1937

c 15 Public Service Act

Ontario
CHAPTER 15.
The Public Service Act.

GENERAL.

INTERPRETATION.

1. In this Act,—

(a) "Civil servant" shall mean an officer, clerk or servant employed in a department;

(b) "Commissioner" shall mean Civil Service Commissioner for Ontario;

(c) "Department" shall mean a department, branch, office or service in the civil service at the seat of Government at Toronto;

(d) "Minister" shall mean the member of the Executive Council for the time being presiding over a department or charged with administration of any Act or regulation respecting an office in the public service;

(e) "Public service" shall include every department and every office, clerkship or service at the nomination of the Crown, as representing the Province of Ontario, wherewith held or performed. R.S.O. 1927, c. 16, s. 1.

PART I.

PUBLIC SERVICE.

2. Saving always the legal rights and privileges of the Assembly as respects the appointment or removal of its officers, clerks or servants, this Part shall apply to the permanent officers, clerks and servants of the Assembly, and for the purposes hereof such officers, clerks and servants shall constitute a department. R.S.O. 1927, c. 16, s. 2.

3.—(1) For the purposes of this Part, the offices of the courts, and the offices of the Master of Titles, Surrogate Clerk, and of the Inspector of Legal Offices and the Stamp Office...
at Osgoode Hall, shall be deemed to be a department, and shall be presided over by the Attorney-General for Ontario, and the person having for the time being the conduct of the business of any such office shall have and perform with respect thereto the powers and duties under this Part of a deputy head of a department.

(2) Nothing herein shall impair or interfere with the authority or control of the courts and judges over their officers. R.S.O. 1927, c. 16, s. 3.

DISQUALIFICATION.

4. A member of the Parliament of Canada shall not be appointed to or hold any permanent office or employment in the service of the Government of Ontario at the nomination of the Crown, to which a salary or other emolument in lieu of salary is attached, but this shall not apply to the offices of justice of the peace, coroner or notary public or to any like office. R.S.O. 1927, c. 16, s. 4.

APPOINTMENTS, DIRECTION AND CONTROL.

5. Subject to the provisions of Part II the Lieutenant-Governor in Council upon the recommendation of the Minister may appoint such officers, clerks and servants in any department as may be deemed requisite or as may be provided for by statute or by any regulation made thereunder. R.S. O. 1927, c. 16, s. 5.

6.—(1) The Lieutenant-Governor in Council may make regulations,

(a) for the classification of the civil servants in any department and prescribing the duties to be performed by them;

(b) for fixing the maximum and minimum salary or other remuneration to be paid to civil servants in any department;

(c) for determining the qualifications, knowledge, skill or experience to be required before appointment to any office, clerkship or service in a department;

(d) for fixing the hours of service in any department;

(e) for regulating the conduct of civil servants and for imposing penalties by fine, suspension or otherwise
for breach of such regulations, or for any misconduct or negligence on the part of civil servants; R.S.O. 1927, c. 16, s. 6 (1).

(f) For the fixing of leave of absence on account of illness or other cause. 1931, c. 6, s. 2.

(2) Every regulation made under this section shall be laid before the Assembly forthwith, if the Assembly is then in session, and if the Assembly is not then in session, within one week after the commencement of the next season. R.S.O. 1927, c. 16, s. 6 (2).

7. Upon the report of the Minister that it is necessary that an officer, clerk or servant shall be permanently employed in a department, but that no salary or other remuneration has been voted by the Assembly for that purpose, the Lieutenant-Governor in Council may make the appointment and may fix the salary or remuneration to be paid and the same shall be payable out of the Consolidated Revenue Fund until the end of the then next session of this Legislature. R.S.O. 1927, c. 16, s. 7.

TEMPORARY CLERKS.

8. Whenever it is deemed necessary that an officer, clerk or servant shall be employed temporarily in a department, the Minister may make such appointment for a period not exceeding three months; but any such officer, clerk or servant may under an Order-in-Council be employed for a longer period not exceeding six months, and may be paid out of the moneys voted for the contingencies of the department. At the end of six months, or any lesser period, such officer, clerk or servant may be reappointed by Order-in-Council for a further period not exceeding six months, and so on from time to time. R.S.O. 1927, c. 16, s. 8.

DEPUTY HEADS OF DEPARTMENTS.

9.—(1) The Lieutenant-Governor in Council may designate the official who shall be the deputy head in any department of the Government, and fix his duties and powers. 1931, c. 6, s. 3.

(2) Where the deputy head of a department is absent or there is a vacancy in the office, the powers and duties of the deputy head shall be exercised and performed by such officer or clerk in the department as may be designated by the Minister. R.S.O. 1927, c. 16, s. 9 (2).
Powers and duties.

(3) The deputy head of a department shall have the general control of his department and shall have such other powers and perform such duties as may be assigned to him by the Lieutenant-Governor in Council and shall oversee and direct the other officers, clerks and servants of the department and in the absence of the Minister and during such absence may suspend from employment any such officer, clerk or servant who refuses or neglects to obey his directions as such deputy. R.S.O. 1927, c. 16, s. 9 (6).

No compensation for extra services.

10. No allowance or compensation shall be made for any extra service whatsoever which any civil servant or any officer, clerk or servant employed in the public service may be required to perform in the department to which he belongs, but nothing herein shall prevent the payment of remuneration for special services in addition to his ordinary duties rendered or performed by any civil servant or any officer, clerk or servant employed in the public service by the written direction or at the written request of the Minister. R.S.O. 1927, c. 16, s. 10.

Statutory salaries not affected.

11. Nothing in this Part shall affect any salary or emolument granted or fixed by any statute. R.S.O. 1927, c. 16, s. 11.

Aid of clerks from other departments.

12. Whenever the staff of any department cannot adequately perform the duties required in an emergency, the deputy head of the department may require from the deputy head of any other department the temporary service of any clerk or servant who is not then actively engaged in his own department, but no additional remuneration shall be paid therefor. R.S.O. 1927, c. 16, s. 12.

Ministers to report as to clerks.

13. Every Minister shall furnish to the Lieutenant-Governor in Council at such times as he may direct, reports upon the conduct and efficiency of the civil servants employed in his department. R.S.O. 1927, c. 16, s. 13.

ATTACHMENT OF SALARIES OF CIVIL SERVANTS.

14.—(1) Where a debt or money demand, not being strictly a claim for damages, is due and owing to any person from a civil servant, either on a judgment or otherwise, and a debt is due and owing from the Crown, to such civil servant the person to whom the first mentioned debt or money demand is so due and owing (hereinafter designated the creditor) may recover in the manner herein provided any debt due or owing to the civil servant from the Crown, or sufficient thereof to satisfy the claim of the creditor, subject always to the rights of other parties to the debt owing from the Crown.
(2) The creditor may serve a notice personally on the Treasurer or on the Assistant Treasurer, or on some other officer appointed by the Treasurer to receive the same, specifying the nature of the claim, and showing the name and residence of the civil servant and the nature of his occupation, and the service of such notice upon the Treasurer, Assistant Treasurer or other officer shall have the effect, subject to the rights of other persons, of attaching and binding in the hands of the Treasurer all debts then owing from the Crown to the civil servant, or sufficient thereof to satisfy the claim of the creditor, to the same extent as a garnishing or attaching order issued by or from a court of law.

(3) After service of the notice the Treasurer shall, when the creditor's claim is a judgment, retain all moneys then owing from the Crown to the civil servant, or sufficient thereof to satisfy the judgment, and a payment into court or to the creditor, or where an execution is in the hands of a sheriff or bailiff, to the sheriff or bailiff, of the amount due to the civil servant, or of the amount due and costs unsatisfied on the judgment, shall be a discharge to that extent of the debt owing from the Crown to the employee.

(4) Where judgment has not been recovered for the claim, the creditor, besides serving the notice provided by subsection 2, shall also serve a copy of such notice on the civil servant, together with a memorandum requiring the civil servant if he disputes the claim to file a disputing note with the Treasurer within ten days from the date of service.

(5) If no disputing note is filed, the Treasurer, on being satisfied that notice has been served on the civil servant, shall retain any moneys due and owing to such civil servant and pay the same or a sufficient part thereof to satisfy the creditor's claim, subject to the provisions of subsection 8.

(6) If a note disputing the claim is filed, the Treasurer may, with the consent of all parties determine whether any and what sum is due by the civil servant to the creditor upon the claim, or he may require the creditor to bring an action therefor against the civil servant, and in such case he shall retain any moneys due and owing to the civil servant or sufficient thereof to pay any claim and costs which may be recovered in the action to abide the result of the action provided such action is promptly prosecuted to judgment.

(7) There shall be kept in the Treasury department an attachment book, in which shall be entered the names of parties, the dates of service of notices, the statement of claim,
and the amount, if any, due and owing to the civil servant at the time of service.

(8) This section shall not apply to any debt contracted before the 17th day of January, 1898, nor where the amount due to the civil servant does not exceed $25, nor if such amount exceeds $25 beyond the amount of such excess, nor to any debt not contracted for board or lodging which does not exceed $25.

(9) Nothing in this section shall authorize the bringing or maintaining of a suit against the Crown or the Treasurer without the fiat of the Attorney-General first had and obtained in accordance with the present practice. R.S.O. 1927, c. 16, s. 14.

(10) In this section "civil servants" shall mean and include both permanent and temporary employees of any department of the Government whether engaged at the seat of government at Toronto or elsewhere. 1932, c. 5, s. 2.

OATHS OF OFFICE.

15.—(1) Every civil servant shall, before entering upon the duties of his office, take and subscribe before the Clerk of the Executive Council the Oath of Allegiance and a Solemn Declaration in the following form:

"I (A. B.), solemnly and sincerely declare that I will faithfully and honestly fulfil the duties which devolve upon me as and that I will not ask or receive any money, service or recompense, or matter, or thing whatsoever, directly or indirectly, in return for what I shall have done or may do in the discharge of any of the duties of my said office, except my salary or what may be allowed me by law or by an Order of the Lieutenant-Governor in Council."

(2) The Clerk of the Executive Council shall keep a register of such oaths. R.S.O. 1927, c. 16, s. 15.

SAVING AS TO OTHER ACTS.

16. This Part shall be subject to the provisions of any Act relating to any department or public office under the Government. R.S.O. 1927, c. 16, s. 18.
PART II.

THE CIVIL SERVICE COMMISSIONER.

17.—(1) The Lieutenant-Governor in Council may appoint an officer to be known as the Civil Service Commissioner for Ontario.

(2) The Lieutenant-Governor in Council may appoint such clerks and other assistants in the office of the Commissioner as may be deemed necessary and may authorize the employment by the Commissioner of expert and special assistance from time to time as may be deemed necessary in the discharge of the duties of the Commissioner.

(3) The salary of the Commissioner and the salaries and other remuneration of the clerks and other persons employed by the Commissioner shall be fixed by the Lieutenant-Governor in Council and shall be payable out of the Consolidated Revenue Fund at such times and in such manner as the Lieutenant-Governor in Council may direct. R.S.O. 1927, c. 16, s. 19.

18. It shall be the duty of the Commissioner,—

(a) to investigate the conditions of the various departments and to make such recommendations as he may deem proper for the improvement of the organization and business methods therein;

(b) to report to the Lieutenant-Governor in Council such changes as he may deem proper in any department with a view to systematizing the work of the department and the grading and classification of the civil servants employed therein;

(c) to make such general recommendations as he may deem proper with regard to the scale of salaries or other remuneration for civil servants employed in any department;

(d) to frame rules for the conduct and discipline of civil servants in their respective offices and for their promotion;

(e) to report to the Lieutenant-Governor when directed so to do upon any scheme providing for superannuation of civil servants or the payment of any allowance upon retirement from the public service;
Co-ordination and reorganization.

(f) to recommend such action as will promote the co-ordination of work in the different departments, and the reduction or reorganization of the staff of any department with a view to greater economy and efficiency in administration;

(g) to examine and report upon every nomination for appointment to any position in a department;

(h) to inquire and report upon any other matter affecting the administrative methods of any department or the conduct of the civil servants therein whenever instructed by the Lieutenant-Governor in Council so to do;

(i) to hold such inquiries and investigate such suggestions, complaints and recommendations with respect to the departments or to any of them or as to any changes in the statutes or regulations affecting the same, as the Lieutenant-Governor in Council may from time to time direct. R.S.O. 1927, c. 16, s. 20.

19. Whenever required by the Lieutenant-Governor in Council so to do, the Commissioner shall prepare or examine and report upon any rule or regulation, or proposed rule or regulation to be made by any board, commission or officer, or by a member of the Executive Council, or by the Treasury Board, or by the Lieutenant-Governor in Council under Part I or under any Act relating to the public service or to any department, branch, office or service under the Crown in Ontario. R.S.O. 1927, c. 16, s. 25.

20. Where the Commissioner, after investigating the condition of any department, reports thereon and recommends the retirement of any officer, clerk or servant or the reorganization of the department, the Lieutenant-Governor in Council may, by order, give effect to such recommendation. R.S.O. 1927, c. 16, s. 26.

21. It shall be the duty of the Commissioner to prepare annually and present to the Lieutenant-Governor in Council on or before the 1st day of November, a report upon the performance of the duties of his office during the preceding fiscal year, and the report shall be laid before the Assembly at the next ensuing session of the Legislature. R.S.O. 1927, c. 16, s. 27.

22. This Part shall apply to all departments, branches and offices in the public service. R.S.O. 1927, c. 16, s. 28; 1931, c. 6, s. 7.
PART III.

SUPERANNUATION OF EMPLOYEES.

23. In this Part,—

(a) "Board" shall mean board appointed under the authority of this Act to administer the same; R.S.O. 1927, c. 16, s. 29, cl. (a);

(b) "Employee" shall mean and include every person employed in the service of the Crown as representing the Province of Ontario who receives a stated annual salary with or without perquisites or emoluments in addition thereto, and the Provincial Auditor, the officers, clerks, and servants in the Audit Office and the officers and employees of the Assembly, but shall not include any person appointed after the time when he may serve for a period of fifteen years before reaching the age of seventy years, or any person employed in a part-time capacity or appointed for a temporary purpose or for a stated period or employed temporarily in any work or service for the Government of Ontario; R.S.O. 1927, c. 16, s. 29, cl. (b); 1933, c. 52, s. 2; 1937, c. 72, s. 52 (1);

(c) "Fund" shall mean Public Service Superannuation Fund;

(d) "Government" shall mean the Lieutenant-Governor of Ontario acting upon the advice of the Executive Council;

(e) "Regulations" shall mean regulations made under the authority of this Act. R.S.O. 1927, c. 16, s. 29, cls. (c-e).

24.—(1) There shall be established a fund to be known as the Public Service Superannuation Fund and an account shall be opened in the books of the Treasurer of Ontario to be known as the Public Service Superannuation Fund Account. R.S.O. 1927, c. 16, s. 30.

(2) The Treasurer of Ontario shall be the custodian of the fund.

(3) The fund, less such amount or amounts as shall be necessary to meet the current expenditures, shall by resolution of the Board be invested by the Treasurer of Ontario in bonds of the Province of Ontario or other securities guaranteed by the Province of Ontario, and such securities shall be set apart and ear-marked for the fund.
Records.

(4) Records shall be kept by the Department of the Provincial Treasurer showing a separate account for each contributor to the fund and for each beneficiary.

Audit.

(5) The fund and the accounts of the fund shall be audited and the securities examined and checked by the Provincial Auditor or by such other auditor or auditors and at such times as the Lieutenant-Governor in Council shall direct, and such auditor or auditors shall make an annual report and prepare and furnish such other statements to the Treasurer of Ontario and to the Board as may be requested from time to time. 1931, c. 6, s. 8.

25. The fund shall be formed of contributions from the salaries of the employees and payments and credits to be made thereto on behalf of the Government as hereinafter provided. R.S.O. 1927, c. 16, s. 31.

26.—(1) Subject to the provisions of this Part and to the regulations there shall be granted a yearly superannuation allowance to,—

(a) Every employee who having attained the age of seventy years, and having served at least ten years continuously in the public service retires therefrom; R.S.O. 1927, c. 16, s. 32, cl. (a);

(b) Every employee who, having served at least ten years continuously in the public service, is retired therefrom on account of ill-health or physical incapacity and who is declared by the Lieutenant-Governor in Council upon the report of the Civil Service Commissioner to be entitled to superannuation;

(i) The Board shall have power to review from time to time the case of an employee who is superannuated on account of ill-health or physical incapacity and, where such employee recovers, the Board shall report his case to the Government who may offer him further employment.

(ii) Where an employee, who has been superannuated on account of ill-health or physical incapacity, upon recovery is offered re-employment by the Government, but does not accept such re-employment, the Board may, on the approval of the Lieutenant-Governor in Council, discontinue the superannuation allowance granted to such employee. R.S.O. 1927, c. 16, s. 32, cl. (b), subcls. (i, ii); 1928, c. 5, s. 2 (1);
(c) Every employee who having attained the age of sixty years and having served at least twenty-five years continuously in the public service is retired therefrom by the Lieutenant-Governor in Council for any cause other than misconduct or improper behaviour on his part. 1928, c. 5, s. 2 (2).

(d) Every employee who desires to retire after attaining the age of sixty-five years, and who has served continuously in the public service for at least twenty-five years. 1933, c. 52, s. 3.

(2) There may also be granted from the Fund, to an employee whose services have been dispensed with, and who has served twenty-five years or more and has attained the age of forty-five years, or has served twenty years or more and has attained the age of fifty, or has served fifteen years or more and has attained the age of fifty-five, a compensation allowance based upon his average yearly salary during the last three years of his service, and which shall not exceed one-seventieth part of such annual salary, multiplied by the total number of years, and any fraction thereof, of continuous service; but no more than thirty years of service shall be reckoned, nor shall the yearly compensation allowance exceed $1,500.

(3) Where an employee who has been granted an allowance before reaching the age of seventy is re-employed by the Government his allowance shall be suspended during the period of his re-employment, but such period of re-employment shall be counted in determining the allowance to which he is entitled at his final retirement.

(4) When a person receiving an allowance under subsection 2 attains the earliest age at which he would have been eligible for an allowance under clauses a and c of subsection 1, had he remained in the service, such allowance shall then be paid, but the period during which he is in receipt of an allowance under subsection 2 shall not be counted in determining his final allowance.

(5) The allowances to widows and children of persons who were in receipt of compensation allowances under subsection 2 shall be at the rate to which they would have been entitled had the employee died in the service. 1935, c. 58, s. 3.
27. Every male employee, if married at the date of his entering the service, or if married subsequently and before he has been for ten years in the service, shall furnish to the Board from time to time as required, a certificate that his life is insured in favour of his dependent or dependents being within the class of preferred beneficiaries within the meaning of The Insurance Act in some reliable insurance company for an amount of not less than $2,000 and for a period of at least ten years from the date of his entering the service, and in default of his furnishing such certificate, the Board may insure the life of such employee and the cost of such insurance shall be deducted from his salary. R.S.O. 1927, c. 16, s. 33.

28. Where an employee who would have been entitled upon his retirement to the superannuation allowance, dies after having served for at least ten years continuously in the public service there shall be granted to his personal representatives or to a member of his family, a lump sum not exceeding one year’s salary at the rate of the average yearly salary of such employee during the last three years of his service. R.S.O. 1927, c. 16, s. 34, part; 1933, c. 52, s. 4 (1).

(a) Or, in case such employee dies leaving a widow or infant children under the age of eighteen years, one-half of the superannuation allowance to which such employee would have been entitled had he been superannuated at the date of his death shall be paid to the widow for her life or during her widowhood, but if the wife of such employee dies before him, or where having survived him, she dies or marries again leaving infant children by him, such half superannuation allowance shall be paid to those children of such employee, if any, who shall not have attained the age of eighteen years, and until they do attain such age. R.S.O. 1927, c. 16, s. 34, cl. (a).

(b) Or, in case such employee dies leaving no children under the age of eighteen years, and his widow dies before receiving an amount equal to one year’s salary of such employee at the rate of his average yearly salary during the last three years of his service, there shall be granted to his personal representatives or to a member of his family a lump sum equal to the remainder of such salary. 1933, c. 52, s. 4 (2).

29. Where an employee dies while in the public service before having served for ten years, there shall be granted to his personal representatives, or to a member of his family,
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a lump sum not exceeding the total of the contributions made by such employee under this Part with interest at five per centum per annum. R.S.O. 1927, c. 16, s. 35.

30.—(1) Where an employee resigns or is dismissed from the public service, the sums which have been deducted from his salary under this Part shall be forthwith returned to him with interest at the rate of five per centum per annum on deductions made prior to the 18th day of April, 1933, up to the 1st day of May, 1933, and with interest at the rate of three per centum per annum on deductions after the 1st day of May, 1933, or on any deductions made after the 18th day of April, 1933. 1933, c. 52, s. 5 (1).

(2) Where an employee leaving the public service is indebted to the Province payment of the amount owing shall be deducted from any refund to which he may be entitled. 1931, c. 6, s. 9, part; 1933, c. 52, s. 5 (2).

(3) Where, owing to change in percentage of deduction, an employee has contributed more than the proper assessment, or where other adjustment is necessary, the Board shall have power to make the proper refund. 1931, c. 6, s. 9, part.

(4) Where an employee retires from the public service on account of ill-health or physical incapacity, or his office or position is abolished before the time a superannuation allowance could be granted to him, the sums which have been deducted from his salary under this Part shall forthwith be returned to him with interest at the rate of five per centum per annum.

(5) Where an employee who is in the public service on the 18th day of April, 1933, is retired on account of having reached the superannuation age before the time when the superannuation allowance could be granted to him, the sums which have been deducted from his salary under this Part shall be forthwith returned to him with interest at the rate of five per centum per annum. 1933, c. 52, s. 5 (3).

31. Where in addition to a cash salary an employee enjoys emoluments, perquisites or privileges incidental to his office, the Board shall fix the value of such emoluments, perquisites or privileges and the same shall be added to, and for the purposes of this Part shall be deemed to form part of his salary, and the deductions required by this Part shall be made upon that basis from the cash salary received by him. R.S.O. 1927, c. 16, s. 37.
32. There shall be deducted from the salary of every employee monthly, an amount equal to four per centum of his salary, and the amount so deducted shall be placed to the credit of the Fund in the Public Service Superannuation Fund Account. R.S.O. 1936, c. 56, s. 11 (1).

33. Whenever any amount is credited to the fund by way of deductions from the salaries of the employees an equivalent amount shall be credited to the fund as the contribution of the Government thereto. R.S.O. 1927, c. 16, s. 39; 1937, c. 72, s. 52 (3).

34. There shall be credited to the fund by the Government interest at the rate of five per centum per annum compounded annually and such interest shall be made up as of the close of each fiscal year upon any balance at the credit of the fund as the contribution of employees or of the Government at the commencement of the fiscal year and all sums contributed by the employees and by the Government during the year. R.S.O. 1927, c. 16, s. 40.

35. Until the contributions by the employees and the Government are sufficient to equal the benefits provided for and payable to employees under this Part and thereafter whenever the amount at the credit of the Fund is insufficient to meet the payments required on account of benefits to employees provided by this Part, the deficiency shall be made up out of the Consolidated Revenue Fund. R.S.O. 1927, c. 16, s. 41.

36. The costs of the administration of this Part shall be borne by the Province of Ontario and shall be payable out of such moneys as may be appropriated from time to time by the Legislature for that purpose. R.S.O. 1927, c. 16, s. 42.

37. The superannuation allowance payable to any employee shall be calculated upon the average yearly salary of the employee during the last three years of his service and shall not exceed one-fiftieth part of such annual salary multiplied by the total number of full years of service and any fraction of a year of continuous service, and including service previous to appointment by Order-in-Council where such service has been continuous and the employee has contributed as provided by subsections 3 and 4 of section 38 of Chapter 16 of the Revised Statutes of Ontario, 1927, but no more than thirty years of service shall be reckoned nor shall the yearly superannuation allowance exceed in any case the sum of $2,000, nor in the case of an employee superannuated under
section 38 of this Act shall such superannuation allowance be less than $360, but in no case shall the annual allowance exceed the final annual salary of the employee.

38. Subject to the provisions of sections 47 and 48, and notwithstanding anything contained in any Act relating to any department, branch, or office in the public service or in any other Act of this Legislature, every employee, no matter by what tenure he holds office, shall cease to hold office upon attaining the age of seventy years. R.S.O. 1927, c. 16, s. 44 (1); 1931, c. 6, s. 10 (1).

39. Where an employee who is granted a superannuation allowance under this Part dies before having received an amount equal to one year’s salary at the rate of his average yearly salary during the last three years of his service there shall be paid to the personal representatives of such person, or to a member of his family, as the Board may direct, a sum equal to the remainder of such amount, or where such employee dies leaving a widow, or child under the age of eighteen years, one-half of the superannuation allowance to which the deceased was entitled shall be continued to the widow of such employee for her life or during her widowhood, but if such employee is a widower or if his wife having survived him, remarries, such one-half superannuation allowance shall be paid to the children of such employee, if any, who have not attained the age of eighteen years and until they have attained that age, or in case both the employee and his widow die leaving no children of such employee under the age of eighteen years before receiving an amount equal to one year’s salary of such employee at the rate of his average yearly salary during the last three years of his service, there shall be granted to his personal representatives or to a member of his family a lump sum equal to the remainder of such salary.

(a) Nothing in this section shall apply to a widow under fifty years of age, of an employee to whom she was married after he reached the age of sixty years or to a widow where she was married to an employee after the date of his superannuation, or to the children of such widow. R.S.O. 1927, c. 16, s. 45; 1928, c. 5, s. 3; 1933, c. 52, s. 7.

40. An employee who was in the service of the Government on the 15th day of June, 1920, and who is retired on account of having reached the age of retirement after having been at least ten years in the service, shall receive annually as a
superannuation allowance at least one-half of the salary which he was receiving immediately preceding his superannuation, but such allowance shall in no case exceed annually the sum of $2,000. R.S.O. 1927, c. 16, s. 47.

41. The superannuation allowance payable to any employee under this Part or to his widow or infant children shall be paid in monthly instalments in the manner hereinafter provided. R.S.O. 1927, c. 16, s. 48.

42. The interest of any employee in the fund under this Part or in any retiring allowance or pension payable out of the fund shall be exempt from provincial and municipal taxes except the tax imposed under The Income Tax Act (Ontario), and shall not be subject to garnishment or attachment or seizure or any legal process and shall be unassignable. R.S.O. 1927, c. 16, s. 49, and 1936, c. 56, s. 12.

43. Where a person to whom an allowance is payable under this Act is, in the opinion of the Board, incapable of managing his affairs, the Board shall have power to pay such allowance to his committee, or, if there be no committee, to a member of his family. R.S.O. 1927, c. 16, s. 50.

44. This Part shall be administered by a board to be known as the Public Service Superannuation Board, which shall consist of three members to be appointed by the Lieutenant-Governor in Council and one of the members so appointed shall be a representative of and employed in the Ontario Civil Service. 1932, c. 5, s. 3.

45. No employee shall be entitled to receive any payment on account of superannuation allowance until the Board has reported that he is entitled thereto under the provisions of this Part. R.S.O. 1927, c. 16, s. 52.

46. The Board, subject to the approval of the Lieutenant-Governor in Council, may make regulations,—

(a) providing for the proofs to be furnished before granting any allowance under this Part;

(b) generally for the better carrying out of the provisions of this Part. R.S.O. 1927, c. 16, s. 53.

47. Superannuation shall be compulsory for every employee eligible therefor and to whom it is offered by the Government, and such offer shall in no manner be considered as a censure upon an employee. R.S.O. 1927, c. 16, s. 54.
48. Where a question arises as to the application of this Regulation by the Government or as to any class of employees, the same shall be determined by the Lieutenant-Governor in Council. R.S.O. 1927, c. 16, s. 55.

49.—(1) The payments and credits required to be made by the Government by way of contributions to the fund and for interest and the benefits payable under this Part to employees or their representatives, and the costs and expenses incurred in the administration of this Part shall be a charge upon and shall be payable out of the Consolidated Revenue Fund.

(2) The payment of any benefit to an employee or his representatives under this Part, and the payment of the expenses incurred in the administration of the Fund shall be made upon a requisition in writing signed by the chairman of the Board and directing the issue of the cheque of the Treasurer of Ontario for the amount named in the requisition, and such direction shall be final and conclusive, and the cheque of the Treasurer of Ontario shall be issued for the amount stated in the requisition and the Auditor shall countersign the same, anything in The Audit Act to the contrary notwithstanding. R.S.O. 1927, c. 16, s. 56.

50. There shall be laid before the Legislative Assembly within one week after the commencement of each session a return showing,—

(a) the names of all employees who have retired from the public service, or who have died during the last preceding fiscal year;

(b) the offices held by them or the nature of their employment respectively;

(c) the amount of salary payable to each at the time of retirement or death;

(d) the age of each at retirement;

(e) the cause of retirement in the case of anyone retiring before attaining the age of seventy years;

(f) the amount of superannuation or other allowance granted in each case;

(g) all regulations made under this Part. R.S.O. 1927, c. 16, s. 57.

51. An employee who is entitled to benefits from any other superannuation Act or fund to which the Government contributes shall not be eligible for benefits under this Part.
But:

(a) an employee who was on the 15th day of June, 1920, in receipt of benefits from any fund for superannuated teachers shall be entitled upon his retirement to receive from the fund the superannuation allowance provided by this Part less the amount of any pension payable to him as a superannuated teacher, and

(b) an employee who was on the 15th day of June, 1920 a contributor to any such fund for superannuated teachers and who elected in writing before the 1st day of July, 1920, to become a contributor to and to share in the fund established under this Part shall cease to be a contributor to or to be entitled to the benefit of any such fund for superannuated teachers, and shall become subject to the provisions of this Part;

(c) an employee who is a contributor to the Ontario Teachers' and Inspectors' Superannuation Fund may upon his retirement as a teacher or inspector and his appointment to another permanent position in the public service, become a contributor to the fund and be entitled to the benefits under this Part, credit for service dating, at the option of the employee, from either the time of his first entering the service or from the time of his appointment subsequent to his retirement as teacher or inspector, provided such service has been continuous. R.S.O. 1927, c. 16, s. 58.

52.—(1) Every person who is an employee by reason of his appointment as an inspector of schools or as a teacher and who is in the public service on the 24th day of May, 1937, and who is not at that time a contributor to the Fund, may elect by a written notice delivered to the secretary of the Board, within thirty days after he receives notice from the Secretary of the provisions of this subsection, to become a contributor to the Fund, and in every such case there shall be paid into the Fund the contributions required from him and from the Government under this Act, together with interest at the rate of four and three-quarters per centum, compounded annually, for the full period of his service as an inspector, or, in the case of a teacher, for the full period of his public service in the Province of Ontario; but in no case shall such amount be less than the accumulated contributions with interest at the rate of four and three-quarters per centum, made by and on behalf of such employee in the Teachers' and Inspectors' Superannuation Fund.
(2) Every person who becomes an employee after the 24th day of May, 1937, by reason of his appointment as an inspector or teacher, shall become a contributor to the Fund, and there shall be transferred into the Fund the accumulated contributions with interest at four and three-quarters per centum, made by and on behalf of such employee in the Teachers' and Inspectors' Superannuation Fund.

(3) The credit of such employee shall commence in the case of an inspector from the date of his appointment as inspector, and in the case of a teacher from the date of his permanent appointment to the public service, but in no case shall the benefits paid to an employee who became such by reason of his appointment as an inspector or as a teacher be less than he would have received had he continued as a contributor under The Teachers' and Inspectors' Superannuation Act. 1937, c. 72, s. 52 (4).

53.—(1) This Part shall extend and apply to any person holding the office of sheriff of a county, city or district in Ontario whether such sheriff is paid by fees or salary, or partly by fees and partly by salary, and a sheriff shall be deemed to be an "employee" within the meaning of this Part, but any amount payable on account of superannuation allowances under this section granted to sheriffs who had attained the age of seventy years on the 1st day of July, 1922, or who shall attain the age of seventy years before the 1st day of November, 1930, shall be added to the contribution of the Government to the fund and shall be chargeable to the Consolidated Revenue Fund. R.S.O. 1927, c. 16, s. 60 (1).

(2) The contribution to be made to the fund by a sheriff shall be the same percentage of his net income from fees and other emoluments and any salary or allowance paid to him by the Province for the fiscal year next preceding that in which the contribution is made, as the percentage to be deducted from the salary of an employee under section 32.

(a) In this subsection "net income" shall have the same meaning as in The Public Officers Fees Act. R.S.O. Rev. Stat., c. 18, 1927, c. 16, s. 60 (2); 1936, c. 56, s. 11 (2).

(3) The Lieutenant-Governor in Council upon the recommendation of the Board may make regulations respecting the time and manner in which contributions to the said fund shall be made by sheriffs, and generally for the better carrying out of the provisions of this section. R.S.O. 1927, c. 16, s. 60 (3).

54. The Lieutenant-Governor in Council, upon recommendation of the Board, may extend the operation of this Part to any other class of public officers employed in connec-
tion with the administration of justice whether such officers are paid by fees or salary or partly by fees and partly by salary, and upon the passing of any Order-in-Council under this section the provisions of section 53 shall *mutatis mutandis* apply to any class of officers named in the Order-in-Council. R.S.O. 1927, c. 16, s. 61.

55. The Lieutenant-Governor in Council, upon the recommendation of the Board, may extend the operation of this Part to cover the permanent staff employed by any board or commission under the Government. R.S.O. 1927, c. 16, s. 62.

56. Where the salaries of members of a board or commission appointed by the Crown cease to be paid out of the Consolidated Revenue Fund or out of any sum appropriated for that purpose by the Legislature, any such member who has contributed to the Fund shall be entitled to the return of his contributions with interest. 1929, c. 7, s. 2.

57.—(1) Nothing in this Act shall prevent a superannuate who has been retired on account of having attained the age of seventy years and who possesses expert, technical or professional knowledge which the Government desires to have at its disposal, from being retained temporarily, upon approval by the Lieutenant-Governor in Council, at a salary not greater than that received immediately prior to retirement, but such person shall cease to be an employee within the meaning of this Act and to be a contributor to the fund and his retiring allowance shall be deducted from the remuneration paid to him during such temporary employment. 1931, c. 6, s. 12.

(2) This section shall not apply to any employee who had not attained the age of sixty-five years on the 18th day of April, 1933. 1933, c. 52, s. 8.

58. Money repaid to a civil servant upon his resigning or otherwise leaving the civil service, or to his widow, shall not be liable to assessment or taxation for municipal income tax. 1932, c. 5, s. 4.