

**NEW SOUTH WALES RETIREMENT BENEFITS
ACT.**

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 70, 1972.

An Act to make provision for a scheme providing retirement and other benefits for certain employees of the Crown and of certain public authorities; to establish a New South Wales Retirement Fund; to constitute a New South Wales Retirement Board to manage that Fund and the Transport Retirement Fund; to amend the Government Railways Act, 1912, the Superannuation Act, 1916, the Transport Act, 1930, the Transport Employees Retirement Benefits Act, 1967, and the Securities Industry Act, 1970; and for purposes connected therewith. [Assented to, 30th November, 1972.]

BE

New South Wales Retirement Benefits.

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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:—

PART I.

PRELIMINARY.

Short title
and divi-
sion of Act.

1. (1) This Act may be cited as the "New South Wales Retirement Benefits Act, 1972".

(2) This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—THE NEW SOUTH WALES RETIREMENT FUND—*ss.* 4–9.

PART III.—EMPLOYEE CONTRIBUTIONS—*ss.* 10–24.

PART IV.—BENEFITS—*ss.* 25–31.

PART V.—EMPLOYER CONTRIBUTIONS—*ss.* 32–34.

PART VI.—THE NEW SOUTH WALES RETIREMENT BOARD—*ss.* 35–49.

PART VII.—LOANS TO CONTRIBUTORS—*s.* 50.

PART VIII.—ASSURANCE POLICIES—*ss.* 51 and 52.

PART IX.—GENERAL PROVISIONS—*ss.* 53–72.

SCHEDULES.

Commence-
ment.

2. (1) Section 1 and this section shall commence on the date of assent to this Act.

(2) Part VI and sections 3, 7, 10, 11, 12 (subsections (3) and (4) excepted), 56, 61, 64, 65, 67 (5) and 67 (6) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3)

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(3) Subject to subsections (1), (2) and (4), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that is later than the day appointed pursuant to subsection (2). No. 70, 1972

(4) Part VII shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that is later than the day appointed pursuant to subsection (3).

(5) Notwithstanding that a day has not been appointed pursuant to subsection (3), or that a day so appointed has not arrived, when the Board has been constituted it may exercise and perform such powers, authorities, duties and functions as the Board thinks necessary for the purpose of preparing for the coming into operation of the provisions of this Act that commence on the day so appointed, being powers, authorities, duties and functions that could be exercised or performed by it on or after that day.

3. (1) In this Act, except to the extent that the context or subject-matter otherwise indicates or requires— Interpretation.

“Account” means the Government Railways Superannuation Account under the Government Railways Act, 1912;

“annual wages” means, in relation to an employee at a particular time, the amount determined by the Board as the amount of wages or salary payable at that time on an annual basis to that employee, having regard to his ordinary remuneration but disregarding amounts payable in respect of overtime;

“appointed day” means the day appointed pursuant to section 2 (3);

“average

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“average earning rate on the Fund” means, in relation to a financial year—

- (a) where that financial year commences on or after the appointed day, the percentage rate per annum calculated by the formula—

$$\frac{200 \times I}{A + B - I}$$

where I, A and B have, in relation to a financial year, the same meanings as they have in section 8 in relation to that financial year; and

- (b) where that financial year is the financial year current on the day next preceding the appointed day—the rate of five and one-half per centum per annum;

“Board” means the New South Wales Retirement Board constituted by this Act;

“contributor” means—

- (a) a person who is contributing, or is liable to contribute, to the Fund;
- (b) a person who was so contributing, or was liable so to contribute, but ceased, pursuant to section 20 (1) so to contribute; and
- (c) a person eligible for a benefit under this Act calculated by reference only to his initial credit;

“contributor to the Account” means a person who is contributing to the Account;

“contributor to the Transport Retirement Fund” means a person who is a contributor under the Transport Employees Retirement Benefits Act, 1967;

“employee”

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“employee” means a person employed by an employer No. 70, 1972
but—

- (a) does not include a person who is not, by the terms of his employment with that employer, precluded from engaging in other paid employment;
- (b) does not include a person who is not within a class of persons specified in the Second Column of Schedule 1 or 2;
- (c) does not, except in the case of—
 - (i) a person referred to in section 11 or 12 (3); or
 - (ii) a person who is within a class of persons to which regulations under section 12 (6) relate,

include a person who, by virtue of his employment, participates in or, in the opinion of the Board, would with the effluxion of time participate in, a superannuation scheme;

- (d) subject to subsection (10), does not include a person who, for any reason based on non-compliance with a requirement as to medical fitness, is ineligible to participate in a superannuation scheme in which, but for that reason, he would be eligible to participate;
- (e) does not include a person who, being eligible to contribute to the Fund established under the Superannuation Act, 1916, has been granted exemption from contributing thereto;
- (f) does not include a person who, by an act or omission not involving a requirement as to medical fitness, renders himself ineligible to participate in a superannuation scheme in which, but for the act or omission, he would be eligible to participate; and

(g)

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(g) does not include a person engaged as a contractor, or on a contract basis, otherwise than under a contract of employment;

“employer” means—

- (a) the Crown or a Minister of the Crown;
- (b) a person described in the First Column of Schedule 1 or Schedule 2 and an association of persons so described;

“financial year” means any period of twelve months ending on the thirtieth day of June;

“Fund” means the New South Wales Retirement Fund established by this Act;

“initial credit” means—

- (a) in relation to a contributor who, before he became a contributor, was a contributor to the Account—an amount equal to the sum of—
 - (i) the total amount of his contributions to the Account before he ceased to contribute thereto pursuant to section 12 (9) reduced, where any amounts have been paid to him pursuant to Part IX of the Government Railways Act, 1912, by an amount determined by the Board; and
 - (ii) an allowance of an amount calculated as provided by subsection (2);
- (b) in relation to a contributor who, before he became a contributor, was a contributor to the Transport Retirement Fund—an amount equal to the sum of—
 - (i) the amount of his initial credit, if any, within the meaning of the Transport Employees Retirement Benefits Act, 1967, immediately before he became a contributor;

(ii)

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- (ii) an amount calculated as provided by subsection (3); No. 70, 1972
- (iii) an amount calculated as provided by subsection (4);

“initial credit benefit” means, in relation to a contributor who, immediately before he became a contributor, was a contributor to the Account or the Transport Retirement Fund—an amount equal to the sum of—

- (a) his initial credit; and
- (b) interest on that initial credit, as provided by section 53, for the period from the date on which he became a contributor to the date on which he attains the age of sixty years;

“maximum benefit” means, in relation to a person at a particular time, an amount equivalent to twice his annual wages at that time, reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars;

“minimum benefit” means, in relation to a person at a particular time, an amount equivalent to one-half of his annual wages at that time reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars;

“regulations” means regulations made under this Act;

“retrenchment” means compulsory termination by an employer of the services of an employee on the ground that the employee’s office has been abolished, no other office in the service of that

employer

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employer or another employer having been found for him at not less than two-thirds of his annual wages at the date of that termination, but does not include termination of employment—

- (a) by reason of the expiration of the term of service for which the employee was engaged; or
- (b) where the employee was engaged until certain work ceased to be available—by reason of that work ceasing to be available;

“superannuation scheme” means a retirement scheme, fund or arrangement to or in respect of which an employer or a public or local authority constituted by an Act makes, or is liable to make, a payment in respect of a person employed by the employer or authority but does not include the scheme established by this Act;

“Transport Retirement Fund” means the Transport Retirement Fund established by the Transport Employees Retirement Benefits Act, 1967;

“widow” includes widower and words in the feminine gender relating to a widow include the corresponding words in the masculine gender that relate to a widower.

(2) For the purposes of paragraph (a) (ii) of the definition of “initial credit” in subsection (1), the amount of allowance for a contributor is an amount equal to such percentage of the amount referred to in paragraph (a) (i) of that definition as is specified in the Second Column of Schedule 6 opposite the number of years specified in the First Column of that Schedule that is equal to the number of complete years for which the contributor contributed to the Account.

(3)

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(3) The amount referred to in paragraph (b) (ii) No. 70, 1972 of the definition of "initial credit" in subsection (1) is, in respect of a contributor so referred to, an amount equal to the total amount of the contributions paid by him or on his behalf to the Transport Retirement Fund before he became a contributor under this Act, reduced by the sum of—

- (a) the difference between that total amount and the total amount of contributions that would have been paid by him or on his behalf to the Transport Retirement Fund had they been made in accordance with Scale 2 of Schedule 2 to the Transport Employees Retirement Benefits Act, 1967; and
- (b) where any amounts have been paid to him from the Transport Retirement Fund—such amount as the Board may determine.

(4) The amount referred to in paragraph (b) (iii) of the definition of "initial credit" in subsection (1) is, in respect of a contributor so referred to, an amount equal to the sum of—

- (a) an amount of interest on his initial credit, if any, for the period for which he contributed to the Transport Retirement Fund; and
- (b) an amount of interest on the amount calculated in accordance with paragraph (b) (ii) of that definition, calculated in a manner determined by the Board in respect of that person (regard being had to the respective dates of payment of each of the contributions so referred to),

the interest in each case being calculated at a rate or rates determined by the Board having regard to the average earning rate on the Transport Retirement Fund for each financial year that ended during the period referred to in paragraph (a), that average earning rate being calculated in accordance with the formula

$$\frac{200 \times I}{C + D - I}$$

where,

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No. 70, 1972 where, in the application of the formula in respect of a financial year—

“I” represents the total amount of interest, dividends and rents credited to the Transport Retirement Fund during that financial year, together with any profit derived from the realisation or appreciation of assets, reduced by—

- (a) the amount of any interest charges against the Transport Retirement Fund;
- (b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and
- (c) costs of management of the Transport Retirement Fund;

“C” represents the amount of the Transport Retirement Fund at the beginning of that financial year;

“D” represents the amount of the Transport Retirement Fund at the end of that financial year,

and, in determining the values to be assigned to the symbols “I”, “C” and “D”, accrued income and expenditure, including costs of management accrued and not paid, shall be taken into account.

(5) For the purposes of this Act, the time at which a person becomes a contributor is, in the case of a person who becomes a contributor on more than one occasion, the later or latest of those occasions.

(6) Where a period of service is referred to in this Act in relation to an employee, the period so referred to is a period of continuous employment as an employee, being a period that is continuous with, and includes, the period of employment by virtue of which he is an employee and, for the purposes of calculating the duration of the period of service of an employee—

- (a) he shall be deemed to have been an employee at a time before the coming into force of the provisions of this Act whereby he is an employee if, had those provisions been in force at that time, he would have been an employee at that time;

(b)

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- (b) any period during which, by the operation of paragraph (c) or (d) of the definition of "employee" in subsection (1) he was not an employee shall, if he became an employee pursuant to regulations referred to in section 12 (6) or pursuant to an election under subsection (10), be reckoned as if he had been an employee during that period; No. 70, 1972
- (c) he shall, if he becomes a contributor pursuant to an election under section 16, be deemed, notwithstanding paragraphs (a) and (b), not to have been an employee during any period before the day that was twelve months earlier than the day on which he becomes a contributor.

(7) A reference in this Act to the first day of a pay period for or applicable to a person that next follows a specified day or event includes a reference to a pay period for or applicable to that person the first day of which is that specified day or the day on which the specified event occurred.

(8) A reference in this Act to a description of a person, or to a class of persons, includes a reference to the name of a person and, where the reference is to a class of persons, the class may be described by reference to—

- (a) all persons within a specified class of persons; or
- (b) all persons within a specified class of persons other than—
- (i) a specified person or specified persons; or
 - (ii) a specified class, or specified classes, of persons.

(9) Where this Act provides for the making of an election on a specified day, the Board may arrange for the election to be made in anticipation of that day but—

- (a) an election so made does not take effect before that day; and
- (b) takes effect only to the extent that, had it not been made, it could be made on that day.

(10)

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- No. 70, 1972 (10) Where a person is not an employee by reason only of his being a person described in paragraph (d) of the definition of "employee" in subsection (1), he becomes an employee if, within the period three months after being notified by the Board that he may do so, and while in the employment of an employer, he elects to be subject to the provisions of this Act.

PART II.

THE NEW SOUTH WALES RETIREMENT FUND.

Establishment of New South Wales Retirement Fund.

4. (1) The Board shall establish a New South Wales Retirement Fund into which shall be paid the contributions and any other payments made by employers, contributors and other persons under this Act, and from which shall be paid the benefits and other amounts payable under this Act including the cost of administering this Act and managing the Fund.

(2) Moneys derived from the investment of the Fund or borrowed pursuant to section 7 shall form part of the Fund.

(3) Where, in respect of an instrument relating to a transaction, the Board, or a broker, dealer or other person acting on behalf of the Board in respect of that transaction, would, but for this subsection, be liable to pay stamp duty under the Stamp Duties Act, 1920, in respect of the instrument, the Board, broker, dealer or other person, as the case may be, shall not be so liable.

Power to invest Fund.

5. The provisions of the Superannuation Act, 1916, with respect to the investment of the State Superannuation Fund apply to and in respect of the Board and investment of the Fund as if the Board and the Fund referred to in those provisions were the Board and the Fund within the meaning of this Act.

6.

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6. (1) The accounts relating to the Fund shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by any law relating to the audit of public accounts.

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—
Audit of
accounts
relating
to Fund.

(2) The Audit Act, 1902, applies to members and employees of the Board in the same manner as it applies to accounting officers in public departments.

7. (1) The Treasurer may, on the application of the Board and on such terms and conditions as the Treasurer thinks fit, lend money to the Board.

Borrowing
powers of
Board.

(2) The Board may, for the purpose of obtaining temporary financial accommodation, borrow not more than \$2,000,000 by way of overdraft from any bank.

8. (1) In this section—

“formula X” means, in relation to a financial year, the amount ascertained in accordance with the formula—

Guaranteed
minimum
interest
yield.

$$1.0275 I$$

where “I” represents the total amount of interest, dividends and rents credited to the Fund during that financial year, together with any profit derived from the realisation or appreciation of assets, reduced by—

- (a) the amount of any interest charges against the Fund;
- (b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and
- (c) costs of management of the Fund as referred to in section 48;

“formula

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“formula Y” means, in relation to a financial year, the amount ascertained in accordance with the formula—

$$0.0275 (A + B)$$

where—

“A” represents the amount of the Fund at the beginning of that financial year;

“B” represents the amount of the Fund at the end of that financial year;

“prescribed amount “X”” means, in relation to a financial year, the sum of—

- (a) the amount ascertained in accordance with formula X in respect of that financial year;
- (b) the sum of the amounts ascertained in accordance with formula X in respect of each preceding financial year; and
- (c) the total amount, if any, paid by employers under subsection (3) before the end of that financial year;

“prescribed amount Y” means, in relation to a financial year, the sum of—

- (a) the amount ascertained in accordance with formula Y in respect of that financial year; and
- (b) the sum of the amounts ascertained in accordance with formula Y in respect of each preceding financial year.

(2) In determining the values to be assigned to the symbols “I”, “A” and “B” for the purposes of formula X and formula Y, accrued income and expenditure, including costs of management accrued and not paid, shall be taken into account including, in the case of the symbol “A”, any payment under subsection (3).

(3)

(3) Where the Board certifies—

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- (a) that, in respect of the financial year that ended on the thirtieth day of June that next succeeded the appointed day, the amount ascertained in accordance with formula Y exceeded the amount ascertained in accordance with formula X; or
- (b) that in respect of a financial year succeeding the financial year referred to in paragraph (a), prescribed amount Y exceeded prescribed amount X,

each employer shall, on the requisition of the Board, pay to the Fund in respect of the financial year to which the certificate relates an amount that bears to the amount of that excess the same proportion as the total contributions to the Fund paid by his employees during that financial year bears to the total contributions paid to the Fund by all employees of all employers during that financial year.

9. (1) An investigation of the Fund shall be made as at 30th June, 1977, and as at the expiration of each period of three years thereafter. Actuarial investigation of Fund.

(2) Each investigation under subsection (1) shall be made by an actuary or actuaries appointed by the Board for the purpose.

(3) An actuary who makes, or actuaries who make, an investigation referred to in subsection (1) shall report to the Board the result of the investigation and shall state whether or not in his or their opinion any reduction or increase should be made in the rates of contributions payable to the Fund.

(4) The Board shall, not later than two months after it receives a report under subsection (3), forward the report to the Minister together with such comments thereon as it deems appropriate.

PART

PART III.

EMPLOYEE CONTRIBUTIONS.

Certain
employees
may elect
to contribute
to the Fund.

10. (1) Subject to section 3 (9), on the day on which an employee completes twelve months' service on or after the appointed day he may, if he has not attained the age of sixty years, elect to contribute to the Fund unless he is a person who will become a contributor pursuant to section 11 or a person referred to in section 12 (2) or 12 (3).

(2) Where an employee was, immediately before he became an employee, a participant in a superannuation scheme by virtue of his employment he shall, for the purposes of subsection (1), be deemed to have completed twelve months' service—

(a) on the day on which he became an employee; or

(b) on the day that is twelve months later than the day on which he took up the employment by virtue of which he became a participant in the superannuation scheme,

whichever is the later day.

(3) Where a person who becomes an employee by virtue of an election under section 3 (10) had completed more than nine months' service at the time he first became entitled to make that election, subsection (1) applies to him as if he had completed nine months' service at that time.

(4) An employee who makes an election under this section shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day on which, pursuant to subsection (1), he is entitled to make the election.

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11. (1) On and from the first day of the pay period applicable to him that next succeeds the appointed day, a person who, immediately before the appointed day, is a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, and has not attained the age of thirty years—

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 ———
 Certain persons required to contribute to Fund.

- (a) shall cease to contribute to the Transport Retirement Fund;
- (b) shall, except to the extent provided by this Act, cease to be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967; and
- (c) shall contribute to the Fund at the same rate as the rate at which he was contributing to the Transport Retirement Fund immediately before ceasing to contribute to the Transport Retirement Fund or, if the rate necessary to provide for his minimum benefit immediately before that day is a higher rate, at that higher rate.

(2) Subject to section 3 (9), a person who will become a contributor pursuant to subsection (1) may, on the appointed day, elect to vary the lump sum benefit to which his rate of contribution pursuant to subsection (1) (c) would entitle him, subject to the varied lump sum benefit being not less than the minimum benefit, and not more than the maximum benefit, for him at a date determined by the Board.

(3) Where a person makes an election under subsection (2), the necessary variation in his rate of contribution to the Fund shall take effect on and from a day determined by the Board, being a day that is not earlier than the day on which that person becomes a contributor.

12.

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No. 70, 1972 **12.** (1) The Minister may, by order published in the Gazette, declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section for an employee within the meaning of this Act who is within a class of persons specified in the order.

Certain
classes of
persons may
elect to
contribute
to the Fund.

(2) Subject to this section and the regulations, an employee who—

- (a) is an employee to whom an election date specified in an order under subsection (1) relates; and
- (b) if he were to remain in the employment of an employer until immediately before that election date, would complete not less than twelve months' service, may, subject to section 3 (9), elect on that election date, to contribute to the Fund.

(3) The Minister may, by order published in the Gazette after the appointed day declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section in respect of—

- (a) a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, who attained the age of thirty years on or before the appointed day or an employee within the meaning of that Act who ceased to be such a contributor by reason of his having attained the age of sixty-five years on or before the publication of the order;
- (b) a contributor to the Account;
- (c) an officer within the meaning of the Transport Act, 1930, who was not, immediately before the appointed day, a contributor to a superannuation fund or account established under the Transport

Act,

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Act, 1930, the Government Railways Act, 1912, No. 70, 1972
the Superannuation Act, 1916, or the Transport
Employees Retirement Benefits Act, 1967; or

- (d) a person who elected under section 24 (1) (b) of the Railways Retirement Fund Act, 1964, or section 17 (2) (b) of the Transport Employees Retirement Benefits Act, 1967, not to be a contributor.

(4) Subject to this section, a person in respect of whom an election date has been specified under subsection (3) may, subject to section 3 (9), elect on that election date to contribute to the Fund.

(5) A person aged sixty years or more is not entitled to make an election under this section unless—

- (a) he has completed ten years' service; or
- (b) where he has not completed ten years' service—it would, in the opinion of the Board, be possible for him to continue in the service of an employer until he completes ten years' service before retirement.

(6) Regulations may be made for the purposes of subsection (2) with respect to the terms and conditions upon and subject to which a person who is within a class of persons described in the regulations and is a participant in a superannuation scheme may elect to become a contributor to the Fund and any such regulation may be made to vary in its application according to time or circumstance.

(7) Where an election by an employee under this section takes effect, the employee shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day after the last day on which he could have made the election.

(8)

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No. 70, 1972 (8) A person referred to in subsection (3) (a) who makes an election under this section shall, upon becoming a contributor, cease to contribute to the Transport Retirement Fund and, except to the extent provided by this Act, shall not be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967.

(9) A person referred to in subsection (3) (b) who makes an election under this section shall, upon becoming a contributor, cease to contribute to the Account and, except to the extent provided by this Act shall not be entitled to receive any benefit from the Account.

(10) A person referred to in subsection (3) (c) shall, upon becoming a contributor, cease to be eligible for any benefit under section 132A of the Transport Act, 1930.

Contributions by certain persons aged sixty years or more at time of making election.

13. Where a person aged sixty years or more makes an election under section 12—

- (a) he shall, notwithstanding section 18, contribute to the Fund at such rate and over such period as is determined by the Board;
- (b) he shall, if he becomes entitled to a benefit from the Fund before he has paid the total amount of contributions that, in the opinion of the Board is the total amount of contributions necessary to provide the lump sum benefit for which he is contributing when he becomes so entitled, pay such contributions to the Fund, additional to those already paid by him, as are actuarially determined by the Board as being necessary to provide that lump sum benefit or make arrangements satisfactory to the Board for their payment; and
- (c) subject to compliance with paragraph (b), he is entitled to have added to that lump sum benefit an allowance of an amount equal to an amount of interest on that lump sum benefit as provided by section 53 for the period that commenced on the

day

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day on which he attained the age of sixty years and ended on the day on which he retired or sooner died. No. 70, 1972

14. A person who elects to become a contributor shall, upon his election taking effect, contribute to the Fund for a lump sum benefit of an amount that is not less than the minimum benefit for that person nor more than the maximum benefit for that person— Amount of lump sum benefit for which contributor must contribute.

- (a) at the time he made the election; or
- (b) where, at the time of making the election, he had attained the age of sixty years—on the day on which he attained that age.

15. (1) In this section—

“contributor” means a contributor who has not attained the age of sixty years at his election date;

“election date” means, in relation to a contributor, a date determined by the Board for the purposes of subsection (2);

“review date” means, in relation to a contributor, a date determined by the Board for the purpose of calculating the lump sum benefit applicable in relation to the annual wages of the contributor at that date.

(2) Subject to subsection (7), a contributor may, on a date determined by the Board for the purposes of this subsection in relation to the contributor or within three months thereafter, elect—

- (a) to contribute for an increased lump sum benefit not exceeding the maximum benefit for the contributor at the review date; or

(b)

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- (b) to reduce his rate of contribution to the Fund, but not so that he is contributing for a benefit that is less than his minimum benefit at the review date,

and, except as provided in subsections (3) and (4), the lump sum benefit for which a contributor is contributing shall not be varied unless it is varied pursuant to such an election.

(3) Except pursuant to an election under subsection (2) (b), where the annual wages of a contributor are reduced, his rate of contribution to the Fund shall not be reduced unless the Board, on the application of the contributor, so approves and, where such an application is approved, the reduced contributions shall be paid on and from a day determined by the Board.

(4) Where, at a review date for a contributor, the lump sum benefit for which he is contributing is less than the minimum benefit for the contributor at that date, he shall pay to the Fund such increased contributions as are required to provide for that minimum benefit.

(5) Where, as a result of an election under subsection (2) (b) or an application under subsection (3), a contributor's rate of contribution to the Fund is reduced—

- (a) a refund of any amount by which a past contribution to the Fund exceeded the reduced rate shall not be made; and
- (b) the amounts by which any of his past contributions to the Fund exceeded the reduced rate shall, subject to section 17, form part of his lump sum benefit.

(6) Where a contributor makes an election under subsection (2) or his rate of contribution to the Fund is increased under subsection (4), his contributions to the Fund at the varied rate shall be paid on and from a day determined by the Board that is not earlier than the election date nor more than three months after that date.

(7)

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(7) A contributor who is aged fifty years or more at his election date may not elect under subsection (2) (a) to increase the lump sum benefit for which he is contributing to the Fund to an amount greater than the amount ascertained in accordance with the formula—

$$\frac{a}{4} + \frac{a \times b}{c}$$

where—

- “a” represents the contributor’s annual wages at his next preceding review date within the meaning of this section;
- “b” represents the sum of the amount of the lump sum benefit for which the contributor was contributing immediately before the election and the amount of his initial credit benefit if any;
- “c” represents the contributor’s annual wages at his review date that next preceded the review date referred to in the definition of the symbol “a”.

16. (1) This section applies to—

- (a) an employee who—
 - (i) has not attained the age of sixty years; and
 - (ii) having been entitled to elect under section 10 (1), or under this section, to become a contributor has failed to do so;
- (b) an employee referred to in section 12 (2) or 12 (3) (d) who—
 - (i) has not attained the age of sixty years; and
 - (ii) having been entitled to elect under that section, or under this section, to become a contributor has failed to do so; and

Periodic opportunities to elect to become a contributor.

(c)

New South Wales Retirement Benefits.

No. 70, 1972

(c) an employee who—

- (i) has not attained the age of sixty years; and
- (ii) pursuant to section 21 (1) is not a contributor and has not been a contributor during the period of twelve months that next preceded the later or latest of the days appointed pursuant to subsection (2).

(2) The Board shall, by notification published in the Gazette before the expiration of the period of three years that next succeeds the appointed day, and by a notification so published once during every third year that succeeds the expiration of that period, appoint a day for the purpose of making an election under this section, being a day that is not earlier than three months after the publication of the notification.

(3) An employee to whom this section applies may, on or before the day appointed by a notification published under subsection (2) or, where more than one such notification has been published, on or before the day appointed by the later or latest such notification, elect to contribute to the Fund.

(4) An employee who becomes a contributor pursuant to an election under this section shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day appointed under subsection (2) for making the election.

Certain
moneys to
be paid to
Employees
Reserve
Account.

17. Where a contributor attains the age of sixty years and the Board is of the opinion that the contributions made or to be made by him would, but for this section, entitle him to receive amounts referred to in section 26 (1) (b) that would exceed the amount of the maximum benefit for the contributor at that age, an amount equal to the excess shall be paid to the credit of the contributor as if the contributor had paid it pursuant to section 24 (1) (b).

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18. (1) Where a person is liable initially to contribute to the Fund for a lump sum benefit or becomes liable to contribute to the Fund for an increased lump sum benefit, the amount of his initial fortnightly contributions or, as the case may be, the amount of his additional fortnightly contributions in respect of the amount by which the lump sum benefit is increased, is the amount determined in accordance with the formula—

No. 70, 1972
Rates of
contribution.

$$c = \frac{b \times r}{1000} + z$$

where—

“c” represents the amount of the fortnightly contribution or, as the case may be, the additional fortnightly contribution, to be paid by the contributor to the Fund;

“b” represents the amount of the lump sum benefit or, as the case may be, the amount of the increase in lump sum benefit, for which the contributor is liable to contribute;

“r” represents the amount specified—

(a) in the Second Column of Schedule 3; or

(b) where the contributor is a person who has made an election under subsection (2)—in the Second Column of Schedule 4,

opposite the age specified in the First Column of that Schedule that is the age next birthday of the contributor;

“z” is disregarded where the calculation to be made is a calculation relating to an increase in lump sum benefit but otherwise represents—

(a) the amount of twelve cents; or

(b)

*New South Wales Retirement Benefits.*No. 70, 1972

(b) in the case of a contributor referred to in section 11 or in section 12 (3) (a) who, in either case—

- (i) became, by the operation of section 10 of the Transport Employees Retirement Benefits Act, 1967, a contributor within the meaning of that Act;
- (ii) became, by the operation of section 12 of the Railways Retirement Fund Act, 1964, a contributor within the meaning of that Act; or
- (iii) being a person referred to in section 12 (1) (b) or 12 (1) (c) of the Transport Employees Retirement Benefits Act, 1967, elected to contribute to the Transport Retirement Fund under section 12 (1) of that Act and is contributing under Scale 1 and Scale 2 of Schedule 2 to that Act—

the amount of seven cents.

(2) Where a person aged fifty years or more—

- (a) becomes a contributor;
- (b) elects under section 15 (2) (a) to contribute for an increased lump sum benefit; or
- (c) is required under section 15 (4) to increase his contributions to the Fund,

he may, in the case referred to in paragraph (a), elect to have his rate of contribution based on Schedule 4 or, in the cases referred to in paragraphs (b) and (c), elect to have the rate of increase in contributions so based.

(3)

New South Wales Retirement Benefits.

(3) Where the rate at which a contributor is contributing to the Fund is reduced before he attains the age of sixty years, the lump sum benefit for which he is contributing at the reduced rate is the amount determined by the Board on an actuarial basis as the reduced amount of lump sum benefit for which he is contributing. No. 70, 1972

(4) Where a contribution to the Fund that, but for this subsection, would be payable to the Fund by a contributor includes a fraction of a cent, the contribution shall be increased to the next higher whole cent.

19. (1) Subject to subsection (2), contributions required to be paid to the Fund shall be deducted by employers from the salaries or wages of contributors at each payment thereof and shall be paid by employers to the Board within a period of fourteen days from the date of deduction. Payment of contributions.

(2) Subsection (1) does not apply to or in respect of contributions that, with the approval of the Board, are to be paid by the contributor directly to the Board.

(3) Where the amount of a contribution that has been deducted from the salary or wages of a contributor and paid to the Fund, or paid directly by a contributor to the Fund, exceeds the amount of the contribution that should have been paid to the Fund, the Board may refund to the contributor the amount of the excess or treat it as a payment made by the contributor under section 24 (1) (b).

(4) Where the amount of a contribution deducted from the salary or wages of a contributor and paid to the Fund, or paid by a contributor directly to the Fund, is less

than

New South Wales Retirement Benefits.

No. 70, 1972 than the amount of the contribution required to be paid to the Fund, or where a contribution that should have been paid to the Fund is not so paid, the Board may—

- (a) waive payment of the contribution to the extent that it is unpaid and reduce, to the extent that it considers appropriate having regard to the unpaid amount, the amount of the lump sum benefit for which the contributor would, but for that reduction, be eligible;
- (b) allow an amount to be transferred from the balance at the contributor's credit under section 24, if any, in payment or part payment of the unpaid amount and interest thereon as provided by section 53; or
- (c) deduct from the amount of the lump sum benefit that would otherwise be payable the unpaid amount and interest thereon as provided by section 53,

and any amount transferred or deducted under paragraph (b) or (c) (interest as provided by section 53 excepted) shall be deemed to be a contribution to the Fund made by the contributor.

Cessation
of payment
of con-
tributions.

20. (1) Subject to this section and section 62, a contributor who pays contributions to the Fund in accordance with Schedule 3 or Schedule 4 shall cease to pay those contributions on the first day of the pay period applicable to him during which he ceases to be employed by an employer, dies, retires or attains the age of sixty years, whichever first occurs.

(2) Notwithstanding subsection (1), a contributor who attains the age of sixty years shall continue to make any contributions to which an election under section 18 (2) relates.

(3)

New South Wales Retirement Benefits.

(3) Where a contributor who has made an election **No. 70, 1972** under section 18 (2) is aged sixty years or more and a benefit for which he is contributing emerges before he has completed payment in accordance with that election of the total contributions that are necessary to provide the benefit, the Board may deduct from the benefit such contributions additional to those already paid as are actuarially determined by the Board to be necessary to provide the benefit, unless those additional contributions are sooner paid.

21. (1) Notwithstanding any other provision of this Act, a contributor is not required to continue to contribute to the Fund if the Board, on the application of the contributor, is satisfied that adequate provision has been made for the contributor and his family or that there are other special circumstances justifying exemption from, or cessation of, payment of the contributions. **Exemption from payment of contributions.**

(2) Section 30 continues to apply to a person who, pursuant to subsection (1), is not a contributor.

22. (1) In this section "contributor" includes a person who ceased to be a contributor on his retirement. **Election following increase in wages between review date and age of sixty years.**

(2) Notwithstanding section 14, where a contributor is aged sixty years or more and, between his review date (within the meaning of section 15) that next preceded his attainment of that age and the day on which he attained that age, the amount of his annual wages was increased to an amount greater than the multiple of one hundred dollars next higher than the amount of his wages immediately before the increase he may, subject to this section, elect to contribute for an additional lump sum benefit not exceeding the amount referred to in subsection (3).

(3)

*New South Wales Retirement Benefits.***No. 70, 1972**

(3) The additional amount for which a contributor may elect to contribute under subsection (2) is such an amount that—

- (a) the fraction obtained by dividing the amount of his total lump sum benefit after the election by his annual wages on his attainment of the age of sixty years—

does not exceed—

- (b) the fraction obtained by dividing the amount of the lump sum benefit for which he was contributing immediately before his attainment of the age of sixty years by his annual wages at the review date referred to in that subsection.

(4) For the purposes of this section, the annual wages of a contributor on his attainment of the age of sixty years include any increase in his annual wages paid after he attains that age if—

- (a) the increase is effective from a day that was earlier than the day on which he attained that age; and
- (b) was payable in respect of a period that included the day on which he attained that age.

(5) An election under this section shall be made—

- (a) where the increase in annual wages is paid on or before the attainment by the contributor of the age of sixty years—within three months after his attainment of that age; or
- (b) where the increase in annual wages is paid after the attainment by the contributor of that age—within three months after the day on which the increase is paid.

(6) Where an election is made under this section, the necessary variation in the rate of contribution to the Fund shall be made from a date determined by the Board.

New South Wales Retirement Benefits.

23. (1) Where an employee ceases to be employed by an employer and, not having attained the age of sixty years he is, on or before the expiration of the next succeeding period of three months, employed by the same or a different employer, he shall, for the purposes of this Act, be deemed not to have ceased to be an employee if he complies with subsection (2).

No. 70, 1972
 Effect of
 lapse of
 period
 between
 employment
 by successive
 employers.

(2) An employee complies with this subsection if—

- (a) not later than the expiration of the period of three months that next succeeds his resumption of employment with an employer, he applies to the Board for its approval to his broken service being reckoned as continuous service;
- (b) he repays to the Board, or makes arrangements satisfactory to the Board for the payment of, the amount of any benefit under this Act that he received before, or receives after, making his application under paragraph (a) together with interest thereon in accordance with section 53 from the date on which the benefit was paid to him to the date on which he repays it to the Board; and
- (c) where he would have been a contributor had he continued in the employment of an employer during the period between the cessation of his employment with an employer and his resumption of employment with an employer—he pays to the Board, or makes arrangements satisfactory to the Board for the payment of, the amount of any contributions that would have been payable by him had he so continued in the employment of an employer, together with interest thereon in accordance with section 53 as if he had so continued in the employment of an employer without paying those contributions.

(3)

*New South Wales Retirement Benefits.***No. 70, 1972**

(3) Where an employee referred to in subsection (1) fails to comply with subsection (2) he shall, for the purposes of the application of this Act to him after the commencement of his employment secondly referred to in subsection (1), be deemed not to have been employed by an employer before that commencement.

**Contributor
may make
additional
contribu-
tions.**

24. (1) A contributor may—

- (a) authorise his employer to deduct from his salary or wages and pay to the Fund any amount in excess of the contributions payable by him under this Act and may at any time cancel the authorisation;
- (b) pay directly to the Fund any amount additional to those contributions.

(2) Payments made under subsection (1)—

- (a) form part of the Fund;
- (b) shall bear interest as provided by section 53;
- (c) shall not be withdrawn prior to a benefit becoming payable to or in respect of the contributor under this Act;
- (d) may, on application by the contributor and subject to the approval of the Board, be employed in payment of any arrears of contributions payable by the contributor under this Act.

(3) Where a contributor ceases for any reason to be employed by an employer, any amount standing to his credit in accordance with this section—

- (a) may be withdrawn by the contributor on a benefit becoming payable to him under this Act;

(b)

New South Wales Retirement Benefits.

-
- (b) where section 27 applies to the contributor, may ^{No. 70, 1972} be the subject of an election under that section as if it were an addition to the lump sum benefit that, but for the election, would be payable under section 26; or
- (c) where section 28 applies in respect of the contributor, may be paid as an addition to a benefit payable under that section in respect of the contributor.
-

PART IV.

BENEFITS.

25. For the purpose of calculating the amount of a benefit under this Act, a reference to the amount of a contribution is a reference to the amount paid to the Fund as that contribution, reduced by—

- (a) the value, if any, ascribed to the symbol "z" when calculating the amount of the contribution in accordance with the formula referred to in section 18 (1); and
- (b) where any part of the contribution was refunded—
an amount equal to the amount of the refund.

26. (1) In this section "prescribed amount" in relation to a contributor who retires or is retired as provided in subsection (2) or (4) or is retrenched is the lesser of—

- (a) the amount of the maximum benefit for the contributor—
- (i) where he retires, or is retired, as provided in subsection (2) or is retrenched—at the date of his retirement or retrenchment; or

(ii)

*New South Wales Retirement Benefits.***No. 70, 1972**

- (ii) where he retires as provided in subsection (4)—on the day on which he attains the age of sixty years; and
 - (b) an amount equal to the sum of—
 - (i) the total of the amounts of his contributions to the Fund;
 - (ii) the amount of his initial credit, if any;
 - (iii) interest, as provided by section 53, on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on his attainment of the age of sixty years or his earlier retirement or retrenchment; and
 - (iv) in the case of a contributor aged sixty years or more, the amount determined by the Board to be the actuarial equivalent of contributions (if any) remaining to be paid by him pursuant to an election under section 18 (2).
- (2) Where a contributor who has completed not less than ten years' service ceases to be employed by an employer by reason of—
- (a) his retirement on attaining the age of sixty years;
 - (b) his retirement through infirmity of body or mind, where the Board is satisfied that the infirmity—
 - (i) incapacitates the contributor from performing his duties; and
 - (ii) is likely to be permanent; or
 - (c) his retrenchment,
- there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (3).

(3)

New South Wales Retirement Benefits.

(3) The amount payable under subsection (2) to a contributor referred to therein is an amount equal to the sum of—

- (a) the prescribed amount for the contributor; and
- (b) an allowance of an amount that is a percentage of the prescribed amount, being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before his retirement or retrenchment.

(4) Where a contributor continues in the service of an employer after he attains the age of sixty years and then retires after completing not less than ten years' service, there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (5).

(5) The amount payable under subsection (4) to a contributor referred to therein is an amount equal to the sum of—

- (a) the prescribed amount for the contributor;
- (b) interest as provided by section 53 on the amounts referred to in paragraph (a) in respect of the period that commenced on the date on which he attained the age of sixty years and ended on the date on which he retired; and
- (c) an allowance of an amount that is a percentage of the total of the amounts calculated under paragraphs (a) and (b), being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by the contributor before his retirement.

New South Wales Retirement Benefits.

No. 70, 1972 **27.** (1) This section applies to a contributor who has completed not less than ten years' service and ceases to be employed by an employer—

Alternative benefits.

- (a) by reason of his retirement aged sixty years or more; or
- (b) where he is aged fifty years or more, by reason of his retirement through infirmity of body or mind where the Board is satisfied that the infirmity—
 - (i) incapacitates the contributor from performing his duties; and
 - (ii) is likely to be permanent; or
- (c) where he is aged fifty years or more, by reason of his retrenchment.

(2) Where a person to whom this section applies so elects in relation to the whole or part of the lump sum benefit to which, but for the election and the operation of this section, he would be entitled under section 26 there shall be paid from the Fund instead of the lump sum benefit or part thereof to which the election relates—

- (a) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment;
- (b) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment with an increase of ten per centum in the amount thereof at the expiration of the period of three years that next succeeds the first payment of pension and at the expiration of each succeeding period of three years, each such increase being calculated by reference to the rate at which that first payment of pension was made;
- (c) a pension for himself for life on and from the day following his retirement or retrenchment and, if his spouse at the date on which the benefit under section 26 would have been payable is living at his death, a pension for that spouse for life, on and

from

New South Wales Retirement Benefits.

from the day that next succeeds his death of an amount equal to five-eighths of the pension payable to him immediately before his death; or

- (d) pensions as provided in paragraph (c), with either pension, or with both pensions, as may be specified in the election, being increased as provided in the case of a pension referred to in paragraph (b).

(3) An election under subsection (2)—

- (a) shall be made not later than three months before the day on which the lump sum benefit to which the election relates becomes payable;
- (b) takes effect on the day on which any part of that lump sum benefit becomes, or would but for the election have become, payable;
- (c) has no force or effect if the person who made the election dies before the election takes effect.

(4) The amount of pension payable pursuant to an election under this section is the amount determined by the Board to be the actuarial equivalent of the lump sum benefit, or part thereof, to which the election relates, regard being had to any other pension, and any increase of pension, to which the election relates.

(5) A widow to whom a pension referred to in subsection (2) (c) or (2) (d) is being paid may, at any time, elect to commute the whole or part of that pension and, upon such an election taking effect, there shall be paid to the widow from the Fund, instead of the pension or part thereof to which the election relates, an amount of lump sum benefit determined by the Board to be the actuarial equivalent of the pension or part thereof to which the election relates.

New South Wales Retirement Benefits.

No. 70, 1972 **28.** (1) Subject to this section, where a contributor dies before he is paid any benefit under this Act, there shall be paid from the Fund to—
Benefit for certain dependants.

- (a) his widow;
- (b) if he died without leaving a widow—any child of his or his spouse who was, in the opinion of the Board, dependent on him immediately before his death; or
- (c) if he died without leaving a widow and there is no such child—any other person who was, in the opinion of the Board, dependent on him immediately before his death,

a lump sum benefit of an amount specified in subsection (2).

(2) The amount payable under subsection (1) to a person referred to therein is—

- (a) in the case of a contributor who, before he died, had completed not less than ten years' service—an amount equal to the amount that would have been paid to the contributor under section 26 had he retired immediately before he died; or
- (b) in any other case—an amount equal to the amount that would have been payable under section 30 had it applied to and in respect of the contributor immediately before he died.

(3) Where a contributor with not less than ten years' service dies aged sixty years or more and does not leave a widow or any dependant, there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such other person or persons as the Board may determine, an amount equal to the lump sum benefit to which he would have been entitled under section 26 had he retired immediately before he died.

(4) Where a contributor dies and a benefit is not payable pursuant to subsection (1) or (3), there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such person or persons

New South Wales Retirement Benefits.

as the Board may determine, a lump sum benefit of an amount **No. 70, 1972** equal to the amount that would have been payable under section 30 had it applied to and in respect of the contributor immediately before he died.

(5) Where a child is eligible to receive a lump sum benefit under this section, the Board—

- (a) may, if there is a guardian of the child and the Board is satisfied that the amount of the benefit or some part thereof would, if paid to the guardian, be used for the maintenance, education and advancement of the child, pay that amount or part to the guardian; or
- (b) may, if the Board is not so satisfied or if there is no such guardian, expend the amount of the benefit, or any part thereof, for the benefit of the child in such manner as is determined by the Board.

(6) Where more than one person is entitled to a benefit under this section, the Board shall apportion the benefit among them as it thinks fit.

(7) The payment of any benefit or part of a benefit by the Board under this section discharges the Board and the Fund from all liability in respect of the benefit or part.

29. (1) This section applies to a widow to whom, except **Alternative** to the extent that she otherwise elects under this section, a ^{benefits} lump sum benefit is payable under section 28. **for widow.**

(2) Where a widow to whom this section applies so elects in relation to the whole or part of the lump sum benefit to which, but for the election and the operation of this section,

she

New South Wales Retirement Benefits.

No. 70, 1972 she would be entitled under section 28 there shall be paid to her from the Fund instead of the lump sum benefit or part thereof to which the election relates—

(a) in the case of a widow aged fifty years or more—

(i) a pension for herself for life on and from the day that next succeeds the death of the contributor; or

(ii) a pension for herself for life on and from the day that next succeeds the death of the contributor with an increase of ten per centum in the amount thereof at the expiration of the period of three years that next succeeds the first payment of pension and at the expiration of each succeeding period of three years, each such increase being calculated by reference to the rate at which the first payment of pension was made; or

(b) an annuity certain for a term of five years on and from the day that next succeeds the death of the contributor.

(3) A widow to whom a pension referred to in subsection (2) (a) is being paid may, at any time, elect to commute the whole or part of that pension and, upon such an election taking effect there shall be paid to the widow from the Fund, instead of the pension or part thereof to which the election relates, an amount of lump sum benefit determined by the Board to be the actuarial equivalent of the pension or part thereof to which the election relates.

(4) The amount of pension or annuity payable pursuant to an election under subsection (2) is the amount determined by the Board to be the actuarial equivalent of the lump sum benefit, or part thereof, to which the election relates, regard being had to any increase of pension to which the election relates.

(5)

New South Wales Retirement Benefits.

(5) Where the recipient under this Act of an annuity No. 70, 1972 certain dies before the expiration of the term of the annuity, the Board may pay to the person entitled to receive payment of the annuity a lump sum that is the actuarial equivalent of payment of the annuity for the balance of the term thereof.

(6) An election under subsection (2) or (3) has no force or effect if the person who made the election dies before the election takes effect.

30. Subject to section 62, where a person who is a contributor ceases to be employed by an employer and, but for this section, there would not be payable under this Act to or in respect of that person any lump sum benefit or pension or annuity, there shall be paid to him from the Fund as a lump sum benefit or, where he is deceased, to his personal representatives or, where he is deceased and has no personal representatives, to such person as the Board may determine—

Withdrawal benefit.

(a) in the case of a person who had been a contributor to the Transport Retirement Fund and, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund under this Act; and

(ii) the total of the amounts of his contributions to the Transport Retirement Fund,

reduced by the difference between the amount referred to in subparagraph (ii) and the total amount of the contributions that would have been paid by him to the Transport Retirement Fund had all his contributions thereto been made in accordance with Scale 2 of Schedule 2 of the Transport Employees Retirement Benefits Act, 1967;

(b)

No 70, 1972

- (b) in the case of any other person who, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the total of the amounts of his contributions to the Fund;
- (c) in the case of a person who, at the time he ceased to be employed by an employer, had completed not less than five, but less than ten years' service, an amount equal to the sum of—
- (i) the total of the amounts of his contributions to the Fund;
 - (ii) the amount of his initial credit, if any; and
 - (iii) interest as provided by section 53 on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on the date on which he ceased to be employed by an employer;
- (d) in the case of a person who, at the time he ceased to be employed by an employer, had completed not less than ten years' service, an amount equal to the sum of—
- (i) the amount to which he would be entitled if paragraph (c) were applicable to him; and
 - (ii) an allowance of an amount that is a percentage of the amount referred to in subparagraph (i), being one-half of the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before the cessation of his employment.

New South Wales Retirement Benefits.

31. (1) This section applies to and in respect of— No. 70, 1972

- (a) a contributor who is retired from the service of his employer through infirmity of body or mind, where the Board is satisfied that the infirmity—
- Certain benefit must be not less than certain amount.
- (i) incapacitates the contributor from performing his duties; and
- (ii) is likely to be permanent; and
- (b) a contributor who dies if, in consequence of his death, a lump sum benefit becomes payable under section 28 (1).

(2) For the purposes of this section, "minimum benefit" in relation to a contributor to or in respect of whom this section applies means the lesser of—

- (a) the amount ascertained in accordance with the formula—

$$\frac{a}{30} \times (10 + n)$$

where—

"a" represents the annual wages of the contributor immediately before his retirement or death, as the case may be;

"n" represents the number of years of service completed by him at that time;

and

- (b) the amount that—

- (i) where the contributor is retired or dies before he attains the age of sixty years— would have been payable to him under this Act had he retired on attaining the age of sixty years after having continued until that retirement to pay to the Fund contributions at the same rate as the rate at which he was paying them immediately before he was retired or died, as the case may be; or

(ii)

New South Wales Retirement Benefits.

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- (ii) where the contributor is retired or dies on or after attaining the age of sixty years—would have been paid to him under this Act if, on the day on which he is retired or dies, he had retired otherwise than as referred to in subsection (1) (a).

(3) Where the benefit payable to or in respect of a contributor to or in respect of whom this section applies would, but for this subsection, be less than the minimum benefit for the contributor, the amount of the benefit payable to or in respect of the contributor shall, subject to subsection (4), be the amount of that minimum benefit.

(4) Nothing in this section operates to prejudice or affect the operation of section 61.

PART V.

EMPLOYER CONTRIBUTIONS.

Payment of contributions by, and apportionment of contributions among, employers.

32. (1) In this section, a reference to a contributor in respect of whom this section applies is a reference to a contributor to or in respect of whom a lump sum benefit has become payable from the Fund and—

“primary employer” in relation to such a contributor means the person who was the employer of the contributor immediately before that lump sum benefit became payable;

“secondary employer” in relation to such a contributor means any person (other than the primary employer of the contributor) who employed the contributor during the period of service in respect of which the lump sum benefit became payable.

(2)

New South Wales Retirement Benefits.

(2) Where a lump sum benefit becomes payable **No. 70, 1972** from the Fund to or in respect of a contributor in respect of whom this section applies, the primary employer of the contributor shall, without further appropriation than this Act, pay to the Board—

- (a) where the lump sum benefit is payable under section 26 (2)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (3) (b);
- (b) where the lump sum benefit is payable under section 26 (4)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (5) (c);
- (c) where, pursuant to section 28, an amount is payable that is equal to the amount that would have been payable in specified circumstances under another provision of this Act—an amount equal to the amount that would have been payable under this subsection if a lump sum benefit had been paid under that other provision in those circumstances;
- (d) where the lump sum benefit is payable under section 30 (d)—an amount equal to the amount of the allowance in relation to the contributor under section 30 (d) (ii);
- (e) where the lump sum benefit is payable in accordance with section 31—an amount equal to the sum of—
 - (i) one-half of the amount, if any, by which the lump sum payable under that section exceeds the lump sum benefit that would be payable if that section had not been enacted; and
 - (ii) the payments, if any, which the primary employer of the contributor would be required to make if that section had not

been

New South Wales Retirement Benefits.

No. 70, 1972

been enacted and if the liability of the employer were determined under paragraph (a) or (d), or as the case may require.

(3) Where, pursuant to subsection (2), the primary employer of a contributor in respect of whom this section applies is required to make a payment, the Board shall serve the notice prescribed by subsection (4) on any secondary employer of the contributor and shall furnish the primary employer of the contributor with a copy thereof.

(4) For the purposes of subsection (3), the notice for service on a secondary employer of a contributor in respect of whom this section applies is a notice to the effect that the secondary employer is liable to pay to the primary employer of the contributor a specified amount within a specified time, that amount being an amount determined by the Board on an actuarial basis having regard to—

- (a) the amount of the contributions to the Fund by the contributor, and the amount of the lump sum benefit for which he was contributing, while he was employed by that secondary employer; and
- (b) such other matters as the Board thinks fit.

(5) Where a notice is, pursuant to subsection (3) served on a secondary employer and the secondary employer fails, within the time specified in the notice, to pay to the primary employer so specified the amount so specified, that primary employer may, in a court of competent jurisdiction, recover from that secondary employer as a debt the amount so specified.

Liability
for initial
credit.

33. The initial credit of a contributor who was a contributor to the Account is a liability due to the Fund by the person who was the employer of the contributor at the date on which the contributor last contributed to the Account.

34.

New South Wales Retirement Benefits.

34. (1) Where, on the appointed day, any amount stands to the credit of an employer under section 31 of the Transport Employees Retirement Benefits Act, 1967, the Board shall, without any further authority than this Act, transfer that amount to the Fund and shall credit the same amount to the employer in the books of the Board.

No. 70, 1972
Payments by
employer to
reserve.

(2) The Board shall pay to the Fund, and shall credit to an employer in the books of the Board, such proportion of any amount (including interest) repaid to the Board pursuant to section 23 (2) (b) as the Board determines to be that employer's proportion of that amount.

(3) An employer may, with the approval of the Governor given on the recommendation of the Treasurer and the Board, pay to the Fund as part of his operating expenses for the financial year in which the payment is made, such amounts as the employer may determine.

(4) Where an employer is required to make a payment under this Act or under section 29 of the Transport Employees Retirement Benefits Act, 1967, the payment may be made from the amount credited to the employer under this section.

(5) An amount standing to the credit of an employer pursuant to this section shall bear interest as provided by section 53.

PART

THE NEW SOUTH WALES RETIREMENT BOARD.

Constitution
of New
South Wales
Retirement
Board.

35. (1) There is hereby constituted a body corporate with the corporate name "New South Wales Retirement Board".

(2) The Board shall consist of four persons, each appointed by the Governor on the recommendation of the Minister—

- (a) for a period not exceeding five years; and
- (b) on such terms and conditions as the Governor thinks fit, including terms and conditions for or with respect to preserving rights accrued or accruing under any Act.

(3) Of the persons referred to in subsection (2)—

- (a) one shall, in and by the instrument of his appointment or by a subsequent instrument, be appointed as Chairman;
- (b) one may, in like manner, be appointed as executive member;
- (c) one shall, in like manner, be appointed as contributor member;
- (d) one shall, in like manner, be appointed as employer member.

(4) A person who is appointed Chairman or executive member of the Board may, by the terms of his appointment as such, be required to devote the whole of his time to the duties of his office.

(5) Before making a recommendation to the Governor with respect to the appointment of the contributor member and the employer member, the Minister may consult such persons, including associations of employees, as he thinks fit.

36. The Governor may appoint—

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- (a) subject to section 37, a deputy to act for the Chairman—
Deputies for members.
- (i) during the illness or absence of the Chairman; or
 - (ii) where there is an executive member, during the illness or absence of both the Chairman and the executive member;
- (b) where there is an executive member, a deputy to act (otherwise than pursuant to section 37) for the executive member during his illness or absence; and
- (c) deputies to act respectively for the contributor member or the employer member during the illness or absence of the member for whom he is the deputy,

and a person so appointed shall have and may exercise and perform, while acting for the person for whom he is the deputy, the powers, authorities, duties and functions conferred or imposed upon that person as a member of the Board and, where he acts for the Chairman or the executive member, of the Chairman or executive member, as the case may be.

37. Where there is an executive member of the Board, he shall have and may exercise, during the illness or absence of the Chairman, the powers, authorities, duties and functions of the Chairman.
Executive member to act as Chairman in certain circumstances.

38. Where a vacancy occurs in the office of a member the Governor may appoint a person to fill the vacancy and the person so appointed shall hold office instead of, and for the unexpired term of office of, his predecessor.
Casual vacancies.

39.

New South Wales Retirement Benefits.

No. 70, 1972 **39.** No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of any member of the Board and a deputy was not available to act in his place under section 36 or 37.

Certain acts,
etc., not
invalidated.

Public
Service
Act, 1902,
not to
apply to
member of
Board.

40. Subject to section 35 (2) (b), the provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment by the Governor of any member of the Board, and such a member is not, in his capacity as a member, subject to the provisions of that Act during his term of office.

Vacation
of office.

41. (1) A member of the Board vacates his office if he—

- (a) dies;
- (b) becomes bankrupt or compounds with his creditors;
- (c) absents himself from three consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Governor;
- (d) becomes a mentally ill person, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958;
- (e) resigns his office by writing under his hand addressed to the Minister and the resignation is accepted by the Governor; or
- (f) attains the age of sixty-five years.

(2) A person who is of or above the age of sixty-five years is not eligible for appointment as a member of the Board.

New South Wales Retirement Benefits.

42. (1) The members of the Board and their deputies shall be paid such remuneration and fees as the Governor may from time to time determine in respect of each of them.

No. 70, 1972
Remuneration and fees payable to members.

(2) Subject to subsection (3) where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of the office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member or of a deputy member of the Board or from accepting and retaining any remuneration payable to a member or to a deputy member under this section.

(3) Subsection (2) does not apply to or in respect of a member of the Board who pursuant to section 35 (4), is required to devote the whole of his time to the duties of his office.

43. Two members of the Board, one of whom is the Chairman or, where there is an executive member, the executive member, shall constitute a quorum of the Board and any business transacted at a meeting of the Board at which a quorum is present is valid.

Quorum.

44. Where the voting at any meeting of the Board is equal the Chairman or person acting in his place shall, in addition to having a deliberative vote, have a casting vote.

Chairman to have casting vote.

45. The Board shall manage the Fund and, on and from the appointed day, shall manage the Transport Retirement Fund and shall have and may exercise and perform such other powers, authorities, duties and functions as are conferred or imposed on it by or under this or any other Act.

Powers, etc., of Board.

46.

New South Wales Retirement Benefits.

No. 70, 1972 **46.** (1) The Board may delegate any of its powers, authorities, duties or functions under this Act or under the regulations, except this power of delegation, to any member or employee of the Board.

Delegation
by Board.

(2) The decision of any member or employee of the Board made when he is acting in pursuance of a delegation under this section shall be deemed to be the decision of the Board.

(3) A delegation under this section may be revoked by the Board at any time and does not prevent the exercise of any power, authority, duty or function by the Board.

Staff of
Board.

47. (1) The Board may appoint and employ such staff as may be necessary for the proper exercise and performance of its powers, authorities, duties and functions.

(2) The Board may, with the approval of the Minister administering a Government Department or with the approval of a statutory body or an employer, make use of the services of any person employed in the service of that Government Department, statutory body or employer.

Cost of
management
of Fund.

48. (1) Subject to this section, the cost of management of the Fund and any expenditure incurred by the Board pursuant to section 2 (5) are charges against, and shall be paid out of, the Fund.

(2) In so far as the cost of managing the Fund is attributable to the operation of section 12 in respect of an employee who, being eligible to elect under that section to become a contributor, fails so to elect, the amount thereof, as determined by the Board, shall be paid to the Board by the person who, at the time of that failure, is the employer of that employee.

49.

New South Wales Retirement Benefits.

49. The Board shall, as soon as practicable after the end of a financial year, submit a report to the Minister giving information as to its operations and as to any general decisions adopted by it in the course thereof during that financial year. No. 70, 1972
Report
by Board.

PART VII.

LOANS TO CONTRIBUTORS.

50. (1) The Board may lend to a contributor, on such terms and conditions as the Board determines, an amount not exceeding the total of— Board
may lend
certain
amount to
contributor.

- (a) the amount of the benefit that would be payable under section 30 if the contributor were to resign from the service of his employer on the day on which he applies for the loan; and
- (b) any amount standing to his credit pursuant to section 24.

(2) Where a loan is made to a contributor pursuant to subsection (1) and the Board, by notice in writing, requires the employer of the contributor to deduct from the salary or wages of the contributor at each payment thereof, in addition to the normal contributions of the contributor, such instalments as the Board may require in repayment of the loan and interest thereon, the employer shall comply with the terms of the notice.

(3) The provisions of section 19 relating to the deduction of contributions from the salary or wages of contributors and their remittance to the Board apply in respect of the deduction and remittance of the instalments referred to in subsection (2).

(4)

New South Wales Retirement Benefits.

- No. 70, 1972** (4) Where a benefit becomes payable under section 26, 28, 30 or 31 in respect of a contributor to whom a loan has been made under subsection (1) before the loan has been fully repaid with interest thereon, the amount of the benefit shall be reduced by the amount of the loan and interest thereon unpaid at the date the benefit became payable.

PART VIII.

ASSURANCE POLICIES.

Board may accept assignment of certain policies of assurance.

- 51.** (1) In this section "pensioner" means—
- (a) a person who receives a lump sum benefit under this Act by reason of his having been a contributor;
 - (b) a person who receives a lump sum benefit under this Act as the widow or child of a person who was a contributor;
 - (c) a person who is in receipt of a pension pursuant to an election under section 27 or 29; or
 - (d) a person who commutes a pension under section 27 (5) or 29 (3).

(2) This section applies to and in respect of an unencumbered policy of endowment assurance (not being an industrial policy as defined in the Life Insurance Act 1945 of the Parliament of the Commonwealth or any Act of that Parliament amending or replacing that Act) that has been in force for a period of at least six years and in respect of which no premiums that have fallen due remain unpaid.

(3)

New South Wales Retirement Benefits.

(3) Where the life of a contributor or pensioner, or the life of his spouse, is insured under a policy to which this section applies, the Board may, on the application of the contributor or pensioner, accept an assignment to it of the policy. No. 70, 1972

(4) The Board shall, where it has accepted assignment of a policy to which this section applies, cause the premiums to be duly paid and, on receipt by the Board of the maturity value of the policy, pay to the assignor or, where he is dead, to his personal representatives, the amount so received reduced by the sum of—

- (a) the total amount of the premiums paid by the Board; and
- (b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date on which the Board receives the maturity value of the policy.

52. Where the Board has accepted assignment of a policy to which section 51 applies it may, at any time before maturity of the policy, re-assign it to the assignor upon repayment to the Board of the sum of— Re-assignment by Board of policy of assurance.

- (a) the total amount of the premiums paid by the Board; and
- (b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date of the re-assignment.

PART

PART IX.

GENERAL PROVISIONS.

Moneys payable to and by the Board and interest thereon.

53. (1) Where, pursuant to this Act, any moneys are payable to the Board, payment of the moneys becomes overdue—

- (a) if it is not made within the period prescribed for payment of the moneys;
- (b) if a time for payment of the moneys is prescribed otherwise than by reference to a specified period— if it is not made within fourteen days after that time; or
- (c) in any other case—if it is not made within fourteen days after service by the Board on the person obliged to pay the moneys of a requisition for payment of the moneys.

(2) Interest is payable to the Board on moneys overdue for payment and is so payable on and from the day on which payment of the moneys becomes overdue to the day on which payment of the moneys is made, but the Board may, in special circumstances and in a particular case, waive payment of any such interest or part thereof.

(3) Moneys payable to the Board that are overdue for payment, and interest thereon as provided by this section, are recoverable by the Board in a court of competent jurisdiction as a debt.

(4) Where interest is payable to the Board pursuant to this section or payable to or by the Board or from the Fund under any other provision of this Act, the interest shall be compounded at the end of each financial year during the period for which it is so payable, and at the end of that period, and shall be calculated at the prescribed rate.

(5) Where interest is payable from the Fund on amounts paid to the Fund at different times during a financial year, the interest on those amounts shall, subject to this section, be calculated in a manner determined by the Board.

(6)

New South Wales Retirement Benefits.

(6) For the purposes of subsection (4), the No. 70, 1972 prescribed rate of interest is—

(a) in the case of interest payable pursuant to—

- (i) paragraph (b) of the definition of “initial credit benefit” in section 3 (1);
- (ii) section 13 (c);
- (iii) section 23 (2) (b) and section 23 (2) (c);
- (iv) section 26 (1) (b) (iii) and section 26 (5) (b);
- (v) section 30 (c) (iii);
- (vi) section 51 (4) (b); and
- (vii) section 52 (b)—

five and one-half per centum per annum or, where a higher rate of interest is prescribed for such a case, that higher rate; or

(b) in any other case (section 50 excepted)—

- (i) the rate prescribed for that case; or
- (ii) where no rate is prescribed for that case—
a rate specified by the Minister by order published in the Gazette on the recommendation of the Board made after having regard to earning rates, and estimated earning rates, on the Fund.

(7) An order under subsection (6) (b) (ii) may be made to vary according to time or circumstance.

54. The Governor may, on the recommendation of the **Regulations.** Board, make regulations not inconsistent with this Act for or with respect to all matters that by this Act are required or permitted to be prescribed or that are necessary or convenient for carrying out or giving effect to this Act.

55.

New South Wales Retirement Benefits.

No. 70, 1972 **55.** (1) For the purposes of this Act, the Board may require to be produced such evidence of the age, marriage, dependency or death of any person as it deems necessary and in default of the production of any such evidence the Board may itself obtain the evidence and deduct the expense incurred in obtaining it from any moneys payable from the Fund to the person required to produce the evidence.

Provision
of certain
evidence.

(2) Where, pursuant to subsection (1), the Board obtains evidence that a contributor failed to produce but sufficient moneys are not immediately payable from the Fund to the contributor to reimburse the Board for the expense incurred in obtaining the evidence, the employer of the contributor shall, on the requisition of the Board, deduct from the salary or wages of the contributor next payable the difference, as certified by the Board in the requisition, between the amount of the expenditure so incurred and the moneys immediately payable from the Fund and shall forward the amount so deducted to the Board.

56. The Board may at any time require an employer to furnish such returns with respect to persons employed by him who are or were contributors or who may become eligible to become contributors as the Board may decide and may at any time require any contributor or employee or person who was a contributor to furnish such information as the Board may decide is necessary for the purpose of any investigation in connection with the Fund.

Board may
require
certain
information.

57. Lump sum benefits under this Act and other payments from the Fund shall not be in any way assigned or charged or passed by operation of law to any person other than the person who is entitled thereto under this Act.

Benefits
are not
assignable,
etc.

58. (1) Where a person dies and there is due from the Fund to or in respect of him an amount not exceeding \$1,000, the Board may, unless—

Estates not
exceeding
\$1,000.

(a) probate of the will or letters of administration of the estate of that person have been produced to the Board; or

(b)

New South Wales Retirement Benefits.

- (b) notice in writing of the existence of the will of that person and of intention to prove it, or notice of intention to take out letters of administration of the estate of that person, is given to the Board within three months of the death of that person,

pay the amount, or after paying the funeral expenses of the deceased or reimbursing any person who paid those expenses pay the balance of the amount, to the widow or to such other person as the Board in the circumstances thinks fit.

(2) Proceedings may not be instituted against the Board in respect of anything done in pursuance of this section, but nothing in this section relieves a person receiving payment in pursuance of this section from any liability to account for or apply the amount paid to him in accordance with law.

59. (1) Subject to this section, a dispute under this Act shall be determined by the Board. Disputes and appeals.

(2) A person aggrieved by a decision of the Board under subsection (1) may, within a period of six months from the date of the decision, appeal to the Minister, who shall thereupon refer the matter for opinion to a Judge of the Supreme Court, and shall decide the point in accordance with that opinion.

(3) A decision of the Minister under subsection (2) is final and conclusive and not subject to appeal.

60. (1) Where a person to whom a benefit is payable under this Act is, in the opinion of the Board, incapable of administering his own affairs by reason of his illness, imprisonment or any other cause the Board may pay the benefit to some other person to be applied wholly for the care, maintenance, benefit and support of the person to whom, but for the provisions of this section, the benefit would be payable, or of any person dependent on him. Payment where beneficiary incapable.

(2)

New South Wales Retirement Benefits.

No. 70, 1972 (2) Any payment made under subsection (1) shall be deemed to have been made to the person entitled to the benefit.

Medical examination. 61. (1) The Board may require an employee to undergo a medical examination in order to determine his eligibility to receive a benefit under section 31.

(2) The Board may, in respect of an employee who does not undergo or fails to pass a medical examination referred to in subsection (1), determine his benefit under section 31 as less than the amount provided by that section but not less than the sum of one-sixth of the amount of the annual wages being paid to the contributor at the time the benefit becomes payable together with one-thirtieth of the amount of those annual wages for each completed year of his service.

Eligibility to contribute to superannuation scheme. 62. (1) This section has effect notwithstanding anything in this or any other Act.

(2) Where a contributor would, but for this subsection, be entitled or required to participate in a superannuation scheme by reason of a change in his employment classification within the service of his employer, he may not participate in the superannuation scheme unless, not later than three months after the change in his employment classification, he elects not to contribute to the Fund.

(3) Where a contributor ceases to be employed by an employer and, not more than three months later, being under the age of sixty years, he takes up employment with another person (whether an employer or not) by virtue of

which

New South Wales Retirement Benefits.

which he would, if he failed to comply with paragraphs (a), (b) and (c), be entitled or required to participate in a superannuation scheme, he may not participate in the superannuation scheme, and he continues as a contributor, if—

- (a) within three months after taking up employment with that other person, he elects to continue to be subject to the provisions of this Act;
- (b) he complies with section 23 (2) (b) as if his election under paragraph (a) were the application referred to in section 23 (2) (a); and
- (c) he complies with section 23 (2) (c) as if his taking up of employment with that other person were the resumption of employment referred to in section 23 (2) (c).

(4) A contributor who makes the election referred to in subsection (2) does not, on that account, cease to be a contributor until he participates in the superannuation scheme so referred to.

(5) Where, pursuant to subsection (3), a person continues as a contributor—

- (a) the person with whom he took up employment as referred to in that subsection shall be, and shall be deemed to have been on and from the commencement of the employment, an employer in relation to the contributor; and
- (b) the contributor shall be deemed to have complied with section 23 (2).

63. Where an employee who is within a class of persons specified in the Second Column of Schedule 1 or 2 is a contributor, or is eligible to elect to become a contributor or will, with the effluxion of time, be eligible to elect to become a contributor, his employer shall not, without the approval of the Minister, introduce a superannuation scheme in which the employee would be eligible to participate.

Introduction
of new
super-
annuation
schemes
prohibited
in certain
circum-
stances.

64.

New South Wales Retirement Benefits.

No. 70, 1972
Amendment
of
Schedule 2.

64. (1) On the recommendation of the Minister, the Governor may, by order published in the Gazette, amend Schedule 2 by inserting matter therein or by omitting matter therefrom and may, by the same or a different order so published, make a declaration for the purposes of subsection (3).

(2) An order under subsection (1) takes effect on the day of its publication in the Gazette or, where the order specifies that it takes effect on a specified later day, on that later day.

(3) Where the Governor, by an order under subsection (1), so declares in relation to the employer of a person who becomes an employee within the meaning of this Act by virtue of the order, the total contributor liability of that employer under this Act in respect of that employee shall be met by the employer by his making to the Fund, while the employee is employed by him, periodic payments at a rate to be notified by the Board to the employer as the rate determined by the Board to be necessary to meet the maximum possible liability of the employer, having regard to the contribution rate of the employee and the possibility of his being employed by that or any other employer until he attains the age of sixty-five years.

(4) The name of an association of employees may, by an order under subsection (1) be added to the First Column of Schedule 2 if a substantial number of the members of the association are contributors.

(5) An order may not be made under subsection (1) if it would operate to deprive a person of any right conferred upon him by this Act before the making of the order.

Elections
and
applications.

65. An election or application under this Act—

- (a) shall be in writing;
- (b) shall, subject to this Act, be deemed not to have been validly made unless it is received in the office of the Board before the time on or before which it is required to be made;
- (c) may, with the approval of the Board, be amended or revoked; and

(d)

New South Wales Retirement Benefits.

- (d) except where otherwise provided, takes effect on a day determined by the Board in respect thereof. **No. 70, 1972**

66. (1) Where a person is entitled to exercise a right or enjoy a privilege or benefit under this Act and, without having exercised the right or enjoyed the privilege or benefit, he ceases to be entitled so to do, he may exercise the right or enjoy the privilege or benefit if—

Restoration
of lost
right, etc.,
under Act.

- (a) the Board, being satisfied that it is just and equitable that it should do so, gives its consent to the exercise by him of the right or the enjoyment by him of the benefit or privilege; and
- (b) he fulfils any conditions, and complies with any requirements, imposed by the Board in giving its consent.

(2) Where pursuant to subsection (1) the Board consents to an election, or an application to the Board, being made after the time before which, but for that consent, it should have been made, the Board may, if it thinks fit, deal with the election or application as if it had been made before that time.

67. (1) The Transport Employees Retirement Benefits Act, 1967, is amended—

Amendment
of Act No.
96, 1967.

- (a) by omitting from section 2 the matter relating to Part IV; **Sec. 2.**
(Division
of Act.)
- (b) (i) by omitting from section 3 (1) the definition of "Board" and by inserting instead the following definition :— **Sec. 3.**
(Interpreta-
tion.)

"Board" means the New South Wales Retirement Board constituted by the New South Wales Retirement Benefits Act, 1972;

- (ii) by omitting from paragraph (e) of the definition of "employee" in section 3 (1) the word "or" where thirdly occurring;

(iii)

*New South Wales Retirement Benefits.***No. 70, 1972**

(iii) by inserting at the end of paragraph (f) of the definition of "employee" in section 3 (1) the following word and new paragraph :—

; or

(g) a person eligible to make an election under section 10 of the New South Wales Retirement Benefits Act, 1972, or a person who, pursuant to section 11 of that Act, becomes a contributor within the meaning of that Act, or a person who ceases, pursuant to section 12 (8) of that Act, to contribute to the Transport Retirement Fund;

(iv) by omitting from section 3 (6) (b) the words "Transport Retirement Board" wherever occurring and by inserting instead the words "New South Wales Retirement Board";

**Sec. 4.
(The Fund.)**

(c) by inserting at the end of section 4 the following new subsection :—

(4) The cost of management of the Fund is a charge against, and shall be paid out of, the Fund.

**Sec. 8.
(Guaranteed minimum interest yield.)**

(d) by omitting from section 8 (3) the word "application" and by inserting instead the word "appreciation";

**Sec. 9.
(Triennial investigation of Fund.)**

(e) (i) by omitting from section 9 (1) the word "seventy" and by inserting instead the word "seventy-seven";

(ii) by inserting at the end of section 9 the following new subsection :—

(4) The Board shall, not later than two months after it receives a report under subsection (3), forward the report to the Minister together with such comments thereon as it deems appropriate.

(f)

New South Wales Retirement Benefits.

- (f) by omitting Part IV; No. 70, 1972
- Part IV.
(The
Transport
Retirement
Board.)
- (g) by omitting from section 65 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board"; Sec. 65.
(References
to Railways
Retirement
Fund Board
in Acts,
ordinances,
etc.)
- (h) by omitting from Schedule 1 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board". Sch. 1.

(2) A person who, immediately before the appointed day, was a member of the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, is not entitled to any compensation by reason of his ceasing to hold office as such a member.

(3) On and from the day appointed pursuant to section 2 (3)—

- (a) all real and personal property, including all investments, cash on deposit or in hand and all books, accounts, records, certificates and deeds and all right and interest therein and all management and control thereof that, immediately before that day, were vested in the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, are vested in the Board;
- (b) all moneys and liquidated and unliquidated claims that, immediately before that day were payable to, or recoverable by, the Transport Retirement Board so constituted are payable to, and recoverable by, the Board;

(c)

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- (c) all suits, actions and proceedings pending immediately before that day at the suit of or against the Transport Retirement Board so constituted are suits, actions and proceedings pending at the suit of or, as the case may be, against the Board;
- (d) all contracts, agreements and undertakings entered into with, and all securities given to or by, the Transport Retirement Board so constituted and in force immediately before that day shall be deemed to be contracts, agreements and undertakings, entered into with, and securities given to or by, the Board;
- (e) the Board may pursue the same remedies for the recovery of moneys and the enforcement of claims, and may prosecute and defend the same actions, suits and proceedings as might, but for this section, have been pursued, prosecuted or defended by the Transport Retirement Board so constituted;
- (f) the Board may enforce and realise any security or charge in favour of the Transport Retirement Board so constituted that was in force immediately before that day as if it were a security or charge in favour of the Board;
- (g) all debts and moneys that, immediately before that day, were due or payable to, and all liquidated and unliquidated claims that, immediately before that day, were recoverable against the Transport Retirement Board so constituted are debts due by, moneys payable by, and claims recoverable against the Board; and
- (h) a reference, whether express or implied, in any Act (other than this Act) ordinance, order, regulation or by-law or in any other instrument or document (other than an instrument or document appointing a member of the Transport Retirement Board) to the Transport Retirement Board shall be read and construed as a reference to the Board.

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(4) On and from the appointed day—

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- (a) a person who, immediately before that day, was employed by the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, becomes an employee of the New South Wales Retirement Board and his service with the Transport Retirement Board shall be reckoned as service with the New South Wales Retirement Board;
- (b) a person referred to in paragraph (a) shall be paid salary or wages at a rate not less than the rate that was payable to him immediately before that day, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males or females, as the case may require, for the time being in force pursuant to Part V of the Industrial Arbitration Act, 1940; and
- (c) where a condition of employment of a person referred to in paragraph (a) was, immediately before that day, regulated by an award or industrial agreement, the condition shall continue so to be regulated until an award or industrial agreement that is binding on the Board is made to regulate the condition.

(5) The Minister shall appoint a Review Committee consisting of—

- (a) a member of the Board, who shall be chairman of, and convene meetings of, the Review Committee;
- (b) a nominee of the Auditor-General; and
- (c) the Government Actuary.

(6) The Board shall, as between the Transport Retirement Fund and the New South Wales Retirement Fund make such adjustments of the assets and liabilities of those Funds as the Review Committee considers to be a necessary consequence of the operation of this Act.

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No. 70, 1972 **68.** The Transport Employees Retirement Benefits Act, 1967, is further amended by omitting section 14 and by inserting instead the following section:—
 Further amendment of Act No. 96, 1967.
 Subst. sec. 14.

Variation of benefits.

14. (1) In this section—

“contributor” includes an employee who ceased to be a contributor on his attainment of the age of sixty-five years;

“review date” means, in relation to a contributor, a date determined by the Board for the purpose of calculating the lump sum benefit applicable in relation to the annual wages of the contributor at that date.

(2) Except as provided by this section and by sections 15 and 16, the lump sum benefit for which a contributor is contributing shall not be varied.

(3) Subject to subsection (4), where the annual wages of a contributor are increased so that the amount thereof falls within a wage group that is higher than the wage group within which the amount thereof fell immediately before the increase he shall, not earlier than the review date that next follows the increase, contribute as provided by subsection (6)—

- (a) in the case of a contributor who is contributing for his ordinary minimum benefit—for the ordinary minimum benefit appropriate for his higher wage group;
- (b) in the case of a contributor who is contributing for his maximum benefit—for the maximum benefit appropriate for his higher wage group; or
- (c) in the case of a contributor who had nominated a benefit wage factor—for the lesser of—
 - (i) the maximum benefit appropriate for his higher wage group; and

(ii)

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(ii) a lump sum benefit calculated by applying No. 70, 1972 to the upper level of the wage group in which his increased salary falls the benefit wage factor last nominated by him before that review date and by deducting from the resulting amount so much of his initial credit benefit, if any, as is a multiple of one hundred dollars.

(4) Where a lump sum benefit becomes payable in respect of a contributor, subsection (3) applies as if the date on which the lump sum benefit became payable were a review date for the contributor.

(5) For the purposes of subsection (4), a reference in subsection (3) to an increase of annual wages includes a reference to such an increase paid after a lump sum benefit became payable under this Act if the increase took effect on and from a day that is earlier than, and is in respect of, a period that includes the date on which the lump sum benefit became payable.

(6) The increased contributions to be paid to the Fund by a contributor contributing for an increased lump sum benefit pursuant to this section shall be payable—

- (a) where the review date for the contributor is not determined as provided by subsection (4)—on and from the first day of the pay period next following a date determined by the Board in relation to the contributor for the purposes of this section; or
- (b) where the review date for the contributor is determined as provided by subsection (4)—on and from the first day of the pay period next following the date with effect from which the annual wages of the contributor were increased.

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No. 70, 1972 **69.** The Government Railways Act, 1912, is amended by omitting section 109A and by inserting instead the following section :—

Amendment
of Act No.
30, 1912.
Subst. sec.
109A.

This part
not to
apply to
certain
persons.

109A. This Part does not apply to or in respect of a person who became an officer after the commencement of the Railways Retirement Fund Act, 1964, and before the day appointed pursuant to subsection (3) of section 2 of the New South Wales Retirement Benefits Act, 1972, or who becomes an officer on or after that day.

Amendment of Act No. 18, 1930. **70.** The Transport Act, 1930, is amended by omitting section 132B and by inserting instead the following section :—

Subst. sec.
132B.

This Part
not to
apply to
certain
persons.

132B. This Part does not apply to or in respect of a person who is an officer whose appointment was confirmed after the commencement of the Transport Employees Retirement Benefits Act, 1967, and before the day appointed pursuant to subsection (3) of section 2 of the New South Wales Retirement Benefits Act, 1972, or whose appointment is confirmed on or after that day.

Amendment of Act No. 28, 1916. **71.** The Superannuation Act, 1916, is amended by inserting in the definition of "Employee" in section 3 (1) after the figures "1967," the words "or the New South Wales Retirement Benefits Act, 1972,".

Sec. 3.
(Interpre-
tation).

Amendment of Act No. 35, 1970. **72.** The Securities Industry Act, 1970, is amended by omitting from paragraph (e) of the definition of "exempt dealer" in section 4 (1) the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board".

Sec. 4.
(Interpre-
tation.)

SCHEDULES.

New South Wales Retirement Benefits.

1203

SCHEDULES.

No. 70, 1972

SCHEDULE 1

Sec. 3 (1).

First Column	Second Column
Employers	Employees
Public Transport Commission of New South Wales.	Persons employed by the Commission pursuant to— (a) the Government Railways Act, 1930 (other than persons so employed temporarily as workmen on construction, deviation or duplication works, in the trading or catering services or in connection with a sawmill that is not associated with a workshop); (b) the Transport Act, 1930; and (c) sections 16 and 18 of the Public Transport Commission Act, 1972.
The Commissioner for Motor Transport.	Persons employed by the Commissioner.
The Crown or a Minister of the Crown	Persons employed in the Police Department otherwise than— (a) as police cadets; (b) under the Police Regulation Act, 1899; or (c) under the Public Service Act, 1902.
New South Wales Retirement Board	Persons employed by the Board.

SCHEDULE

1204

New South Wales Retirement Benefits.

No. 70, 1972

SCHEDULE 2

Sec. 3 (1).

Sec. 64.

First Column	Second Column
Employers	Employees

SCHEDULE

New South Wales Retirement Benefits.

SCHEDULE 3

No. 70, 1972

TABLE OF CONTRIBUTIONS

Sec. 18 (1).

First Column	Second Column	First Column (continued)	Second Column (continued)
Age next birthday	Fortnightly rate of contribution for \$1,000 of the amount of the lump sum benefit	Age next birthday	Fortnightly rate of contribution for \$1,000 of the amount of the lump sum benefit
	\$		\$
16	0.22	41	1.20
17	0.24	42	1.30
18	0.25	43	1.42
19	0.27	44	1.56
20	0.28	45	1.72
21	0.30	46	1.90
22	0.32	47	2.10
23	0.34	48	2.35
24	0.36	49	2.64
25	0.38	50	2.99
26	0.41	51	3.42
27	0.44	52	3.96
28	0.47	53	4.65
29	0.50	54	5.58
30	0.53	55	895.90 ÷ n*
31	0.57	56	921.20 ÷ n*
32	0.61		
33	0.65	57	947.00 ÷ n*
34	0.70	58	973.20 ÷ n*
35	0.75	59 } 60 }	1,000.00 ÷ n*
36	0.81		
37	0.87		
38	0.94		
39	1.02		
40	1.10		

*n denotes the number of complete fortnightly contributions payable before contributions would be due to cease on attainment of age 60 years.

SCHEDULE

New South Wales Retirement Benefits.

No. 70, 1972

SCHEDULE 4

Sec. 18 (2).

TABLE OF CONTRIBUTIONS

First Column	Second Column
Age next birthday	Fortnightly contribution payable for 10 Years for nominal benefit of \$1,000*
	\$
51	3.15
52	3.32
53	3.51
54	3.70
55	3.90
56	4.12
57	4.35
58	4.58
59	4.84
60	5.10

* The amount of the benefit at the end of the 10 year period is \$1,000 together with interest thereon as provided by section 53 from age 60 years to the end of the 10 year period.

SCHEDULE

New South Wales Retirement Benefits.

1207

SCHEDULE 5

No. 70, 1972

Sec. 26.

First Column	Second Column
Completed years of service	Employer subsidy— amount of percentage
Under 10	Nil
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20	100
21	105
22	110
23	115
24	120
25	125
26	130
27	135
28	140
29	145
30	150
31	155
32	160
33	165
34	170
35	175
36	180
37	185
38	190
39	195
40 or more	200

SCHEDULE

New South Wales Retirement Benefits.

No. 70, 1972

SCHEDULE 6

Sec. 3 (2).

TABLE OF ALLOWANCES

First Column	Second Column	First Column (continued)	Second Column (continued)
Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account	Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account
45 years and over	100.0 per centum	23 years	41.1 per centum
44 years	96.0 " "	22 "	39.2 " "
43 "	92.0 " "	21 "	37.3 " "
42 "	88.0 " "	20 "	35.4 " "
41 "	84.0 " "	19 "	33.5 " "
40 "	80.0 " "	18 "	31.6 " "
39 "	76.0 " "	17 "	29.8 " "
38 "	73.0 " "	16 "	28.0 " "
37 "	70.0 " "	15 "	26.2 " "
36 "	67.0 " "	14 "	24.4 " "
35 "	65.0 " "	13 "	22.6 " "
34 "	63.0 " "	12 "	20.8 " "
33 "	61.0 " "	11 "	19.0 " "
32 "	59.0 " "	10 "	17.3 " "
31 "	57.0 " "	9 "	15.6 " "
30 "	55.0 " "	8 "	13.9 " "
29 "	53.0 " "	7 "	12.2 " "
28 "	51.0 " "	6 "	10.5 " "
27 "	49.0 " "	5 "	8.8 " "
26 "	47.0 " "	4 "	7.1 " "
25 "	45.0 " "	3 "	5.4 " "
24 "	43.0 " "	2 "	3.7 " "
		1 year	2.0 " "

PARLIAMENTARY