**Superannuation (No. 2)**

**No. 26 of 1969**

An Act relating to Superannuation.

[Assented to 4 June 1969]

BE it enacted by the Queen’s Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Part I.—Preliminary.

**Short title and citation.**

**1.**—(1.) This Act may be cited as the *Superannuation Act* (*No.* 2) 1969.

(2.) The *Superannuation Act* 1922–1968, as amended by the *Superannuation Act* 1969, is in this Act referred to as the Principal Act.

(3.) Section 1 of the *Superannuation Act* 1969 is amended by omitting sub-section (2.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Superannuation Act* 1922–1969.

**Commencement.**

**2.**—(1.) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2.) The amendments made by paragraphs (*d*)and (*e*)of section 17 of this Act shall be deemed to have come into operation on the twenty-sixth day of May, One thousand nine hundred and sixty-seven.

(3.) The amendments made by paragraph (*b*)of section 23 of this Act shall be deemed to have come into operation on the first day of July, One thousand nine hundred and sixty-two, and apply only in relation to contributors who retire or die on or after that date.

**Parts.**

**3.** This Act is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1–3).

Part II.—Amendments of the Principal Act (Sections 4–28).

Part III.—Miscellaneous (Sections 29–32).

Part II.—Amendments of the Principal Act.

**Parts.**

**4.** Section 3 of the Principal Act is amended by inserting after the words—

“Division 2—Units of Pension (Sections 20–22).”

the words—

“Division 2a.—Non-contributory Units of Pension (Sections 22a–22m).”.

**Interpretation.**

**5.** Section 4 of the Principal Act is amended—

(*a*)by omitting from the definition of “Employee” in sub-section (1.) the words “section three of the *Judges*’ *Pensions Act* 1948–1956” and inserting in their stead the words “sub-section (1.) of section four of the *Judges*’ *Pensions Act* 1968”; and

(*b*)by adding at the end of sub-section (2a.) the words “and, unless the contrary intention appears, shall, subject to section seventy-three of the *Superannuation Act* 1959 and section thirty-three of the *Superannuation Act* 1963, also be read as including a reference to any units of pension in respect of which the whole or a part of his contributions has been deferred by virtue of either of those sections”.

**Commencement and cessation of contributions.**

**6.** Section 19 of the Principal Act is amended—

(*a*)by omitting from sub-section (2c) the words “pension to be paid to him on retirement equal to the pension” and inserting in their stead the words “pension in respect of units of pension for which he is a contributor to be paid to him on retirement equal to the pension in respect of those units”; and

(*b*)by omitting sub-section (3.) and inserting in its stead the following sub-sections:—

“(2d.) A contributor—

(*a*)who elects, or is called upon, to retire on or after attaining the age of sixty years; or

(*b*)the age for whose retirement is fixed at an earlier age than sixty-five years, but not less than sixty years, and who retires on attaining the age so fixed,

may, notwithstanding anything contained in this section, contribute, in a lump sum, or in such smaller sums and at such periods as the Board approves, the amount necessary to enable a pension in respect of non-contributory units of pension applicable in relation to him to be paid to him on retirement equal to the pension in respect of those units that would have been paid to him

if he had retired at such later age (not exceeding the age of sixty-five years) as the Board approves.

“(2e.) For the purposes of the last preceding sub-section, the amount necessary to be contributed to enable a pension in respect of non-contributory units of pension to be paid to a contributor on retirement equal to the pension in respect of those units that would have been paid to him if he had retired at a later age is an amount equal to five-sevenths of the amount that would be required to be contributed by him under sub-section (2c.) of this section in respect of those units in relation to that age if he had become liable to contribute for those units on the respective dates when those units became applicable in relation to him as non-contributory units and he had contributed for those units at the appropriate rates based on a retiring age of sixty-five years.

“(2f.) Amounts equal to amounts contributed under subsection (2d.) of this section are payable to the Commonwealth out of the Fund.

“(3.) Where—

(*a*)after, but as from a date before, the attainment by an employee of the maximum age for retirement; or

(*b*)after, but as from a date before, the attainment by a pensioner of the maximum age for retirement, being a pensioner who retired on or after attaining that age,

his salary is increased and the number of units of pension ascertained in accordance with sub-section (2.) of section twenty of this Act as it applied at the time when he attained the maximum age for retirement having regard to his salary immediately after the increase is greater than the number of units of pension ascertained in accordance with that sub-section as it applied at the time when he attained the maximum age for retirement having regard to his salary immediately before the increase, he may elect to contribute for additional units of pension but so that the total number of units of pension (including non-contributory units of pension applicable in relation to him) does not exceed the first-mentioned number of units of pension.”.

**Units of pension.**

**7.** Section 20 of the Principal Act is amended—

(*a*)by omitting from sub-paragraph (ii) of paragraph (*a*)of sub-section (2.) the figures “228” and inserting in their stead the figures “163”;

(*b*)by omitting from sub-section (3.) the words “two hundred and twenty-eight” and inserting in their stead the words “one hundred and sixty-three”;

(*c*) by inserting after sub-section (4.) the following sub-section:—

“(4a.) Where the obligation of a contributor to contribute for an additional unit of pension came into existence on or before the date on which he attained the maximum age for retirement but, by reason of sub-section (1.) of section one hundred and thirty-eight of this Act, contributions for that unit are payable as from a date after he attained that age—

(*a*)the last preceding sub-section and sub-section (2.) of section one hundred and thirty-eight of this Act do not apply in relation to that unit; and

(*b*)sub-section (2b.) of section nineteen of this Act applies as if his initial contribution in respect of that unit were made on the date on which his obligation to contribute for that unit came into existence.”;

(*d*)by inserting in sub-section (6.), after the word “may”, the words “, subject to section twenty-two j of this Act,”;

(*e*) by inserting after sub-section (8.) the following sub-section:—

“(8a.) Where—

(*a*)the number of units of pension ascertained in relation to an employee in accordance with sub-section (2.) of this section is reduced by reason of an election made by the employee under section twenty-four of this Act; and

(*b*)the sum of the number of units of pension for which he is a contributor and the number of non-contributory units of pension (if any) applicable in relation to him exceeds the reduced number of units so ascertained,

the number of non-contributory units of pension (if any) applicable in relation to him shall, where necessary, be deemed to have been reduced accordingly and, if there are no non-contributory units of pension applicable in relation to him, whether by reason of the operation of this sub-section or otherwise, the number of units of pension for which he was required to contribute shall, where necessary, be deemed to have been reduced accordingly.”;

(*f*) by omitting from paragraph (*a*)of sub-section (9.) the word “and”;

(*g*)by omitting paragraph (*b*)of sub-section (9.) and inserting in its stead the following paragraphs:—

“(*b*)where necessary, the number of non-contributory units of pension (if any) applicable in relation to him shall be deemed to have been reduced accordingly; and

“(*c*)if there are no non-contributory units of pension applicable in relation to him, whether by reason of the operation of the last preceding paragraph or otherwise, the number

of units of pension for which he was required to contribute shall, where necessary, be deemed to have been reduced accordingly.”; and

(*h*)by adding at the end thereof the following sub-section:—

“(11.) Where by reason of sub-section (8a.), or paragraph (*b*)of sub-section (9.), of this section the number of non-contributory units of pension applicable in relation to an employee is to be deemed to have been reduced, those units shall be deemed to have been reduced in the reverse of the order in which they became applicable in relation to him as non-contributory units of pension.”.

**Rights of employees over 40 years of age.**

**8.** Section 20a of the Principal Act is amended—

(*a*)by inserting in sub-sections (1.) and (2.), after the word “may,”, the words “subject to section twenty-two h of this Act,”; and

(*b*)by omitting sub-section (3.) and inserting in its stead the following sub-section:—

“(3.) Where an employee who has attained the age of forty years is a contributor for a number of units of pension less than the difference between—

(*a*)the number of units of pension ascertained in accordance with sub-section (2.) of the last preceding section as it applies in relation to him; and

(*b*)the number of non-contributory units of pension, if any, applicable in relation to him,

he may elect to contribute for such number of additional units of pension as does not exceed the number by which that difference exceeds the number of units of pension for which he is a contributor.”.

**Effect of reduction in salary or prescribed amount.**

**9.** Section 20b of the Principal Act is amended by inserting in sub-section (2.), after the word “may”, the words “, subject to section twenty-two j of this Act,”.

**Interpretation.**

**10.**—(1.) Section 22 of the Principal Act is amended—

(*a*) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) For the purposes of this Division, the prescribed amount is such amount, being a multiple of One hundred and thirty dollars, as is specified in the regulations for the purpose of this sub-section.”; and

(*b*)by omitting from sub-section (2.) the words “paragraph (*c*)of”.

(2) Notwithstanding the amendments made by the last preceding sub-section —

(*a*)any regulation in force immediately before the date of commencement of this section for the purpose of paragraph (*a*)of sub-section (1.) of section 22 of the Principal Act continues in force as if it had been made for the purpose of paragraph (*b*)of sub-section (1.) of section 36 of the Principal Act as amended by this Act; and

(*b*)any regulation in force immediately before that date for the purpose of paragraph (*c*)of sub-section (1.) of section 22 of the Principal Act continues in force as if it had been made for the purpose of sub-section (1.) of section 22 of the Principal Act as so amended,

but any regulation so continued in force may be amended or repealed by regulations made under the Principal Act as so amended.

**11.** After Division 2 of Part III. of the Principal Act the following Division is inserted:—

“Division 2a.—*Non-contributory Units of Pension.*

**Election to take up rejected units as non-contributory units.**

“22a.—(1.) Where an employee who has attained the age of forty years but has not attained the age of sixty-five years is a contributor for a number of units of pension less than the difference between—

(*a*)the number of units of pension ascertained in accordance with sub-section (2.) of section twenty of this Act as it applies in relation to him; and

(*b*)the number of non-contributory units of pension, if any, applicable in relation to him,

he may, subject to this Act and to the *Superannuation Act* (*No.* 2) 1969, elect that such number of units of pension as does not exceed the number by which that difference exceeds the number of units of pension for which he is a contributor are to be applicable in relation to him as non-contributory units of pension.

“(2.) An election by an employee under the last preceding sub-section does not have effect in relation to a unit of pension unless the sum of—

(*a*)the fortnightly amount of the contributions (other than contributions for reserve units of pension) that are payable by him to the Fund on the date of the election or, if that date is not a pay-day, that would be so payable if that date were a pay-day; and

(*b*)the fortnightly amount of the contributions that, if he became liable to contribute for that unit on that date, would be payable by him to the Fund in respect of that unit on that date or, if that date is not a pay-day, on the next following pay-day,

exceeds three-one thousand and fortieths of his salary as at the date of the election.

**Election by certain contributors to convert existing units to non-contributory units.**

“22b.—(1.) Subject to this Act, an employee who has attained the age of forty years, but has not attained the age of sixty-five years, before the date of commencement of this section and is a contributor at that date may, before the expiration of the prescribed period, if he is still an employee, elect that such number of units of pension as is specified in the election, being units of pension for which he was a contributor immediately before that date and at the date of the election and the obligation to contribute for which came into existence on or after the date on which he attained the age of forty years, are to be applicable in relation to him as non-contributory units of pension.

“(2.) An election by an employee under the last preceding sub-section—

(*a*)shall, if it is made after the date of commencement of this section, be deemed, for the purposes of this Division, to have taken effect on that date; and

(*b*)shall be taken to relate to units of pension in the reverse of the order in which he became liable to contribute for those units.

“(3.) An election under this section by an employee other than an employee to whom sub-section (2bb.) of section nineteen of this Act applies does not have effect, and shall be deemed not to have had effect, in relation to a unit of pension unless, if the election had had effect on the day immediately before the date of commencement of this section, the fortnightly amount of the contributions (other than contributions for reserve units of pension) that, but for the operation of the election in relation to that unit, would have been payable by him to the Fund on that day or, if that day was not a pay-day, that would have been so payable if that day had been a pay-day, exceeds three-one thousand and fortieths of his salary as at that day.

“(4.) An election under this section by an employee to whom sub-section (2bb.) of section nineteen of this Act applies does not have effect, and shall be deemed not to have had effect, in relation to a unit of pension unless, if the election had had effect on the day immediately before the date of commencement of this section, the sum of—

(*a*)the fortnightly amount of the contributions (other than contributions for reserve units of pension) that, but for this section, would have been payable by him to the Fund under sub-section (2bb.) or sub-section (2bc.) of section nineteen of this Act on that day or, if that day was not a pay-day, that would have been so payable if that day had been a pay-day; and

(*b*)the fortnightly amount of any other contributions that, but for this section, would have been payable by him to the Fund on that day or, if that day was not a pay-day, that would have been so payable if that day had been a pay-day,

reduced by the fortnightly amount of the contributions ascertained in relation to him in accordance with the appropriate tables set out in the Third, Fourth, Fifth and Sixth Schedules to this Act in respect of units of pension in respect of which an election by him under this section has, or is to be deemed to have had, effect, exceeds three-one thousand and fortieths of his salary as at that day.

“(5.) Where—

(*a*)after the date of commencement of this section an employee in relation to whom a non-contributory unit of pension is applicable makes an election under this section in relation to a unit of pension (in this sub-section referred to as ‘the contributory unit’); and

(*b*)if the election had been made before the non-contributory unit became applicable in relation to him, the non-contributory unit would not have become so applicable by reason of the operation of sub-section (2.) of section twenty-two a,sub-section (3.) of section twenty-two c, section twenty-two dor section twenty-two eof this Act or section thirty-one of the *Superannuation Act* (*No.* 2) 1969,

the election under this section does not have effect in relation to the contributory unit.

“(6.) Sections one hundred and thirty-five and one hundred and thirty-six of this Act do not apply in relation to an election under this section.

“(7.) For the purposes of this section, ‘the prescribed period’ is, subject to the next succeeding sub-section, the period of six months commencing on the date of commencement of this section or, if the Board (whether before or after the expiration of that period) extends that period, the period as so extended.

“(8.) Where the Board has, under the last preceding sub-section, extended the period of six months referred to in that sub-section, the Board may (whether before or after the expiration of the period as so extended) further extend, or successively further extend, that period and, in that case, the prescribed period is the period as so further extended.

**Election to take up units as non-contributory units where salary increased after attainment of maximum age for retirement.**

“22c.—(1.) Where an employee, or a pensioner who retires after the commencement of this section, is entitled to make an election under sub-section (3.) of section nineteen of this Act to contribute for an additional unit of pension, the employee or pensioner may, subject to this Act, instead of making that election, elect that that additional unit of pension is to be applicable in relation to him as a non-contributory unit of pension.

“(2.) An election under this section shall, for the purposes of this Act, be deemed to have taken effect on the date on which the employee or pensioner attained the maximum age for retirement or the date of commencement of this section, whichever is the later.

“(3.) An election under this section does not have effect, and shall be deemed not to have had effect, in relation to a unit of pension unless the sum of—

(*a*)the fortnightly amount of the contributions (if any) that are payable or, where they have been previously paid, would be payable if they had not been so paid, by him to the Fund on the date of the election or, if that date is not a pay-day, that would be so payable if that date were a pay-day; and

(*b*)the fortnightly amount of the contributions that, if the employee or pensioner had on the date of the election made an election under sub-section (3.) of section nineteen of this Act in relation to that unit, would be payable by him to the Fund in respect of that unit on that date or, if that date is not a pay-day, that would be so payable if that date were a pay-day,

exceeds three-one thousand and fortieths of his salary as at—

(*c*)in the case of an election by an employee—the date of the election; or

(*d*)in the case of an election by a pensioner—the time immediately after the increase in salary by virtue of which he became entitled to make the election.

**Election ineffective if number of contributory units is, or falls below, number of initial units.**

“22d.—(1.) An election by an employee under section twenty-two aof this Act does not have effect, and an election by an employee under section twenty-two c of this Act does not have effect and shall be deemed not to have had effect, where—

(*a*)in a case to which neither of the next two succeeding paragraphs applies—the number of units of pension (other than reserve units of pension) for which he is a contributor at the time of the election is less than his initial unit entitlement;

(*b*)in the case of an employee to whom section sixty-seven of this Act applies—the sum of the number of units of pension (other than reserve units of pension) for which he is a contributor at the time of the election and the number of units of pension (other than non-contributory units of pension) in respect of which he is in receipt of a pension under this Act is less than his initial unit entitlement; or

(*c*) in the case of an employee to whom section sixty-nine of this Act applies or applied—the sum of the number of units of pension (other than reserve units of pension) for which he is a contributor at the time of the election and the number of units of pension in respect of which his right referred to in section sixty-eight of this Act is or was, under section seventy-one or section seventy-two of this Act, commutable for new rights is less than his initial unit entitlement.

“(2.) An election by an employee under section twenty-two b of this Act does not have effect, and shall be deemed not to have had effect, in relation to a unit of pension where, if it had effect in relation to that unit—

(*a*)in a case to which neither of the next two succeeding paragraphs applies—the number of units of pension (other than reserve units of pension) for which he was a contributor as at the time immediately before the time as from which the election has or had effect less the number of units of pension in respect of which an election by the employee under section twenty-two b of this Act has effect would be less than his initial unit entitlement;

(*b*)in the case of an employee to whom section sixty-seven of this Act applies, the sum of—

(i) the number of units of pension (other than reserve units of pension) for which he was a contributor as at the time immediately before the time as from which the election has or had effect less the number of units of pension in respect of which an election by the employee under section twenty-two b of this Act has effect; and

(ii) the number of units of pension (other than non-contributory units of pension) in respect of which he is in receipt of a pension under this Act,

would be less than his initial unit entitlement; or

(*c*)in the case of an employee to whom section sixty-nine of this Act applies or applied, the sum of—

(i) the number of units of pension (other than reserve units of pension) for which he was a contributor as at the time immediately before the time as from which the election has or had effect less the number of units of pension in respect of which an election by the employee under section twenty-two b of this Act has effect; and

(ii) the number of units of pension in respect of which his right referred to in section sixty-eight of this Act is or was, under section seventy-one or section seventy-two of this Act, commutable for new rights,

would be less than his initial unit entitlement.

“(3.) An election by a pensioner under section twenty-two c of this Act does not have effect, and shall be deemed not to have had effect, where—

(*a*)in a case to which the next succeeding paragraph does not apply, the sum of—

(i) the number of units of pension (if any) for which he is a contributor at the time of the election; and

(ii) the number of units of pension (other than non-contributory units of pension) in respect of which he is in receipt of a pension under this Act at that time,

is less than his initial unit entitlement; or

(*b*)in the case of a pensioner to whom section sixty-nine of this Act applied, the sum of—

(i) the total number of units of pension referred to in sub-paragraphs (i) and (ii) of the last preceding paragraph; and

(ii) the number of units of pension (other than units of pension so referred to) in respect of which his right referred to in section sixty-eight of this Act was, under section seventy-one or section seventy-two of this Act, commutable for new rights,

is less than his initial unit entitlement.

“(4.) A reference in the preceding sub-sections of this section to the initial unit entitlement of an employee or pensioner shall be read as a reference to the full unit entitlement of the employee or pensioner as at the time when he became a contributor to the Fund, or, if he became a contributor to the Fund after having previously ceased to be a contributor to the Fund, when he last became a contributor to the Fund.

“(5.) In the case of an employee or pensioner who made an election under section twenty-four of this Act that had the effect of reducing the number of units of pension ascertained in relation to him in accordance with sub-section (2.) of section twenty of this Act, his initial unit entitlement shall be ascertained for the purposes of this section as if he had made the election at the time when he became, or last became, a contributor to the Fund.

**Election ineffective if number of contributory units is, or fails below, one-half of full unit entitlement**

“22e.—(1) An election by an employee under section twenty-two aof this Act does not have effect, and an election by an employee under section twenty-two c of this Act does not have effect and shall be deemed not to have had effect, where—

(*a*)in a case to which neither of the next two succeeding paragraphs applies—the number of units of pension (other than reserve units of pension) for which he is a contributor at the time of the election is less than one-half of his full unit entitlement as at that time;

(*b*)in the case of an employee to whom section sixty-seven of this Act applies—the sum of the number of units of pension (other than reserve units of pension) for which he is a contributor at the time of the election and the number of units of pension (other than non-contributory units of pension) in respect of which he is in receipt of a pension under this Act is less than one-half of his full unit entitlement as at that time; or

(*c*)in the case of an employee to whom section sixty-nine of this Act applies or applied—the sum of the number of units of pension (other than reserve units of pension) for which he is a contributor at the time of the election and the number of units of pension in respect of which his right referred to in section sixty-eight of this Act is or was, under section seventy-one or section seventy-two of this Act, commutable for new rights is less than one-half of his full unit entitlement as at that time.

“(2.) An election by an employee under section twenty-two b of this Act does not have effect, and shall be deemed not to have had effect, in relation to a unit of pension where, if it had effect in relation to that unit—

(*a*)in a case to which neither of the next two succeeding paragraphs applies—the number of units of pension (other than reserve units of pension) for which he was a contributor as at the time immediately before the time as from which the election has or had effect less the number of units of pension in respect of which an election by the employee under section twenty-two b of this Act has effect would be less than one-half of his full unit entitlement as at the time immediately after the time as from which the election has or had effect;

(*b*)in the case of an employee to whom section sixty-seven of this Act applies, the sum of—

(i) the number of units of pension (other than reserve units of pension) for which he was a contributor as at the time immediately before the time as from which the election has or had effect less the number of units of pension in respect of which an election by the employee under section twenty-two b of this Act has effect; and

(ii) the number of units of pension (other than non-contributory units of pension) in respect of which he is in receipt of a pension under this Act,

would be less than one-half of his full unit entitlement as at the time immediately after the time as from which the election has or had effect; or

(*c*) in the case of an employee to whom section sixty-nine of this Act applies or applied, the sum of—

(i) the number of units of pension (other than reserve units of pension) for which he was a contributor as at the time immediately before the time as from which the election has or had effect less the number of units of pension in respect of which an election by the employee under section twenty-two b of this Act has effect; and

(ii) the number of units of pension in respect of which his right referred to in section sixty-eight of this Act is or was, under section seventy-one or section seventy-two of this Act, commutable for new rights,

would be less than one-half of his full unit entitlement as at the time immediately after the time as from which the election has or had effect.

“(3.) An election by a pensioner under section twenty-two c of this Act does not have effect, and shall be deemed not to have had effect, where—

(*a*)in a case to which the next succeeding paragraph does not apply, the sum of—

(i) the number of units of pension (if any) for which he is a contributor at the time of the election; and

(ii) the number of units of pension (other than non-contributory units of pension) in respect of which he is in receipt of a pension under this Act at that time,

is less than one-half of his full unit entitlement as at the time of the election; or

(*b*)in the case of a pensioner to whom section sixty-nine of this Act applied, the sum of—

(i) the total number of units of pension referred to in sub-paragraphs (i) and (ii) of the last preceding paragraph; and

(ii) the number of units of pension (other than units of pension so referred to) in respect of which his right referred to in section sixty-eight of this Act was, under section seventy-one or section seventy-two of this Act, commutable for new rights,

is less than one-half of his full unit entitlement as at the time of the election.

“(4.) In ascertaining the full unit entitlement of an employee or pensioner for the purposes of the application of this section in relation to an election under section twenty-two c of this Act, regard shall be had to his salary immediately after the increase in salary by virtue of which he became entitled to make that election.

**Effect of election.**

“22f.—(1.) Where an employee or pensioner makes an election under this Division in relation to a unit of pension—

(*a*)that unit of pension becomes, or shall be deemed to have become, on and from the date as from which the election has or had effect, a non-contributory unit of pension applicable in relation to him;

(*b*)subject to sub-section (2d.) of section nineteen of this Act, he is not required or permitted to contribute, or to continue to contribute, as the case may be, for that unit of pension;

(*c*)if any contributions payable by him for that unit have been deferred in whole or in part by virtue of section seventy-three of the *Superannuation Act* 1959 or section thirty-three of the *Superannuation Act* 1963—the compound interest payable upon the

deferred contributions ceases to accrue upon the date of the election, and the amount of the interest that has accrued before that date is payable forthwith to the Fund and—

(i) shall, to the extent that it does not exceed the amount of any benefit payable to or in respect of the employee or pensioner under this Act, be deducted by the Board from the benefit; and

(ii) may, to the extent, if any, that it exceeds the amount of that benefit, be recovered by the Board in any court of competent jurisdiction as a debt due by the employee or pensioner to the Board;

(*d*)subject to the next succeeding sub-section, any additional unit of pension the obligation to contribute for which comes or came into existence after the date as from which the election has or had effect shall be at the appropriate rate based on a retiring age of sixty-five years; and

(*e*)his maximum age for retirement is, in respect of all additional units of pension in relation to which the last preceding paragraph applies, sixty-five years.

“(2.) Paragraph (*d*)of the last preceding sub-section does not prevent a contributor making an election under section twenty-four of this Act and ceases to apply in relation to him if he makes such an election, but if, after making such an election, he makes a further election under this Division in relation to a unit of pension, that paragraph applies in relation to any additional units of pension for which he commences to contribute after the date of the further election.

**Cessation of non-contributory units where contributor exempted from contributing for more than two units.**

“22g. Where an employee in relation to whom a non-contributory unit of pension is applicable is granted an exemption under section twenty-one of this Act from contributing for more than two units of pension, that non-contributory unit of pension ceases to be applicable in relation to him.

**Election not to contribute for units, or to contribute for units at age 65 rates, ineffective in certain cases.**

“22h. Where an employee in relation to whom a non-contributory unit of pension is applicable—

(*a*)makes an election under sub-section (1.) or sub-section (2.) of section twenty a of this Act, or sub-section (2.) of section thirty-two of the *Superannuation Act* (*No.* 2) 1969, not to contribute for one or more units of pension; or

(*b*)makes an election under sub-section (1.) of section twenty-five of this Act to contribute for an additional unit of pension or additional units of pension at the appropriate rate based on a retiring age of sixty-five years,

the election does not have effect in relation to a unit of pension where—

(*c*)the employee became entitled to make the election before the date as from which the non-contributory unit became applicable in relation to him; and

(*d*)if the election had been made before the date as from which the non-contributory unit became applicable in relation to him, the non-contributory unit would not have become so applicable by reason of the operation of sub-section (2.) of section twenty-two a, sub-section (3.) or sub-section (4.) of section twenty-two b, sub-section (3.) of section twenty-two c, section twenty-two dor section twenty-two e of this Act or section thirty-one of the *Superannuation Act* (*No.* 2) 1969.

**Election to reduce contributory units ineffective in certain cases.**

“22j.—(1.) Where an employee in relation to whom a non-contributory unit of pension is applicable makes an election under sub-section (6.) of section twenty, or sub-section (2.) of section twenty b, of this Act to reduce the number of units of pension for which he is required to contribute, the succeeding sub-sections of this section apply in relation to the election.

“(2.) If the employee is not an employee to whom sub-section (2bb.) of section nineteen of this Act applies, the election does not have effect in relation to a unit of pension unless the fortnightly amount of the contributions (other than contributions for reserve units of pension) that, but for the operation of the election in relation to that unit, would be payable by him to the Fund on the date of the election or, if that date is not a pay-day, that would be so payable if that date were a pay-day, exceeds three-one thousand and fortieths of his salary as at that date.

“(3.) If the employee is an employee to whom sub-section (2bb.) of section nineteen of this Act applies, the election does not have effect in relation to a unit of pension unless the sum of—

(*a*)the fortnightly amount of the contributions (other than contributions for reserve units of pension) that, but for this section, would be payable by him to the Fund under sub-section (2bb.) or sub-section (2bc.) of section nineteen of this Act on the date of the election or, if that date is not a pay-day, that would be so payable if that date were a pay-day; and

(*b*)the fortnightly amount of any other contributions that, but for this section, would be payable by him to the Fund on the date of the election or, if that date is not a pay-day, that would be so payable if that date were a pay-day,

reduced by the fortnightly amount of the contributions ascertained in relation to him in accordance with the appropriate tables set out in the Third, Fourth, Fifth and Sixth Schedules to this Act in respect of units of pension in respect of which an election by him under sub-section (6.) of section twenty, or sub-section (2.) of section twenty b, of this Act has effect, exceeds three-one thousand and fortieths of his salary as at that date.

“(4.) Sections twenty-two d and twenty-two e of this Act apply in relation to the election in like manner as those sections apply in relation to an election under section twenty-two b of this Act.

**References to full unit entitlement.**

“22k.—(1.) A reference in this Division to the full unit entitlement of an employee or pensioner, in relation to any time, shall be read as a reference to—

(*a*)the number of units of pension ascertained in accordance with sub-section (2.) of section twenty of this Act as it applies or applied in relation to the employee or pensioner at that time; or

(*b*)the sum of the number of units of pension for which he was a contributor at that time and the number of non-contributory units of pension that were applicable in relation to him at that time,

whichever is the greater.

“(2.) The reference in the last preceding sub-section to sub-section (2.) of section twenty of this Act shall, for the purposes of the application of the last preceding sub-section in relation to any time before the first day of November, One thousand nine hundred and sixty-three, be read as a reference to the corresponding provision of the *Superannuation Act* 1922, or of that Act as amended, as in force at that time.

**Effect of certain elections in relation to elections to take up non-contributory units.**

“22l.—(1.) Where, on or after the date of commencement of this section, an employee makes an election under sub-section (6.) of section twenty, sub-section (1.) or sub-section (2.) of section twenty a, sub-section (2.) of section twenty b, sub-section (1.) of section twenty-five or sub-section (1.) of section thirty-one of this Act or sub-section (2.) of section thirty-two of the *Superannuation Act* (*No.* 2) 1969 (in this section referred to as ‘the basic election’), then—

(*a*)if, on or after the date of the basic election, the employee makes an election under section twenty-two a of this Act that is expressed to have taken effect as from a date earlier than the date of the basic election—the basic election shall, subject to the next succeeding sub-section, be deemed, for the purposes of the application of sub-sections (7.), (8.) and (10.) of section thirty-one of the *Superannuation Act* (*No.* 2) 1969 in relation to the election under section twenty-two a of this Act, to have been made on the day immediately before the date as from which that last-mentioned election had effect; or

(*b*)if, on or after the date of the basic election, the employee makes an election under section twenty-two b of this Act—the basic election shall, subject to the next succeeding sub-section, be deemed, for the purposes of the application of sub-sections (3.) and (4.) of section twenty-two b, and sections twenty-two d and twenty-two e,of this Act in relation to the election under section twenty-two b of this Act, to have been made on the day immediately before the date as from which that last-mentioned election had effect.

“(2.) The last preceding sub-section does not apply in relation to the basic election unless the obligation to contribute for the unit or units

of pension to which the basic election related came into existence before the date as from which the election under section twenty-two a or section twenty-two b of this Act, as the case may be, had effect.

**Deferred contributions.**

“22m. A reference in this Division to contributions payable by an employee to the Fund shall, if the employee has deferred payment of the whole or any part of those contributions under section seventy-three of the *Superannuation Act* 1959 or section thirty-three of the *Superannuation Act* 1963, be read as including a reference to the contributions that, but for the deferment, would be payable by him to the Fund.”.

**Election to contribute for additional units at sixty-five years of age.**

**12.** Section 25 of the Principal Act is amended—

(*a*)by omitting from sub-section (1.) the words “A contributor” and inserting in their stead the words “Subject to section twenty-two h of this Act, a contributor”; and

(*b*)by adding at the end thereof the following sub-section:—

“(4.) Any additional contribution payable by reason of an election under sub-section (2.) of this section is payable as from the date of the election.”.

**Contribution for reserve units of pension.**

**13.** Section 30 of the Principal Act is amended by omitting sub-section (2.)and inserting in its stead the following sub-section:—

“(2.) Subject to sub-section (4.) of section thirty-two of this Act, the number of reserve units of pension for which a contributor may contribute, together with the number of any reserve units in respect of which he has made an election under section thirty-one or section thirty-two of this Act, shall not exceed twelve.”.

**14.** After section 30 of the Principal Act the following section is inserted:—

**Completion of contributions for reserve unit.**

“30a. For the purposes of the next two succeeding sections, a contributor who has completed payment of contributions for a reserve unit of pension shall be deemed to be contributing for that reserve unit.”.

**Transfer of contributions to Superannuation Fund.**

**15.** Section 31 of the Principal Act is amended by adding at the end thereof the following sub-sections:—

“(3.) An election by a contributor under this section does not have any effect in relation to a reserve unit of pension where—

(*a*)at the time when the election is made, a non-contributory unit of pension is applicable in relation to the contributor; and

(*b*)if the election had been made before the date as from which the non-contributory unit became applicable in relation to the contributor, the non-contributory unit would not have become so applicable by reason of the operation of sub-section (2.) of section

twenty-two a, sub-section (3.) or sub-section (4.) of section twenty-two b or sub-section (3.) of section twenty-two c of this Act or sub-section (7.) of section thirty-one of the *Superannuation Act* (*No.* 2) 1969.

“(4.) Where the rate of the contributions payable for a unit of pension is, by reason of an election under this section, the same as the rate of the contributions paid into the Account in respect of a reserve unit of pension,, the contributions so paid into the Account in respect of that reserve unit of pension shall be deemed to be contributions paid in respect of the first-mentioned unit of pension.”.

**Discontinuance of contributions.**

**16.** Section 32 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(4.) Where a contributor who—

(*a*)is contributing for at least one unit of pension at the appropriate rate based on a retiring age of sixty-five years; or

(*b*)not being a person to whom the last preceding paragraph applies, has made an election under Division 2a of this Part,

and is contributing for one or more reserve units of pension at the appropriate rate based on a retiring age of sixty years makes an election under sub-section (1.) of this section to discontinue his contributions in respect of those reserve units of pension (in this sub-section referred to as ‘the discontinued units’)—

(*c*) nothing in this Division prevents him from making an election: at the same time under sub-section (1.) of section thirty of this Act to contribute for a number of reserve units of pension (in this sub-section referred to as ‘the new units’) not exceeding the number of the discontinued units at the appropriate rate based on a retiring age of sixty-five years; and

(*d*)in the application of sub-section (2.) of section thirty of this Act in relation to the contributor, such number of the discontinued units as does not exceed the number of the new units shall be disregarded.”.

**Payments by Commonwealth.**

**17.** Section 33 of the Principal Act is amended—

(*a*)by omitting from sub-section (2.) the word “three” and inserting in its stead the word “four”;

(*b*)by inserting after sub-section (2.) the following sub-section:—

“(2a.) The Commonwealth shall pay to the Fund an amount equal to each payment of pension that is made in respect of non-contributory units of pension.”;

(*c*) by omitting from sub-section (6.) the word “three” and inserting in its stead the word “four”;

(*d*)by omitting from sub-section (7.) the words “sub-section (3.) of section forty-six, sub-section (3.) of section forty-seven, or sub-section (1aa.) of section forty-eight” (wherever occurring) and inserting in their stead the words “sub-section (5.) of section forty-six, sub-section (5.) of section forty-seven, or sub-section (2.) of section forty-eight”; and

(*e*)by omitting from sub-section (7.) the words “paragraph (*a*)of” (wherever occurring).

**18.** After section 35a of the Principal Act the following section is inserted:—

**Order in which reduction of contributory units to take effect.**

“35b. Where, by reason of the operation of sub-section (8a.), or paragraph (*c*) of sub-section (9.), of section twenty, or section twenty-one, of this Act or of the making of an election under sub-section (2.) of section twenty b of this Act, the number of units of pension for or in respect of which a contributor is required to contribute is reduced, any reduction that is required to be made in the number of units for which he is a contributor shall be effected by reducing those units in the reverse of the order in which he became liable to contribute for those units.”.

**Salary.**

**19.** Section 36 of the Principal Act is amended by omitting sub-section (1*.*)and inserting in its stead the following sub-section:—

“(1.) For the purposes of this Part, other than section thirty-five of this Act—

(*a*)the salary of an employee or contributor shall be taken to be his annual salary;

(*b*)the salary of an employee or contributor who is paid salary at a rate other than an annual rate of salary shall be ascertained as prescribed; and

(*c*)where the salary of an employee or contributor is increased or decreased by reason of an award, order or determination made by the Public Service Arbitrator or by the Commonwealth Conciliation and Arbitration Commission, the date on which the award, order or determination is made shall be deemed to be the date on which the salary of the employee or contributor is increased or decreased, as the case may be.”.

**20.** Section 42 of the Principal Act is repealed and the following section inserted in its stead:—

**Value of units of pension.**

“42.—(1.) Subject to the next succeeding sub-section, a unit of pension is Ninety-one dollars per annum.

“(2.) A non-contributory unit of pension is Sixty-five dollars per annum.”.

**Amount of pension on retirement in respect of units other than non-contributory units.**

**21.** Section 43 of the Principal Act is amended by inserting after the word “entitled” (last occurring) the words “, in respect of units for which he was contributing at the time of his retirement,”.

**22.** After section 43 of the Principal Act the following section is inserted:—

**Additional pension in respect of non-contributory units.**

“43a. Where one or more non-contributory units of pension are applicable in relation to a contributor at the time of his retirement, the contributor is, subject to this Act, upon retirement, entitled to receive, in addition to a pension under the last preceding section—

(*a*)if he retires on or after attaining the age of sixty-five years—a pension according to the number of non-contributory units of pension that were applicable in relation to him at the time of his retirement; or

(*b*)if he retires before attaining that age—a pension equal to five sevenths of the pension that he would, upon retirement, have been entitled to receive in respect of the non-contributory units of pension that were applicable in relation to him at the time of his retirement if he had been a contributor for those units from the respective dates as from which those units became applicable in relation to him as non-contributory units and he had contributed at the appropriate rates based on a retiring age of sixty-five years.”.

**Contributor remaining in the Service after attaining maximum age for retirement.**

**23.** Section 44 of the Principal Act is amended—

(*a*)by inserting in sub-sections (1.), (2.) and (2a.), after the words “other than this section”, the words “or the last preceding, section”; and

(*b*)by omitting from sub-paragraph (ii) of paragraph (*a*),and sub-paragraph (ii) of paragraph (*b*), of sub-section (1.) the words “anniversary of his birth that last occurred before his retirement” and inserting in their stead the words “date on which he attained, the age in years that was his age on retirement”.

**Retirement through invalidity—amount of pension.**

**24.** Section 45 of the Principal Act is amended by inserting in paragraph (*a*)of sub-section (1.), after the word “retirement”, the words “and to the pension (if any) that would have been payable to him in respect of non-contributory units of pension if he had attained the age of sixty-five years at that time”.

**Pension of spouse and children on death of contributor.**

**25.** Section 46 of the Principal Act is amended by omitting from sub-section (1.) the words “the pension for which the contributor was contributing at the time of his or her death.” and inserting in their stead the following words and paragraphs:—

“the sum of—

(*a*)the pension for which the contributor was contributing at the time of his or her death; and

(*b*)the pension (if any) that would have been payable to the contributor in respect of non-contributory units of pension if he or she had attained the age of sixty-five years at that time.”.

**Pension to or in respect of certain contributors to Defence Forces Retirement Benefits Fund.**

**26.** Section 48c of the Principal Act is amended—

(*a*)by omitting paragraph (*d*)of sub-section (2.) and the words in that sub-section following that paragraph and inserting in their stead the following paragraphs and words:—

“(*d*)the sum of—

(i) the number of units of pension for which he was contributing under this Act immediately before he ceased to be an employee; and

(ii) five-sevenths of the number of non-contributory units of pension (if any) that were applicable in relation to him under this Act immediately before he ceased to be an employee,

was less than the number that, for the purposes of the *Defence Forces Retirement Benefits Act* 1948-1968, was his category number immediately before he was discharged from the Defence Force or died, as the case may be,

pension payable to or in respect of him under this Act (including pension that became payable before he was discharged from the Defence Force) shall be calculated as if, immediately before he ceased to be an employee—

(*e*) he had been contributing under this Act for a number of units of pension equal to the number that was that category number; and

(*f*)no non-contributory units of pension were applicable in relation to him under this Act.”; and

(*b*) by omitting paragraph (*c*) of sub-section (3.) and the words in that sub-section following that paragraph and inserting in their stead the following paragraphs and words:—

“(*c*) the sum of—

(i) the number of units of pension for which he was contributing under this Act immediately before he died; and

(ii) five-sevenths of the number of non-contributory units of pension (if any) that were applicable in relation to him under this Act immediately before he died,

was less than the number that, for the purposes of the *Defence Forces Retirement Benefits Act* 1948–1968, was his category number immediately before he died or was discharged, as the case may be,

any pension payable in respect of him under this Act shall be calculated as if, immediately before he died—

(*d*) he had been contributing under this Act for a number of units of pension equal to the number that was that category number; and

(*e*)no non-contributory units of pension were applicable in relation to him under this Act.”.

**Retrenchment of contributor—choice of benefits.**

**27.** Section 50 of the Principal Act is amended by inserting after sub-section (2.) the following sub-section:—

“(2a.) For the purposes of sub-section (1.) of this section, the contributions to the Fund that would have been made by the Commonwealth in respect of a non-contributory unit of pension shall be calculated as if the contributor had been a contributor for that unit from the date when the unit became applicable in relation to him as a non-contributory unit and he had contributed at the appropriate rate based on a retiring age of sixty-five years.”.

**Contributions payable from next pay-day.**

**28.** Section 138 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(2.) In calculating the rate of the contributions under the appropriate table or tables in the Schedules to this Act to be paid fortnightly by a contributor for a unit or units of pension, the obligation of the contributor to contribute for the unit or units shall be deemed to have come into existence on the pay-day as from which the contributions are payable.”.

Part III.—Miscellaneous.

**Interpretation.**

**29.** An expression used in this Part that is also used in the *Superannuation Act* 1922–1969 and has in that Act a defined or other specified:, meaning has, unless the contrary intention appears, the same meaning in this Part.

**Date from which increased contributions payable.**

**30.** Any increased contribution payable by a contributor who, upon, the commencement of this section, is required by reason of the operation of sub-section (2.) of section 20 of the Principal Act as amended by this Act to contribute for one or more additional units of pension is payable as from the day on which this Act receives the Royal Assent or, if that day is not a pay-day, as from the next following pay-day.

**Transitional provisions relating to elections for non-contributory units.**

**31.**—(1.) A person who has not previously made an election under section 22a of the *Superannuation Act* 1922–1969 is not disqualified from making an election under that section by reason that he has attained the age of sixty-five years if he attained that age after the commencement of this section and the election is made within the prescribed period.

(2.) A person who retires within the prescribed period without making an election under section 22a of the *Superannuation Act* 1922–1969 is not disqualified from making an election under that section by reason that he has ceased to be an employee if the election is made within the prescribed period and, in that case, that Act has effect as if the election had been, made at a time when he was an employee.

(3.) Where a person who is entitled to make an election under section 22a of the *Superannuation Act* 1922–1969 dies within the prescribed period without making such an election—

(*a*) if the person leaves a widow or widower—the widow or widower may make such an election within that period; or

(*b*)if the person does not leave a widow or widower or the widow or widower dies without making such an election but the person leaves an eligible child or eligible children—an election under that section may be made within that period by such person as the Board determines,

and, in that case, that Act has effect as if the election had been made by the deceased person and had been so made at a time when he was an employee.

(4.) Where a person makes an election under section 22a of the *Superannuation Act* 1922–1969 that he would not have been entitled to make apart from the provisions of sub-section (1.), sub-section (2.) or sub-section (3.) of this section, the person is not entitled by reason of those provisions to make a further election under section 22aof the *Superannuation Act* 1922–1969.

(5.) Where—

(*a*)an election under section 22a of the *Superannuation Act* 1922–1969 would not, but for this section, have any effect but would have had effect in relation to one or more units of pension if it had been made at an earlier date not being a date earlier than the date of commencement of this section;

(*b*)the election is made within the prescribed period; and

(*c*) the person making the election has not previously made an election under section 22a of the *Superannuation Act* 1922–1969,

the election may be expressed to have taken effect as from a date specified in the election being a date earlier than the date of the election but not earlier than the date of commencement of this section, and, in that case, the election shall be deemed, for the purposes of the *Superannuation Act* 1922–1969, to have had effect as from the date so specified.

(6.) Where an election is to be so deemed to have had effect as from a date earlier than the date of the election, sub-section (2.) of section 22a, and sections 22d and 22e, of the *Superannuation Act* 1922–1969 do not apply in relation to the election but the succeeding provisions of this section apply in relation to the election.

(7.) The election does not have effect, and shall be deemed not to have had effect, in relation to a unit of pension unless the sum of—

(*a*)the fortnightly amount of the contributions (other than contributions for reserve units of pension) that were payable by the employee to the Fund on the date as from which the election is

expressed to have taken effect or, if that date was not a pay-day, that would have been so payable if that date had been a pay-day; and

(*b*)the fortnightly amount of the contributions that, if the employee had become liable to contribute for that unit on that date, would, have been payable by him to the Fund in respect of that unit on that date or, if that date was not a pay-day, on the next following pay-day,

exceeds three-one thousand and fortieths of his salary as at the date as from which the election is expressed to have taken effect.

(8.) The election does not have effect, and shall be deemed not to have had effect, where—

(*a*)in a case to which neither of the next two succeeding paragraphs applies—the number of units of pension (other than reserve units of pension) for which the employee was a contributor at the date as from which the election is expressed to have taken effect is less than his initial unit entitlement;

(*b*)in the case of an employee to whom section 67 of the *Superannuation Act* 1922–1969 applies or applied—the sum of the number of units of pension (other than reserve units of pension) for which he was a contributor at the date as from which the election is expressed to have taken effect and the number of units of pension (other than non-contributory units of pension) in respect of which he was in receipt of a pension under that Act at that date is less than his initial unit entitlement; or

(*c*) in the case of an employee to whom section 69 of the *Superannuation Act* 1922–1969 applies or applied—the sum of the number of units of pension (other than reserve units of pension) for which he was a contributor at the date as from which the election is expressed to have taken effect and the number of units of pension in respect of which his right referred to in section 68 of that Act was, under section 71 or section 72 of that Act, commutable for new rights is less than his initial unit entitlement.

(9.) Sub-sections (4.) and (5.) of section 22d of the *Superannuation Act* 1922–1969 apply in relation to the last preceding sub-section as they apply in relation to section 22d of that Act.

(10.) The election does not have effect, and shall be deemed not to have had effect, where—

(*a*)in a case to which neither of the next two succeeding paragraphs applies—the number of units of pension (other than reserve units of pension) for which the employee was a contributor at the date as from which the election is expressed to have taken effect is less than one-half of his full unit entitlement as at that date;

(*b*)in the case of an employee to whom section 67 of the *Superannuation Act* 1922–1969 applies or applied—the sum of the number of units of pension (other than reserve units of pension) for which he was a contributor at the date as from which the election is expressed to have taken effect and the number of units of pension (other than non-contributory units of pension) in respect of which he was in receipt of a pension under that Act at that date is less than one-half of his full unit entitlement as at that date; or

(*c*)in the case of an employee to whom section 69 of the *Superannuation Act* 1922–1969 applies or applied—the sum of the number of units of pension (other than reserve units of pension) for which he was a contributor at the date as from which the election is expressed to have taken effect and the number of units of pension in respect of which his right referred to in section 68 of that Act was, under section 71 or section 72 of that Act, commutable for new rights is less than one-half of his full unit entitlement as at that date.

(11.) Sections 22k and 22m of the *Superannuation Act* 1922–1969 apply in relation to this section as they apply in relation to Division 2a of Part III. of that Act.

(12.) For the purposes of this section, the prescribed period is the period of six months commencing on the date of commencement of this section or such further period as the Board, whether before or after the expiration of that period of six months, in special circumstances, allows.

**Other transitional provisions.**

**32.**—(1.) Subject to this section, the number of units of pension for which a contributor would, upon the commencement of this section, be required to contribute, by virtue of section 20 of the Principal Act as amended by this Act but disregarding sub-section (5.) of that section, shall be reduced by the number of units of pension (if any) by which the number of units of pension ascertained in accordance with sub-section (2.) of section 20 of the Principal Act as it applied in relation to him immediately before the commencement of this section exceeds the number of units of pension for which he was then a contributor.

(2.) Subject to section 22h of the *Superannuation Act* 1922–1969, where, upon the date of commencement of this section, a contributor who had, on or before that date, attained the age of forty years would, but for this sub-section, be required to contribute for one or more additional units of pension, he may, within six months after that date, elect not to contribute for all or any of those additional units of pension.

(3.) Where—

(*a*)the number of units of pension for which a contributor is required to contribute is reduced under sub-section (1.) of this section;

(*b*)if he made an election under section 22a of the *Superannuation Act* 1922–1969, that election would not have effect by reason of the operation of sub-section (2.) of that section or sub-section (7.) of the last preceding section but would so have effect if he made an election to contribute for one or more additional units of pension under sub-section (3.) of section 20a of that Act; and

(*c*) before the expiration of six months after the commencement of this section or the expiration of such further period as the Board, whether before or after the expiration of that period of six months, in special circumstances, allows—

(i) he makes an election under sub-section (3.) of section 20a of the *Superannuation Act* 1922–1969 to contribute for a number of additional units of pension not less than the number required so that an election under section 22a of that Act would have effect; and

(ii) he makes an election under section 22a of that Act,

but the election under sub-section (3.) of section 20aof that Act does not have effect by reason only of the operation of sub-section (4.) of that section,

then, subject to the next succeeding sub-section, the election under section 22a of the *Superannuation Act* 1922–1969 shall be deemed to have effect.

(4.) An election by a contributor under section 22a of the *Superannuation Act* 1922–1969 does not have effect by virtue of the last preceding sub-section unless the number by which the number of units of pension for which the contributor is required to contribute is reduced under sub-section (1.) of this section exceeds the number of units of pension to which the election by the contributor under sub-section (3.) of section 20aof that Act relates and, in that case, the first-mentioned election has effect only in respect of a number of units of pension equal to the excess.

(5.) Nothing in this section operates so as to prevent an alteration in the number of units of pension for which, under the *Superannuation Act* 1922–1969, a contributor is required or permitted to contribute, being an alteration that commences to have effect at a time after the commencement of this section.