

ÉIRE.

AN BILLE RIALTAIS AITIUIL (AOISLIUNTAS), 1947. LOCAL GOVERNMENT (SUPERANNUATION) BILL, 1947.

*Mar do ritheadh ag dhá Thigh an Oireachtais.
As passed by both Houses of the Oireachtas.*

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ÉIRE

AN BILLE RIALTAIS AITIUIL (AOISLIUNTAS), 1947. LOCAL GOVERNMENT (SUPERANNUATION) BILL, 1947.

BILL

entitled

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AN ACT TO PROVIDE FOR SUPERANNUATION AND COMPENSATION FOR LOSS OF OFFICE OR EMPLOYMENT FOR OFFICERS AND SERVANTS OF CERTAIN AUTHORITIES AND TO PROVIDE FOR OTHER MATTERS CONNECTED WITH THE MATTERS AFORESAID. 10

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I.

PRELIMINARY AND GENERAL.

Short title.	1.—This Act may be cited as the Local Government (Superannuation) Act, 1948.	15
Definitions.	2.—In this Act—	
Act of 1925.	the expression “ the Act of 1925 ” means the Local Government Act, 1925 (No. 5 of 1925);	
appropriate Minister.	the expression “ the appropriate Minister ” means— (a) in case the local authority in question are a vocational education committee, the Minister for Education, (b) in case the local authority in question are a committee of agriculture, the Minister for Agriculture, (c) in any other case, the Minister;	20
civil service.	the expression “ the civil service,” when used without qualification includes, in addition to the civil service of the Government the civil services mentioned in paragraphs (a), (b), (e) and (f) of sub-section (1) of section 2 of the Superannuation Act, 1936 (No. 39 of 1936);	25
emolument.	the word “ emolument ” means any apartments, rations, or other perquisite in kind (or, as the case may require, a monetary payment given in lieu of such apartments, rations, or other perquisites) appertaining to an office or employment;	30
established officer.	the expression “ established officer ” means an officer of a local authority whose name is entered in the register of established officers maintained by such local authority under section 8 of this Act;	35
established position.	the expression “ established position”, when used in relation to the civil service, has the same meaning as it has in the Superannuation Act, 1936 (No. 39 of 1936);	40
established servant.	the expression “ established servant ” means a servant of a local authority whose name is entered in the register of established servants maintained by such local authority under section 38 of this Act;	
fire brigade officer, fire brigade servant.	the expressions “ fire brigade officer ” and “ fire brigade servant ” mean respectively an officer or a servant of a fire brigade authority	45

- under the Fire Brigades Act, 1940 (No. 7 of 1940), coming within a class specified in regulations under *section 71* of this Act;
- the expression "harbour authority" means a harbour authority within the meaning of the Harbours Act, 1946 (No. 9 of 1946);
- 5 the expression "local body" has the same meaning as it has in Part IV of the Act of 1925;
- the expression "local authority" means, subject to *subsection (7)* of *section 5* of this Act, any of the following bodies:—
- 10 (a) a local authority for the purposes of the Local Government Acts, 1925 to 1946, other than a mental hospital board,
- (b) a vocational education committee,
- (c) a committee of agriculture,
- (d) a school attendance committee,
- 15 (e) the Dublin Fever Hospital Board,
- (f) the Cork Fever Hospital Board;
- the expression "mental hospital board" means a joint board within the meaning of the Mental Treatment Act, 1945 (No. 19 of 1945);
- 20 the expressions "mental hospital officer" and "mental hospital servant" mean respectively an officer or a servant whose duties relate wholly to the functions now vested in a mental hospital authority under the Mental Treatment Act, 1945 (No. 19 of 1945);
- the expression "the Minister" means the Minister for Local Government;
- 25 the word "officer" does not include a mental hospital officer or a person holding any of the offices mentioned in *section 17* of the Local Government Act, 1941 (No. 23 of 1941);
- the expression "pensionable local service" means—
- 30 (a) in relation to an established officer, his pensionable local service determined under *Part II* of this Act,
- (b) in relation to an established servant, his pensionable local service determined under *Part III* of this Act,
- (c) in relation to a pensionable officer to whom Part IV of the Act of 1925 applies, his service for the purposes of the said Part IV;
- 35 (d) in relation to a pensionable officer to whom any Act passed before the Act of 1925 and relating to superannuation applies, his service for the purposes of that Act;
- the expression "pensionable officer" means a permanent officer who—
- 40 (a) devotes the whole of his time to the service of one or more than one local authority,
- (b) in the case of an officer who acts as superintendent registrar of births, deaths and marriages or as registrar of marriages, devotes the remainder of his time to the service of one or more than one local authority,
- 45 (c) is required to be a registered medical practitioner or a nurse or a midwife, or
- (d) is a pensionable officer for the purposes of Part IV of the Act of 1925;
- 50 the expression "pensionable office" means the office of a pensionable officer;
- the expression "permanent officer" means an officer other than an officer appointed—
- 55 (a) for a specified period only,

harbour
authority
local body.

local authority.

mental hospital
board.

mental hospital
officer, mental
hospital servant.

Minister.

officer.

pensionable local
service.

pensionable
officer.

pensionable
office.

permanent
officer.

- (b) until the completion of a specified work or duty,
- (c) until the appointment of another person to the office, or
- (d) during the absence or incapacity of another person;

permanent
servant.

the expression "permanent servant" means a servant whose employment is of a permanent and whole-time character and is not employment (other than employment in a supervising capacity) on any work or scheme of works the expenses of which are in whole or in part met from moneys provided by the Oireachtas for the provision of employment and the relief of distress;

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servant.

the word "servant" does not include a mental hospital servant;

Superannuation
Acts.

the expression "the Superannuation Acts" means the Superannuation Acts, 1834 to 1946;

unfitness.

the word "unfitness" means unfitness of an officer or servant for his office or employment, but does not include unfitness due to physical or mental infirmity or old age.

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Laying of
regulations
before Oireachtas.

3.—Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next subsequent twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

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Commencement
of Part II.

4.—*Part II* of this Act shall come into operation on such day as the Minister by order appoints for that purpose.

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Commencement
of Part III.

5.—(1) A local authority may by resolution decide to adopt *Part III* of this Act as on and from a specified date not earlier than one month after the date of the resolution.

(2) A resolution under this section shall contain a declaration of the maximum number of the persons to be at any one time in the employment of the local authority as permanent servants.

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(3) The passing of a resolution under this section shall be a reserved function for the purposes of the County Management Acts, 1940 and 1942, and for the purposes of the Act or Acts relating to the management of any county borough.

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(4) Not less than one month nor more than two months before a resolution under this section is passed, notice in writing of the intention to propose the resolution shall be given to the appropriate Minister and to either—

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(a) in the case of the corporation of a borough, every member of the council of the borough, or

(b) in any other case, every member of the local authority.

(5) Where a local authority pass a resolution under this section deciding to adopt *Part III* of this Act as on and from a specified date, that Part and the declaration in the resolution as to the maximum number of persons to be at any one time in the employment of the local authority shall come into operation in relation to them on that date.

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(6) *Part III* of this Act shall come into operation as provided by subsection (5) of this section and not otherwise.

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(7) A reference in *Part III* of this Act to a local authority does not include a reference to any local authority in relation to whom that Part has not come into operation.

(8) The commencement of *Part III* of this Act in relation to a local authority shall not have the effect of applying section 53 of the Act of 1925 to such local authority.

6.—The expenses incurred by any Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. Expenses of the Minister.

7.—The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. Repeals.

PART II.

ESTABLISHED OFFICERS.

8.—(1) A local authority shall maintain a register to be known as the register of established officers (in this Part of this Act referred to as the register). Register of established officers.

(2) Where a person becomes a pensionable officer of a local authority, the local authority shall enter his name in the register.

(3) If any doubt, dispute or question arises as to whether the name of a particular person should be entered in the register, the doubt, dispute or question shall be determined by the appropriate Minister whose decision shall be final.

(4) A local authority shall not enter the name of any person in the register save in accordance with this section.

(5) A local authority shall keep at their principal office the register open at all reasonable times for inspection by their officers and by either—

(a) in the case of the corporation of a borough, the members of the council of the borough, or

(b) in any other case, the members of the local authority.

9.—A local authority shall from time to time record in the register, as respects each name therein of an established officer— Record in the register of salaries, emoluments, and offices.

(a) his salary and the annual money value of his emoluments (if any) as determined under section 35 of this Act,

(b) particulars of every office held by him under them or any other local authority.

10.—(1) A local authority shall remove from the register the name of any person who ceases to be a pensionable officer of such local authority. Removal from the register of person ceasing to be pensionable officer.

(2) The removal of a name from the register may be effected by a note on the register indicating that the name has been removed and the date of the removal and the reinstatement of a name in the register may be effected by a note on the register indicating that the name has been reinstated and the date of the reinstatement.

(3) A person aggrieved by the removal of his name by a local authority from the register may appeal against the removal to the appropriate Minister and that Minister may by order either refuse the appeal or direct the name to be reinstated in the register and, in the latter case, the local authority shall reinstate the name in the register.

(4) The decision of the appropriate Minister on an appeal under this section shall be final.

Notification to local authority of cesser of office under another local authority.

11.—Where an established officer of a local authority ceases to hold any office under them, they shall so inform any other local authority under whom such officer holds any office.

Certain existing enactments not to apply to established officer.

12.—The provisions of any public or local Act (other than this Act) whereby a local authority is empowered to grant to any person in their service an allowance or gratuity on his ceasing to hold his position shall not apply in relation to any established officer of such local authority. 5

General limitations on service to be reckoned by established officer.

13.—(1) A provision of this Part of this Act entitling an established officer to reckon as service any period shall be subject to the overriding qualification that he shall not be entitled so to reckon any of the following:— 10

(a) any period in respect of which he has already received a lump sum, an allowance or a gratuity under this or any other Act relating to superannuation or under any scheme relating to superannuation made under any Act, 15

(b) any period before he reached the age of eighteen years,

(c) any period in respect of which any contributions have been returned to him under *section 32* of this Act, unless he has repaid such contributions under *section 33* of this Act, 20

(d) any period in respect of which any contributions have been returned to him under *section 57* of this Act,

(e) any period before a date on which he was removed from office under a local authority for misconduct or for unfitness, 25

(f) any period before a date on which he deliberately absents himself from the place where he performs his duties or refrains from performing his duties with the purpose of inducing the local authority of which he is an officer to alter his salary or conditions of service or of inducing any other local authority to alter the salaries, wages or conditions of service of any of their officers or servants. 30

(2) Where a period of service of an officer of a local authority has, having regard to *paragraph (f)* of *subsection (1)* of this section, become forfeited— 35

(a) the local authority shall give notice in writing of the forfeiture to the officer,

(b) the officer may, not later than one month after such notice has been given to him, appeal to the appropriate Minister against the forfeiture, 40

(c) the appropriate Minister may by order either refuse the appeal or declare that all or part of the period of service shall be restored and, in the latter case, the said *paragraph (f)* shall have effect subject to the declaration, 45

(d) the decision of the appropriate Minister on the appeal shall be final.

Service as established officer.

14.—An established officer of a local authority shall be entitled to reckon as service— 50

(a) any period during which he was an established officer of that local authority,

(b) any period of two years or more during which he was an established officer of any other local authority, 55

(c) any period of less than two years during which he was an established officer of any other local authority and at the termination of which he resigned with the written sanction of such other local authority and with the consent of the appropriate Minister.

15. (1) An established officer shall be entitled to reckon as service— Service of established officer as mental hospital officer or servant.

10 (a) any period of two years or more during which he was a mental hospital officer or servant and which he was entitled to reckon as service for the purposes of Part VIII of the Mental Treatment Act, 1945 (No. 19 of 1945), or any earlier enactment corresponding to the said Part VIII, and

15 (b) any period of less than two years during which he was a mental hospital officer or servant, which he was entitled to reckon as service for the purposes of Part VIII of the Mental Treatment Act, 1945 (No. 19 of 1945), or any earlier enactment corresponding to the said Part VIII and at the termination of which he
20 resigned from his office or relinquished his employment with the written sanction of the mental hospital authority under whom he held his office or employment and with the consent of the Minister for Health,

25 unless, if contributions were made by him during the period for the purposes of the said Part VIII or the said earlier enactment, those contributions have been paid back to him and have not been returned by him.

(2) Section 91 of the Mental Treatment Act, 1945, shall not apply in relation to an established officer.

30 16.—An established officer shall be entitled to reckon as service any period during which he held a pensionable position in the service of a harbour authority. Service of established officer under harbour authority.

17.—An established officer of a vocational education committee shall be entitled to reckon as service any period which he
35 is permitted to reckon by regulations under section 72 of this Act. Service as school teacher.

18.—Where—

40 (a) an established officer of a local authority held an established position in the civil service immediately before he was appointed to be a pensionable officer of a local authority, and

(b) the Minister for Finance consented to the application to him of this section, and

45 (c) the local authority to whose service he was appointed did not refuse at the time of such appointment to consent to the application to him of this section,

the officer shall be entitled to reckon as service his service for the purposes of the Superannuation Acts prior to the date of such appointment.

19.—(1) An established officer of the corporation of the county
50 borough of Dublin shall be entitled to reckon as service any continuous period ending on the day on which he first became a pensionable officer of that corporation during which he was a pensionable servant of that corporation. Service as pensionable servant.

(2) An established officer of the corporation of the borough of

Dún Laoghaire shall be entitled to reckon as service any continuous period ending on the day on which he first became a pensionable officer of that corporation during which he was a pensionable servant of that corporation.

(3) A person shall not be regarded as having been, for the purposes of *subsection (1) or (2) of this section*, a pensionable servant of a corporation during a period unless during that period he was either an established servant of the corporation or registered in a register of permanent employees maintained by them at the commencement of this Part of this Act. 5 10

(4) An established officer shall be entitled to reckon as service any continuous period ending when he first became an established officer of any local authority during which he was an established servant of any local authority.

Pensionable local service of established officer.

20.—(1) For the purposes of this Act, the pensionable local service of an established officer at any time shall be the number of whole years in the period or in the aggregate of the periods which under this Part of this Act he is entitled at that time to reckon as service, any odd fraction of a whole year being disregarded. 15 20

(2) Notwithstanding *subsection (1) of this section*, where the number of whole years in the period or in the aggregate of the periods which under this Part of this Act a fire brigade officer is entitled to reckon as service, any odd fraction of a whole year being disregarded, is twenty-one or more, then, for the purposes of this Part of this Act, the pensionable local service of such officer shall be that number of years together with the excess of that number of years over twenty years. 25

Addition of years to pensionable local service of established officer.

21.—(1) Where an established officer of a local authority has not less than ten years of pensionable local service and— 30

- (a) he is removed from his office for a cause other than misconduct or unfitness,
- (b) his office is abolished, or
- (c) his position has, in the opinion of the appropriate Minister, been materially altered to his detriment by changes in its conditions made without reasonable cause and he resigns his office with the consent of the appropriate Minister, 35

the local authority shall add to his pensionable local service such number of additional years as may be sanctioned by the Minister, but not exceeding— 40

- (i) if his pensionable local service is twenty years or more—ten additional years,
- (ii) if his pensionable local service is an even number of years less than twenty—half that number of additional years, or 45
- (iii) if his pensionable local service is an odd number of years less than twenty—half the next lower whole number of additional years.

(2) Where— 50

- (a) an established officer of a local authority who has not less than ten years of pensionable local service ceases to hold his office otherwise than by removal for his misconduct or unfitness for his office and in circumstances such that *subsection (1) of this section* does not apply, and 55
- (b) there are, in the opinion of the local authority, special reasons which justify the addition of years to his pensionable local service,

the local authority, if they so think fit, may, with the consent 60

of the Minister, add to his pensionable local service a number of additional years not exceeding ten.

22.—For the purposes of this Part of this Act, the service of an established officer at the termination of his office shall be his pensionable local service together with any additional years added under section 21 of this Act.

Service of established officer at termination of office.

23.—(1) Where—

- 10 (a) an established officer of a local authority ceases to hold his office and is not appointed to another pensionable office under a local authority or to be an officer for the purposes of Part VIII of the Mental Treatment Act, 1945 (No. 19 of 1945), and
- 15 (b) the local authority either are of opinion that in general he has served in such office with diligence and fidelity and to their satisfaction or, not being of that opinion, they nevertheless decide that, in the special circumstances of his case, he should be granted a reduced lump sum and allowance,
- Grant of lump sum and allowance to established officer on his ceasing to hold office.

20 the local authority shall grant him a lump sum and allowance in any of the cases specified in subsection (2) of this section.

(2) The cases referred to in subsection (1) of this section are the following:—

- (a) where the officer has ceased to hold his office otherwise than by removal and—
- 25 (i) he has attained the age of sixty years and has not less than twenty years of pensionable local service,
- (ii) he is a fire brigade officer, has attained the age of fifty-five years and has not less than twenty years of pensionable local service, or
- 30 (iii) he has become incapable of performing his duties by reason of permanent infirmity of mind or body and has not less than ten years of pensionable local service;
- (b) where the officer was removed from his office for a cause other than misconduct or unfitness and has not less than ten years of pensionable local service;
- 35 (c) where the office of the officer was abolished and he has not less than ten years of pensionable local service;
- (d) where the position of the officer was, in the opinion of the appropriate Minister, materially altered to his detriment by changes in its conditions made without reasonable cause and he resigned his office with the consent of the appropriate Minister having not less than ten years of pensionable local service;
- 40 (e) where the officer has ceased to hold his office on account of having attained the age limit therefor and has not less than ten years of pensionable local service.
- 45

24.—The amount of the lump sum to be granted under section 23 of this Act to an established officer shall be equal to—

50 (a) one-thirtieth of his pensionable remuneration multiplied by the number of the years of his service at the termination of his office, or

(b) one and one-half times his pensionable remuneration, whichever is the less.

Determination of lump sum granted to established officer.

55 25.—The allowance to be granted to an established officer under section 23 of this Act on his ceasing to hold office shall be—

(a) an allowance at the rate per annum of one-eightieth of his

Determination of allowance granted to established officer.

pensionable remuneration multiplied by the number of the years of his service at the termination of his office, or

- (b) an allowance at the rate per annum of one-half of his pensionable remuneration,

whichever is the less.

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Reduction of lump sum and allowance of established officer for unsatisfactory service.

26.—Where a local authority decide under *section 23* of this Act that an established officer shall be granted a reduced lump sum and allowance, they shall reduce the amount of the lump sum and the rate per annum of the allowance granted to him under *section 23* of this Act below the amount and rate that would be appropriate therefor under *sections 24* and *25* of this Act and to an extent not less than fifty per cent.

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Grant of short service gratuity to established officer.

27.—Where an established officer of a local authority having not less than one year and less than ten years of pensionable local service ceases to hold his office on account of being incapable of performing his duties by reason of permanent infirmity of mind or body, the local authority shall grant to him a gratuity of such amount, not exceeding one-twelfth of his pensionable remuneration multiplied by the number of the years of his pensionable local service, as they consider proper.

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Grant of gratuity to legal personal representative of deceased established officer.

28.—(1) Where an established officer of a local authority dies in office having not less than five years of pensionable local service, the local authority shall grant to his legal personal representative a gratuity of an amount equal to—

- (a) one-thirtieth of his pensionable remuneration multiplied by the number (subject to a maximum of forty-five) of such years of pensionable local service, or

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(b) his pensionable remuneration, whichever is the greater.

(2) Where an established officer of a local authority dies in office having not less than one year and less than five years of pensionable local service, the local authority shall grant to his legal personal representative a gratuity of such amount, not exceeding one-twelfth of his pensionable remuneration multiplied by the number of the years of his pensionable local service, as they consider proper.

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Grant of gratuity to legal personal representative of deceased grantee under *section 23*.

29.—Where a person, who was an established officer of a local authority and who was granted under *section 23* of this Act a lump sum and allowance on ceasing to hold office, dies before the total of all the sums received by him on foot of the lump sum and allowance is equal to his pensionable remuneration, the local authority shall grant to his legal personal representative a gratuity equal to the difference between the said total amount and the said pensionable remuneration.

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Grant of gratuity to female established officer on marriage.

30.—Where a female established officer of a local authority who has not less than five years of pensionable local service ceases to hold her office by reason of her marriage or intended marriage and, before the expiration of three months after such cesser, she produces to the local authority a marriage certificate showing that she has been married, the following provisions shall have effect:—

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- (a) if the local authority are of opinion that she has served in her office with diligence and fidelity and to their satisfaction, the local authority shall grant to her a gratuity of an amount equal to—

- (i) one-twelfth of her pensionable remuneration multiplied by the number of years of her pensionable local service, or

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(ii) her pensionable remuneration,
whichever is the less;

5 (b) if the local authority, although not being of opinion that
she has served in her office with diligence and fidelity
and to their satisfaction, nevertheless decide that in the
special circumstances of the case, she should be granted
a reduced gratuity, they shall grant to her a gratuity
of an amount equal to the amount that would be
appropriate under *paragraph (a)* of this section reduced
10 to such extent, not less than fifty per cent., as they
consider proper.

31.—(1) An established officer of a local authority shall contribute to such local authority for the purposes of this Part of this Act at the rate per annum of five per cent. of— Contributions by established officers

15 (a) his annual salary, and

(b) the annual value as determined under *section 35* of this Act of his emoluments, if any.

(2) The contribution to be made by an established officer of a local authority under this section may be obtained by such local authority by means of periodical deductions from his salary, but, 20 if any such deduction proper to be made by a local authority from his salary is not made, such local authority may, without prejudice to any other remedy, recover the amount by retaining it out of any sums due by them to him or out of any lump sum or allowance payable by them to or in respect of him. 25

(3) Where, under *section 64* of this Act, lump sums, allowances or gratuities granted by a local authority are paid by another local authority, the first-mentioned local authority shall from time to time (but not less frequently than once in each quarter) transfer to the 30 other local authority—

(a) in case the first-mentioned local authority are a vocational education committee—one-half of all sums received by them by way of contribution under this section,

(b) in any other case—the whole of all such sums.

35 32.—(1) In this Part of this Act, the expression “the contributions” means, in relation to an established officer, the aggregate amount of— Return of contributions of established officer.

(a) any contributions made by him under *section 31* of this Act,

40 (b) where he has made any contributions under *section 56* of this Act, those contributions,

(c) where he has made contributions under *section 85* of the Mental Treatment Act, 1945 (No. 19 of 1945), those contributions,

45 (d) where he has made contributions under the Asylum Officers' Superannuation Act, 1909, those contributions,

but exclusive of any of the said contributions which have been returned to him and which he has not repaid.

(2) Where an established officer of a local authority who has less than ten years of pensionable local service ceases to hold his office for 50 any cause other than misconduct and is not granted a gratuity under *section 28* of this Act, the local authority shall return to him the contributions.

(3) Where an established officer of a local authority who has less than one year of pensionable local service dies, the local 55 authority shall return the contributions to his legal personal representative.

(4) Where an established officer of a local authority having not less than ten years of pensionable local service ceases to hold his office for any cause other than misconduct, does not accept any other pensionable office under a local authority and is not entitled to a lump sum and allowance under *section 23* of this Act or a marriage gratuity under *section 30* of this Act, the local authority shall return to him the contributions. 5

(5) Where an established officer of a local authority is removed from office for misconduct, the local authority may, if they are of opinion that there are special reasons for so doing, return to him the contributions. 10

(6) Where a local authority return the contributions and the amount returned includes a sum for contributions made by the officer in question and held by another local authority or a mental hospital board, that authority or board shall refund such sum to the local authority who returned the contributions. 15

(7) The proviso to subsection (1) of section 31 of the Finance Act, 1922, shall apply in relation to a return of contributions made under this section.

Repayment of
returned
contributions.

33.—Where, after the contributions have been returned under *section 32* of this Act to an established officer of a local authority on his ceasing to be an established officer, he again becomes an established officer of a local authority by virtue of a subsequent appointment, he shall be entitled, before (but not after) the expiration of twelve months after the subsequent appointment, to repay to the first-mentioned local authority the amount so returned by them for the purpose of enabling him to reckon as pensionable local service his period of such service before such cesser and, if he does repay the said amount and any other local authority or any mental hospital board refunded any part of it, the first-mentioned local authority shall repay to the other local authority or mental hospital board the amount of the refund. 20 25 30

Meaning of
salary.

34.—(1) In this Part of this Act, the word “salary”—

(a) does not include any of the following:—

- (i) payments for overtime, 35
- (ii) travelling expenses or other allowances to cover particular expenses,
- (iii) payments for acting as clerk to a local pensions committee under *section 8* of the Old Age Pensions Act, 1908, or to a sub-committee appointed by any such committee, 40
- (iv) payments for acting as superintendent registrar of births, deaths and marriages or as registrar of marriages,
- (v) payments for special work of a casual or temporary nature or for filling a position temporarily or as a substitute pending a permanent appointment; 45

(b) subject to *paragraph (a)* of this subsection, includes all fees, poundages and other payments in money to an officer as such for his own use. 50

(2) The Minister may, if he thinks fit, by order direct that payments of a specified kind, being a kind mentioned in *sub-paragraph (i)* or (v) of *paragraph (a)* of *subsection (1)* of this section, shall be for the purposes of this Part of this Act part of the salary of a particular officer or of every officer, and thereupon, notwithstanding *subsection (1)* of this section, the word “salary” shall in this Part 55

of this Act, include, as respects that officer or every officer (as may be appropriate) payments of that kind.

35.—(1) A local authority shall, from time to time and whenever so directed by the Minister, determine the annual money value of every (if any) emolument of an established officer and shall keep displayed, in every office or institution which they maintain and in a conspicuous position accessible to their officers, a list of the values so determined of the emoluments of the established officers employed in or from such office or institution.

Calculation of pensionable remuneration of established officer.

(2) A determination under subsection (1) of this section shall be subject to the sanction of the Minister.

(3) Where an established officer is in receipt of a particular rate of salary on any day, his pensionable remuneration for the purposes of this Part of this Act on that day shall be—

(a) in case the period or the aggregate of the periods which under this Part of this Act he is entitled to reckon as service is not less than three years—

(i) if, during the whole of the period or periods comprising the last three years of the period or the aggregate of the periods which under this Part of this Act he is entitled to reckon as service, he was either in receipt of salary at the said particular rate or was in the same grade of officers—the amount of salary which he would receive in a year calculated by reference to the said particular rate, or

(ii) in any other case—one-third of the aggregate of the amounts received by him by way of salary during the said period or periods comprising the said three years, or, in a case where he was not on full salary during the whole of the said period or periods, one-third of the aggregate of the amounts which he would have so received if he had been on full salary during the whole of the said period or periods, or

(b) in case the period or the aggregate of the periods which under this Part of this Act he is entitled to reckon as service is less than three years—

(i) if, during the whole of the said period or periods, he was either in receipt of salary at the said particular rate or was in the same grade of officers—the amount of salary which he would receive in a year calculated by reference to the said particular rate, or

(ii) in any other case—the monthly average, multiplied by twelve, of the amounts received by him by way of salary during the said period or periods or, in a case where he was not on full salary during the whole of the said period or periods, the monthly average, multiplied by twelve, of the amount which he would have so received if he had been on full salary during the whole of the said period or periods,

together with the annual value as then determined under subsection (1) of this section of his emoluments, if any.

36.—(1) An established officer of a vocational education committee shall be entitled to reckon as service any period which is, as respects such officer, a period to which this section applies.

Transitional provision with respect to service in the teaching of the Irish language.

(2) A period—

(a) which began after an established officer of a vocational education committee attained the age of twenty-one years and ended before the 31st of July, 1924, and

(b) as respects which the Minister for Education is satisfied that during the whole thereof such officer devoted the whole of his time under the direction of Connradh na Gaedhilge to the teaching of the Irish language or to the organisation of such teaching,

5

shall, as respects such officer, be a period to which this section applies if it is five years or more in duration or it is one of two or more such periods as aforesaid amounting in the aggregate to five years or more in duration.

General
transitional
provisions for
Part II.

37.—(1) Where on the commencement of this Part of this Act a person is a pensionable officer of a local authority and, on the 1st day of January, 1947, he had not reached—

(a) in case he is a fire brigade officer, the age of fifty-five years, or

(b) in any other case, the age of sixty years,

15

he may, within but not later than six months after such commencement, apply in writing to the local authority to enter his name in the register and thereupon the local authority shall enter his name in the register and the entry shall have effect as if it had been made on such commencement.

20

(2) Where on the commencement of this Part of this Act a person is a pensionable officer of a local authority, his name shall not be entered in the register of any local authority unless the entry is made under *subsection (1)* of this section or it is made after his name has been entered under that subsection.

25

(3) A person whose name is entered under *subsection (1)* of this section shall be entitled to reckon as service his service at the commencement of this Part of this Act for the purposes of Part IV of the Act of 1925 or for the purposes of such Act passed before the Act of 1925 and relating to superannuation as may apply to him.

30

(4) *Subsection (1)* of *section 15* of this Act shall apply in relation to a person whose name is entered under *subsection (1)* of this section as if the words " of two years or more " in *paragraph (a)* and the whole of *paragraph (b)* were omitted.

(5) Where a person whose name is entered under *subsection (1)* of this section held an established position in the civil service when he was appointed to be a pensionable officer of a local authority, *section 18* of this Act shall apply in relation to him as if *paragraphs (b)* and *(c)* thereof were omitted.

35

(6) Where an established officer was a pensionable officer on the date of the passing of this Act and he had at such passing at least one whole year of pensionable local service, in any application to him of *section 24* of this Act that section shall be construed as if it provided that the lesser sum therein referred to should be increased by one-half per cent. of that sum multiplied by the number of whole years (any fraction of a whole year being disregarded) in his pensionable local service at such passing.

45

(7) No contribution under *section 31* of this Act shall be required from a person whose name is entered under *subsection (1)* of this section during a continuous period of service beginning on the commencement of this Part of this Act.

50

(8) No contribution under *section 31* of this Act shall, during the appropriate period, be required from a person who is appointed after the commencement of this Part of this Act to be a pensionable officer of a local authority as a result of an examination (whether by way of open competition or otherwise) held before such commencement if any other person was appointed before such commencement to be a pensionable officer of the local authority as a result of that examination.

55

In this subsection, the expression "the appropriate period" means, as respects a person appointed to be a pensionable officer of a local authority, the period of continuous service of such person beginning when he takes up duty following such appointment.

(9) Where—

- (a) a person died on or after the 1st day of January, 1947, and before the commencement of this Part of this Act,
- (b) such person was, immediately before his death, a pensionable officer of a local authority, and
- (c) such person, if he had not died and if he had remained in the service of the local authority, could have applied to have his name entered under subsection (1) of this section,

the local authority shall have power, which shall be exercisable at their discretion and as respects which, notwithstanding any other provision of this Act, there shall be no appeal, to grant under section 28 of this Act the like gratuity (if any) as if this Part of this Act had commenced immediately before the death of such person and his name then stood entered under subsection (1) of this section.

(10) The provisions of this section shall have effect notwithstanding any other provision of this Part of this Act.

PART III.

25

ESTABLISHED SERVANTS.

38.—(1) A local authority shall maintain a register to be known as the register of established servants (in this Part of this Act referred to as the register).

Register of
established
servants.

(2) Where a person under the age of sixty years has been a permanent servant of a local authority for a continuous period of three years, the local authority shall enter his name in the register.

(3) Where an established servant of a local authority relinquishes, with their consent, his employment with them for the purpose of becoming a permanent servant of another local authority and does become a permanent servant of the other local authority, the other local authority shall enter his name in the register.

(4) If any doubt, dispute or question arises as to whether the name of a particular person should be entered in the register, the doubt, dispute or question shall be determined by the appropriate Minister whose decision shall be final.

(5) A local authority shall not enter the name of any person in the register save in accordance with this section.

(6) The register shall show the maximum number for the time being of the persons to be at any one time in the employment of the local authority as permanent servants.

(7) A local authority shall keep at their principal office the register open at all reasonable times for inspection by their servants and by either—

(a) in the case of the corporation of a borough, the members of the council of the borough, or

(b) in any other case, the members of the local authority.

Record in the register of wages and emoluments.

39.—A local authority shall from time to time record in the register, as respects each name therein of an established servant his wages and the annual money value of his emoluments (if any) as determined under *section 59* of this Act.

Removal from the register of person ceasing to be permanent servant, etc.

40.—(1) A local authority shall remove from the register the name of any person who ceases to be a permanent servant of such local authority. 5

(2) Notwithstanding *subsection (1)* of this section, where it is the practice of a local authority to take from time to time any particular person into their employment as a permanent servant after a period during which he is not so employed— 10

(a) the local authority shall not remove the name of such person from the register on any particular occasion when he ceases to be so employed unless they have decided not to so employ him again and, so long as his name remains in the register on account of this paragraph, he shall for the purposes of *section 49* or *subsection (2) of section 57* of this Act, be regarded as not having ceased to be so employed. 15

(b) where, during any particular period when such person is not so employed by the local authority, they decide not to so employ him again, they shall remove his name from the register and, for the purposes of *section 49* or *subsection (2) of section 57* of this Act, he shall be regarded as having then ceased to hold his employment. 20 25

(3) Where, as respects an established servant of a local authority having less than five years of pensionable local service, it is ascertained after any particular year (being a year beginning on the day on which he first became such servant or any anniversary of that day) that he has not worked for the local authority as a permanent servant on two hundred or more days in that year, the local authority shall remove his name from the register and shall inform him of such removal and the reason therefor. 30

(4) The removal of a name from the register may be effected by a note on the register indicating that the name has been removed and the date of the removal and the reinstatement of a name in the register may be effected by a note on the register indicating that the name has been reinstated and the date of reinstatement. 35 40

(5) A person aggrieved by the removal of his name by a local authority from the register may appeal against the removal to the appropriate Minister and that Minister may by order either refuse the appeal or direct the name to be reinstated in the register and, in the latter case, the local authority shall reinstate the name in the register. 45

(6) The decision of the appropriate Minister on an appeal under this section shall be final.

Certain existing enactments not to apply to established servant.

41.—The provisions of any public or local Act (other than this Act) whereby a local authority is empowered to grant to any person in their service an allowance or gratuity on his ceasing to hold his position shall not apply in relation to any established servant of such local authority. 50

General limitations on service to be reckoned by established servant.

42.—(1) A provision of this Part of this Act entitling an established servant to reckon as service any period shall be subject to the overriding qualification that he shall not be entitled so to reckon any of the following:— 55

(a) any period in respect of which he has already received a lump sum, an allowance or a gratuity under this or

any other Act relating to superannuation or under any scheme relating to superannuation made under any Act,

- (b) any period before he reached the age of eighteen years,
- 5 (c) any period during which his name remains on the register on account of *paragraph (a) of subsection (2) of section 40* of this Act,
- (d) any period in respect of which any contributions have been returned to him under *section 57* of this Act,
- 10 (e) any period in respect of which any contributions have been returned to him under *section 32* of this Act, unless he has repaid such contributions under *section 33* of this Act,
- (f) any period before a date on which he was discharged from his employment under a local authority for misconduct or for unfitness,
- 15 (g) any period before a date on which he deliberately absents himself from the place where he performs his duties or refrains from performing his duties with the purpose of inducing the local authority of which he is a servant to alter his wages or conditions of service or of inducing any other local authority to alter the salaries, wages or conditions of service of any of their officers or servants;
- 20 (h) any period in any year which is a year beginning on the day on which he first became such servant or any anniversary of that day and during which he did not work for a local authority as a permanent servant on two hundred days or more.
- 25

30 (2) Where a period of service of a servant of a local authority has, having regard to *paragraph (g) of subsection (1)* of this section become forfeited—

- (a) the local authority shall give notice in writing of the forfeiture to the servant,
- 35 (b) the servant may, not later than one month after such notice has been given to him, appeal to the appropriate Minister against the forfeiture,
- (c) the appropriate Minister may by order either refuse the appeal or declare that all or part of the period of service shall be restored and, in the latter case, the said *paragraph (g)* shall have effect subject to the declaration,
- 40 (d) the decision of the appropriate Minister on the appeal shall be final.

45 **43.**—An established servant of a local authority shall be entitled to reckon as service any period during which he was an established servant of that local authority. Service as established servant.

44.—Where an established servant of a local authority was, immediately before he entered their service, an established officer or servant of another local authority, he shall be entitled to reckon as service under the first-mentioned local authority his pensionable local service at the time when he ceased to be an officer or servant of the other local authority. Service under other local authority.

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45.—(1) An established servant shall be entitled to reckon as service any period during which he was a mental hospital officer or servant and which he was entitled to reckon as service for the purposes of Part VIII of the Mental Treatment Act, 1945 (No. 19) Service of established servant as mental hospital officer or servant.

55

of 1945), or any earlier enactment corresponding to the said Part VIII, unless, if contributions were made by him during the period for the purposes of the said Part VIII or the said earlier enactment, those contributions have been paid back to him and have not been returned by him.

5

(2) Section 91 of the Mental Treatment Act, 1945, shall not apply in relation to an established servant.

Service of
established
servant under
harbour
authority.

46.—An established servant shall be entitled to reckon as service any period during which he held a pensionable position in the service of a harbour authority.

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Reckoning as
service period of
absence on duty
as member of
Reserve Force of
the Defence
Forces.

47.—Where an established servant of a local authority who is a member of the Reserve Force of the Defence Forces is absent from his employment for the purpose of attending and performing his duty as such member, he shall be entitled to reckon as service the period of such absence.

15

Pensionable
local service of
established
servant.

48.—(1) For the purposes of this Act, the pensionable local service of an established servant shall be the number of whole years in the period or in the aggregate of the periods which under this Part of this Act he is entitled to reckon as service, any odd fraction of a whole year being disregarded.

20

(2) Notwithstanding *subsection (1)* of this section, where the number of whole years in the period or in the aggregate of the periods which under this Part of this Act a fire brigade servant is entitled to reckon as service, any odd fraction of a whole year being disregarded, is twenty-one or more, then, for the purposes of this Part of this Act, the pensionable local service of such servant shall be that number of years together with the excess of that number of years over twenty years.

25

Grant of
allowance to
established
servant on his
ceasing to hold
employment.

49.—(1) Where—

- (a) an established servant of a local authority ceases to hold his employment and is not employed by them as a permanent servant in another employment, and
- (b) the local authority either are of opinion that he has served in such employment with diligence and fidelity and to their satisfaction or, not being of that opinion, they nevertheless decide that, in the special circumstances of his case, he should be granted a reduced allowance,

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35

the local authority shall grant him an allowance in any of the cases specified in *subsection (2)* of this section.

40

(2) The cases referred to in *subsection (1)* of this section are the following:—

- (a) where the servant has ceased to hold his employment otherwise than by dismissal for misconduct and—
 - (i) he has attained the age of sixty years and has not less than twenty years of pensionable local service,
 - (ii) he is a fire brigade servant, has attained the age of fifty-five years and has not less than twenty years of pensionable local service, or
 - (iii) he has become incapable of performing his duties by reason of permanent infirmity of mind or body and has not less than ten years of pensionable local service;
- (b) where the servant has ceased to hold his employment on account of having attained the age limit therefor and has not less than ten years of pensionable local service.

45

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55

50.—The allowance to be granted to an established servant under *section 49* of this Act on his ceasing to hold his employment shall be either—

Determination of allowance granted to established servant.

5 (a) an allowance at the rate per annum of one-sixtieth of his pensionable remuneration multiplied by the number of the years of his pensionable local service, or

(b) an allowance at the rate per annum of two-thirds of his pensionable remuneration,

whichever is the less.

10 51.—Where a local authority decide under *section 49* of this Act that an established servant shall be granted a reduced allowance, they shall reduce the rate per annum of the allowance granted to him under *section 49* of this Act below the rate that would be appropriate therefor under *section 50* of this Act and to an extent not
15 less than fifty per cent.

Reduction of allowance of established servant for unsatisfactory service.

52.—Where an established servant of a local authority having not less than one year and less than ten years of pensionable local service ceases to hold his employment on account of being incapable of performing his duties by reason of permanent
20 infirmity of mind or body, the local authority shall grant to him a gratuity of such amount, not exceeding one-twelfth of his pensionable remuneration multiplied by the number of the years of his pensionable local service, as they consider proper.

Grant of short service gratuity to established servant.

53.—(1) Where an established servant of a local authority dies
25 in his employment having not less than five years of pensionable local service, the local authority shall grant to his legal personal representative a gratuity of an amount equal to his pensionable remuneration.

Grant of gratuity to legal personal representative of deceased established servant.

(2) Where an established servant of a local authority dies
30 in his employment having not less than one year and less than five years of pensionable local service, the local authority shall grant to his legal personal representative a gratuity of such amount, not exceeding one-twelfth of his pensionable remuneration multiplied by the number of the years of his pensionable
35 local service, as they consider proper.

54.—Where a person, who was an established servant of a local authority and who was granted under *section 49* of this Act an allowance on his ceasing to hold his employment, dies before the total of all the sums received by him on foot of the allowance is
40 equal to his pensionable remuneration, the local authority shall grant to his legal personal representative a gratuity equal to the difference between the said total amount and the said pensionable remuneration.

Grant of gratuity to legal personal representative of deceased grantee under *section 49*.

55.—Where a female established servant of a local authority who
45 has not less than five years of pensionable local service ceases to hold her employment by reason of her marriage or intended marriage and, before the expiration of three months after such cesser, she produces to the local authority a marriage certificate showing that she has been married, the following provisions shall have effect:—

Grant of gratuity to female established servant on marriage.

50 (a) if the local authority are of opinion that she has served in her employment with diligence and fidelity and to their satisfaction, the local authority shall grant to her a gratuity of an amount equal to—

55 (i) one-twelfth of her pensionable remuneration multiplied by the number of years of her pensionable local service, or

(ii) her pensionable remuneration,
whichever is the less;

- (b) if the local authority, although not being of opinion that she has served in her employment with diligence and fidelity and to their satisfaction, nevertheless decide that in the special circumstances of the case, she should be granted a reduced gratuity, they shall grant to her a gratuity of an amount equal to the amount that would be appropriate under *paragraph (a)* of this section reduced to such extent, not less than fifty per cent., as they consider proper.

Contributions by
established
servants.

56.—(1) An established servant of a local authority shall contribute to such local authority for the purposes of this Part of this Act at the rate per annum of four and one-sixth per cent. of—

- (a) his wages, expressed as an annual amount, and
(b) the annual value as determined under *section 59* of this Act of his emoluments, if any.

(2) The contribution to be made by an established servant of a local authority under this section may be obtained by such local authority by means of periodical deductions from his wages, but, if any such deduction proper to be made by a local authority from his wages is not made, such local authority may, without prejudice to any other remedy, recover the amount by retaining it out of any sums due by them to him or out of any allowance payable by them to or in respect of him.

(3) Where, under *section 64* of this Act, lump sums, allowances or gratuities granted by a local authority are payable by another local authority, the first-mentioned local authority shall transfer from time to time (but not less frequently than once in each quarter) to the other local authority—

- (a) in case the first-mentioned local authority are a vocational education committee—one-half of all sums received by them by way of contribution under this section,
(b) in any other case—the whole of all such sums.

Return of
contributions of
established
servant.

57.—(1) In this Part of this Act, the expression “the contributions” means, in relation to an established servant, the aggregate amount of—

- (a) any contributions made by him under *section 56* of this Act,
(b) where he has made any contributions under *section 31* of this Act, those contributions,
(c) where he has made contributions under *section 85* of the Mental Treatment Act, 1945 (No. 19 of 1945), those contributions,
(d) where he has made contributions under the Asylum Officers’ Superannuation Act, 1909, those contributions,

but exclusive of any of the said contributions which have been returned to him and which he has not repaid.

(2) Where an established servant of a local authority who has less than ten years of pensionable local service ceases to hold his employment for any cause other than misconduct and is not granted a gratuity under *section 53* of this Act, the local authority shall return to him the contributions.

(3) Where the name of an established servant of a local authority is removed from the register under *subsection (3)* of *section 40* of this Act, the local authority shall return to him the contributions.

(4) Where, as respects an established servant of a local authority having not less than five years of pensionable local service, it is ascertained after any particular year (being a year beginning on an anniversary of the day on which he first became
5 such servant) that he has not worked for the local authority as a permanent servant on two hundred or more days in that year, the local authority shall return to him any contributions made by him under *section 56* of this Act in respect of that year.

(5) Where an established servant of a local authority who has less
10 than one year of pensionable local service dies, the local authority shall return the contributions to his legal personal representative.

(6) Where an established servant of a local authority having not less than ten years of pensionable local service ceases to hold his employment for any cause other than misconduct, does not accept
15 any other employment under a local authority by virtue of which he becomes an established servant and is not entitled to an allowance under *section 49* of this Act or a marriage gratuity under *section 55* of this Act, the local authority shall return to him the contributions.

(7) Where an established servant of a local authority is dismissed from his employment for misconduct, the local authority may, if they are of opinion that there are special reasons for so doing, return to him the contributions.

(8) Where a local authority return the contributions and the
25 amount returned includes a sum for contributions made by the servant in question and held by another local authority or a mental hospital board, that authority or board shall refund such sum to the local authority who returned the contributions.

(9) The proviso to subsection (1) of *section 31* of the Finance
30 Act, 1922, shall apply in relation to a return of contributions made under this section.

58.—(1) In this Part of this Act, the word “wages”—

Meaning of wages.

(a) does not include—

- (i) payments for overtime,
- 35 (ii) travelling expenses or other allowances to cover particular expenses, or
- (iii) payments for work of a casual or temporary nature or for filling a position temporarily, or as a substitute pending a permanent appointment;
- 40 (b) subject to *paragraph (a)* of this subsection, includes all fees, poundages and other payments in money to a servant as such for his own use.

(2) The Minister may, if he thinks fit, by order direct that payments of a specified kind, being a kind mentioned in *sub-paragraph*
45 (i) or (iii) of *paragraph (a)* of *subsection (1)* of this section, shall be for the purposes of this Part of this Act part of the wages of a particular servant, or of every servant of a particular class or of every servant, and thereupon, notwithstanding *subsection (1)* of this section, the word “wages” shall in this Part of this Act include, as
50 respects that servant, servants of that class, or every servant (as may be appropriate), payments of that kind.

59.—(1) A local authority shall, from time to time and whenever so directed by the Minister, determine the annual money value of every (if any) emolument of an established servant and
55 shall keep displayed, in every office or institution which they maintain and in a conspicuous position accessible to their servants, a list of the values so determined of the emoluments of the established servants employed in or from such office or institution.

Calculation of pensionable remuneration of established servant.

(2) A determination under subsection (1) of this section shall be subject to the sanction of the Minister.

(3) Where an established servant is in receipt of a particular rate of wages on any day, his pensionable remuneration for the purposes of this Part of this Act on that day shall be— 5

(a) in case the period or the aggregate of the periods which under this Part of this Act he is entitled to reckon as service is not less than three years—

(i) if, during the whole of the period or periods comprising the last three years of the period or the aggregate of the periods which under this Part of this Act he is entitled to reckon as service, he was either in receipt of wages at the said particular rate or was in the same grade of servants—the amount of wages which he would receive in a year calculated by reference to the said particular rate, or 10 15

(ii) in any other case—one-third of the aggregate of the amounts received by him by way of wages during the said period or periods comprising the said three years, or, in a case where he was not on full wages during the whole of the said period or periods, one-third of the aggregate of the amounts which he would have so received if he had been on full wages during the whole of the said period or periods, or 20 25

(b) in case the period or the aggregate of the periods which under this Part of this Act he is entitled to reckon as service is less than three years—

(i) if, during the whole of the said period or periods, he was either in receipt of wages at the same particular rate or was in the same grade of servants—the amount of wages which he would receive in a year calculated by reference to the said particular rate, or 30 35

(ii) in any other case—the weekly average, multiplied by fifty-two, of the amounts received by him by way of wages during the said period or periods or, in a case where he was not on full wages during the whole of the said period or periods, the weekly average, multiplied by fifty-two, of the amounts which he would have so received if he had been on full wages during the whole of the said period or periods, 40

together with the annual value as then determined under subsection (1) of this section of his emoluments, if any. 45

Alteration of maximum number of permanent servants.

60.—(1) A local authority may from time to time alter by resolution the maximum number of the persons to be at any one time in their employment as permanent servants.

(2) A resolution under this section shall come into operation on the day specified in that behalf therein, not being earlier than one month after the date of the resolution. 50

(3) The first resolution by a local authority under this section shall not be passed unless at least five years have elapsed since the commencement of this Part of this Act in relation to them and any subsequent resolution by them under this section shall not be passed unless at least five years have elapsed since the next previous such resolution. 55

(4) The passing of a resolution under this section shall be a reserved function for the purposes of the County Management 60

Acts, 1940 and 1942, and for the purposes of the Act or Acts relating to the management of any county borough.

61.—(1) Where, in the case of any application as respects a servant of a local authority of the provisions of *subsection (2) of section 38 or of paragraph (c) of subsection (1) or paragraphs (c) and (d) of subsection (2) of section 63* of this Act, it is ascertained that an absence on the part of the servant from his employment with the local authority occurred during any of the relevant three years on account of his illness, the temporary cessation of the work on which he was employed, the temporary reduction of the weekly quantity of such work or any other temporary cause not due to his act or default, he shall be regarded for the purposes of the said provisions as having been a permanent servant of the local authority during the absence if, but only if, the following conditions are complied with, that is to say:—

Provisions with respect to certain absences from employment.

(a) at the end of the absence, or, where the absence continued after the end of the said year, at the end of the absence as so continued, he returned to the employment of the local authority,

(b) the absence did not exceed sixty days,

(c) in case the absence was one of two or more such absences occurring in the said year, the aggregate of such absences did not exceed sixty days.

(2) Where, in the case of any application as respects a servant of a local authority who is a member of the Reserve Force of the Defence Forces of the provisions of *subsection (2) of section 38 or of paragraph (c) of subsection (1) or paragraphs (c) and (d) of subsection (2) of section 63* of this Act, it is ascertained that an absence on the part of the servant from his employment with the local authority occurred during the relevant three years on account of his attending and performing his duty as a member of such Reserve Force, he shall be regarded for the purpose of the said provisions as having been a permanent servant of the local authority during the absence.

62.—(1) The provisions of section 8 of the Agriculture (Amendment) Act, 1944 (No. 3 of 1944) (which section relates to fixing of age limits for offices under a committee of agriculture) shall apply in relation to the employment of an established servant of a committee of agriculture as if such employment were an office.

Age limits for established servants

(2) The provisions of section 6 of the Vocational Education (Amendment) Act, 1944 (No. 9 of 1944) (which section relates to fixing of age limits for offices under a vocational education committee) shall apply in relation to the employment of an established servant of a vocational education committee as if such employment were an office.

(3) The provisions of section 23 of the Local Government Act, 1941 (No. 23 of 1941) (which section relates to fixing of age limits for offices under certain local authorities) shall apply in relation to the employment of an established servant under a local authority, other than a committee of agriculture, a vocational education committee, a school attendance committee, the Dublin Fever Hospital Board or the Cork Fever Hospital Board, as if such employment were an office.

63.—(1) Where—

Transitional provisions for Part III.

(a) on the commencement in relation to a local authority of this Part of this Act a person is a permanent servant of the local authority, and

(b) he has not then reached—

- (i) in case he is a fire brigade servant, the age of fifty-five years, or
- (ii) in any other case, the age of sixty years, and
- (c) the continuous period ending at such commencement during which he was a permanent servant of the local authority is three years or more, 5

he may, within but not later than six months after such commencement, apply in writing to the local authority to enter his name in the register and thereupon the local authority shall enter his name in the register and the entry shall have effect as if it had been made on such commencement, but his liability (if any) to make contributions under this Part of this Act shall commence at the time when his name is entered in the register. 10

(2) Where—

- (a) on the commencement in relation to a local authority of this Part of this Act a person is a permanent servant of a local authority, and 15
- (b) he has not then reached—
 - (i) in case he is a fire-brigade servant, the age of fifty-five years, or 20
 - (ii) in any other case, the age of sixty years, and
- (c) the continuous period ending at such commencement during which he was a permanent servant of the local authority is less than three years, and
- (d) he continues to be a permanent servant of the local authority until a time when the continuous period ending at that time during which he was a permanent servant of the local authority is three years, 25

he may, within but not later than six months after that time, apply in writing to the local authority to enter his name in the register and thereupon the local authority shall enter his name in the register and the entry shall have effect as if it had been made at such commencement, but his liability (if any) to make contributions under this Part of this Act shall commence at the time when his name is entered in the register. 30 35

(3) Where, on the commencement in relation to a local authority of this Part of this Act, a person is a permanent servant of the local authority, his name shall not be entered in the register of any local authority unless the entry is made under this section or it is made after his name has been entered under this section. 40

(4) A person whose name is entered under this section in the register of a local authority shall be entitled to reckon as service any period before the commencement in relation to the local authority of this Part of this Act during which he was a permanent servant of the local authority or of any body whose powers and duties were transferred to the local authority, except any such period in any year which was a year wholly before such commencement, which began on the day on which he first became such servant or on any anniversary of that day, and during which he did not work for such local authority or body as a permanent servant on two hundred days or more. 45 50

(5) No contribution shall be required under *section 56* of this Act—

- (a) from an established servant of a corporation of a county borough who was a servant of that corporation immediately before the commencement in relation to them of this Part of this Act and was then registered in a register of permanent employees then maintained by them, 55
- (b) from an established servant of the corporation of the borough of Dun Laoghaire who was a servant of that corporation immediately before the commencement in 60

relation to them of this Part of this Act and was then registered by them in a register of permanent employees then maintained by them,

- 5 (c) from an established servant of the City of Dublin Vocational Education Committee who was a servant of that committee immediately before the commencement in relation to them of this Part of this Act and who, on the 14th day of November, 1930, was a person to whom section 53 of the Act of 1925 applied.

10 (6) Where—

- (a) a person died on or after the 1st day of January, 1947, and before the commencement in relation to the corporation of a county borough or the borough of Dun Laoghaire or the City of Dublin Vocational Education Committee of this Part of this Act,

- 15 (b) such person was, immediately before his death, a servant of such corporation then registered in a register of permanent employees then maintained by them or a servant of such Committee, who on the 14th day of November, 1930, was a person to whom section 53 of the Act of 1925 applied, and

- 20 (c) such person, if he had not died and if he had remained in the service of such corporation or Committee, could have applied to have his name entered under *subsection (1)* of this section,

25 such corporation or Committee of which he was a servant shall have power, which shall be exercisable at their discretion and as respects which, notwithstanding any other provision of this Act, there shall be no appeal, to grant under *section 53* of this Act the like gratuity (if any) as if this Part of the Act had commenced in relation to them immediately before the death of such person and his name then stood entered under *subsection (1)* of this section.

(7) The provisions of this section shall have effect notwithstanding
35 any other provision of this Part of this Act.

PART IV.

MISCELLANEOUS.

64.—(1) Where—

- 40 (a) a lump sum, allowance or gratuity is granted under this Act by a local authority, or

- (b) contributions are returned under this Act by a local authority, or

- (c) a local authority are required by this Act to make a refund,

45 the lump sum, allowance, gratuity, contribution or refund shall be paid—

- 50 (i) in case such local authority are a vocational education committee—by the local authority who pay under the Vocational Education Act, 1930 (No. 29 of 1930), the annual local contribution to the expenses of the committee,

- (ii) in case such local authority are a committee of agriculture for a county—by the council of that county,

- 55 (iii) in case such local authority are a committee of a single local authority—by that single local authority,

- (iv) in any other case—by such local authority.

Local authority
by whom
payment is to
be made.

(2) Where under this Act a local authority are required to refund any portion of a payment mentioned in *subsection (1)* of this section, the refund shall be made to the local authority by whom the payment was made under that subsection.

(3) A payment made by a local authority pursuant to *sub-paragraph (i)* of *subsection (1)* of this section shall not be reckoned for the purpose of any limitation on the amount of any annual local contribution payable by the local authority under the Vocational Education Act, 1930 (No. 29 of 1930), as amended by any subsequent enactment.

(4) There shall be paid out of moneys provided by the Oireachtas to a local authority paying any lump sum, allowance or gratuity granted under this Act by a vocational education committee, in aid of the rate or fund out of which the lump sum, allowance or gratuity is paid, one-half of every payment made by the local authority in respect of the lump sum, allowance or gratuity.

Recovery of
payment by
Minister of
State.

65.—(1) Any sum which is required by this Act to be paid, repaid, returned or refunded by a person to a Minister of State may, without prejudice to its being recovered in any other manner, be recovered by deducting it in whole or in part from any money payable by any Minister of State for any purpose whatsoever to such person.

(2) The power to deduct under *subsection (1)* of this section shall be subject and without prejudice to the claims of the Guarantee Fund under the Land Purchase Acts.

Refund in respect
of service under
another
authority.

66.—(1) Where a lump sum, allowance or gratuity is granted under this Act to or in respect of any person by a local authority (in this section referred to as the granting authority) and, in determining the amount thereof, any period of service under another local authority or a harbour authority or mental hospital board (in this section referred to as the contributing authority) has been reckoned, the contributing authority shall refund to the granting authority a part of the lump sum, allowance or gratuity (or, if the granting authority are a vocational education committee, a part of one-half of the lump sum allowance or gratuity) determined by reference to such person's periods of service under the contributing authority and the granting authority and his remunerations during those periods, and such part shall be settled by agreement between the contributing authority and the granting authority or, in default of agreement, by the Minister (after consultation, where the contributing authority are a harbour authority, with the Minister for Industry and Commerce).

(2) For the purposes of *subsection (1)* of this section, service under a committee of a contributing authority shall be deemed to have been service under such contributing authority and service under a joint committee of two or more contributing authorities shall be deemed to have been service under every such contributing authority.

Variation of
part of
allowance granted
to established
officer or servant
in receipt of
bonus.

67.—Where part of the remuneration, at the time he ceases to hold his office or employment, of an established officer or servant consists of bonus computed by reference to a cost-of-living index number, the part of any allowance granted to him under this Act which is referable to such bonus shall be liable to the same variation, if any, which would have applied in the case of a superannuation allowance granted to a civil servant similarly remunerated who retired before the 1st day of November, 1946.

68.—(1) Where a person who is convicted on indictment of any offence and is sentenced to penal servitude or to any term of imprisonment with hard labour or exceeding twelve months is, at the time of the conviction, in receipt of an allowance granted under this Act by a local authority, the allowance shall thereupon stand cancelled and cease to be payable.

Cancellation of allowance on conviction of offence.

(2) Where a conviction which results in the cancellation under this section of an allowance is quashed or annulled or the convicted person is granted a free pardon, the cancellation shall be annulled, in the case of a quashing or annulment, as from the date of the conviction and, in the case of a free pardon, as from the date of the pardon.

(3) Where any allowance has been cancelled under this section, the local authority by whom the allowance was granted, if they so think proper, may, with the consent of the Minister, restore the allowance either in whole or in part.

69.—(1) Where an allowance is granted under this Act to a person who is under the age specified for that allowance in subsection (2) of this section on the ground that he is incapable of performing his duties by reason of permanent infirmity of mind or body, the following provisions shall have effect:

Ascertainment of continuance of infirmity.

(a) the local authority by whom the allowance is payable shall, until such person reaches the said age, ascertain from time to time whether his infirmity continues and, for that purpose, may, if they think fit, arrange for medical examinations and require him to submit himself thereto;

(b) if such person fails wilfully or refuses to submit himself to any such medical examination, the allowance shall cease to be paid;

(c) if not less than two registered medical practitioners nominated by such local authority certify that such person's infirmity has ceased and he has been offered a pensionable office or employment under a local authority of a kind similar to his former office or employment and at a rate of remuneration not less than that at which he was paid immediately before he ceased to hold his former office or employment, such local authority shall, subject to the sanction of the Minister, cancel the allowance and thereupon it shall cease to be paid.

(2) The age referred to in subsection (1) of this section is—

(a) for an allowance granted to a fire brigade officer or servant—fifty-five years,

(b) for any other allowance—sixty years.

(3) If a person to whom an allowance was granted in respect of a period of pensionable local service is offered in pursuance of paragraph (c) of subsection (1) of this section a new office or employment and accepts it, and the allowance is cancelled under this section, the following provisions shall have effect on his ceasing to hold the new office or employment:

(a) for the purposes of paragraph (a) of section 13 or paragraph (a) of section 42 of this Act, such period shall be regarded as not being a period in respect of which he has received a lump sum or allowance;

(b) any lump sum or gratuity granted to him or his legal personal representative under Part II or Part III of this Act shall be reduced by the amount of the lump sum (if any) granted to him with the allowance;

(c) such period shall be regarded as continuous with his period of service in the new office or employment and the

period during which he was in receipt of the allowance shall be disregarded.

(4) Any dispute between a local authority and a person as to whether a new office or employment offered to such person is, for the purposes of *paragraph (c) of subsection (1)* of this section, of a kind similar to his former office or employment shall be decided by the appropriate Minister whose decision shall be final. 5

Determination
by the Minister
of certain
doubts, etc.

70.—If any doubt, dispute or question arises or is, in the opinion of the Minister, likely to arise, as to whether a person is an officer for the purposes of this Act or a mental hospital officer or as to whether a person is a servant for the purposes of this Act or a mental hospital servant, the doubt, dispute or question shall be decided by the Minister and his decision shall be final. 10

Regulations
specifying classes
of fire brigade
officers and
servants.

71.—The Minister may make regulations specifying—

(a) the classes of officers of fire brigade authorities under the Fire Brigades Act, 1940 (No. 7 of 1940), who are to be fire brigade officers for the purposes of this Act, and 15

(b) the classes of servants of such authorities who are to be fire brigade servants for the purposes of this Act. 20

Regulations
permitting
reckoning by
officer of
vocational
education
committee of
service as
teacher.

72.—(1) The Minister, after consultation with the Minister for Education and with the consent of the Minister for Finance, may make regulations permitting an officer of a vocational education committee who before he became such an officer had teaching service as a national school teacher or a secondary school teacher or a vocational or technical school teacher or any combination of such services to reckon such teaching service as service, and the regulations may prescribe the nature of the teaching service and the amount thereof which may be so reckoned and the extent to which and the manner in which the teaching service may be so reckoned. 25 30

(2) Where a lump sum, allowance or gratuity is paid by a local authority to or in respect of an officer and, in determining the amount of the lump sum, allowance or gratuity, any period during which the officer was a secondary school teacher has been reckoned pursuant to regulations under this section, the Minister for Finance, after consultation with the Minister for Education, may determine what part or parts (if any) of the lump sum, allowance or gratuity shall be paid out of the Secondary Teachers' Pension Fund, and thereupon the Minister for Education may refund to the local authority out of that fund any part or parts so determined. 35 40

(3) Where a lump sum, allowance or gratuity is paid by a local authority to or in respect of an officer and, in determining the amount of the lump sum, allowance or gratuity, any period during which the officer was a national school teacher has been reckoned pursuant to regulations under this section, the Minister for Finance, after consultation with the Minister for Education, may determine what part or parts (if any) of the lump sum, allowance or gratuity shall be borne by the State, and thereupon the Minister for Education may refund to the local authority any part or parts so determined out of moneys provided by the Oireachtas. 45 50

Appeals to the
Minister.

73.—(1) Where a person is aggrieved by the failure or refusal of a local authority to grant under this Act a lump sum, allowance or gratuity or to return under this Act contributions, he may appeal to the Minister against such failure or refusal. 55

(2) Where a person is aggrieved by the amount of any lump sum, allowance or gratuity granted by a local authority under this Act, he may appeal to the Minister against such amount. 60

(3) An appeal under this section by a person against a failure to make a grant or return of contributions shall be brought not later than eight months after the circumstances arose which he alleges required the local authority to make the grant or return of contributions and any other appeal under this section shall be brought not later than six months after the decision appealed from.

(4) On an appeal under this section, the Minister may by order either refuse the appeal or make such provisions as should in his opinion have been made by the local authority, and any provisions so made by the Minister shall have effect as if made by the local authority.

(5) The decision of the Minister on an appeal under this section shall be final.

74.—(1) A sum payable by a local authority under this Act in respect of a period during which a person was an officer or servant of such local authority shall be charged on the area on which the remuneration of such person would have been charged if he had continued to hold the same office or employment under such local authority.

Area of charge
of payment of
local authority.

(2) A sum payable by a local authority under this Act in respect of a period during which a person was an officer or servant of another local authority shall be charged on the area on which the expenses incurred by the first-mentioned local authority in supplying moneys to the other local authority are charged.

(3) Where a lump sum, allowance or gratuity is granted by a local authority to or in respect of an officer or servant and in computing the amount thereof a period of service under another local authority has been reckoned, the payment of the lump sum, allowance or gratuity by the first-mentioned local authority shall be regarded for the purposes of this section as solely in respect of service of such person under them.

75.—(1) Where a person to whom an allowance is payable under this or any other Act by a local authority or mental hospital board receives any payment (inclusive of the money value of emoluments, if any) from a local authority or mental hospital board or out of moneys provided by the Oireachtas for services rendered, no more of the allowance shall be paid to him in any year than so much as, with the said payment, equals the remuneration (inclusive of the money value of emoluments, if any) on which the allowance was computed.

Suspension or
reduction of
allowance on
reappointment
of recipient.

(2) A local authority or mental hospital board paying an allowance to a person to whom *subsection (1)* of this section applies may from time to time, as may appear proper to them for the purpose of giving effect to *subsection (1)* of this section, suspend, abate or reduce or otherwise adjust the payments made or to be made by them in respect of the allowance.

(3) If and so long as, pursuant to this section, an allowance is not paid, any refund of part of such allowance payable under this or any other Act shall also not be paid.

(4) If and so long as, pursuant to this section, the amount payable in respect of an allowance is abated or reduced, any refund of part of such allowance payable under this or any other Act shall also be reduced proportionately.

76.—(1) The following provisions shall have effect in relation to any payment (in this section referred to as the grant) payable under this Act or under Part IV of the Act of 1925 by a local

Assignment of
allowance, etc.

authority to any person (in this section referred to as the recipient), that is to say:—

- (a) every assignment of and charge on the grant and every agreement to assign or charge the grant shall, except so far as it is made for the benefit of the wife or husband or dependent relatives of the recipient, be void, and on the bankruptcy of the recipient the grant shall not be paid to any trustee or other person acting on behalf of the creditor; 5
 - (b) where any public assistance is given in pursuance of the Public Assistance Act, 1939 (No. 27 of 1939), to the recipient or to anyone whom he is liable under that Act to maintain, the local authority may pay the whole or any part of the grant to the public assistance authority giving the assistance, and so much of the grant as is so paid may be applied in repayment of any sums expended on such assistance and, subject thereto, shall be paid or applied by the public assistance authority to or for the benefit of the recipient; 10 15
 - (c) if the recipient neglects to maintain any person whom he is liable to maintain, the local authority may in their discretion pay or apply the whole or any part of the grant to or for the benefit of that person; 20
 - (d) if the recipient appears to the local authority to be of unsound mind or otherwise incapacitated to act, they may pay so much of the grant as they think fit to the institution or person having the care of the recipient, and may pay the surplus (if any) or such part thereof as they think fit for or towards the maintenance and benefit of the wife or husband or dependent relatives of the recipient; 25 30
 - (e) if the recipient or the officer or servant in respect of whom the grant is payable has died and a sum not exceeding one hundred pounds is due on account of the grant, probate or other proof of title of the personal representatives of the deceased may, if the local authority so think fit, be dispensed with and the sum may be paid or distributed to or among the persons appearing to the local authority to be beneficially entitled to the personal estate of the deceased, or to or among any one or more of those persons, or, in the case of the illegitimacy of the deceased, to or among such persons as the local authority think fit, and the local authority and any of their officers making the payment shall be discharged from all liability as respects any such payment or distribution; 35 40 45
 - (f) any sum payable to a minor on account of the grant may be paid either to the minor or to such person and on such conditions for the benefit of the minor as the local authority think fit; 50
 - (g) where a payment is made to any person by the local authority in pursuance of this section the receipt of that person shall be a good discharge for the sum paid.
- (2) The Minister may make rules requiring declarations to be made for any purpose relating to payments made pursuant to this section and a person to whom any such payment may be made shall not be entitled to receive such payment if he fails to make any declaration which he is required by such rules to make. 55
- (3) Any person who makes a wilful misstatement of material fact in any declaration made under any rule made under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or to imprisonment for any term not exceeding three months. 60

77.—(1) Where an officer or servant of a local authority is injured—

Gratuity or allowance in case of injury.

- (a) in the actual discharge of his duty, and
- (b) without his own default, and
- (c) by some injury specifically attributable to the nature of his duty,

the local authority, with the consent of the Minister, may grant to him, and, if within seven years after the date of the injury, he dies as a direct result thereof, to his widow (or, in the case of a female officer or servant, her widowed husband), his father or mother, if wholly dependent on him at the time of his death, and to or in respect of his children, or any of them, such gratuity or allowance in money for life or for a limited period as the local authority may consider reasonable and as may be permitted by regulations under this section.

(2) An allowance granted under this section to an injured person shall not, together with any other allowance (inclusive of the annuity value, calculated in such manner as the Minister directs, of any lump sum) payable by a local authority for which he is qualified, exceed five-sixths of the remuneration (inclusive of the money value of emoluments, if any) on which such other allowance is computed.

(3) The Minister may make regulations for the purposes of this section.

78.—(1) Where an officer or servant of a local authority intends to retire from his office or employment on a particular date, he may, not later than six months and not earlier than twelve months before that date, give to the local authority notice in writing stating—

Particulars of benefits in advance of retirement.

- (a) that he intends to retire on that date,
- (b) the reasons for which he intends to retire,
- (c) that he wishes to be given particulars of his benefits on retirement.

(2) Where an officer or servant gives to a local authority a notice under this section stating that he wishes to be given particulars of his benefits on retirement, the local authority shall within two months give to the officer or servant a statement showing—

- (a) whether they intend on such retirement to exercise any power given to them by this or any other Act to grant to him any lump sum, allowance or gratuity or to return to him any contributions or to add any years to his service or to increase or reduce the amount of any lump sum or allowance to which he may be entitled,
- (b) where they intend to exercise any power such as is mentioned in *paragraph (a)* of this subsection, particulars of the manner in which they intend to exercise the power,
- (c) the amount of every (if any) lump sum, allowance or gratuity or return of contributions to which, in their opinion having regard to their intentions stated in pursuance of *paragraphs (a)* and *(b)* of this subsection, he will be entitled on such retirement,

but where they propose to include in the statement their intention to exercise any power the exercise of which requires the consent or sanction of the Minister, they shall not give the statement unless and until the Minister approves thereof.

(3) The provisions of *section 73* of this Act (or, in the case of the exercise of a power under any other Act, any corresponding provisions of that Act) shall apply in relation to a statement of intentions given by a local authority under *paragraph (a) or (b) of subsection (2)* of this section as if the contemplated retirement to which the statement relates had taken place and as if such intentions were decisions taken by the local authority on the date when the statement was given. 5

(4) Where—

(a) the intended retirement of an officer or servant of a local authority referred to in a notice under *subsection (1)* of this section takes place on the date mentioned and for the reasons stated in the notice, and, 10

(b) the intentions of the local authority shown in the statement given to him in pursuance of *paragraphs (a) and (b) of subsection (2)* of this section, or, if those intentions have been varied by the Minister on appeal, those intentions as so varied, are implemented, 15

the said intentions, as implemented, shall not then be subject to any appeal. 20

Increase of allowance in certain cases.

79.—(1) Where a local authority or mental hospital board granted before the passing of this Act an allowance or a lump sum to or in respect of a person in relation to his having ceased after the 1st day of July, 1940, to hold any office or employment in their service, they may, within twelve months after the passing of this Act, grant one increase (and no more) of the rate of the allowance or the amount of the lump sum, and such increase shall be an increase to such extent as may be sanctioned by the relevant Minister and, in the case of an increase of an allowance, shall have effect as from the date when the office or employment ceased to be held or the 1st day of November, 1946, whichever is the later. 25 30

(2) Where any such allowance as is referred to in *section 46* of the Act of 1925 was in course of payment on the 1st day of November, 1946, the allowance shall be adjusted, with effect as from that day, in the following manner:— 35

(a) such part (if any) of the allowance as was computed by reference to the emergency bonus under the Emergency Powers (No. 312) Order, 1944 (S.R. & O., No. 36 of 1944), shall cease to be payable;

(b) the increase or addition added to the allowance under *subsection (2)* of *section 46* of the Act of 1925 shall be adjusted as if it were calculated by reference to a cost-of-living index figure of 270 and shall thereupon cease to be variable. 40

(3) Where a local authority or mental hospital board grant under this or any other Act an allowance or lump sum to or in respect of a person in relation to his having ceased to hold before the 1st day of April, 1950, any office or employment in their service, they may, in the case of an allowance, grant it at a rate greater, to such extent as may be sanctioned by the relevant Minister, than the rate that would be appropriate therefor apart from this subsection and, in the case of a lump sum, grant it as of an amount greater, to such extent as may be sanctioned by the relevant Minister, than the amount that would be appropriate therefor apart from this subsection. 45 50 55

(4) Where a person is aggrieved by a refusal or failure during the period of twelve months after the passing of this Act to grant an increase under *subsection (1)* of this section, such person may, in the case of a refusal, not later than six months after the refusal, or, in the case of a failure, not later than six months after the expiration of the said period of twelve months, appeal to the relevant Minister against the refusal or failure. 60

(5) Where a person is aggrieved by an increase granted under subsection (1) of this section, he may, not later than six months after the grant of the increase, appeal against it to the relevant Minister.

5 (6) On an appeal under this section, the relevant Minister may by order either refuse the appeal or make such provisions as should in his opinion have been made by the local authority or mental hospital board concerned, and any provision so made by the relevant Minister shall have effect as if made by that authority or board.

(7) The decision of the relevant Minister on an appeal under this section shall be final.

(8) In this section—

the expression "the relevant Minister" means—

15 (a) in relation to a local authority other than a mental hospital authority, the Minister, and

(b) in relation to a mental hospital authority, the Minister for Health.

80.—Save as otherwise provided by this Act, an allowance granted under this Act shall be an allowance for the life of the person to whom it is granted. General provision as to allowance being for life.

81.—The provisions of section 23 of the Local Government Act, 1941 (No. 23 of 1941) (which section relates to fixing of age limits for offices under certain local authorities) shall apply in relation to the office of an officer or the employment of a servant of the Dublin Fever Hospital Board or the Cork Fever Hospital Board as if such office or employment were an office under a local authority for the purposes of that Act. Age limits for officers and servants of Dublin Fever Hospital Board and Cork Fever Hospital Board.

82.—(1) The pensionable local service of an established officer of a local authority who has not less than ten years of pensionable local service and who is appointed to an established position in the civil service shall be deemed for the purposes of the Superannuation Acts to be service by him in an established position in the civil service. Officer of local authority becoming civil servant.

(2) Where a person holding at the passing of this Act an established position in the civil service who—

45 (a) was appointed to such a position after the 6th day of December, 1922, and

(b) was immediately before such appointment a pensionable officer under one or more than one local body for the purposes of Part IV of the Act of 1925,

40 applies not later than one year after the passing of this Act to the appropriate Minister for a certificate of the facts mentioned in paragraphs (a) and (b) of this subsection, that Minister shall inquire into the matter and, if he is satisfied that those facts exist, he shall so certify and shall include in the certificate particulars of the pensionable local service of such person at the date of such appointment.

(3) Where a certificate has been issued under subsection (2) of this section in respect of any person, his pensionable local service as stated in the certificate shall be deemed for the purposes of the Superannuation Acts to be service by him in an established position in the civil service.

(4) Where, under the Superannuation Acts and under the enactments (including this Act) relating to the grant of superannuation and compensation for loss of office to officers of local authorities, the benefits accruing or the conditions qualifying persons for benefit are different, the Minister for Finance may determine that specified modifications corresponding to that difference shall be made for any particular case to which subsection (1) or subsection (3) of this

section applies in any amount to be granted under the Superannuation Acts, and the modifications so determined shall be made accordingly.

(5) Where an allowance, lump sum or gratuity is paid to or in respect of a person under the Superannuation Acts by virtue of this section, the Minister for Finance may determine what part or parts of the payment shall be borne in accordance with subsection (6) of this section. 5

(6) Where the Minister for Finance determines under subsection (5) of this section that part or parts of a payment to or in respect of a person shall be borne in accordance with this subsection— 10

(a) the Minister shall determine whether such part or parts shall be borne by one local authority of which such person was an officer or by two or more local authorities of each of which such person was an officer, 15

(b) if the Minister determines that such part or parts shall be borne by one local authority, that local authority shall pay to the Minister the amount of such part or parts, 20

(c) if the Minister determines that such part or parts shall be borne by two or more local authorities, he shall also determine the amount to be borne by each such local authority and that local authority shall pay that amount to the Minister, 25

(d) any amount paid to the Minister under this section shall be paid into or disposed of for the benefit of the Exchequer in accordance with the direction of the Minister for Finance.

Civil servant becoming officer of local authority.

83.—(1) Where an allowance, lump sum or gratuity is payable under this or any other Act to or in respect of a person and, in determining the amount of the payment, any period of service by such person in an established position in the civil service has been reckoned, the Minister for Finance may determine what part or parts of the payment shall be borne by the State and thereupon the part or parts so determined may be refunded to the local authority out of moneys provided by the Oireachtas. 30 35

(2) Where, under the Superannuation Acts and under the enactments (including this Act) relating to the grant to officers of local authorities of superannuation or compensation for loss of office, the benefits accruing or the conditions qualifying persons for benefit are different, the Minister, with the consent of the Minister for Finance, may determine that, for any particular case in which service in the civil service is to be reckoned, in calculating the amount of such a grant specified modifications shall be made in such amount, and the modifications so determined shall be made accordingly. 40 45

Special provisions for certain cases.

84.—(1) Where, as respects a person who is a pensionable officer of a local authority on the passing of this Act, the following conditions are complied with, that is to say: 50

(a) immediately before he was appointed to be such officer, he held an established position in the civil service of Saorstát Eireann for a period,

(b) immediately before the period mentioned in paragraph (a) of this subsection, he held an established position in the civil service of the Provisional Government for a period, 55

(c) immediately before the period mentioned in paragraph (b) of this subsection, he held an established position in the civil service of Dáil Eireann for a period,

(d) immediately before the period mentioned in paragraph (c) of this subsection, he was a pensionable officer of a local authority for a period, 60

all the said periods may be aggregated and deemed to be service for the purposes of any Act (including this Act) relating to superannuation of officers of local authorities and applying to such person.

5 (2) Where, as respects a person who holds an established position in the Civil Service of the Government on the passing of this Act, the following conditions are complied with, that is to say:—

10 (a) immediately before he commenced to hold such position, he held an established position in the civil service of Saorstát Éireann for a period,

(b) immediately before the period mentioned in *paragraph (a)* of this subsection, he held a temporary position in the civil service of Saorstát Éireann for a period,

15 (c) before the period mentioned in *paragraph (b)* of this subsection, he was a pensionable officer of a local authority for a period,

the periods mentioned in *paragraphs (a)* and *(c)* of this subsection may be aggregated and deemed to be service for the purposes of the Superannuation Acts as applying to such person.

20 (3) Where, as respects a person who holds an established position in the civil service of the Government on the passing of this Act, the following conditions are complied with, that is to say:

25 (a) immediately before he commenced to hold such position he held an established position in the civil service of Saorstát Éireann for a period,

(b) immediately before the period mentioned in *paragraph (a)* of this subsection, he held an established position in the civil service of the Provisional Government for a period,

30 (c) immediately before the period mentioned in *paragraph (b)* of this subsection, he held an established position in the civil service of Dáil Éireann for a period,

(d) immediately before the period mentioned in *paragraph (c)* of this subsection, he was a pensionable officer of a local authority for a period,

35 all the said periods may be aggregated and deemed to be service for the purposes of the Superannuation Acts as applying to such person.

(4) Where, as respects a person who holds an established position in the civil service of the Government on the passing of this Act, the following conditions are complied with, that is to say:

40 (a) immediately before he commenced to hold such situation, he held an established position in the civil service of Saorstát Éireann for a period,

45 (b) immediately before the period mentioned in *paragraph (a)* of this subsection, he was a pensionable officer of a local authority for a period,

(c) immediately before the period mentioned in *paragraph (b)* of this subsection, he held an established position in the civil service of Saorstát Éireann for a period,

50 all the said periods may be aggregated and deemed to be service for the purposes of the Superannuation Acts as applying to such person.

55 (5) Where, under the Superannuation Acts and under the enactments (including this Act) relating to the grant of superannuation and compensation for loss of office to officers of local authorities, the benefits accruing or the conditions qualifying persons for benefit are different, the Minister for Finance may determine that specified modifications corresponding to that difference shall be made for any particular case to which *subsection (3)* or *subsection (4)* of this section applies in any amount to be granted
60 under the Superannuation Acts, and the modifications so determined shall be made accordingly.

(6) Where an allowance, lump sum, or gratuity is paid to or in respect of a person under the Superannuation Acts by virtue of

this section, the Minister for Finance may determine what part or parts of the payment shall be borne in accordance with *subsection* (7) of this section.

(7) Where the Minister for Finance determines under *subsection* (6) of this section that part or parts of a payment to or in respect of a person shall be borne in accordance with this *subsection*— 5

(a) the Minister shall determine whether such part or parts shall be borne by one local authority of which such person was an officer or by two or more local authorities of each of which such person was an officer, 10

(b) if the Minister determines that such part or parts shall be borne by one local authority, that local authority shall pay to the Minister the amount of such part or parts, 15

(c) if the Minister determines that such part or parts shall be borne by two or more local authorities, he shall also determine the amount to be borne by each such local authority and that local authority shall pay that amount to the Minister, 20

(d) any amount paid to the Minister under this section shall be paid into or disposed of for the benefit of the Exchequer in accordance with the direction of the Minister for Finance.

Preservation of continuity of service of servants of Limerick Corporation.

85.—(1) Where a servant of the corporation was absent from duty during any period in respect of which this section applies and the period of absence would, but for this section, be regarded for the purposes of the pension enactments as breaking the continuity of his service with the corporation, the following provisions shall have effect for those purposes:— 25 30

(a) the period of absence shall be regarded as not breaking the continuity of his service with the corporation, and

(b) notwithstanding the provisions of the foregoing paragraph, the length of the period of absence shall not be taken into account in reckoning the length of his service with the corporation nor, where an allowance for life or a gratuity is granted to him, in reckoning the amount thereof. 35

(2) In this section—

the expression “the corporation” means the Mayor, Aldermen and Burgesses of Limerick; 40

the expression “period in respect of which this section applies” means any period beginning on or after the 30th day of June, 1944, and ending before or on the 6th day of July, 1944;

the expression “the pension enactments” means, in relation to a servant of the corporation, the enactments (including this Act) governing the grant to him on ceasing to be employed of an allowance for life or a gratuity. 45

Validation of certain superannuation allowances granted by Cork Corporation.

86.—Any superannuation allowance granted by the Lord Mayor, Aldermen and Burgesses of Cork to any of their servants during the period which began on the 9th day of September, 1926, and ended on the 31st day of March, 1948, shall be valid in all respects and payment of such allowance may accordingly continue to be made after the passing of this Act. 50

Meaning of pensionable officer in Part IV of Act of 1925.

87.—The expression “pensionable officer” in Part IV of the Act of 1925 shall not include and shall be deemed never to have included a mental hospital officer of a local body. 55

88.—(1) Part IV of the Act of 1925 shall apply in relation to a permanent servant of a local body in relation to whom *Part III* of this Act has come into operation (not being a local body to whom section 53 of the Act of 1925 applies) who, on the day on which the said *Part III* came into operation in relation to such body, was sixty years of age or more, or in the case of a fire brigade servant, was fifty-five years of age or more, as if his employment were a pensionable office, and for the purposes of the said application—

Application of Part IV of the Act of 1925 to certain permanent servants.

- (a) the word “ salary ” shall include wages,
- 10 (b) in calculating his service when his employment ceases, only his continuous service under such local body shall be reckoned.

(2) Part IV of the Act of 1925 shall, subject to the subsequent subsections of this section, apply in relation to a permanent servant of a vocational education committee in relation to whom *Part III* of this Act has come into operation who, on the day on which the said *Part III* came into operation in relation to such committee, was sixty years of age or more as if his employment were a pensionable office, and for the purposes of the said application—

- (a) the word “ salary ” shall include wages,
- (b) in calculating his service when his employment ceases, only his continuous service under such committee or any body of whom such committee were the successors shall be reckoned.

(3) Section 50 of the Act of 1925 shall not apply in respect of vocational education committees and their servants referred to in subsection (2) of this section, and in lieu thereof it is hereby enacted that every sum payable under Part IV of the Act of 1925 as applied by this section in respect of an allowance or gratuity granted thereunder to a person who was previously a servant of a vocational education committee shall be paid by the local authority who under the Vocational Education Act, 1930 (No. 29 of 1930), pays the annual local contribution to the expenses of such committee and shall be raised by means of the same rate and be paid out of the same fund and be charged on the same area as such annual local contribution is raised by means of, paid out of and charged upon, but no such sum shall be reckoned for the purposes of any enactment limiting the amount of such rate.

(4) There shall be paid out of moneys provided by the Oireachtas to a local authority paying any allowance or gratuity in pursuance of subsection (3) of this section, in aid of the rate or fund out of which the allowance or gratuity is so paid, one-half of every payment made by the local authority in respect of the allowance or gratuity.

89.—An officer of a local body—

Reckoning of service in the civil service in certain cases.

- (a) who was appointed to be such officer before the commencement of Part II of this Act, and
- 50 (b) in relation to whom Part IV of the Act of 1925 or any Act passed before the Act of 1925 and relating to superannuation applies, and
- (c) who at the time when he was appointed to be such officer held an established position in the civil service,

shall be entitled to reckon as service for the purposes of the said Part IV or the said Act passed before the Act of 1925 his service for the purposes of the Superannuation Acts at the time of such appointment.

Reckoning of service as school teacher in certain cases.

90.—An officer of a vocational educational committee in relation to whom Part IV of the Act of 1925 or any Act passed before the Act of 1925 and relating to superannuation applies shall be entitled to reckon as service for the purposes of the said Part IV or the said Act passed before the Act of 1925 any period which he is permitted to reckon by regulations under *section 72* of this Act. 5

Reckoning of service under harbour authority in certain cases.

91.—An officer of a local body in relation to whom Part IV of the Act of 1925 or any Act passed before the Act of 1925 and relating to superannuation applies shall be entitled to reckon as service for the purposes of the said Part IV or the said Act passed before the Act of 1925 any period during which he held a pensionable position in the service of a harbour authority. 10

Allowances under Part IV of the Act of 1925 to officers in receipt of cost of living bonus.

92.—(1) This section applies to any officer of a local body whose yearly salary and emoluments within the meaning of Part IV of the Act of 1925 consist on the date on which he ceases to hold office of— 15

(a) an amount (in this section referred to as the emergency bonus) granted on account of the emergency declared by resolutions passed by each House of the Oireachtas on the 2nd day of September, 1939, to exist, and 20

(b) a temporary increase or addition (in this section referred to as the cost of living bonus) which was expressed at the time of granting to be granted to meet the increased cost of living, which is calculated according to the amount of the remainder (in this section referred to as the basic salary) of his salary and emoluments apart from the emergency bonus and which, subject to the Local Authorities (Cost of Living) Acts, 1940 and 1945, is variable from time to time in accordance with the average cost of living in the State, and 25 30

(c) the basic salary.

(2) An allowance granted under Part IV of the Act of 1925 to any officer of a local body to whom this section applies shall consist of two parts, namely: 35

(a) a part which shall be in respect of the basic salary and cost of living bonus, which shall be computed by reference to the basic salary only and which shall be increased in the manner specified in subsection (2) of section 46 of the Act of 1925, 40

(b) a part which shall be in respect of and computed by reference to the emergency bonus.

(3) The foregoing provisions of this section shall apply in relation to an allowance which was granted under Part IV of the Act of 1925 before the passing of this Act and in relation to which those provisions would have applied when the allowance was granted if they had then been in force. 45

Allowances and gratuities under Part IV of Act of 1925 without consent of Minister.

93.—Notwithstanding anything contained in Part IV of the Act of 1925, the consent of the Minister shall not be required to the grant under that Part of— 50

(a) an annual allowance the amount of which does not exceed one-sixtieth of the yearly salary and emoluments of the grantee for each completed year of his service, or

(b) a gratuity under subsection (3) or subsection (4) of section 44 of the Act of 1925. 55

SCHEDULE.

ENACTMENTS REPEALED.

Number and Year	Short Title	Extent of Repeal
No. 5 of 1925.	Local Government Act, 1925.	Sections 49 and 52.
No. 8 of 1931.	Agriculture Act, 1931.	Subsection (3) of Section 22.
No. 19 of 1945.	Mental Treatment Act, 1945.	Sections 83 and 84.

Éire.

SUPERANNUATION

Éire.

AN BILLE RIALTAIS AITIUIL (AOISLIUNTAS), 1947.

LOCAL GOVERNMENT (SUPERANNUATION) BILL, 1947.

BILLE

dá ngairmtear

Acht do dhéanamh socruithe i dtaobh aoisliúntais agus cúitimh 'i gcailliúint oifige d'oifigigh agus seirbhísigh údarás áitiúla áirithe agus do dhéanamh socruithe i dtaobh nithe eile a bhaineas leis na nithe réamhráite.

*Rite ag dhá Thigh an Oireachtais,
8ú Eanáir, 1948.*

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BILL

entitled

An Act to provide for superannuation and compensation for loss of office or employment for officers and servants of certain authorities and to provide for other matters connected with the matters aforesaid.

*Passed by both Houses of the Oireachtas,
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