

or by his agent sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound, made in imitation or semblance of cheese or as a substitute therefor, and either not made by the use of coagulating agents, or containing any fats, oils or grease not produced from the milk of cows, goats or sheep, shall have the words "imitation cheese" stamped, labelled or marked in printed letters of plain, uncondensed gothic type, not less than one inch in length, so that said words cannot be easily defaced, upon the side of each cheesecloth or band around the same, and upon the top and side of each tub, firkin, box or package containing any of said article, substance or compound. In retail sales of said article, substance or compound not in the original packages, the seller shall attach to each package so sold, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words "imitation cheese", in printed letters of plain uncondensed gothic type, not less than one half inch in length.

Imitation cheese to be marked.

SECTION 4. Said chapter ninety-four, as amended, is hereby further amended by inserting after section sixty-one, as so appearing, the following new section:— *Section 61A.* The kind of cheese known as Cheddar cheese, American cheese or American Cheddar cheese, may be sold under the designation "cheese", without qualification, and, unless its definition and standard is otherwise fixed by the laws of the commonwealth or by the department of public health under section one hundred and ninety-two, shall comply with the definitions and standards promulgated by the Food and Drug Administration of the United States Department of Agriculture. Cheese made from the milk of sheep or goats shall be labelled as being so made, unless it bears a name designated by the laws of the commonwealth or by said department under said section one hundred and ninety-two, or, if not bearing a name as aforesaid, by the definitions and standards of said Food and Drug Administration.

G. L. (Ter. Ed.), 94, new section 61A, added. Use of certain terms as applied to cheese permitted.

Approved May 20, 1937.

AN ACT AMENDING THE LAWS RELATIVE TO RETIREMENT SYSTEMS IN COUNTIES, CITIES, TOWNS AND CERTAIN HOSPITAL DISTRICTS.

Chap. 336

Whereas, The deferred operation of this act would tend to defeat its purpose, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Emergency preamble.

Be it enacted, etc., as follows:

SECTION 1. Section twenty of chapter thirty-two of the General Laws, as appearing in section one of chapter four hundred of the acts of nineteen hundred and thirty-six, is hereby amended by striking out the definitions of "Em-

G. L. (Ter. Ed.), 32, § 20, etc., amended.

ployee" and of "Regular interest" contained in said section and inserting in place thereof the following:—

"Employee"
defined.

"Employee", any person who is regularly employed in the service of and, except in the case of a register of probate, whose salary or compensation is paid by the county or hospital district, whether employed or appointed for stated terms or otherwise, except members of the judiciary and teachers in the public schools as defined by sections six and seven. In all cases of doubt the board shall decide who is an employee.

"Regular
interest"
defined.

"Regular interest", interest at three per cent per annum compounded annually; provided, that if the actual net interest earned on the reserves of the system be more than three per cent, the rate may be fixed by vote of the board from time to time to correspond substantially to the rate of interest actually earned by the funds.

G. L. (Ter.
Ed.), 32,
§ 21, etc.,
amended.

SECTION 2. Section twenty-one of said chapter thirty-two, as so appearing, is hereby amended by striking out paragraphs (1) (b), (1) (c) and (1) (d) and inserting in place thereof the following:—

Membership
classes.

(b) Every person who is an employee of the county or hospital district on the date when the system becomes operative therein, except an elected officer or an employee to whom any pension or retirement law of the commonwealth, whether general or special, other than sections twenty to twenty-five H, inclusive, is applicable on said date, shall become a member as of the first day the system becomes operative, unless at or before the expiration of ninety days thereafter he shall file with the board on a form prescribed by it a notice of his election not to become a member of the system and a duly executed waiver of all present and prospective benefits which might otherwise inure to him on account of his participation therein. All former employees of the county or hospital district, not in its employ upon the date on which the system becomes operative therein but re-entering the service thereof within five years from such date, may become members of the system upon their own application, and disability beneficiaries restored to active service to whom the provisions of paragraph (3) of said section twenty-five A apply shall forthwith become members of the system.

(c) Any employee who is expressly excepted from the operation of paragraph (b) by the provisions thereof shall become a member of the system only if he shall then or thereafter make written application to join the system, and shall therein waive and renounce all benefits of all other pension or retirement systems supported wholly by the county or hospital district, as the case may be; provided, that no such employee shall receive credit for prior service unless he makes such application for membership within one year from the date the system becomes operative therein; and provided, further, that upon such application

the pertinent provisions of section thirty-seven D shall apply to such employee.

(d) Any person holding office by popular election in a county when the system becomes operative therein, including a register of probate, may, at his option, to be exercised in writing not later than ninety days thereafter, become a member of the system and such officer shall receive credit for prior service in all elective and non-elective positions previously held by him in such county, in the same manner as other employees. Any employee of a county or hospital district who becomes a member while holding a non-elective position, and who thereafter accepts an office by popular election, shall retain his membership in the system. Any person not an employee of a county who, after the date on which the system becomes operative therein, is elected by popular election to a county office in such county shall if then under age fifty-five become a member of the system.

SECTION 3. In any county which adopted sections twenty to twenty-five H, inclusive, of chapter thirty-two of the General Laws, as appearing in chapter four hundred of the acts of nineteen hundred and thirty-six, on or before September thirtieth, nineteen hundred and thirty-six, persons holding office by popular election on the operative date of the system established under said sections may exercise on or before July first, nineteen hundred and thirty-seven, the option referred to in section twenty-one (1) (d) of said chapter thirty-two, as appearing in this act, notwithstanding the provisions thereof. Option.

SECTION 4. Section twenty-two of said chapter thirty-two, as so appearing, is hereby amended by striking out the last two sentences of paragraph (5) and inserting in place thereof the following new sentence: — G. L. (Ter. Ed.), 32, § 22, etc., amended.

In case of his reinstatement, upon his redepositing within one year an amount equal to his accumulated deductions or making provision within one year for the return of such deductions, as provided in paragraph (1) (d) of section twenty-five G, his prior service certificate shall be reinstated, provided he re-entered the service within five years after the termination of his last previous service. Reinstatement.

SECTION 5. Section twenty-three of said chapter thirty-two, as so appearing, is hereby amended by adding at the end of subdivision (1) thereof the following new paragraph: — G. L. (Ter. Ed.), 32, § 23, etc., amended.

Notwithstanding the provisions of this subdivision, no person holding office by popular election shall be entitled to a retirement allowance for superannuation unless he has at least fifteen years of creditable service, and any such person with less than fifteen years of creditable service who ceases to hold office shall be paid the amount of his accumulated deductions even though he has attained the age for retirement under said provisions. Retirement allowance.

SECTION 6. Paragraph (2) of section twenty-five of said chapter thirty-two, as so appearing, is hereby amended by G. L. (Ter. Ed.), 32, § 25, etc., amended.

striking out the first clause and inserting in place thereof the following:—

Accidental disability allowance.

Upon retirement for accidental disability, a member shall receive an accidental disability retirement allowance consisting of—

G. L. (Ter. Ed.), 32, § 25F, etc., amended.

SECTION 7. Section twenty-five F of said chapter thirty-two, as so appearing, is hereby amended by striking out, in the ninth line of paragraph (6), the word "they" and inserting in place thereof the words:— to the commissioner of insurance and said county commissioners, — so that said paragraph will read as follows:—

Records of board.

(6) The board shall keep a record of all of its proceedings, which record shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the system for the preceding year, the amount of accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of actuarial valuation of the assets and liabilities thereof. The board shall submit said report to the county commissioners and to the commissioner of insurance and said county commissioners shall publish it with their annual report. Investments having fixed maturities and upon which interest is not in default shall be carried at amortized values, and other investments at a reasonable valuation as determined by the commissioner of insurance.

G. L. (Ter. Ed.), 32, § 25G, etc., amended.

SECTION 8. Section twenty-five G of said chapter thirty-two, as so appearing, is hereby amended by striking out the second sentence of paragraph (1) (a) and inserting in place thereof the two following sentences:—

Annuity savings fund, administration of.

The county treasurer and, in the case of members whose salaries are paid by the commonwealth, the state treasurer, shall withhold five per cent of the regular compensation not in excess of fifty dollars weekly due on each pay day to all employees who are members of the system. The board shall notify the state treasurer whenever a person whose salary is paid by the commonwealth becomes a member of the system.

G. L. (Ter. Ed.), 32, § 25G, etc., further amended.

SECTION 9. Paragraph (1) (d) of said section twenty-five G of said chapter thirty-two, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following two new sentences:—

Contributions.

Subject to like approval, any member may authorize the treasurer of the county to deduct and to deposit in the annuity savings fund in the form of additional regular contributions not exceeding the deductions authorized by paragraph (1) (a) of this section, amounts which, with regular interest, shall be used at his retirement to purchase an additional annuity. If such member shall so request in writing, the board may permit a reduction, suspension or termination of such additional contributions, but no return of such additional contributions shall be made except in the manner provided for return of regular deductions in section twenty-five E.

SECTION 10. Section twenty-five I of said chapter thirty-two, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following: —

G. L. (Ter. Ed.), 32, § 25I, etc., amended.

In any county having a retirement system which accepts the provisions of said sections twenty to twenty-five H, inclusive, any employee who has refused to join the previously existing retirement system may join the system under said sections, but shall receive credit for prior service only if he shall, within one year of the date when said system becomes operative, deposit in a lump sum if he has attained age sixty or, if he has not attained said age, shall deposit before attaining age sixty either in a lump sum or in instalments the amount he would have contributed had he joined the previously existing retirement system, with regular interest.

Acceptance provisions.

SECTION 11. Section twenty-six of chapter thirty-two of the General Laws, as appearing in section one of chapter three hundred and eighteen of the acts of nineteen hundred and thirty-six, is hereby amended by striking out the definitions of "Employee" and of "Regular interest" contained in said section and inserting in place thereof the following: —

G. L. (Ter. Ed.), 32, § 26, etc., amended.

"Employee", any person who is regularly employed in the service of, and whose salary or compensation is paid by, the city or town, including members of the police and fire departments and other officials or public officers so paid, whether employed or appointed for stated terms or otherwise, except teachers in the public schools, as defined by sections six and seven. In all cases of doubt the board shall decide who is an employee.

Certain words defined.

"Regular interest", interest at three per cent per annum compounded annually; provided, that if the actual net interest earned on the reserves of the system be more than three per cent, the rate may be fixed by vote of the board from time to time to correspond substantially to the rate of interest actually earned by the funds.

SECTION 12. Section twenty-seven of said chapter thirty-two, as so appearing, is hereby amended by striking out paragraphs (1) (b), (1) (c) and (1) (d) and inserting in place thereof the following: —

G. L. (Ter. Ed.), 32, § 27, etc., amended.

(b) Every person who is an employee of the city or town on the date when the system becomes operative therein, except an employee to whom any pension or retirement law of the commonwealth, whether general or special, other than sections twenty-six to thirty-one H, inclusive, is applicable on said date, shall become a member as of the first day the system becomes operative, unless at or before the expiration of ninety days thereafter he shall file with the board on a form prescribed by it a notice of his election not to become a member of the system and a duly executed waiver of all present and prospective benefits which might otherwise inure to him on account of his participation therein. All former employees of the city or town, not in its employ

Membership, classes of.

upon the date on which the system becomes operative therein but re-entering the service thereof within five years from such date, may become members of the system upon their own application, and disability beneficiaries restored to active service to whom the provisions of paragraph (3) of said section thirty-one A apply shall forthwith become members of the system.

(c) Any employee who is expressly excepted from the operation of paragraph (b) by the provisions thereof, shall become a member of the system only if he shall then or thereafter make written application to join the system, and shall therein waive and renounce all benefits of all other pension or retirement systems supported wholly by the city or town; provided, that no such employee shall receive credit for prior service unless he makes such application for membership within one year from the date the system becomes operative therein; and provided, further, that upon such application the pertinent provisions of section thirty-seven D shall apply to such employee.

(d) Any person holding office by popular election in a city or town when the system becomes operative therein, may, at his option, to be exercised in writing not later than ninety days thereafter, become a member of the system and such officer shall receive credit for prior service in all elective and non-elective positions previously held by him in such city or town, in the same manner as other employees. Any employee of a city or town who becomes a member while holding a non-elective position, and who thereafter accepts an office by popular election, shall retain his membership in the system. Any person not an employee of a city or town who, after the date on which the system becomes operative therein, is elected by popular election to a municipal office in such city or town shall if then under age fifty-five become a member of the system.

G. L. (Ter. Ed.), 32, § 28, etc., amended.

SECTION 13. Section twenty-eight of said chapter thirty-two, as so appearing, is hereby amended by striking out the last two sentences of paragraph (5), and inserting in place thereof the following new sentence: —

Reinstatement.

In case of his reinstatement, upon his redepositing within one year an amount equal to his accumulated deductions or making provision within one year for the return of such deductions, as provided in paragraph (1) (d) of section thirty-one G, his prior service certificate shall be reinstated, provided he re-entered the service within five years after the termination of his last previous service.

G. L. (Ter. Ed.), 32, § 29, etc., amended.

SECTION 14. Section twenty-nine of said chapter thirty-two, as so appearing, is hereby amended by striking out the second paragraph of subdivision (1) and by inserting in place thereof the following: —

Conditions for allowance.

Any member classified under Group 2, as defined in section twenty-seven, who shall have attained age sixty-five, and any member classified in Group 1, as so defined, who shall have attained age seventy, shall be retired for super-

annuation upon attaining such age, or within ninety days after the system becomes operative, if such age was attained prior to such date; provided, that an employee who has attained the maximum age for his group when the system becomes operative may, at his own request and with the approval of the board, be continued in service for a period not exceeding two years, during which time no deductions shall be made from his salary, and when so retired shall receive a retirement allowance equal to that to which he would have been entitled if retired at said maximum age for his group.

Notwithstanding the provisions of this subdivision, no person holding office by popular election shall be entitled to a retirement allowance for superannuation unless he has at least fifteen years of creditable service, and any such person with less than fifteen years of creditable service who ceases to hold office shall be paid the amount of his accumulated deductions even though he has attained the age for retirement under said provisions.

SECTION 15. Paragraph (2) (d) of said section twenty-nine of said chapter thirty-two, as so appearing, is hereby amended by striking out, in the next to the last line, the word "retiring" and inserting in place thereof the word:— retirement, — so that said paragraph will read as follows:—

G. L. (Ter. Ed.), 32, § 29, etc., further amended.

(d) The value of the total pension under the two preceding paragraphs, when added to the amount required to purchase the life annuity referred to in paragraph (2) (a) of this section or required to purchase a life annuity of six hundred and fifty dollars at age sixty, whichever is the lesser, shall not exceed the sum which is sufficient to purchase at age sixty a retirement allowance of thirteen hundred dollars. No pension of a member, except as hereinafter provided, shall exceed one half the average annual rate of his regular compensation for the five years prior to the termination of his service, and no retirement allowance shall exceed two thirds of said average annual rate of regular compensation unless the annuity exceeds one third of said average annual rate, in which case the total pension shall be the pension provided under paragraph (2) (b) of this section, the retirement allowance in all cases to be determined on the basis of the full life annuity; provided, that in case the period of prior service is less than five years said prior service pension shall be computed on the compensation received during the period of prior service instead of the annual rate hereinbefore mentioned; and provided, further, that a member who has been an employee for twenty or more years, or a member retired at the maximum age for his group with not less than five years of creditable service, shall receive a pension which, when added to the annual amount of the full life annuity to which he is entitled, will provide a total retirement allowance of not less than four hundred and eighty dollars a year.

Value of pension.

G. L. (Ter. Ed.), 32, § 31, etc., amended.

SECTION 16. Paragraph (2) of section thirty-one of said chapter thirty-two, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following: —

Accidental disability.

Upon retirement for accidental disability, a member classified in Group 1, as defined in section twenty-seven, shall receive an accidental disability retirement allowance consisting of —

G. L. (Ter. Ed.), 32, § 31G, etc., amended.

SECTION 17. Paragraph (1) (d) of section thirty-one G of said chapter thirty-two, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following two new sentences: —

Deposits in annuity savings fund.

Subject to like approval any member may authorize the treasurer of the city or town to deduct and to deposit in the annuity savings fund in the form of additional regular contributions not exceeding the deductions authorized by paragraph (1) (a) of this section, amounts which, with regular interest, shall be used at his retirement to purchase an additional annuity. If such member shall so request in writing, the board may permit a reduction, suspension or termination of such additional contributions, but no return of such additional contributions shall be made except in the manner provided for return of regular deductions in section thirty-one E.

G. L. (Ter. Ed.), 32, § 36, amended.

SECTION 18. Section thirty-six of said chapter thirty-two, as appearing in the Tercentenary Edition, is hereby amended by striking out, in the third and fourth lines, the word "thirty-one" and inserting in place thereof the following: — thirty-one I, — so as to read as follows: — *Section 36.* If, in the judgment of the commissioner of insurance, the county, city or town or the board of retirement thereof has violated or neglected to comply with any provision of sections twenty to thirty-one I, inclusive, or of the rules and regulations established thereunder, he shall give notice thereof to the county commissioners or the mayor or the chairman of the selectmen and to the board of retirement, and thereafter, if such violation or neglect continues, shall forthwith present the facts to the attorney general for action.

Violations of retirement law or rules.

G. L. (Ter. Ed.), 32, § 37D, etc., amended.

SECTION 19. Section thirty-seven D of said chapter thirty-two, as appearing in section three of said chapter three hundred and eighteen, is hereby amended by striking out the first paragraph and inserting in place thereof the following: —

Transfers.

Any member of any contributory retirement system established under the provisions of this chapter or of any special law, which is maintained by public funds, upon leaving a position in the service of a county or municipality or of the commonwealth or of the metropolitan district commission, or as a teacher in the public schools, as defined in sections six and seven, which entitles him to be such member, and accepting a position which entitles him to become a member of any other such system, shall thereupon be transferred to such other system with the right to a re-

tirement allowance based on his full service in both systems, and the full amount of his accumulated deductions plus regular interest shall be transferred to the system of which he then becomes a member. This section shall apply to any person who, within ninety days after leaving a position in any of said systems, accepts a position in any other such system; provided, that it shall not apply to a person who has in the meantime withdrawn his accumulated deductions, unless he redeposits in the annuity fund of such system the full amount of such deductions with regular interest, or provides for payment thereof by an increased rate of contribution over a period not to exceed five years and before attaining age sixty. No provision of this chapter or of any special law limiting the age at which a person may become a member of any system shall prevent a transfer under this section.

SECTION 20. Said chapter thirty-two, as amended, is hereby further amended by inserting after section thirty-seven D, as so appearing, the following new section:— *Section 37E.* (1) An employee of a county, city, town or hospital district who, having been a member of a contributory retirement system previously existing in the same county, city, town or hospital district, joins a system established under the provisions of sections twenty to twenty-five H, inclusive, or of sections twenty-six to thirty-one H, inclusive, shall on retirement receive a retirement allowance at least equal to that to which he would have been entitled had there been no such previously existing system.

G. L. (Ter. Ed.), 32, new section 37E, added.

Rights of persons under other retirement systems.

(2) An employee who is or may become eligible under the provisions of any law relative to non-contributory pensions to receive on retirement any such pension and who joins any contributory retirement system shall on retirement receive a retirement allowance at least equal to that to which he would have been entitled had he not become a member of such contributory retirement system.

SECTION 21. Section thirty-eight of said chapter thirty-two, as appearing in the Terecentenary Edition, is hereby amended by striking out, in the fourth line, the word "thirty-one" and inserting in place thereof the following:— thirty-one I, — so as to read as follows:— *Section 38.* The superior court shall have jurisdiction in equity, upon petition of the commissioner of insurance or any interested party, to compel the observance and to restrain the violation of any provision of sections one to thirty-one I, inclusive, and of the rules and regulations established thereunder.

G. L. (Ter. Ed.), 32, § 38, amended.

Jurisdiction of superior court.

SECTION 22. Section sixty-five of said chapter thirty-two, as so appearing, is hereby amended by striking out the last sentence.

G. L. (Ter. Ed.), 32, § 65, amended.

SECTION 23. The first sentence of section seventy-three of chapter one hundred and fifty-two of the General Laws, as appearing in section four of said chapter three hundred and eighteen, is hereby amended by inserting after the word "section" in the seventh line the following:— twenty-five

G. L. (Ter. Ed.), 152, § 73, etc., amended.

Election
between com-
pensation
and pension.

D or, — so as to read as follows: — Any person entitled to receive compensation as provided by section sixty-nine from the commonwealth or from such county, city, town or district, who is also entitled to a pension by reason of the same injury, shall elect whether he will receive such compensation or such pension, and shall not receive both, except in the manner and to the extent provided by section twenty-five D or thirty-one D of chapter thirty-two.

Approved May 24, 1937.

Chap.337 AN ACT PROVIDING FOR EXPEDITING RECONSTRUCTION OF THE BRIDGE OVER CONNECTICUT RIVER BETWEEN NORTHAMPTON AND HADLEY.

Emergency
preamble.

Whereas, The deferred operation of this act would tend to defeat its purpose, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

Be it enacted, etc., as follows:

Chapter four hundred and thirty-three of the acts of nineteen hundred and thirty-six is hereby amended by striking out section two and inserting in place thereof the following: — *Section 2.* The department is hereby further authorized and directed to reconstruct the bridge over said river, known as the Northampton-Hadley bridge; provided, that federal funds sufficient to pay substantially one half of said total cost are made available therefor. Substantially one half of said total cost shall be paid out of federal funds made available therefor as aforesaid and the balance thereof shall be payable from any appropriation for the construction of highways. *Approved May 24, 1937.*

Chap.338 AN ACT EXTENDING THE EXISTENCE OF THE EMERGENCY PUBLIC WORKS COMMISSION.

Emergency
preamble.

Whereas, The deferred operation of this act would tend to defeat its purpose, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

The existence of the Emergency Public Works Commission, established by chapter three hundred and sixty-five of the acts of nineteen hundred and thirty-three, as extended by chapter three hundred and eighty of the acts of nineteen hundred and thirty-five, is hereby further extended to June first, nineteen hundred and thirty-eight.

Approved May 24, 1937.