

LAWS OF GUYANA

TEACHERS' PENSIONS ACT

CHAPTER 39:05

Act

10 of 1928

Amended by

1	of	1938	80/1980
23	of	1942	
21	of	1943	
7	of	1947	
6	of	1948	
42	of	1951	
8	of	1953	
10	of	1955	
38	of	1957	
24	of	1958	
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7	of	1979	
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Current Authorised Pages

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Note
on
Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note
on
Repeal

This Act repealed the Teachers' Pension Ordinance 1924

CHAPTER 39:05

TEACHERS' PENSIONS ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.

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PROVISIONS OF THE 1929 EDITION OF THE LAWS

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4. Pensionable service and age.
5. Pension to uncertificated teacher.
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 35. Amendment of section 4 of Chapter 95, 1953 Edition.
 36. Amendment of section 6 of Chapter 95, 1953 Edition.
 37. Amendment of section 7 of Chapter 95, 1953 Edition.
 38. Insertion of sections 7A, 7B and 7C in Chapter 95, 1953 Edition.
 39. Amendment of the Schedule to Chapter 95, 1953 Edition.
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 43. Saving of Application of Pension Act.
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1929 Ed.
c. 127
1953 Ed.
c. 95

CHAPTER 39:05
TEACHERS' PENSIONS ACT

10 of 1928 **An Act relating to the payment of Pensions to teachers in elementary schools.**

[28TH APRIL, 1928]

Short title. **1. This Act may be cited as the Teachers' Pensions Act.**

PART I
PROVISIONS OF THE 1929 EDITION OF THE LAWS

(Sections 2-15 inclusive)

Interpretation.
[8 of 1953
9 of 1971
4 of 1972
1 of 1975
7 of 1979
O. 80/1980
2 of 1980]

2. In this Act—

“certificated teacher” means a teacher who holds a certificate of competency issued by the Chief Education Officer under the regulations;

“the Commission” means the Teaching Service Commission established by article 136(1) of the Constitution;

“government school” means any school or other place of education established or maintained out of moneys provided by Parliament;

“pensionable emoluments” in respect of service as a teacher includes—

- (a) salary; and
- (b) responsibility allowance,

but does not include duty, entertainment or other allowance or any other emoluments whatsoever;

“the regulations” means the regulations in force for the time being relating to elementary education made under the authority of any Act relating to elementary education;

“school” means a government school, and includes an industrial school, an institution for the training of teachers, and a technical school;

“teacher” means a certificated or uncertificated teacher;

“uncertificated teacher” means a person who is employed in place of a certificated teacher and whose employment is authorised by the regulations.

Rate of
pension.

3. Every certificated teacher to whom this Act applies shall be entitled in respect of his service in schools to a pension calculated, in the first place, at the rate of sixty cents a month in respect of every year's service, but in addition thereto—

- (a) every head teacher holding a first-class certificate shall be entitled to a sum of seventy-five cents a month in respect of each year's service in that capacity;
- (b) every head teacher holding a second-class certificate, and every assistant teacher holding a first-class certificate, shall be entitled to a sum of fifty cents a month in respect of each year's service in that capacity;
- (c) every head teacher holding a third-class certificate, and every assistant teacher

holding a second-class certificate, shall be entitled to a sum of twenty-five cents a month in respect of each year's service in that capacity;

- (d) every assistant teacher holding a third-class certificate shall be entitled to a sum of ten cents a month in respect of each year's service in that capacity:

Provided that in no case shall any certificated teacher who has served for a period of thirty years in the aggregate, whether continuous or non-continuous, receive a pension of less than twenty dollars a month.

Pensionable
service and age.

4. No certificated teacher shall be entitled to retire on a pension under this Act, unless, if a male, he is sixty years of age or upwards, or if a female, she is fifty years of age or upwards, and unless the teacher has completed ten continuous years of service:

Provided that—

- (a) if it is proved to the satisfaction of the President that any certificated teacher is from infirmity of mind or body incapable of discharging the duties of his office, and that the infirmity is likely to be permanent, the President may award a pension to that teacher calculated on the number of years of service;
- (b) the President may for due cause shown grant to a certificated teacher who has attained the age of fifty-five years and served for at least thirty years, the full pension provided under this Act;

- (c) the President may grant full pension to any certificated teacher who has served for at least thirty years in all although he may have ceased to be a teacher before attaining the age of sixty years.

Pension to
uncertificated
teacher.
[21 of 1943
24 of 1958]

5. (1) An uncertificated teacher who has served in schools for thirty years, whether continuously or not, shall be entitled, in the discretion of the President, to a pension calculated at an amount not exceeding seventy-five per cent of his average salary for the last five years.

(2) For the purpose of determining under subsection (1) the average salary that an uncertificated teacher has received or would have received, as the case may be, he shall be deemed to have enjoyed the benefit of any increase due to a revision of salaries in the emoluments of any post held by him as if such increase had been payable throughout such period of five years.

Teachers over
the age of 60.
[1 of 1975]

6. No teacher may be retained in a school after the age of sixty except by special permission of the Commission.

Service after
age of 65 not
pensionable.
[24 of 1958
1 of 1975]

7. (1) No teacher shall be entitled to a pension in respect of any service while under the age of twenty years or above the age of sixty- five years, and no pension shall be granted for any period in excess of thirty years.

(2) No teacher shall be entitled to a pension in respect of any service during which he has not been employed in a school throughout the hours of instruction prescribed by the regulations as one of the teachers authorised to be employed by the regulations.

(3) Notwithstanding anything contained in subsection (2), where with the approval of the Commission a teacher is seconded or temporarily transferred for duty to an office or employment which would not entitle him to pension

under this Act, the period during which he serves in such office or employment as aforesaid after 14th April, 1952, shall count for pension under this Act as if the teacher had not been seconded or temporarily transferred, unless the President shall in any case otherwise decide.

No absolute right to pension.
[7 of 1979]

8. (1) Subject to subsection (3), no teacher shall have an absolute right to compensation for past services, or to any pension, gratuity, or retiring allowance, under this Act, nor, subject to the Acts relating to elementary education, shall anything herein limit any power to dismiss a teacher without compensation from public funds.

(2) No teacher shall be granted a pension or gratuity under this Act without a certificate from the Chief Education Officer to the effect that he has discharged the functions of his office with such diligence and fidelity as to justify the grant to him of such pension or gratuity.

(3) Any decision under this section to withhold the pension or gratuity of a teacher shall require the concurrence of the Teaching Service Commission.

Pension may be reduced for improper conduct.
[7 of 1979]

9. When a pension or retiring allowance is granted to a teacher who, in the opinion of the President, has been guilty of negligence, irregularity, or misconduct, in the discharge of his duties as a teacher, or has been guilty of any indiscretion or impropriety in his mode of life, which in the opinion of the President, has affected the length or efficiency of his service, the President may, with the concurrence of the Teaching Service Commission, reduce the amount of the pension or retiring allowance of that teacher and grant him a pension or retiring allowance at a lower rate than that authorised by this Act.

Exclusion from benefit of this Act in consequence

10. (1) No certificated teacher whose certificate has been cancelled and no certificated teacher hereafter dismissed for misconduct or whose certificate is cancelled shall be

of dismissal
for misconduct
or cancellation
of certificate.

entitled to the benefit of this Act.

(2) No uncertificated teacher who has committed any act for which the certificate of a certificated teacher would have been cancelled, and no uncertificated teacher hereafter dismissed for misconduct or who commits any act which, if done by a certificated teacher, would involve cancellation of his certificate, shall be entitled to the benefit of this Act.

Pension not to
be assignable.
[9 of 1971]

11. No pension or gratuity under this Act shall be assignable or transferable, or liable to be attached, sequestrated, or levied upon, for or in respect of any debt or claim whatsoever other than a debt due to the Government at the time of the retirement of the teacher.

Pension to
cease on
conviction.

12. If a teacher to whom a pension has been granted under this Act is convicted before any Court in the Commonwealth of any crime or offence for which he is sentenced to death, or penal servitude, or transportation, or any term of imprisonment with hard labour or exceeding twelve months, and does not within two months after his conviction receive a free pardon, then in each of those cases his pension shall forthwith cease, but the President may restore the pension in the case of a teacher who after conviction as above described, receives at any time a free pardon.

Pension to
cease on
bankruptcy.

13. If a teacher to whom a pension has been granted under this Act becomes a bankrupt or insolvent, then the pension shall forthwith cease:

Provided that in any case where a pension ceases by reason of the bankruptcy of the pensioner, the President, subject to article 104 of the Constitution, may from time to time during the remainder of his life, or during such shorter period or periods, either continuous or discontinuous, as the President thinks fit, pay all or any part of the moneys to

which he would have been entitled by way of pension had he not become a bankrupt, or apply the same for the maintenance and personal support or benefit of all or any, exclusive of the other or others, of the following persons, namely, the pensioner and his wife, child, or children of his, in the proportions and manner the President thinks proper.

Pensioners under Ordinance No. 4 of 1924 entitled to pensions under this Act.

14. Every teacher who at the commencement of this Act was entitled to a pension under the Teachers' Pensions Ordinance, 1924, shall on the commencement of this Act be entitled to have his pension calculated and paid under this Act.

PROVISIONS IN FORCE SINCE THE 1ST JANUARY, 1929

Interpretation. [4 of 1972]

15.(1) In this section—

“qualifying service for pension” means service which, on the retirement of a teacher, can be reckoned under this Act in the computation of his pension;

“register” means the register of teachers compiled and kept by the Chief Education Officer under the next succeeding subsection.

Pension register.

(2) The Chief Education Officer shall compile and keep a register, to be styled the Teachers' Pension Register, wherein he shall cause to be entered—

- (a) the names of all teachers who, prior to the 31st December, 1928, had done qualifying service for pension; and
- (b) the names of teachers entered therein in pursuance of regulations prescribed under this section.

Teacher whose name not on register ineligible for pension.

(3) (a) No teacher whose name is not on the register at the date of his retirement shall be eligible for pension under this Act.

(b) A teacher shall not be entitled to pension by the fact only that his name is entered on the register.

Regulations. Schedule.

(4) The qualifications and conditions subject to which entries may be made in the register in accordance with subsection (2) (b) shall be as set out in the Schedule and the President may by regulation amend the Schedule.

When this section to come into force.

(5) This section shall be deemed to have taken effect as on the 1st January, 1929.

(6) This section shall not apply to any teacher who was on the fixed establishment of Guyana when it took effect.

PART II

PROVISIONS OF ORDINANCE NO. 1 OF 1938, IN FORCE

SINCE 1ST JUNE, 1938

(Sections 16 to 19 inclusive)

Interpretation. [1 of 1938]

16. In this Part, "service" means "qualifying service for pension" as defined in section 15 of this Act.

Insertion of new section 3A in Part I.

17. The following section numbered as hereunder is inserted after section 3 of Part I of this Act:

"Rate of pension [1 of 1938]

3A.(1) Subject to the provisions of section 4 every certificated teacher to whom this section applies shall be entitled to a pension which shall be calculated as follows:

(a) in respect of his service in schools at the rate of sixty cents

a month for each year of service, and

- (b) in respect of the nature of the appointment held and the class in which the teacher was serving at the time of retirement at the rates specified hereunder for each year of service—

Class in which serving	Appointment	
	Head Teacher	Assistant Teacher
First Class	Seventy-five cents a month	Fifty cents a month
Second Class	Fifty cents a month ...	Twenty-five cents a month
Third Class	Twenty-five cents a month	Ten cents a month

Provided that—

- (i) the pension of a certified teacher who has held an appointment or served in a class for a period of less than three years prior to

Rate of
pension in
relation to
salary.

his retirement, shall be calculated on the appointment held or class in which he served prior to holding such appointment or serving in such class; and

- (ii) subject to the provisions of paragraph (iii), the pension granted to a certificated teacher who at the date of his retirement is in receipt of a salary—
 - (a) of twenty dollars a month or less and whose salary during the last three years has not at any time exceeded twenty dollars a month, shall not exceed three-quarters of the highest salary drawn by such teacher, during the last three years of his service;
 - (b) of more than twenty dollars a month or whose salary during the last three years has at any time exceeded

twenty dollars a month, shall not exceed two-thirds of the highest salary drawn by such teacher during the last three years of his service; and

- (iii) the pension granted to any certificated teacher whose pension would be subject to the limitation under paragraph (ii) (b) shall not be less than the pension which would be granted to him if his salary were twenty dollars a month and had not at any time during the last three years exceeded twenty dollars a month.

Option to take reduced pension with gratuity.
[1 of 1938
10 of 1955]

- (2) (a) Any certificated teacher who retires on or after the 1st June, 1938, and to whom a pension is granted may, at his option exercisable as hereinafter provided, be paid in lieu of such pension, a pension at the rate of three-fourths of such pension together with a gratuity equal to twelve and one-half times the amount of the reduction so made in the pension.

- (b) The option referred to in subsection (2) (a) of this section shall be exercisable—
- (i) by certificated teachers whose names on the 1st June, 1938, are on the Teachers' Pension Register by giving notice in writing to the Director of Education not later than the 31st December, 1938;
 - (ii) by any other certificated teacher by giving notice in writing to the Director of Education not later than one month after the date on which his name is placed on the Teachers' Pension Register."

Teachers to whom section 17 applies.
[1 of 1938]

18. Section 17 of this Act shall apply to—

- (a) all persons who become certificated teachers after the 1st June, 1938; and
- (b) all persons not already in receipt of a pension under Part I of this Act who became certificated teachers before the 1st June, 1938, unless on or before the 31st December, 1938, they signify in writing to the Director of Education their desire to remain under the terms of section 3 of this Act.

Commence-
ment of this
Part.
[1 of 1938]

19. This Part of this Act shall come into operation on the 1st June, 1938.

PART III
PROVISIONS OF ORDINANCE NO. 23 OF 1942, IN FORCE
SINCE 1ST JANUARY, 1943

(Sections 20 and 21)

Insertion of
new section.
5A in Part I
[23 of 1942]

20. Part I of this Act is hereby amended by the insertion therein after section 5 of the following section:

Pension to
certain
uncertificated
teacher
with less
than 30
years of
service.

5A. (1) An uncertificated teacher who is not entitled to a pension under the preceding section but who has served continuously for ten years or more in an aided school and —

- (a) being a male, has attained the age of sixty years or, being a female, has attained the age of fifty years; or
- (b) it is proved to the satisfaction of the Minister that such teacher is from infirmity of mind or body incapable of discharging the duties of his office and that the infirmity is likely to be permanent,

shall be entitled to a pension in respect of such service in such school which shall be calculated as provided in this section.

(2) Every uncertificated teacher to whom this section applies shall be entitled in respect of his service in schools to a pension calculated at the rate of forty cents a month in respect of each year of service:

Provided that no pension granted to an uncertificated teacher under this section shall exceed seventy-five per cent of the average salary of such teacher during the five years immediately preceding his retirement."

Date of
commence-
ment of this
Part.
[23 of 1942]

21. This Part of this Act shall come into operation on the 1st January, 1943.

PART IV
PROVISIONS OF ORDINANCE NO. 7 OF 1947,
IN FORCE SINCE 1ST MARCH, 1947

(Sections 22 to 26 inclusive)

Amendment of
section 2 of
Part I.
[7 of 1947]

22. Section 2 of Part I of this Act is hereby amended by the deletion of that part of the definition of the expression "aided school" following the word "Parliament".

Amendment of
section 3A.
[7 of 1947]

23. Section 3A of this Act, as inserted by section 17, is hereby amended —

(a) by the deletion of the full-stop at the end of subsection (2) and by the substitution therefor of a colon; and

(b) by the addition of the following as a proviso to subsection (2)(b)(ii):

"Provided that where the name of such certificated teacher is, in respect of his service as an uncertificated teacher, in the Teachers' Pension Register at the time he becomes a certificated teacher, the notice shall be given not later than one month after the date upon which the teacher becomes a certificated teacher."

Amendment
of section 7 (2)
of Part I.
[7 of 1947]

24. Section 7(2) of Part I of this Act is hereby amended —

(a) by substituting a colon for the full-stop at the end

thereof; and

(b) by adding the following proviso thereto:

“Provided that for the purpose of computing the amount of pension or gratuity of a teacher who, during some period of his service in a school in Guyana, has served with the consent of the Government with the armed forces of a Commonwealth country or in any other capacity connected with a state of war, the whole or any part of such period may be taken into account.”.

Amendment of
section 15 of
Part I.
[7 of 1947]

25. Section 15 of Part I of this Act is hereby amended by the insertion, between subsections (2) and (3), of the following subsection:

“(2A)(a) Anything contained in this Act to the contrary notwithstanding, where the name of a person who shall be or has been appointed to a pensionable office as defined in the Pensions Act is or was at the time of such appointment entered in the Teachers’ Pension Register, the officer shall be entitled, on his retirement from the public service of Guyana, to be paid pension or pension and gratuity, as the case may be, calculated in accordance with this Act, in respect of his pensionable service as a teacher.

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(b) Nothing in this subsection shall affect the rights of the officer, or of any person claiming through him, under the Pensions Act.”.

Exercise of
option to be
paid reduced
pension with a
gratuity in
certain cases.
[7 of 1947]

26. Where an uncertificated teacher, whose name was in the Teachers’ Pension Register in respect of his service as such teacher, became a certificated teacher between the 1st June, 1938, and the 1st March, 1947, he may exercise his option under section 3A(2) of this Act, as inserted by section 17, to be paid a reduced pension with a gratuity, by giving notice in writing to the Director of Education not later

than one month after the 1st March, 1947.

PART V
**PROVISIONS OF ORDINANCE NO. 6 OF 1948,
 IN FORCE SINCE 13TH MARCH, 1948
 (Section 27)**

Amendment of
 section 3A of
 Part I.
 [6 of 1948]

27. Section 3A of this Act, as inserted by section 17, is hereby further amended by the addition thereto of the following subsection:

“(3) If a certificated teacher whose name is in the Teachers’ Pension Register has failed to exercise the option referred to in subsection (2) within the times specified therein, the President may, if it appears to him in all the circumstances of any particular case equitable so to do, allow such teacher such further time in which to exercise the option as the President may specify.”.

PART VI
**PROVISIONS OF ORDINANCE NO. 42 OF 1951,
 IN FORCE SINCE 15TH DECEMBER, 1951 (BUT SEE S.
 31(2)) (Sections 28 to 34 inclusive)**

Insertion of
 new section
 3B in Part I.
 [42 of 1951
 8 of 1953
 10 of 1955
 24 of 1958]

28. Part I of this Act, as amended from time to time is hereby further amended by the insertion, after section 3A, of the following new section.

New rate
 of pension
 in respect
 of certain
 teachers.

3B. (1) Subject to the provisions of sections 4 and 15 of this Act, every teacher to whom this section applies may, on his retirement as a teacher or on his retirement from the public service of Guyana, be granted a pension, in respect of each month of his service for pension as a teacher, at the rate of one seven hundred and twentieth of the annual average amount of his salary as a teacher during the three years immediately preceding the date upon which he retires as a teacher or the date

upon which he entered the public service of Guyana, as the case may be.

(2) For the purposes of subsection (1), service for pension as a teacher means service whether as a certificated teacher or as an uncertificated teacher, as entered in the Teachers' Pension Register.

(3) A pension granted under subsection (1) shall not exceed one-half of the salary of the teacher at the date of his retirement or the date preceding that upon which he entered the public service of Guyana, as the case may be.

(4) For the purpose of determining under subsection (1) the average amount of salary that a teacher has received or would have received, as the case may be, he shall be deemed to have enjoyed the benefit of any increase due to a revision of salaries in the emoluments of any post held by him as if such increase had been payable throughout such period of three years.

Option to take reduced pension with gratuity.

(5) A teacher to whom this section applies may at his option exercisable as hereinafter provided, be paid, in lieu of a pension under subsection (1), a pension at the rate of three-fourths of such pension together with a gratuity equal to twelve and one-half times the amount of the reduction so made.

(6) The option referred to in subsection (5) shall be exercised by such teacher giving notice in writing to the Director of Education not later than the date of his retirement or the 30th November, 1958, whichever is the later, that he desires to receive a reduced pension with gratuity."

Amendment of section 4.
[42 of 1951]

29. Section 4 of Part I of this Act is hereby amended —

(a) by re-numbering the section as

subsection (1);

- (b) by the substitution for the words "sixty years of age or upwards" in subsection (1) of the words "fifty-five years of age or upwards";
- (c) by the substitution for the words "fifty-five years" in paragraph (b) and for the words "sixty years" in paragraph (c) of the proviso to subsection (1) of the words "fifty years" and "fifty-five years" respectively; and
- (d) by the addition of the following subsection:

"(2) The President may require any certificated teacher to retire from service as a teacher at any time after he has attained the age of fifty-five years."

Amendment
of section
5A(1). [42 of
1951
1 of 1975]

30. Subsection (1) of section 5A of Part I of this Act, as inserted by section 20, is hereby amended—

- (a) by the substitution for the words "sixty years" in paragraph (a) of the words "fifty-five years"; and
- (b) by the substitution of a colon for the full stop at the end of the subsection, and the addition thereto of the following proviso—

"Provided that the Commission may require any uncertificated teacher to retire from service as a teacher at any time after he has attained the age of fifty-five years."

Amendment of
section 7.
[42 of 1951]

31. (1) Section 7 of Part I of this Act as amended by section 24, is hereby further amended by the substitution for the words "thirty years" in subsection (1) of the words "thirty-five years".

(2) This section shall be deemed to have had effect from and including the 1st January, 1944.

Application.
[42 of 1951
24 of 1958]

32. The provisions of Part I of this Act, and of sections 28 to 31 (inclusive) of this Act shall apply—

- (a) to every teacher whose name is entered in the Teachers' Pension Register subsequent to the 14th December, 1951; and
- (b) to every teacher serving on the 15th December, 1951, whose name was entered in the Teachers' Pension Register on or after the 1st January, 1944, and before the 15th December, 1951, unless he intimates in writing to the Director of Education on or before the 30th November, 1958, or within such further time as the officer administering the government may allow, that he desires that the provisions of section 3, 3A, 5 or 5A of this Act, as the case may be, shall continue to apply to him; and
- (c) to every teacher whose name was in the Teachers' Pension Register on the 31st December, 1943, and who retired as a teacher or from the public service of Guyana on or after the 1st January, 1944, and who intimates in writing to the Director of Education on or before

the 30th June, 1952, that he desires that the provisions of Parts I and VI of this Act shall apply to him.

Amendment of
section 15.
[42 of 1951]

33. Section 15 of Part I of this Act, as amended from time to time, is hereby further amended —

- (a) by the substitution for the words “the names” wherever they appear in subsection (2)(a) and (b), of the words “the names, together with particulars of their service for pension”;
- (b) by the substitution for the words “regulations made under this section” in subsection (2)(b), of the words “regulations set out in the Schedule to this Act”;
- (c) by re-numbering as subsection (2B), subsection (2A) as enacted by section 25;
- (d) by the insertion after subsection (2) of the following subsection —

“(2A) Where the name of a teacher is entered in the Teachers’ Pension Register the Chief Education Officer shall forthwith thereafter notify the teacher in writing accordingly”; and

(e) by the repeal of subsection (4) and by the substitution therefor of the following —

“(4) The qualifications and conditions subject to which entries may be made in the Teachers’ Pension Register under subsection (2)(b), shall be as set out in the regulations in the

Schedule to this Act.”

PART VII
PROVISIONS OF ACT 9 OF 1971, IN FORCE
SINCE 19TH JUNE, 1971* (Sections 34 to 41 inclusive)

Amendment of
 section 3B of
 Chapter 95,
 1953 Edition.
 [9 of 1971]

34. Section 3B of the Act (as inserted by section 28 of that Act) is hereby amended in the following respects—

- (a) by the repeal of subsection (1) and the substitution therefor of the following subsection—

“(1) Subject to sections 4 and 15, every teacher to whom this section applies may, on his retirement as a teacher or on his retirement from the public service be granted a pension, in respect of each month of his service for pension as a teacher, at the rate of one six-hundredth of his pensionable emoluments computed in accordance with regulation 9 of the Pensions Regulations, 1957, as applied to a teacher by section 7C.”;

- (b) by the substitution of the words “pensionable emoluments” for the word “salary” wherever it appears in the section; and
- (c) by the substitution of the word “two-thirds” for the word “one-half” in subsection (3).

* This Act also amended section 2 (by inserting a definition of “pensionable emoluments”) and section 11.

Amendment of
section 4 of
Chapter 95,
1953 Edition.
[9 of 1971
1 of 1975]

35. Section 4 of the Act is hereby repealed and the following section substituted therefor—

Pension-
able
service
and age.

4. (1) No certificated teacher shall be entitled to retire on a pension under the provisions of this Act, unless the teacher has attained the age of fifty-five years and has completed at least ten continuous years of service:

Provided that—

- (a) if it is proved to the satisfaction of the Commission that any certificated teacher who has completed not less than ten years' continuous service as a teacher is from infirmity of mind or body incapable of discharging the duties of his office, and that the infirmity is likely to be permanent, the Commission may award a pension to that teacher calculated as though the teacher had completed not less than twenty years' continuous service prior to retirement;
- (b) the Commission may, in special cases, require a certificated teacher to retire from service as a teacher on or after attaining the age of fifty years;
- (c) the Commission may, in special cases, approve of a certificated teacher retiring from service as a teacher on or after attaining the age of fifty years.

(2) The provisions of subsection (1) shall *mutatis mutandis* apply to an uncertificated teacher to whom section 3B applies.

(3) Nothing in the foregoing provisions of this section shall preclude service as a teacher which was not continuous prior to the enactment of this section from being reckoned in the computation of the pension or gratuity of a teacher."

Amendment of
section 6 of
Chapter 95,
1953 Edition.
[9 of 1971]

36. Section 6 of the Act is hereby amended in the following respects—

- (a) by the substitution of the word "fifty-five" for the word "sixty"; and
- (b) by the substitution of a full-stop for the semicolon where it appears and the deletion of the remainder of the section beginning with the word "and".

Amendment of
section 7 of
Chapter 95,
1953 Edition.
[9 of 1971
7 of 1979
6 of 1981]

37. Section 7 of the Act is hereby amended in the following respects—

- (a) by the substitution of the word "eighteen" for the word "twenty" in subsection (1);
- (b) by the substitution of the word "sixty" for the word "sixty-five" in subsection (1);
- (c) by the deletion of the words "shall be granted for any period in excess of thirty-five years" appearing in subsection (1) and the substitution therefor of the words "granted to a teacher under this Act shall exceed two-thirds of the highest pensionable emoluments received by him at any time in the course of his service as a

teacher”;

- (d) by the addition thereto of the following subsections—

“(4) Anything in subsection (2) to the contrary notwithstanding, where a teacher has, whether before or after the enactment of this subsection, with the approval of the Government, attended any institution for the training of teachers, whether within or outside Guyana, the period of time spent for the purpose of such training shall be taken into account as qualifying or pensionable service.

(5) Except as otherwise provided in this Act, for the purpose of calculating the pension or gratuity of a teacher in respect of service after the enactment of this subsection, only continuous service shall be taken into account as qualifying or pensionable service:

Provided that any interruption in service as a teacher caused by—

- (a) temporary suspension of employment not arising from misconduct; or
- (b) voluntary resignation (whether before or after 1st October, 1974) in circumstances otherwise than as mentioned in section 7(7) followed by re-employment as a teacher at any time thereafter,

shall be disregarded for the purposes of this subsection but only with the approval of the Minister in respect of the circumstances to which paragraph (b) of this proviso applies:

And provided further that nothing in this subsection shall preclude service as a teacher which was not continuous

prior to the enactment of this subsection from being reckoned in the computation of the pension or gratuity of a teacher.

(6) Where a teacher is, with the approval of the Teaching Service Commission, transferred from his office as a teacher to a substantive appointment in an office service in which is other public service for the purposes of the application of regulation 21 of the Pensions Regulations 1957, his service in the last-mentioned office shall be treated in like manner as in the case of an officer to whom the Pensions Act applies.

(7) Anything in subsection (2) to the contrary notwithstanding, if a teacher—

- (a) resigned his office as a teacher not earlier than one month prior to the date on which lists of candidates may be submitted to the Election Officer in order to become qualified for election to the National Assembly;
- (b) was a candidate at the election; and
- (c) failed to be elected, he shall, if on application made by him he is re-employed as a teacher in a school within twelve months after the notification by the Elections Commission in the *Gazette* of the result of the election, be deemed for the purposes of this section to have been employed as a teacher in a school as if he had not resigned and as if during the period commencing with the effective date of his resignation and ending on the day immediately preceding his re-

employment he had been on leave of absence without pay, and that period shall be taken into account as qualifying service.

(8) Anything in subsection (2) to the contrary notwithstanding, if a teacher —

- (a) resigned from his office as a teacher not earlier than one month prior to the date on which lists of candidates may be submitted to the Chief Election Officer in order to become qualified for election to a regional democratic council held before the publication of the Miscellaneous Enactments (Amendment) Act 1981 in the *Gazette*;
- (b) was a candidate at the election; and
- (c) was declared to be elected as a member of that council or failed to be so elected he shall, if on application made by him he is re-employed as a teacher in a school within twelve months after the notification by the Elections Commission in the *Gazette* of the results of the election, be deemed for the purposes of this section to have been employed as a teacher in a school as if he had not resigned and as if during the period commencing with the effective date his resignation and ending on the day immediately preceding his re-employment he had been on leave of absence without pay, and that period

shall be taken into account as qualifying service",

and the aforesaid amendment, shall be deemed to have come into operation on 6th October, 1980.

(9) For the purpose of computing the amount of a teacher's pension or gratuity the following periods shall be taken into account as pensionable service—

- (a) any periods which, by virtue of subsection (2) or (4), may be taken into account;
- (b) any period during which he has received salary whether at the full rate or otherwise paid out of moneys provided by Parliament while proceeding to Guyana on first appointment;
- (c) any period during which he has been absent from duty on leave, with salary:

Provided that, save as hereinafter provided in this section, where a teacher is absent from duty on leave with salary otherwise than at the full rate, the period to be counted shall be the period which bears the same proportion to the amount of salary received by him;

- (d) any period during which he has been absent from duty on leave, with or without salary, granted on grounds of public policy and during which he

has not qualified for pension or gratuity in respect of other teaching service or other public service;

- (e) any period during which he has been absent from duty on leave, with or without salary otherwise than at the full rate by reason of interdiction from duty which has been succeeded by reinstatement with or without a penalty by way of deduction of salary being imposed, and any periods during which he has been absent from duty on leave, other than those hereinbefore specified, shall be deducted from the teacher's total service in computing his period of pensionable service.

(10) Where a teacher continues in service as a teacher after attaining the age of fifty-five years and where the Teaching Service Commission certifies in writing that such continued service was at the request of the Government, that teacher—

- (a) notwithstanding anything to the contrary in this Act, may be granted a pension computed after taking into account the entire period of service rendered by him whether or not the pension so payable exceeds any limit prescribed in this Act:

Provided that the pension granted to him under this subsection shall not exceed the highest annual rate of salary payable to him at any time in a

pensionable office in Guyana;

- (b) although still in service may, at his option exercisable in accordance with the provisions of this Act, be paid an amount not exceeding the amount which would have been payable as gratuity to him if he had retired on attaining the age of fifty-five years, and any amount so paid shall be set off against the superannuation benefits granted to him on his retirement or against any gratuity payable on his death to his legal personal representative."

Insertion of sections 7A, 7B and 7C in Chapter 95, 1953 Edition, [9 of 1971 7 of 1979] [38 of 1957]

38. The following sections are hereby inserted in the Act as sections 7A, 7B and 7C, respectively—

"Non-pensionable service to be reckoned.

7A. (1) Only pensionable service as a teacher shall be taken into account in computing the amount of a teacher's pension or gratuity.

Provided that where the pensionable service of a teacher has been preceded by an unbroken period of service as an acting or a temporary teacher which is not pensionable or by service in the public service which is not pensionable or service paid for out of an open vote in the public service, or any combination of such services, such service or any part thereof, may be taken into account in computing pension or gratuity, but only with the approval of the Minister where the pensionable service of the teacher has not been immediately preceded by service as a

teacher which is not pensionable or service in the public service as mentioned aforesaid.

(2) Any break in service which may be disregarded under the provisions of subsection (5) of section 7 may likewise be disregarded in determining for the purposes of the proviso to subsection (1) whether one period of service immediately follows another period of service.

(3) For the purposes of this section, service paid for out of an open vote shall be reckoned in the manner provided by the provisions of the Pensions Ordinance, 1957.

Teachers with service as public officers.

Teachers
with service
as public
officers.

7B. Where the service of a person as a teacher has been preceded, whether immediately or not, by service in a pensionable office within the meaning of the Pensions Act and the name of that person is entered in the Teachers' Pension Register in accordance with this Act, or he has given service as a teacher which would have been reckonable in determining his eligibility to have his name entered in the said Register if he had continued to serve as a teacher (hereinafter in this section referred to as "qualifying service"), the period of service of that person in the pensionable office shall be taken into account in computing pension or gratuity under this Act; in the case of a teacher who has given qualifying service as hereinbefore mentioned, he shall be

deemed for the purposes of this section to have become eligible to have his name entered in the Register:

Provided that—

- (a) such service in a pensionable office shall not be reckoned in the computation of a pension payable to the officer under the Pensions Act;
- (b) where such service in a pensionable office did not immediately precede service as a teacher the period of service in such a pensionable office may not be taken into account in computing pension or gratuity, except with the approval of the Minister.

Application of specified provisions of the Pensions (Ordinance) 1957 to teachers. 38 of 1957

7C. Sections 6, 9A, 14, 15, 20 and 21 of the Pensions Ordinance, 1957, and regulations 4, 9 and 16 of the Pensions Regulations 1957 (contained in the Schedule to the Pensions Ordinance, 1957) shall *mutatis mutandis* apply to a teacher as they apply to an officer in the public service, subject to the following modifications—

(a) for the reference in section 9A to section 9, there shall be substituted a reference to paragraph (a) of the proviso to section 4(1);

(b) for the reference in section 20(1) to paragraph (d) of section 8 there shall

be substituted a reference to paragraph (a) of the proviso to section 4(1);

(c) for the reference in section 20(1) (b) to section 13 there shall be substituted a reference to section 3B;

(d) for the reference in regulation 4 to regulation 3 there shall be substituted a reference to section 3B.”.

Amendment of the Schedule to Chapter 95, 1953 Edition. [9 of 1971]

39. The Schedule to the Act is hereby amended by the deletion of the words, “for a period of more than five years,” from regulation 3(d).

Application of section 3B of the Act to certain teachers. [24 of 1958 9 of 1971]

40. Notwithstanding the repeal of section 32(b) of the Act by section 5 of the Teachers’ Pensions (Amendment) Ordinance, 1958, section 3B of the Act shall apply and shall be deemed always to have applied to every teacher whose name was in the Teachers’ Pension Register on 1st January, 1944, and who did not intimate to the former Director of Education on or before 30th June, 1952, that he desired that the provisions of section 3, 3A, 5 or 5A of the Act as the case may be, shall continue to apply to him.

Application of this Act. [9 of 1971]

41. (1) The provisions of the Act, as amended by sections 3 to 7 (both sections inclusive) and section 9, shall apply to every teacher whose name is entered in the Teachers’ Pension Register subsequent to the enactment of this Act.

(2) The provisions of the Act, as amended by sections 3, 4, 5, 6 (other than paragraph (a), and paragraph (d) in so far as it relates to the enactment of section 7(4) of the Act), 7 and 9, shall apply to every teacher whose name is in the Teachers’ Pension Register at the time of the enactment of this Act, unless he intimates in writing to the Chief Education Officer not later than the expiration of one year commencing

with the enactment of this Act that he desires that the provisions of the Act shall continue to apply to him as they applied prior to their amendment by the provisions of this Act hereinbefore mentioned in this subsection.

(3) The provisions of the Act, as amended by sections 3 and 6(c), shall apply to every teacher whose name was in the Teachers' Pension Register on 1st January, 1961, or entered therein on or after that date and who—

- (a) retired as a teacher or from the public service after 1st January, 1961, but before the enactment of this Act;
- (b) retired as a teacher or from the public service after 1st January, 1961, and who died before the enactment of this Act.

(4) Section 7 of the Act, as amended by section 6(a), shall apply—

- (a) to every teacher whose name is in the Teachers' Pension Register at the time of the enactment of this Act;
- (b) to every teacher whose name is entered in the Teachers' Pension Register subsequent to the enactment of this Act.

(5) Section 7 of the Act, as amended by section 6(d) in so far as it relates to the enactment of section 7(4) of the Act, shall apply to—

- (a) every teacher whose name was in the Teachers' Pension Register on 1st January, 1961, or whose name was or is entered therein on or after that date;

- (b) every teacher mentioned in paragraph (a) —
- (i) who retired as a teacher or from the public service after 1st January, 1961, but before the enactment of this Act;
 - (ii) who retired as a teacher or from the public service after 1st January, 1961, and who died before the enactment of this Act.

(6) Section 9A of the Pensions Ordinance, 1957, in its application to a teacher shall be deemed to have come into operation on 1st October, 1964 and may be applied to a person who was serving as a teacher on 1st October, 1964, notwithstanding that he has ceased to be a teacher and his name removed from the register before the enactment of this Act.

(7) Where a teacher makes an intimation to the Chief Education Officer pursuant to the provisions of subsection (2), the Act shall have effect in relation to him as if it had not been amended by the provisions of this Act as hereinbefore mentioned in the said subsection (2).

Application of
this Act to
certain
teachers.
[7 of 1979]

42. (1) Subject to this section, this Act shall apply —

- (a) to every teacher employed on or after 13th September, 1976 in a school the control and management of which became the responsibility of the Ministry on that date;
- (b) to every teacher who was employed

in such a school at any time prior to 13th September, 1976 and was employed as a teacher on that date in any other government school.

(2) No teacher in a school the control and management of which became the responsibility of the Ministry on 13th September, 1976 who was entitled to participate in any dividend or surplus arising out of the management of the school prior to that date shall be entitled to be granted a pension or gratuity under this Act in respect of any period prior to that date:

Provided that the Minister may, having regard to the amount of dividend or surplus received by any such teacher, grant the teacher a pension or gratuity under this Act in respect of the service of the teacher in the school prior to 13th September, 1976 or a lower rate of such pension or gratuity.

(3) No person who was on 13th September, 1976 employed as a teacher in a school the control and management of which became the responsibility of the Ministry on that date and was—

- (a) a contributor as such a teacher to a superannuation fund or scheme which was cancelled or otherwise terminated by reason of the control and management of the school becoming the responsibility of the Ministry thereby becoming entitled to a payment based on his contributions to the superannuation fund or scheme together with those of his employer; or
- (b) a contributor as such a teacher to a superannuation fund or scheme which continues to be operative shall

be eligible to have his name entered in the Teachers' Pension Register with reference to a date prior to 13th September, 1976:

Provided that the Minister may, having regard to the amount of the payment received by any teacher to whom paragraph (a) applies, grant the teacher a pension or gratuity under this Act in respect of the service of the teacher in the school prior to 13th September, 1976 or a lower rate of such pension or gratuity.

(4) The Chief Education Officer shall enter in the Teachers' Pension Register the names of those teachers to whom subsection (1) applies and who, by virtue of the provisions of this Act, are entitled to have their names entered in the Register.

(5) Notwithstanding anything to the contrary in this Act or the Education Act (including the Education Code Regulations), the Chief Education Officer shall have power, having due regard to the qualifications and experience of a teacher, to determine whether—

- (a) a teacher employed on 13th September, 1976 in a school which became the responsibility of the Ministry on that date;
- (b) any other teacher employed in a government school or other place of education, who does not satisfy the requirements of the provisions of Part VI of the Education Code Regulations (which relate to the certification of teachers) shall be classified as a certificated or uncertificated teacher for the

purposes of the Teachers' Pension Regulations.

Saving of application of the Pensions Act. c. 27:02 [7 of 1979]

43. Nothing in this Act shall be construed as affecting the application of the Pensions Act to those teachers to whom it applied immediately before the enactment of the Teachers' Pensions (Amendment) Act 1979.

s. 15(4) [42 of 1951 24 of 1958 7 of 1979] c. 27:02

SCHEDULE

TEACHERS' PENSION REGULATIONS

Regulations as to the qualifications and conditions subject to which entries may be made in the Teachers' Pension Register.

1. The Teachers' Pension Register shall be divided into two parts, namely, Part I relating to certificated teachers, and Part II relating to uncertificated teachers.

2. (1) The name of every certificated teacher who has been examined by a Medical Board and certified to be physically fit for service as a teacher and who has served in a school or schools for three consecutive years as a certificated teacher, shall be entered in the Teachers' Pension Register.

(2) The name of every teacher who has served in a school or schools for ten consecutive years to the satisfaction of the Chief Education Officer, shall be entered in the Teachers' Pension Register.

(3) Where an uncertificated teacher whose name is entered as such in the Teachers' Pension Register becomes a certificated teacher, his name shall forthwith thereafter be entered as a certificated teacher in the Teachers' Pension

Register.

3. The Chief Education Officer shall remove from the Teachers' Pension Register—

- (a) the name of any teacher who has died;
- (b) the name of any teacher who has been awarded a pension under the Teachers' Pensions Act, or any other Act;
- (c) the name of any teacher whose certificate has been cancelled

Provided that the name of a teacher shall not be removed under this paragraph where such teacher has been appointed to a pensionable office as defined in the Pensions Act.

4. Where there has been an interruption in the service of a teacher, the reckonability of his subsequent service as a teacher for the purposes of the Teachers' Pension Register shall be subject to his being examined by a Medical Board and certified to be physically fit for service as a teacher.

5. Except in those cases to which regulation 6 applies, where the Chief Education Officer refuses to enter the name of a teacher in the Teachers' Pension Register, the teacher may appeal to the President from the decision of the Chief Education Officer, and the decision of the President shall be final.

6. Where the name of a person serving as a teacher or as a public officer on or after 1st October, 1974 was at any time prior to that date removed from the Teachers' Pension Register by reason of his having ceased to be a teacher for

more than five years, his name shall be re- entered in the said Register for the purpose of the award of a pension to him if approval is given by the Minister for the period of the interruption in his service to be disregarded for that purpose.

7. In those cases to which regulation 6 applies, service shall be deemed to be continuous for the purposes of sections 4 and 6 of the Teachers' Pension Act.

8. The names of all teachers entered in the Teachers' Pension Register on the date this Schedule comes into force shall, subject to the provisions of regulations 2(3), 3 and 5, remain therein.

9. There shall be entered into the Teachers' Pension Register the period or periods of the service for pension of every teacher whose name is entered therein, and the school or schools in which the teacher served for any such period or periods.

10. These Regulations may be cited as the Teachers' Pensions Regulations.
