

**TRANSPORT EMPLOYEES RETIREMENT BENEFITS
(AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 50, 1971.

An Act to make further provision with respect to retirement and other benefits for certain persons employed in the Departments of Railways, Government Transport and Motor Transport and the Police Department and certain other employees; to validate certain matters; for these and other purposes to amend the Transport Employees Retirement Benefits Act, 1967, and the Transport Act, 1930; and for purposes connected therewith. [Assented to, 14th December, 1971.]

BE

Transport Employees Retirement Benefits (Amendment).

No. 50, 1971 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. 1. This Act may be cited as the "Transport Employees Retirement Benefits (Amendment) Act, 1971".

Amend-
ment of
Act No. 96,
1967. 2. (1) The Transport Employees Retirement Benefits Act, 1967, is amended—

Sec. 3.
(Interpreta-
tion.) (a) (i) by omitting subsection six of section three and by inserting in lieu thereof the following subsection :—

(6) For the purposes of this Act an employee's appointment shall be deemed to have been confirmed—

(a) in the case of an employee whose employment by an employer commenced before or on, or within one month after, the commencement of the Transport Employees Retirement Benefits (Amendment) Act, 1971, on the day determined under the provisions of this Act as in force immediately prior to that commencement;

(b) in the case of an employee of the Commissioner for Railways, the Commissioner for Government Transport, the Commissioner for Motor Transport, the Commissioner of Police or the Transport Retirement Board, whose employment commenced on or after one month from the commencement of the Transport Employees Retirement

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Act, 1971, on the day following the expiration of a period of twelve months after the day on which his employment by the Commissioner for Railways, the Commissioner for Government Transport, the Commissioner for Motor Transport, the Commissioner of Police or the Transport Retirement Board, as the case may be, commenced; and

(c) in the case of an employee of an employer whose name is added to Schedule 1 to this Act under section fifty-nine of this Act—

(i) being an employee whose employment by that employer commenced within twelve months before the date, or commenced after the date, on which that employer's name was so added to that Schedule—on the day following the expiration of a period of twelve months after the day on which his employment by that employer commenced; or

(ii) being an employee whose employment by that employer commenced more than twelve months before the date on which that employer's name was so added to that Schedule—on the day on which that employer's name was added to that Schedule.

(ii) by omitting from subsection seven of the same section the word "two" and by inserting in lieu thereof the word "six";

(b)

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Sec. 12.

(Contributors who were formerly contributors, to the Account, or are Transport Department officers or Police Department appointees.)

(b) by omitting subsection two of section twelve and by inserting in lieu thereof the following subsections:—

(2) A contributor to the Account, a gratuity scheme officer or a Police Department appointee who made such an election before the commencement of the Transport Employees Retirement Benefits (Amendment) Act, 1971, shall be deemed to have made the election on a prescribed date (which date shall be treated for the purposes of this Act as the date on or before which he was required to make an election), and to have become a contributor on a date determined as provided in subsection three of this section.

(2A) In subsection two of this section “prescribed date” means a date determined by the Board being—

- (a) in the case of a person referred to in paragraph (a) of subsection one of this section, either the thirty-first day of March, or the thirty-first day of August, one thousand nine hundred and sixty-nine;
- (b) in the case of a person referred to in paragraph (b) of subsection one of this section, either the fifteenth day of May, or the thirtieth day of September, one thousand nine hundred and sixty-nine; or
- (c) in the case of a person referred to in paragraph (c) of subsection one of this section, either the thirtieth day of August, one thousand nine hundred and sixty-eight, or the thirty-first day of August, one thousand nine hundred and sixty-nine.

(c)

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- (c) by inserting next after section twelve the following No. 50, 1971
new section :—

New sec.
12A.

12A. (1) In this section “prescribed person” means a person who elected under paragraph (b) of subsection one of section twenty-four of the Railways Retirement Fund Act, 1964, not to become a contributor under that Act. Certain persons deemed to be contributors.

(2) A prescribed person who made an election with the concurrence of the Board, on or before the thirty-first day of August, one thousand nine hundred and sixty-nine, or on or before such later date as the Board allowed in any particular case, to become a contributor, shall be deemed as on and from the first day of the pay period applicable to him next following the thirty-first day of August, one thousand nine hundred and sixty-nine, to have become a contributor liable to contribute to the Fund for a lump sum benefit of an amount equal to his ordinary minimum benefit at the date on which he became a contributor.

(3) Any election purporting to have been made by a prescribed person in accordance with the provisions of subsections two and three of section thirteen of this Act and made with the concurrence of the Board on or before the date on which he is deemed under subsection two of this section to have become a contributor, or on or before such later date as the Board allowed in any particular case, shall be deemed to be and to have been an election made in accordance with those provisions.

- (d) by omitting from paragraph (c) of subsection four of section thirteen the word “may” and by inserting in lieu thereof the words “is required to”; Sec. 13. (Amount of benefits.)

(e)

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New sec.
13A.Further
election
by certain
contribu-
tors.

(e) by inserting next after section thirteen the following new section :—

13A. (1) If a person, being a contributor for a benefit at age sixty-five years of less than twice the upper level of his wage group, contributed, with the concurrence of the Board, after the prescribed date, in accordance with an election to do so made before that date, for a benefit at age sixty-five years of at least twice such upper level, or for the maximum benefit appropriate to his age level if that maximum benefit were less than twice such upper level, he shall, as on and from the prescribed date, be deemed to have become a contributor in accordance with that election and liable to contribute in respect of such additional amount of lump sum benefit from the first day of the pay period applicable to him next following the prescribed date.

(2) In this section "prescribed date" means—

- (a) in relation to a contributor who was a gratuity scheme officer or who is an employee of the Commissioner for Government Transport or the Commissioner for Motor Transport, the thirtieth day of September, one thousand nine hundred and sixty-nine, or such later date as the Board in any particular case allowed; or
- (b) in relation to any other contributor, the thirty-first day of August, one thousand nine hundred and sixty-nine, or such later date as the Board in any particular case allowed.

Sec. 17.
(Certain persons may opt to make reduced contributions or not to contribute.)

(f) (i) by inserting in subsection four of section seventeen after the word "years" the words " ; or who at the time he becomes a contributor has attained the age of thirty years. ";

(ii)

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- (ii) by inserting in subparagraph (iii) of paragraph (a) of subsection five of the same section after the word “section” the words “who after he becomes a contributor attains the age of thirty years”;
- (iii) by inserting next after subparagraph (iii) of the same subsection the following new subparagraph :—
- (iv) in the case of a contributor referred to in subsection four of this section who at the time he becomes a contributor has attained the age of thirty years— on or before the date that is one month after the payment to him of the first increase that brings his wages into a higher wage group after becoming a contributor;
- (iv) by inserting in subsection six of the same section after the word “Act” the words “(section eighteen excepted)”;
- (v) by omitting from the same subsection where secondly occurring the words “or subsequent increase, as the case may be” and by inserting in lieu thereof the words “first mentioned in paragraph (a) of this subsection”;
- (vi) by inserting next after subsection six of the same section the following new subsection :—

(7) Any election made with the concurrence of the Board, before the commencement of the Transport Employees Retirement Benefits (Amendment) Act, 1971, in accordance with the provisions of this section by a contributor who attained the age of thirty years before becoming a contributor, shall be deemed to be and to have been an election made under this section.

(g)

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Sec. 18.
(Maximum
benefits
and special
provisions
relating to
certain
persons.)

- (g) (i) by omitting from subsection two of section eighteen the words “an amount equivalent to twenty-six dollars multiplied by” and by inserting in lieu thereof the words “an amount of twenty-six dollars or an amount which is a multiple of twenty-six dollars but not exceeding twenty-six dollars multiplied by”;
- (ii) by omitting from the same subsection the word “appointed” and by inserting in lieu thereof the words “on or before which he is required to make an election”;
- (iii) by omitting from paragraph (b) of subsection three of the same section the word “appointed” and by inserting in lieu thereof the words “on or before which he is required to make an election”;
- (iv) by omitting from paragraph (d) of the same subsection the words “applicable to him” and by inserting in lieu thereof the words “on or before which he is required to make an election”;

Sec. 19.
(Amount of
contribu-
tions.)

- (h) by inserting in subsection three of section nineteen after the word “Fund” where firstly occurring the words “of not less than one hundred and thirty dollars”;

Sec. 23.
(Benefit at
age sixty-
five years
after ten
years
service.)

- (i) (i) by inserting next after paragraph (b) of subsection one of section twenty-three the following new proviso :—

Provided that the amount of the lump sum benefit paid under this subsection shall not be less than the sum to which he would be entitled under paragraphs (d), (e) and (f) of subsection three of this section were he eligible to receive a lump sum benefit under that subsection.

(ii)

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- (ii) by inserting next after subsection two of the No. 50, 1971 same section the following new subsection :—

(2A) Where the services of a contributor are retained by his employer after he has attained the age of sixty-five years and the date of completion of ten years' service occurs while his services are so retained he shall, for the purposes of subsections one and two of this section, be deemed to have completed ten years' service at the age of sixty-five years.

- (j) by omitting subsection three of section twenty-four and by inserting in lieu thereof the following subsection :—

Sec. 24.
(Entitle-
ment of
widow and
depen-
dants.)

(3) (a) Where there is a guardian of any child eligible to receive a lump sum benefit under this section and the Board is satisfied that the benefit, or any part of the benefit, would, if paid to the guardian, be used for the maintenance, education and advancement of the child, the Board may pay the benefit or part to the guardian.

(b) If the Board is not so satisfied or if there is no guardian of the child, any such benefit or part may be expended for the benefit of the child in such manner as may be determined by the Board.

- (k) by omitting section twenty-six and by inserting in lieu thereof the following section :—

Subst. sec.
26.

26. (1) When a contributor dies or is retired from the service of his employer through infirmity of body or mind not caused by intemperate habits, the infirmity being certified to the satisfaction of the Board as being likely to be permanent and the benefit payable to or in respect of him would be less than the minimum benefit, the benefit payable to or in respect of him shall be the minimum benefit.

Minimum
amount of
lump sum
benefit in
certain
cases.

(2)

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(2) In this section—

“minimum benefit” means—

- (a) in the case of a contributor who immediately before his death or retirement was contributing for a lump sum benefit of an amount, which together with his initial credit benefit, if any, was not less than twice the lower level of his wage group, but not as provided in paragraph (b), or subparagraph (i) of paragraph (c), of this subsection, an amount of one thousand dollars, or if the Board has under subsection two of section sixty-one of this Act determined in respect of him a lesser amount, that lesser amount;
- (b) in the case of a contributor who immediately before his death or retirement was contributing for a lump sum benefit of an amount, which together with his initial credit benefit, if any, was not less than twice the upper level of his wage group—
 - (i) an amount of one thousand dollars added to the product of one hundred dollars multiplied by the completed years of service of the contributor, or the prescribed amount, whichever is the lesser;
 - (ii) if the prescribed amount would be less than one thousand dollars, an amount of one thousand dollars; or
 - (iii)

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- (iii) if the Board has under sub-No. 50, 1971 section two of section sixty-one of this Act determined in respect of him a lesser amount than the amount applicable under subparagraph (i), or referred to in subparagraph (ii), of this paragraph, that lesser amount; or
- (c) in the case of a contributor who immediately before his death or retirement was contributing for the maximum benefit appropriate to his age level—
- (i) if that maximum benefit, together with his initial credit benefit, if any, was not less than twice the lower level of his wage group, the same amount as would be payable to or in respect of a contributor under paragraph (b) of this subsection; or
- (ii) if that maximum benefit, together with his initial credit benefit, if any, was less than twice the lower level of his wage group, an amount of one thousand dollars added to the product of one hundred dollars multiplied by the completed years of service of the contributor, the prescribed amount, or any amount

determined

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determined in respect of him by the Board under subsection two of section sixty-one of this Act, whichever is the least;

“prescribed amount” means—

- (a) in the case of a person dying or being retired before attaining the age of sixty years, the amount that would have been paid to him under this Act had he continued the rate of contribution he was required to pay at the time of his death or at the time of being retired, until he attained the age of sixty years and retired on that date; or
- (b) in the case of a person dying or being retired on or after attaining the age of sixty years, the amount that would have been paid to him under this Act if he had retired on the date on which he died or was retired.

Sec. 29.
(Payments
by
employer.)

- (1) (i) by omitting from paragraph (b) of subsection two of section twenty-nine the words “on or after” and by inserting in lieu thereof the word “before”;
- (ii) by inserting next after the same subsection the following new subsection :—

(2A) In the case of a lump sum benefit payable under section twenty-six of this Act on or after the commencement of paragraph (k) of subsection one of section two of the Transport Employees Retirement Benefits (Amendment) Act, 1971, the employer shall, notwithstanding the provisions of subsection

two

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two of this section, pay to the Board without further appropriation than this Act an amount equivalent to the sum total of—

- (a) the amount, if any, by which the lump sum benefit payable under section twenty-six of this Act exceeds the lump sum benefit or amount which would be payable if the said paragraph (k) had not been enacted; and
- (b) the payments, if any, which the employer would be required to make if his liability were determined under subsection two of this section, and if the said paragraph (k) had not been enacted.
- (iii) by inserting in subsection three of the same section after the word “two” the words “or subsection (2A)”;
- (iv) by omitting from the same subsection the words “that subsection” and by inserting in lieu thereof the words “subsection two or 2A of this section, as the case may be”;
- (m) (i) by omitting from subsection one of section fifty-one the words “A contributor whose life” and by inserting in lieu thereof the words “A contributor or pensioner whose life or the life of whose husband or wife”;
- (ii) by inserting in paragraph (b) of subsection two of the same section after the word “contributor” the words “or pensioner”;
- (iii) by omitting from the same subsection the words “inform the contributor” and by inserting in lieu thereof the words “inform the contributor or pensioner”;
- (iv) by omitting from the same subsection the word “employee” and by inserting in lieu thereof the word “assignor”;

(v)

Sec. 51.
(Assignment of policies of assurance to the Board in certain cases.)

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- (v) by omitting from subsection four of the same section the word "employee" and by inserting in lieu thereof the word "assignor";
- (vi) by inserting at the end of the same section the following new subsection :—

(8) In this section "pensioner" means a person who received a lump sum benefit under this Act or a person who, prior to retirement, made an election under subsection four of section twenty-three of this Act and is in receipt of a pension in accordance with that election.

Dates of commencement of certain amendments.

(2) (a) The amendments made by paragraphs (g), (h), (i) and subparagraph (i) of paragraph (1), of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and sixty-eight.

(b) The amendments made by paragraphs (d), (k) and subparagraphs (ii) and (iii) of paragraph (1), of subsection one of this section shall be deemed to have commenced on the first day of April, one thousand nine hundred and sixty-nine.

Amendment of Act No. 18, 1930.

3. (1) The Transport Act, 1930, is amended—

Sec. 132A.
(Gratuities payable to non-contributors.)

(a) by inserting at the end of section 132A the following new subsection :—

(7) In the application of this section to a female officer references to "widow" shall be read as references to "widower" and words in the feminine gender shall be substituted for words in the masculine gender.

(b)

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- (b) by omitting section 132B and by inserting in lieu No. 50, 1971 thereof the following section :—

Subst. sec.
132B.

132B. The provisions of this Part shall not apply to and in respect of any person who is an officer and whose appointment is confirmed on or after the commencement of the Transport Employees Retirement Benefits Act, 1967, or who is an employee within the meaning of that Act.

This Part
not to apply
to certain
persons.

(2) (a) The amendment made by paragraph (a) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and sixty-nine.

Date of
commence-
ment of
amend-
ments.

(b) The amendment made by paragraph (b) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and sixty-eight.

WILD