

GOVERNMENT RAILWAYS (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 73, 1971.

An Act to make provision for the payment of a pension to certain widows; for this purpose and for other purposes to amend the Government Railways Act, 1912; and for purposes connected therewith. [Assented to, 21st December, 1971.]

BE

Government Railways (Amendment).

No. 73, 1971

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Government Railways (Amendment) Act, 1971".

(2) This Act shall commence upon the second day of February, one thousand nine hundred and seventy-two.

Amendment
of Act No.
30, 1912.

2. The Government Railways Act, 1912, is amended—

Sec. 120.
(Refund
where
officer dies
in the
service.)

(a) (i) by omitting from section one hundred and twenty the words "When an officer" and by inserting in lieu thereof the words "Subject to the provisions of subsection two of this section, when an officer";

(ii) by inserting at the end of the same section the following new subsections :—

(2) A widow who is entitled to a pension, or to have payment of a pension resumed, under section 121A of this Act on, or as the result of, the death of an officer shall not be entitled, upon the death of that officer, to receive payment of the refund and interest referred to in subsection one of this section—

(a) unless she elects within six months after the date of that death to receive payment of that refund; or

(b) if, before so electing, she makes application under section 121A of this Act for payment, or for resumption of payment, of any pension, whether in respect of the service of that officer or of any other officer, to which she is entitled under that section.

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(3) An election under subsection two of this section shall be made in writing to the board and shall be irrevocable. No. 73, 1971

- (b) by omitting section one hundred and twenty-one and by inserting in lieu thereof the following section : — Subst. sec. 121.

121. (1) Subject to the provisions of subsection two of this section, if upon the death of an officer who retired upon a superannuation allowance the total amount received by him as superannuation allowance is less than the total amount of deductions made from his salary and emoluments under this Part of this Act, together with interest at the rate prescribed on the amounts of such deductions from the dates when they were respectively made and any lump sum contribution paid following his retirement, his widow, or if he does not leave a widow, his personal representatives, shall be entitled to receive payment of a sum of money which is equivalent to the difference between the said total amount of deductions, interest and lump sum contribution, and the total amount so received as superannuation allowance. Payment where officer dies after retirement

(2) A widow who is entitled to a pension, or to have payment of a pension resumed, under section 121A of this Act on, or as the result of, the death of an officer shall not be entitled, upon the death of that officer, to receive payment of the equivalent sum of money referred to in subsection one of this section—

- (a) unless she elects within six months after the date of that death to receive payment of that equivalent sum of money ; or
- (b) if, before so electing, she makes application under section 121A of this Act for payment, or for resumption of payment, of any pension, whether in respect of the service of that officer or of any other officer, to which she is entitled under that section.

(3)

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(3) An election under subsection two of this section shall be made in writing to the board and shall be irrevocable.

New sec.
121A.

(c) by inserting next after section one hundred and twenty-one the following new section :—

Grant of
pensions
to widows.

121A. (1) In this section—

“Account” means the Government Railways Superannuation Account.

“Commonwealth pension” means—

- (a) a service pension payable under Division 5 of Part III of the Repatriation Act 1920 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament;
- (b) an age or invalid pension payable under Part III of the Social Services Consolidation Act 1947 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament;
- (c) a widow's pension payable under Part IV of the Social Services Consolidation Act 1947 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament; or
- (d) such other pension, or payment of a like nature, payable under a law of the Commonwealth, as may be prescribed.

“Contributor” means a deceased person who, at the date of his death, was either contributing to the account or was in receipt of a superannuation allowance.

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“Date of commencement” means the second day No. 73, 1971
of February, one thousand nine hundred and
seventy-two.

“Prescribed pension” means a pension payable
under this section.

“Widow” means a woman who was the wife of a
contributor on the date on which he died,
whether or not his death occurred before the
date of commencement, but does not include
a woman whose deceased husband was in
receipt of a superannuation allowance when
she married him.

(2) For the purposes of paragraph (a) of
subsection three of this section a Commonwealth
pension payable in respect of a child shall be
disregarded.

(3) Subject to the provisions of this
section, a widow who—

(a) is in receipt of, or eligible to receive, a class
of Commonwealth pension that is the
maximum amount of that class of Common-
wealth pension that may be paid to her
without any deduction on account of means
as assessed within the meaning of the law
of the Commonwealth pursuant to which
the Commonwealth pension is paid; and

(b) is unmarried,

shall be entitled to a prescribed pension.

(4) A widow entitled to a prescribed
pension may make application in writing to the
board for payment thereof and the board, if satisfied
that she is so entitled shall, subject to the provisions
of this section, cause to be paid to her from the
account a pension of an amount determined in
accordance with this section.

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(5) A prescribed pension shall be paid in fortnightly instalments, the first instalment being paid on a date determined by the board.

(6) Payment to a widow of a prescribed pension shall commence—

- (a) with effect from the date, as determined by the board, when the widow became entitled to the prescribed pension or from the date of commencement, whichever is the later;
- (b) if the date so determined would be more than six months before the date on which the board received the widow's application for payment of the prescribed pension, with effect from the date of such receipt or such earlier date, not being earlier than the date of commencement, as the board may determine.

(7) The amount of a prescribed pension shall be the lesser of—

- (a) the maximum total amount that if received by the widow would not, by virtue of paragraph (a) of subsection three of this section, operate to disqualify her as a widow to whom a prescribed pension may be paid; or
- (b) the amount of the maximum pension rate per annum shown in the second column of the Fourth Schedule to this Act opposite the period of service shown in the first column of that Schedule which is appropriate for the period of service of the widow's deceased husband.

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(8) The board may alter the amount of a prescribed pension payable to a widow if, having regard to any change in her means and to the provisions of paragraph (a) of subsection three of this section, it is, in the opinion of the board, necessary to make an alteration to ensure that the widow will continue to be entitled to a prescribed pension. No. 73, 1971

(9) If a widow receiving payment of a prescribed pension—

- (a) ceases to be entitled to a class of Commonwealth pension referred to in paragraph (a) of subsection three of this section;
- (b) ceases, pursuant to the operation of any provision of this section (other than this subsection) to be entitled to the prescribed pension; or
- (c) remarries,

she shall, with effect from the date when she so ceases or remarries, cease to be entitled to receive payment of the prescribed pension.

(10) A widow may apply in writing to the board for the resumption of payment of a prescribed pension and the board may, subject to the provisions of this section, cause payment of pension to be resumed—

- (a) with effect from the date, as determined by the board, when she again became entitled to receive payment of the prescribed pension; or
- (b) if the date so determined would be more than six months prior to the date on which the application for resumption of payment of the pension was received by the board,

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with effect from the date of such receipt or such earlier date, not being earlier than the day on which she again became entitled to receive payment of the prescribed pension, as the board may determine.

(11) The first instalment of a prescribed pension of which payment is resumed under subsection ten of this section shall be paid on a date determined by the board.

(12) A widow shall not be entitled to more than one prescribed pension and in any case where, but for the provisions of this subsection, a widow would be entitled to one or more pensions she shall, subject to the provisions of this section, receive payment of the prescribed pension nominated by the board which, as calculated by reference only to the Fourth Schedule to this Act, is the higher or highest, or the equal higher or highest, of those pensions.

(13) A woman who, upon the death of her husband on or after the date of commencement, receives payment of the refund and interest referred to in section one hundred and twenty, or the equivalent sum of money referred to in section one hundred and twenty-one, of this Act shall not thereafter be entitled to a prescribed pension in respect of the service of any deceased contributor to whom she was married and who died before she received payment of that refund and interest or equivalent sum of money.

(14) If a widow who is in receipt of a prescribed pension in respect of the service of a deceased contributor dies and at the date of her death the total amount of that prescribed pension received by her is less than the refund and interest or equivalent sum of money which she would have

received

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received if she had elected under section one No. 73, 1971 hundred and twenty, or section one hundred and twenty-one, of this Act, upon the death of that contributor, to receive such a refund or equivalent sum of money, an amount equivalent to the difference between the total amount of the pension so received by her and that refund and interest or equivalent sum of money shall be paid by the board to any person or persons who, in the opinion of the board, was or were dependent on her at the time of her death.

(15) Where an amount of money is payable to any person pursuant to subsection fourteen of this section and that person is a child—

- (a) the board may pay the amount of money to the guardian of the child if satisfied that the money, when so paid, will be used for the maintenance, education and advancement of the child; or
- (b) if the board is not so satisfied or if there is no guardian of the child, the board may cause the amount of money to be expended for the benefit of the child in such manner as the board may determine.

(16) Where a widow applies to the board for payment, or resumption of payment, of a prescribed pension the board may require the widow to provide the board with such information as it deems necessary to enable it to decide whether or not she is entitled to payment, or resumption of payment, of the prescribed pension.

(d)

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New
Schedule.

(d) by inserting next after the Third Schedule the following new Schedule :—

Sec. 121A.

FOURTH SCHEDULE.

Period of Service	Maximum Pension Rate per annum
	\$ c
10 years or more but less than 21 years	182.37
21 years or more but less than 22 years	187.59
22 years or more but less than 23 years	192.80
23 years or more but less than 24 years	198.02
24 years or more but less than 25 years	203.23
25 years or more but less than 26 years	208.45
26 years or more but less than 27 years	213.66
27 years or more but less than 28 years	218.87
28 years or more but less than 29 years	224.09
29 years or more but less than 30 years	229.30
30 years or more	234.52