

18:13-112.17 (Teachers' Pension and Annuity Fund). Since this increase is an increase in the regular retirement allowance, there is no reason to treat it in a manner different from that used to compute regular retirement credit. In other words, since the retirant is receiving a regular allowance based on a specific number of years of service, his increased allowance should be based on the same years of service.

2. If an individual who is eligible for an increased pension under this statute dies during the month, is the accrued portion of the increase payable to his estate or beneficiary?

You have advised that with respect to regular retirement allowances the accrued portion of an allowance of an individual who dies during the month is paid to the estate or beneficiary of the decedent. It is our opinion that the accrued portion of this increase should be paid to the estate or beneficiary of the decedent in accordance with the rules and regulations of the respective funds. As stated above, the increase provided for by Chapter 143, P.L. 1958 is an increase in the regular retirement allowance and consequently the same procedure should be followed in making payment of this increase as is followed in making payment of the regular retirement allowance.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: ROBERT S. MILLER
Deputy Attorney General

AUGUST 9, 1961

HONORABLE NED J. PARSEKIAN
Acting Director
Division of Motor Vehicles
25 South Montgomery Street
Trenton, New Jersey

MEMORANDUM OPINION—P-15

DEAR DIRECTOR PARSEKIAN:

We have been asked whether constructor registration plates may be issued to tractors and semi-trailers as individual units, as well as in combinations known as "wedded units." R.S. 39:3-20 provides for the issuance of constructor registration plates for vehicles which may exceed the limitation on the weight of loaded commercial vehicles. The use of such plates is narrowly restricted. The Director must be satisfied by proof that the applicant is actually engaged in construction or supplying of material for construction. Vehicles so registered may not be operated more than 30 miles from the headquarters of the particular construction operation in which they are involved. Special restrictions are placed on their speed.

The law has always intended that a set of constructor plates be identified with a particular vehicle or a particular combination of vehicles. This is indicated by the statutory provision that the maximum lawful loaded weight of a particular vehicle or a particular combination of vehicles is limited by the gross weight recorded on its registration certificate, id., and by absence of any express provision for interchange

ability of constructor plates between constructor vehicles analogous to the provision for interchange ability made in the case of dealer plates by R.S. 39:3-18. Prior to March 30, 1960, R.S. 39:3-20 read in part as follows:

"* * * the director shall issue registrations providing for the gross weight of vehicle and load of over forty thousand pounds but not exceeding seventy thousand pounds, upon application therefor and proof to the satisfaction of the director that the applicant is actually engaged in construction work or in the business of supplying material, transporting material, or using such registered vehicle for construction work. The license plate so issued shall be marked 'constructor' and shall be placed upon the vehicle or vehicles registered under this section."

While the statute so read you inform us that the Division of Motor Vehicles adopted a policy of permitting issuance of one set of constructor plates to be used for a particular combination of a tractor and a semi-trailer. Such a combination of vehicles so registered was commonly referred to as a "wedded unit." One plate of the set was displayed on the front of the tractor and the other on the rear of the semi-trailer. The components of the wedded unit have not been operated either separately or in combination with vehicles other than each other.

On March 30, 1960, L. 1960, c. 12, became effective. This statute amended the part of R.S. 39:3-20 quoted above by inserting the following italicized language:

"* * * the director shall issue registrations *for automobile commercial vehicles, trailers, semi-trailers, and tractors* * * *."

This amendment is clear authority for the issuance of a set of constructor plates to a tractor and for the issuance of a set of constructor plates to a semi-trailer. But the maximum lawful weight even of a combination of a tractor and a semi-trailer individually registered as constructor vehicles remains seventy thousand pounds. This was made clear by the insertion of the following new language in R.S. 39:3-20 by the 1960 Act:

"In no event shall a vehicle or combination of vehicles, operating as a unit, registered under this section and using 'constructor' registration plates exceed a maximum gross weight, inclusive of load, of seventy thousand pounds."

If a person applies for registration of a tractor or a semi-trailer individually, it is our opinion that it is your duty to issue a registration to each vehicle if all other conditions of the law are met. Either may then be used in a combination with any other vehicle individually registered as a constructor vehicle where the combined loaded weight is less than seventy thousand pounds and all other conditions of the law are met. It is also our opinion that the italicized language quoted above, inserted in the law by the 1960 Act, and the implication of the weight limitation now applicable to "a vehicle or combination of vehicles," was not intended to terminate your authority to issue a single set of plates to a "wedded unit" according to prior practice where a person makes application therefor and intends to use each component of the "wedded unit" exclusively in combination with the other—neither alone nor with another vehicle.

Of course, constructor registration of any vehicle only authorizes use of the vehicle bearing the plates for the purposes specified in the law. If a tractor is indi-

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vidually registered only as a constructor vehicle, it may only be used for constructor purposes and may not be used to draw a semi-trailer bearing commercial plates and engaged in ordinary commercial purposes; a semi-trailer individually registered only as a constructor vehicle may not be used for ordinary commercial purposes. Cf. *State v. Tucker*, 61 N.J. Super. 161 (App. Div. 1960).

Very truly yours,

DAVID D. FURMAN
Attorney General

By: WILLIAM L. BOYAN
Deputy Attorney General

AUGUST 10, 1961

HONORABLE KATHARINE E. WHITE
Acting State Treasurer
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-16

DEAR MRS. WHITE:

Former State Treasurer Kervick has asked whether the administrator of the estate of a deceased prison officer, who was an active member of the Prison Officers Pension Fund at the time of his death, is entitled to a refund of contributions in the event that the officer died leaving no widow, no minor children and no dependents.

We are of the opinion that the statute does not authorize a refund of contributions and therefore none can be paid. R.S. 43:7-15 provides for refunds whenever a prison officer is suspended, resigned, dropped or discharged from his employment. However, the statute specifically provides that "No other refund of assessments collected from the salaries of such pension [sic] officers shall be made."

R.S. 43:7-9 covers the situation where a prison officer dies in the performance of his duties. It provides certain pension benefits for the widow and children of the officer. It then goes on to state that "In the event that there is no widow and no children under the age of 16 years, at the time of the death of such prison officer, then such pension shall be paid to the dependent parent or parents, if any, of such deceased prison officer." This is all that the statute provides. There is no authority whatsoever for authorizing payment to the administrator of the estate in the event that there is no widow, dependent children or dependent parents.

This result differs from the result in the Public Employees' Retirement System, where, under N.J.S.A. 43:15A-49 and N.J.S.A. 43:15A-41(c), express provision is made for payment to the estate under these circumstances. The Prison Officers Pension Commission, however, has no statutory authority to comply with the administrator's request.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: ROBERT S. MILLER
Deputy Attorney General