45. Notwithstanding anything in this Division, when in a year a pensioner is in receipt of an injury pension and an invalidity benefit or age pension under the Social Security Act, the amount of the injury pension shall be reduced by the amount arrived at when the following formula is applied—

$$R = (A + B) - P$$

where—

R = the reduction of the annual amount of the injury pension, but any reduction less than zero is deemed to be zero

A = the annual amount of injury pension of the pensioner that would have been payable but for this section

B = the annual amount of invalidity benefit or age pension of the pensioner in that year

P = pensionable pay.

Division 4

General

Pensions immediately payable

46. A short service ill-health, ill-health or injury pension is payable on the day following the contributor's last day of service.

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Reduction of pension or gratuity in case of default

47. (1) Subject to subsection (3), when a contributor is entitled to a short service ill-health, ill-health or injury pension and the disability is partially due to the contributor's default, the Pension Board may reduce the amount of any short service ill-health, ill-health or injury pension or gratuity payable to the contributor in proportion to the degree in which the disability is due to the contributor's default, but in no case shall the reduction exceed ½ of that to which the contributor would otherwise be entitled.

(2) When a pension has been reduced in accordance with subsection (1) and—

(a) the pensioner attains the age of 60 years; and

(b) the reduced short service ill-health, ill-health or injury pension is less than the amount of the pension on early retirement or for short service which would have been granted and deferred had the pensioner retired by resignation or dismissal under Division 3 or 4 of Part 3 on the date of his or her retirement;

the short service ill-health, ill-health or injury pension shall be increased to the amount of the pension on early retirement or for short service, as the case may be.

(3) This section does not apply when a pensioner in receipt of a short service ill-health, ill-health or injury pension would have had 26½ years pensionable service if he or she had continued to work as a police officer instead of retiring with that pension.

Cancellation of short service ill-health, ill-health and injury pensions

48. (1) The Pension Board may determine, at such intervals as it thinks proper, whether a pensioner's disability has ceased when the pensioner—

(a) is in receipt of a short service ill-health, ill-health or injury pension; and

(b) if he or she had continued to serve as a police officer instead of retiring with a short service ill-health, ill-health or injury pension and—

(i) would not have had 26½ years pensionable service, or

(ii) could not have been required to retire on account of age.

(2) If the Pension Board determines under subsection (1) that a pensioner's disability has ceased, the Pension Board may give the pensioner written notice in accordance with subsection (6) to the effect that, if he or she wishes to rejoin the Force as a police officer within a period of not less than 3 months from the date on which the pensioner has been given the notice, he or she will be permitted to do so.

(3) If the pensioner offers to rejoin the Force as a police officer within the period referred to in subsection (2), he or she shall be permitted to do so—

(a) at the same salary and step that he or she was paid; and

(b) when the exigencies of the Force permit, at the same rank that he or she held;

immediately before he or she retired with the short service ill-health, ill-health or injury pension.

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(4) When a pensioner rejoins the Force under subsection (3) or, when he or she does not offer to rejoin the Force before the expiry of the period referred to in subsection (2), the short service ill-health, ill-health or injury pension payable to him or her is cancelled.

(5) When a pensioner rejoins the Force under subsection (3), his or her pensionable service at the time of retirement and the period during which he or she was retired shall be counted as pensionable service in respect of his or her reappointment.

(6) A notice under subsection (2) may be given personally, by leaving a copy with an adult person at the pensioner's residence or place of business or by any other prescribed means.

PART 5

SURVIVORS' PENSIONS AND GRATUITIES

Interpretation

49. (1) In this Part—

"child" includes—

(a) a posthumous child who is born alive;

(b) a step-child; and

(c) an adopted child, adopted in a manner recognized by law;

"deceased" means a contributor who is entitled to a pension under this Act, whether payable or deferred, at the time of his or her death;

"incapacitated", in relation to a surviving child, means—

(a) in the case of a minor, significantly incapacitated by reason of infirmity of mind or body that substantially limits one or more of the major life activities of the child; and

(b) in the case of an adult, significantly incapacitated by reason of infirmity of mind or body from earning his or her own living;

"pension" means—

(a) the pension the deceased was being paid at the time of his or her death;

(b) the deferred pension that the deceased would have been paid had he or she attained 60 years of age; or

(c) the pension to which the deceased would have been entitled had he or she on the date of his or her death retired under circumstances in which the deceased would have been entitled to a pension under this Act;

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"survivor", in relation to a spouse or a child, means survivor of the deceased.

(2) In this Part, a surviving child shall be regarded as being registered continuously in a full-time program of instruction, including holiday periods or periods between sessions, if the child—

(a) continues to be registered or has taken all reasonable steps to register or reregister at a university, college, school or other educational establishment; and

(b) the program of instruction is regarded as full-time or substantially full-time by the university, college, school or other educational institution.

Application of Part

50. This Part applies upon the death of a contributor who is entitled to a pension.

Survivors' pensions to be based on pension amount

51. (1) The surviving spouse and children are entitled to a pension based on the amount of the pension payable to the deceased.

(2) A pension referred to in subsection (1) shall be paid in monthly instalments in arrears.

(3) When a contributor makes an election under section 14, 17, 20 or 36 and dies before any payment is made in accordance with the election, the election is ineffective and the amounts payable to his or her surviving spouse and children shall be calculated upon the pension which would have been payable to the contributor had he or she not elected to take a gratuity.

Surviving spouse's pension

52. (1) If the deceased is survived by a spouse, the surviving spouse is entitled to ½ of the pension payable to the deceased.

(2) A pension under subsection (1) shall become payable to a surviving spouse under subsection (1) on the day following the day of the death of the deceased.

(3) Subject to subsection (4), the pension of a surviving spouse shall terminate when the surviving spouse remarries or dies, whichever is the earlier.

(4) When a surviving spouse to whom a pension is being paid under this Part remarries another surviving spouse who is also being paid a pension under this Part, the greater of the pensions shall remain payable, unless the pensions are equal, in which event, the pension payable to the younger of the surviving spouses shall remain payable.

Surviving child's pension

53. (1) If the deceased is survived by more than one child, the surviving children are entitled in equal shares to ½ of the pension payable to the deceased.

(2) If the deceased is survived by one child who is not an incapacitated child, that surviving child is entitled to ¼ of the pension payable to the deceased.

(3) If the deceased is survived by one child who is an incapacitated child, the surviving child is entitled to ⅜ of the pension payable to the deceased.

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(4) A pension under subsection (1), (2) or (3) shall become payable—

(a) in the case of a surviving child who is born posthumously, on the day of his or her birth; and

(b) in the case of any other surviving child, on the day following the day of the death of the deceased.

(5) When the only remaining surviving child of the deceased who is entitled to a pension is an incapacitated child, the child is entitled to ⅜ of the deceased's pension, which shall become payable on the day he or she is the only remaining child.

(6) A surviving child's pension shall terminate on the earliest of the following events—

(a) if the surviving child is not an incapacitated child, when—

(i) the surviving child attains the age of 19 years, unless the child is a surviving child referred to in subsection (7), in which event the pension shall continue as provided in that subsection,

(ii) when the surviving child marries, or

(iii) when the surviving child dies; or

(b) if the surviving child is an incapacitated child, when—

(i) the surviving child ceases to be incapacitated,

(ii) when the surviving child marries, or

(iii) when the surviving child dies.

(7) When a surviving child who is not incapacitated has attained the age of 19 years and is registered in a full-time program of instruction at a university, college, school or other educational institution, his or her pension shall continue until the earliest of the following events, namely, when the surviving child—

(a) completes the program;

(b) withdraws from the program;

(c) ceases to attend the program; or

(d) attains the age of 21 years.

Determination of incapacity or continuing incapacity of surviving child

54. (1) The Pension Board may determine if a surviving child is incapacitated or continues to be incapacitated.

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(2) The Pension Board may refer the question of a surviving child's incapacity or continuing incapacity to a qualified medical practitioner selected in its discretion, taking into consideration the nature of the child's incapacity.

(3) When the Pension Board refers the question of a surviving child's incapacity or continuing incapacity to a qualified medical practitioner, it shall give a written notice to the person specified in subsection (4) and in accordance with subsection (9) to the following effect—

(a) the child is required, within the period specified in the notice, which shall not be less than 14 days after the notice is given, to submit to an examination by the qualified medical practitioner selected by the Pension Board for the purpose of assessing the child's incapacity or continuing incapacity;

(b) containing a statement that, if the child fails to attend on the date set for the examination by the qualified medical practitioner, the Pension Board may make their determination of the child's incapacity or continuing incapacity on the evidence and medical advice available to it.

(4) A notice under subsection (3) shall be given—

(a) to the parent or guardian of a minor child;

(b) if an adult child has a guardian, to the guardian and to the adult child; or

(c) if the adult child does not have a guardian, to the adult child and any other person who, in the opinion of the Pension Board, has responsibility for the adult child.

(5) The qualified medical practitioner who examines a child in accordance with this section shall set out his or her assessment of the child's incapacity or continuing incapacity in a report and give it to the Pension Board.

(6) The Pension Board shall cause a copy of the report to be given to the persons to whom the notice was given under subsection (4).

(7) If the Pension Board receives a report under subsection (5), it shall consider it in making its determination under subsection (1).

(8) If the Pension Board does not receive a report under subsection (5), it shall make its determination under subsection (1) on the evidence and medical advice available to it.

(9) A notice or copy of a report required to be given to a person under this section may be given personally, by leaving a copy at the person's residence or place of business or by any other prescribed means.

Gratuity when contributor dies in service

55. (1) When a contributor dies while in the Force, other than in the circumstances set out in section 56, a gratuity in the amount of his or her pensionable pay shall be paid to—

(a) the surviving spouse, if any; or

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(b) if the contributor does not have a surviving spouse but has a surviving child or children, to—

(i) the surviving child, or

(ii) the surviving children in equal shares.

(2) In subsection (1), "surviving child" means a child who on the day of the contributor's death—

(a) has not attained the age of 19 years or has attained the age of 19 years and—

(i) is incapacitated, or

(ii) is registered in a full-time program of instruction at a university, college, school or other educational institution and has not—

(A) completed the program,

(B) withdrawn from the program,

(C) ceased to attend the program, or

(D) attained the age of 21 years; and

(b) is not married.

Gratuity when death due to injury received in the execution of duty

56. (1) When the deceased is entitled to an injury pension and he or she dies from the injury received in the execution of the contributor's duty as a police officer without the contributor's default within the meaning of section 30 not later than 7 years after the date of the injury, subject to subsection (3), a gratuity in the amount of 2 years pensionable pay shall be paid to—

(a) the surviving spouse, if any; or

(b) if the contributor does not have a surviving spouse but has a surviving child or children, to—

(i) the surviving child, or

(ii) the surviving children in equal shares.

(2) In subsection (1), "surviving child" means a child who on the day of the contributor's death—

(a) has not attained the age of 19 years or has attained the age of 19 years and—

(i) is incapacitated, or

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(ii) is registered in a full-time program of instruction at a university, college, school or other educational institution and has not—

(A) completed the program,

(B) withdrawn from the program,

(C) ceased to attend the program, or

(D) attained the age of 21 years; and

(b) is not married.

(3) The gratuity payable under this section shall be reduced by the amount of any injury gratuity paid under section 43(1).

Payments to surviving children

57. (1) Subject to a contrary order of the Court, the Pension Board may, at any time while a surviving child's pension or a gratuity to a surviving child is payable, make payment of that pension or gratuity in whole or in part—

(a) when the surviving child is a minor, to—

(i) the surviving child,

(ii) the parent or guardian of the surviving child, or

(iii) any other person whom the Pension Board may in its discretion consider to be fit and proper; and

(b) when the surviving child is an adult to—

(i) the surviving child,

(ii) guardian of the surviving child, or

(iii) any other person whom the Pension Board may in its discretion consider to be fit and proper.

(2) A payment that is made to any person other than the child is paid in trust to the person to apply the payment for the benefit, maintenance or education of the child.

(3) After making a payment in accordance with this section, the Pension Board is free of all liability in respect of that payment.

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PART 6

SPECIAL CONSTABLES' AND TEMPORARY POLICE OFFICERS' PENSIONS AND GRATUITIES

Interpretation

58. In this Part, "service"—

(a) in the case of a special constable, means any period during which the special constable is on retainer; and

(b) in the case of a temporary police officer, means the period during which the officer is appointed to the Force.

Special Constable gratuity

59. On the recommendation of the Commissioner, the Governor may, in his or her discretion, grant a gratuity to a special constable who retires having service that, in the Governor's opinion, is substantially continuous (in this section referred to as "continuous service") in an amount not greater than—

(a) ¼ of the annual salary of the rank of Constable at the lowest step, in the case of a special constable who has 10 or more but less than 15 years of continuous service;

(b) ⅜ of the annual salary of the rank of Constable at the lowest step, in the case of a special constable who has 15 or more but less than 20 years of continuous service; and

(c) ½ of the annual salary of the rank of Constable at the lowest step, in the case of a special constable who has 20 or more years of continuous service.

Pension and gratuity for injury received in the execution of duty

60. (1) Subject to subsection (2), sections 28 to 30 and 40 to 48 apply, with such modifications as the circumstances require, to a special constable or a temporary police officer as they apply to a contributor.

(2) For the purpose of calculating an injury pension and gratuity under subsection (1), the pensionable pay of—

(a) the special constable is deemed to be the salary of the rank of Constable at the lowest step at the time of the special constable's retirement taking into account retrospective increases; and

(b) the temporary police officer is deemed to be the salary of the rank at which the temporary police officer is sworn into the Force at the lowest step at the time of the temporary police officer's retirement taking into account retrospective increases.

Survivors' pensions

61. When a special constable or temporary police officer to whom section 60 applies dies, his or her surviving spouse or children are entitled to a pension based on the amount of the pension payable to the deceased and sections 49 to 54 and 57 apply, with such modifications as the circumstances require,

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to the surviving spouse or children of the special constable or temporary police officer as they apply to the surviving spouse or children of a contributor.

Gratuity when death due to injury received in the execution of duty

62. (1) Subject to subsection (2), sections 56 and 57 apply, with such modifications as the circumstances require, to the surviving spouse and children of a special constable or temporary police officer as they apply to the surviving spouse or children of a contributor.

(2) For the purpose of calculating a death gratuity under subsection (1), the pensionable pay of—

(a) the special constable is deemed to be the salary of the rank of Constable at the lowest step at the time of the special constable's death taking into account retrospective increases; and

(b) the temporary police officer is deemed to be the salary of the rank at which the temporary police officer is sworn into the Force at the lowest step of that rank at the time of the temporary police officer's death taking into account retrospective increases.

Pensions and gratuities payable from Consolidated Fund

63. A pension or gratuity under this Part shall be payable from the Consolidated Fund.

PART 7

GENERAL

Proof that pensioner is alive and entitled

64. The Pension Board may require such proof as it may think desirable that a person to whom a pension is or may be payable is alive and entitled to a pension and payment of the pension may be refused until such proof is furnished to the Pension Board.

Pensions and gratuities not to be assignable or attachable

65. A pension or gratuity payable under this Act—

(a) shall not be assignable or transferable except for the purpose of satisfying—

(i) a debt due to the Government of Anguilla, or

(ii) an order of a Court for the payment of periodical sums of money toward the maintenance of the spouse or former spouse or minor child of the pensioner or contributor to whom the pension or gratuity is or will be payable; and

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

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PART 8

MISCELLANEOUS

Regulations

66. (1) The Governor, after consultation with Executive Council, may make regulations for the better administration of this Act including regulations—

(a) prescribing anything that by this Act may be prescribed;

(b) requiring persons to give notice to the Pension Board of particulars and to provide proof to the Pension Board in relation to particulars;

(c) increasing pension payments under this Act;

(d) amending or replacing Schedules 1, 2 or 3.

(2) For greater certainty, a regulation under paragraph (1)(c) that comes into effect before a deferred pension first becomes payable does not apply to the deferred pension.

Offence

67. (1) Any person who knowingly notifies false or misleading information to the Pension Board or gives evidence or information to the Pension Board that he or she knows to be false commits an offence and is liable on summary conviction to a fine of $1,000.

(2) The court may make an order that any money paid by the Pension Board in consequence of false or misleading information notified to the Pension Board or given as evidence or information to the Pension Board be repaid by the person with interest at the rate prescribed for the purpose of this subsection calculated from the date of payment thereof.

Citation

68. This Act may be cited as the Police Pensions Act, Revised Statutes of Anguilla, Chapter P52.

Transitional regulations

69. The Governor, after consultation with Executive Council, may, in the one year period after 1 July 2006, make such transitional regulations as he or she considers appropriate and may make them retroactive to 1 July 2006.

Transitional provisions

70. When—

(a) a pension or gratuity or both first became payable to or in respect of a police officer under Part 5 of the Anguilla Police Act on or after 1 July 2006; and

(b) on 1 July 2006, a pension or gratuity or both become payable to or in respect of the same police officer under this Act on or after 1 July 2006;

the amount of the pension or gratuity or both referred to in paragraph (a) is deemed to have been paid on account of the pension or gratuity or both referred to in paragraph (b).

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Validation

71. Everything done on or after 1 July 2006 that would have been valid had this Act been in force is validated and declared to have been lawfully done.

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SCHEDULE 1

(Sections 15 and 37)

MULTIPLIER TABLE

For the purposes of the formula set out in sections 15(1)(b) and 37(1)(b), the multiplier applicable to a gratuity calculated in accordance with section 15 or section 37 for a contributor whose age at retirement is set out in Column 1 of the following table is the number set out opposite in Column 2.

COLUMN 1	COLUMN 2
Age of Contributor	**Multiplier**
50 & below	1575
51	1575
52	1560
53	1550
54	1530
55	1510
56	1480
57	1450
58	1420
59	1395
60	1370

(R.A. 28/2009, s. 1)

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SCHEDULE 2

(Sections 18 and 21)

DISCOUNT RATE TABLE

For the purposes of the formula set out in sections 18(1)(b) and 21(1), the discount rate for the contributor applicable to an early retirement gratuity is the number set out in Column 2 of the following table opposite the number of years as set out in Column 1 until that contributor would have attained 30 years of pensionable service had he or she remained in the Force.

COLUMN 1	COLUMN 2
Years to 30 Years of Pensionable Service	**4% Discount Rate**
1	0.9615
2	0.9246
3	0.8890
4	0.8548
5	0.8219
6	0.7903
7	0.7599
8	0.7307
9	0.7026
10	0.6756
11	0.6496
12	0.6246
13	0.6006
14	0.5775
15	0.5553

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COLUMN 1	COLUMN 2
Years to 30 Years of Pensionable Service	**4% Discount Rate**
16	0.5339
17	0.5134
18	0.4936
19	0.4746
20	0.4564
21	0.4388
22	0.4220
23	0.4057
24	0.3901
25	0.3751
26	0.3607
27	0.3468
28	0.3335
29	0.3207
30	0.3083

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SCHEDULE 3

(Sections 42 and 43)

INJURY PENSION AND GRATUITY TABLE

Definition

1. "Degree of impairment" means the degree of impairment as determined by the Pension Board under section 40.

Injury pension

2. The amount of an injury pension under section 42 shall be calculated with reference to the contributor's degree of impairment as set out in Column 1 of the table below by multiplying the contributor's pensionable pay by the percentage applicable to the contributor's completed years of pensionable service set out opposite in Column 3, 4, 5 or 6, as the case may be.

Injury gratuity

3. The amount of an injury gratuity under section 43 shall be calculated with reference to the contributor's degree of impairment as set out in Column 1 of the table below by multiplying the contributor's pensionable pay by the percentage set out opposite in Column 2.

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
Degree of impairment	**Gratuity expressed as % of pensionable pay**	**Pension expressed as % of pensionable pay**			
		Less than 5 years service	**5 or more but less than 15 years service**	**15 or more but less than 25 years service**	**25 or more years service**
25% or less (slight impairment)	12.5%	15%	30%	45%	60%
More than 25% but not more than 50% (minor impairment)	25%	40%	50%	60%	70%
More than 50% but not more than 75% (major impairment)	37.5%	65%	70%	75%	80%
More than 75% (very severe impairment)	50%	85%	85%	85%	85%

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