

**GOVERNMENT RAILWAYS (SUPERANNUATION)
AMENDMENT ACT, 1977**

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 99, 1977.

An Act to amend the Government Railways Act, 1912, with respect to superannuation allowances and pensions payable under that Act, and in certain other respects; and to validate certain matters. [Assented to, 31st October, 1977.]

BE

Government Railways (Superannuation) Amendment.

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 :—

1. This Act may be cited as the "Government Railways ^{Short title.} (Superannuation) Amendment Act, 1977".

2. (1) This section and section 1 shall commence on ^{Commencement.} the date of assent to this Act.

(2) Section 3 shall, in its application to a provision of Schedule 1, be deemed to have commenced on the day on which that provision is deemed to have commenced.

(3) Schedule 1 (8) (a) shall be deemed to have commenced on 6th January, 1952.

(4) Schedule 1 (9) shall be deemed to have commenced on 3rd April, 1945.

(5) Except as provided in subsections (3) and (4), Schedule 1 shall be deemed to have commenced on 22nd September, 1976.

3. The Government Railways Act, 1912, is amended in ^{Amendment of} the manner set forth in Schedule 1. ^{Act No. 30, 1912.}

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Sec. 3.

SCHEDULE 1.

AMENDMENTS TO THE GOVERNMENT RAILWAYS ACT, 1912.

(1) Section 1—

Omit the matter relating to Part IX, insert instead :—

PART IX.—SUPERANNUATION ALLOWANCES,
PENSIONS AND GRATUITIES—ss. 108–129F.DIVISION 1.—*General provisions*—ss. 108–129.DIVISION 2.—*Automatic adjustment of super-
annuation allowances and pensions*—ss.
129A–129F.

(2) Part IX, Division 1—

Before section 108, insert :—

DIVISION 1.—*General provisions*.

(3) (a) Section 109—

Omit “In this Part of this Act, unless the context requires another meaning :—”, insert instead “In this Part, except in so far as the context or subject-matter otherwise indicates or requires—”.

(b) Section 109 (g)—

After section 109 (f), insert :—

(g) “Average salary”, in relation to an officer as at any particular day, means an average of the annual salaries and emoluments of the officer during—

(i) except in a case to which subparagraph (ii) applies—his term of service up to and including that day; or

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AMENDMENTS TO THE GOVERNMENT RAILWAYS ACT,
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(ii) if he has had at least 40 years' service up to and including that day—the 40 years up to and including that day.

(4) Sections 109AA, 109AB—

After section 109, insert :—

109AA. (1) In this Part, except in so far as the Definitions context or subject-matter otherwise indicates or respecting indexation, requires—

“adjustment date”, in relation to a review year, means the first day of the superannuation allowance pay period that ends on the first superannuation allowance pay day in the October that next follows that year;

“adjustment percentage”, in relation to a review year, means (subject to section 129B (2)) the percentage for that year, calculated in accordance with section 129B;

“Index number”, in relation to a June quarter, means the number for that June quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician under the Census

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and Statistics Act 1905 of the Parliament of the Commonwealth as amended from time to time or any Act of that Parliament passed in substitution therefor;

“June quarter”, in relation to a review year, means the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

“quarter”, in relation to a review year, means—

- (a) the period commencing on and including 1st July in that year and ending on and including 30th September in that year;
- (b) the period commencing on and including 1st October in that year and ending on and including 31st December in that year;
- (c) the period commencing on and including 1st January in that year and ending on and including 31st March in that year; or
- (d) the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

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**AMENDMENTS TO THE GOVERNMENT RAILWAYS ACT,
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“review year” means—

- (a) the period commencing on and including 1st July, 1975, and ending on and including 30th June, 1976; or
- (b) a subsequent period commencing on and including 1st July and ending on and including the next following 30th June.

(2) Where a superannuation allowance, pension or amount is to be adjusted under this Part by reference to the adjustment percentage for a review year, a reference (however expressed) in this Part to adjusting the allowance, pension or amount is a reference to—

- (a) where the adjustment percentage is calculated in accordance with the formula set out in section 129B (1) (a)—increasing the allowance, pension or amount; or
- (b) where the adjustment percentage is calculated in accordance with the formula set out in section 129B (1) (b)—reducing the allowance, pension or amount.

109AB. (1) In this Part, “salary-based amount”, Definition of and provisions respecting “salary-based amount”.

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(2) Where there is an adjustment percentage for a review year, a person's salary-based amount (being, if there have been previous adjustments to that amount under this subsection, that amount as previously adjusted) is hereby adjusted, as on and from the adjustment date for that year, by that percentage.

(3) A person's salary-based amount shall not be reduced, by the operation of subsection (2), below his average salary as at 30th June, 1975.

(5) Section 111B—

After section 111A, insert :—

Commence-
ment
of variations
in rates of
deductions.

111B. Any increase or decrease in the amount of deductions from the salary and emoluments of an officer occurring by reason of the operation of sections 123 and 123A in relation to the adjustment percentage for a review year takes effect—

(a) in the case of the increase resulting from the adjustment percentage for the review year ending on and including 30th June, 1976—as on and from the first day appointed for payment of the salary and emoluments of the officer after the date of assent to the Government Railways (Superannuation) Amendment Act, 1977; and

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(b) in the case of an increase or decrease resulting from the adjustment percentage for a subsequent review year—as on and from the first day appointed for payment of the salary and emoluments of the officer after the adjustment date for that year.

(6) (a) Section 114—

Omit “Such allowance shall”, insert instead “(1A) Such allowance shall”.

(b) Section 114—

Omit “Where an officer”, insert instead “(1B) Where an officer”.

(7) Section 114D—

After section 114C, insert :—

114D. (1) Subject to this Part, but notwithstanding sections 114 (1A), 114A, 114B and 114C, where—

(a) an officer becomes, on or after 22nd September, 1976, entitled to the payment of a superannuation allowance; and

Alternative method of calculating super-annuation allowances emerging on or after 22.9.1976.

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(b) the amount of the allowance arrived at in accordance with those sections is less than the amount arrived at in accordance with this section,

the officer's allowance shall be calculated in accordance with this section, instead of in accordance with those sections.

(2) The amount of the officer's superannuation allowance shall equal one-fortieth of his salary-based amount as at the last day of his service multiplied by the number of complete years of service, not exceeding 40.

(8) (a) Section 115 (1) (b)—

Omit the paragraph, insert instead :—

(b) an amount equivalent to ten per centum of the amount ascertained under paragraph (a), divided by the number of complete years of his service (not exceeding forty), and multiplied by the number of complete years of his service after 6th January, 1952, or forty, whichever is the less,

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(b) Section 115 (8), (9)—

After section 115 (7), insert :—

(8) Notwithstanding section 123 or 123A, the prescribed amount referred to in section 123 shall, for the purpose of ascertaining any amount under subsection (1) (a) or (b), be deemed always to be \$1,600.

(9) The reference in subsection (1) to the amount of deductions made pursuant to sections 111 and 111A is a reference to the amount of those deductions, reduced by any amounts deducted consequent on the operation of section 123A (1).

(9) Section 123—

Omit the section, insert instead :—

123. (1) If the average of the annual salaries and ^{Limiting} _{factor.} emoluments of an officer during his term of service, determined pursuant to section 114 at the last day of his service, exceeds the prescribed amount as at that day, the average shall, for the purposes of this Division, be reduced to that prescribed amount.

(2) If a person's salary-based amount as at a particular time exceeds the prescribed amount as at that time, the salary-based amount shall, for the purposes of this Division and section 129D, be reduced to that prescribed amount.

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(3) No officer shall be liable at any particular time to a deduction under this Part from so much of his salary and emoluments as is in excess of the prescribed amount as at that time.

(4) Subject to section 123A, the prescribed amount is, for the purposes of this section, \$1,600.

(10) Section 123A—

After section 123, insert :—

Indexation
of limiting
factor.

123A. (1) Where there is an adjustment percentage for a review year, the prescribed amount for the purposes of section 123 (being, if there have been previous adjustments under this subsection, the prescribed amount as previously adjusted) is hereby adjusted, on and from the adjustment date for that year, by that percentage.

(2) The prescribed amount shall not be reduced, by the operation of subsection (1), below \$1,600.

(11) Sections 128A, 128B—

After section 128, insert :—

Suspension
of part of
allowance
in certain
circum-
stances.

128A. (1) Notwithstanding anything in this Part, where a person entitled to receive a superannuation allowance (including any increase payable under Division 2) would, in the opinion of the board,

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thereby be prejudicially affected in respect of any benefits otherwise receivable by that person, the amount of allowance payable shall be such lesser amount than that provided for under this Part as the board from time to time determines.

(2) Where the board, under subsection (1), reduces the amount of an increase payable under Division 2, the amount of the increase as determined by the board shall be payable in respect of such periods or at such times by way of lump sum or otherwise as the board from time to time determines.

128B. Where a percentage that is to be calculated under this Part is or includes a fraction of one-tenth of one per centum—

- (a) if that fraction is less than one-half of one-tenth—that fraction shall be disregarded; and
- (b) if that fraction is not less than one-half of one-tenth—that fraction shall be treated as one-tenth.

(12) Part IX, Division 2—

After section 129, insert :—

DIVISION 2.—Automatic adjustment of super-annuation allowances and pensions.

129A. In this Division—

Definitions.

“pension” means a superannuation allowance or a pension under section 121A;

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“pensioner” means a person in receipt of a pension;

“suspended pension”, in relation to an adjustment date, means a pension that was not payable under section 121A at that adjustment date by reason only of the operation of section 121A (9).

**Calculation
of
adjustment
percentage.**

129B. (1) For the purposes of the definition of “adjustment percentage” in section 109AA (1), the percentage for a review year shall be calculated—

(a) if the Index number for the June quarter in that year is greater than the Index number for the immediately preceding June quarter—in accordance with the following formula :—

$$P = \frac{100 (C - L)}{L}$$

(b) if the Index number for the June quarter in that year is less than the Index number for the immediately preceding June quarter—in accordance with the following formula :—

$$P = \frac{100 (L - C)}{L}$$

where—

P is the percentage to be obtained;

C is the Index number for the June quarter in that year; and

L is the Index number for the immediately preceding June quarter.

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(2) **Where—**

- (a) the percentage calculated for a review year in accordance with this section is less than 1.0 per centum; or
- (b) the Index number for the June quarter in that year is the same as the Index number for the immediately preceding June quarter,

there shall be deemed to be no adjustment percentage for that year.

(3) Where there is deemed to be no adjustment percentage for a review year, then, for the purposes of calculating the percentage for the next year—

- (a) the Index number for the June quarter in the firstmentioned year shall be deemed not to have been published; and
- (b) the Index number for that quarter shall be deemed to be the same as the Index number for the June quarter in the last year for which there was an adjustment percentage.

(4) If at any time, whether before or after the commencement of this Division, the Australian Statistician has published in respect of a particular

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June quarter an Index number in substitution for an Index number previously published by him in respect of that quarter—

- (a) except as provided in paragraph (b)—the publication of the later Index number shall be disregarded; or
- (b) if the Minister so directs—regard shall, after the direction is given, be had to the later and not to the earlier Index number,

for the purposes of this Division.

(5) Notwithstanding subsection (4), if at any time after the commencement of this Division the Australian Statistician changes the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purposes of the application of this Division after the change takes place, regard shall be had only to Index numbers published in terms of the new reference base.

**Adjustment
of pensions:
general
cases.**

129C. (1) Subject to this Part, where there is an adjustment percentage for a review year, the pension payable immediately before the adjustment date for that year to a person is hereby adjusted, on and from that adjustment date, by that percentage.

(2) This section does not apply to a person to whom section 129D applies.

(3) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had sections 115 and 128A not been enacted.

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129D. (1) Subject to this Part, where there is an Adjustment adjustment percentage for a review year (in this section referred to as “the particular year”), the super-annuation allowance payable immediately before the adjustment date for that year to a person to whom this section applies is hereby adjusted, on and from that adjustment date, so that it equals one-fortieth of the amount ascertained under subsection (3), multiplied by the number of complete years of service, not exceeding 40.

(2) This section applies to a person—

- (a) who last became a pensioner on or after 1st July in the particular year but before the adjustment date for that year; and
- (b) whose average salary as at 30th June, 1975, was less than \$1,600.

(3) The amount to be ascertained for the purposes of subsection (1) is an amount equal to the greater of the following amounts :—

- (a) the person’s salary-based amount as at the adjustment date for the particular year; and
- (b) so much of the person’s average salary as at the last day of his service, as adjusted under subsection (4), as does not exceed the amount that is the prescribed amount for the purposes of section 123 as at the adjustment date for the particular year.

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(4) For the purposes of subsection (3) (b), the person's average salary referred to therein shall be adjusted by the percentage calculated in accordance with the following formula :—

$$A = P \times \frac{Q}{4}$$

where

A is the percentage to be obtained;

P is the adjustment percentage for the particular year;

Q is the number of whole quarters of the particular year, being whole quarters after, and (if applicable) the whole quarter on the first day of which, the person last became a pensioner.

(5) If the regulations made under this Part so provide, this section shall apply only in relation to cases of a class prescribed in those regulations.

(6) A reference in this section to a superannuation allowance payable to a person includes a reference to the allowance that would have been payable to him had sections 115 and 128A not been enacted.

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SCHEDULE 1—*continued.*

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129E. (1) Section 129C applies to and in respect of a suspended pension in the same way as it applies to and in respect of a pension referred to therein, and so applies as if section 121A (9) had not been enacted.

(2) Nothing in subsection (1) operates so as to authorise or require the payment at any time of a suspended pension or any part thereof.

129F. Notwithstanding anything in this Division, a pension shall not be reduced below the amount that would, if this Division had not been enacted, have been payable.