

**NEW SOUTH WALES RETIREMENT BENEFITS (FURTHER  
AMENDMENT) ACT, 1983, No. 63**

**New South Wales**



ANNO TRICESIMO SECUNDO

**ELIZABETHÆ II REGINÆ**

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**Act No. 63, 1983.**

An Act to amend the New South Wales Retirement Benefits Act, 1972, so as to vary in certain respects the scheme for the payment of contributions and benefits under that Act; to validate certain refunds of contributions; and for other purposes. [Assented to, 4th May, 1983.]

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See also Transport Employees Retirement Benefits (Amendment) Act, 1983.

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*New South Wales Retirement Benefits (Further Amendment).*

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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:—

**Short title.**

1. This Act may be cited as the "New South Wales Retirement Benefits (Further Amendment) Act, 1983".

**Commencement.**

2. (1) Except as provided by subsections (2)–(6), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedule 1, commence or be deemed to have commenced on the day on which that provision commences or is deemed to have commenced, as the case may require.

(3) Schedule 1 (2), (5), (6), (8)–(10), (11) (a) and (c), (12) (g), (13) (a) and (b), (14) and (17)–(21) shall commence or be deemed to have commenced, as the case may require, on 1st July, 1983.

(4) Schedule 1 (1) (a) and (3) shall be deemed to have commenced on 1st July, 1982.

(5) Schedule 1 (11) (b) and (13) (c) shall be deemed to have commenced on 8th May, 1973.

(6) Schedule 1 (15) 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.

**Principal Act.**

3. The New South Wales Retirement Benefits Act, 1972, is referred to in this Act as the Principal Act.

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*New South Wales Retirement Benefits (Further Amendment).*

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**Schedules.**

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—TRANSITIONAL AND OTHER PROVISIONS.

**Amendment of Act No. 70, 1972.**

5. The Principal Act is amended in the manner set forth in Schedule 1.

**Transitional and other provisions.**

6. Schedule 2 has effect.

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**SCHEDULE 1.**

(Sec. 5.)

**AMENDMENTS TO THE PRINCIPAL ACT.**

- (1) (a) Section 3 (1), definition of “average earning rate on the Fund”—  
Omit the definition.
- (b) Section 3 (5)—  
After “occasions”, insert “, except where the regulations otherwise provide”.
- (c) Section 3 (6A)—  
After section 3 (6), insert:—  
  
(6A) Notwithstanding subsection (6), the regulations may prescribe that a period specified or described in the regulations is, or is not, a period of service for the purposes of this Act.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2) (a) Section 4 (1)—

After “this Act” where firstly occurring, insert “and the Transport Employees Retirement Benefits Act, 1967”.

(b) Section 4 (1)—

Omit “this Act” where secondly and thirdly occurring, insert instead “those Acts”.

(3) Section 8—

Omit the section, insert instead:—

**Reserve Account.**

8. (1) In this section, “Reserve Account” means the account established under subsection (2).

(2) The Board shall establish an account relating to the Fund to be known as the Reserve Account.

(3) The Reserve Account shall be credited with—

(a) an amount of the Fund, being the amount by which prescribed amount X exceeded prescribed amount Y for the financial year ending with 30th June, 1982; and

(b) where the regulations so provide, money derived from the investment of the amount of the Fund referred to in paragraph (a).

(4) In subsection (3) (a), the references to prescribed amount X and prescribed amount Y are references to those amounts within the meaning of this section, as in force immediately before 1st July, 1982.

(5) The Board may pay money out of the Reserve Account for such purposes as may be prescribed.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (4) (a) Section 15 (1), definition of “review date”—

After “determined by”, insert “order of”.

- (b) Section 15 (2A)—

After section 15 (2), insert:—

(2A) Where an election is made by a contributor for the purposes of subsection (2) (a) or (b) in any year, the election shall be treated as relating to the review date for the contributor for that year, whether or not that review date is specified in the election.

- (5) (a) Section 18 (1), definition of “r”—

Omit paragraph (b), insert instead:—

(b) in the Second Column of Schedule 3A,

- (b) Section 18 (2)—

Omit the subsection.

- (6) (a) Section 20 (1)—

Omit “this section and”.

- (b) Section 20 (1)—

Omit “or Schedule 4”.

- (c) Section 20 (2)—

Omit section 20 (2) and (3), insert instead:—

(2) Subject to section 62, a contributor who pays contributions to the Fund in accordance with Schedule 3A 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 or retires.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Section 21—

Omit the section, insert instead:—

**Exemption from payment of contributions.**

21. (1) Where—

(a) a contributor makes written application to the Board for an exemption under this section; and

(b) the Board is satisfied—

(i) that adequate provision has been made for the contributor and his family, if any, with respect to the retirement of the contributor; or

(ii) that there are other special circumstances which justify his being exempted from the payment of contributions under this Act,

the Board may, by its order, exempt him from paying contributions to the Fund.

(2) Notwithstanding any other provision of this Act, while an order made under subsection (1) is in force, the person in respect of whom the order was made—

(a) shall not be required to contribute to the Fund; and

(b) shall be deemed not to be a contributor for the purposes of this Act.

(8) (a) Section 22 (2)—

Omit “may, subject to this section, elect to contribute in respect of an additional amount not exceeding the amount referred to in subsection (3).”, insert instead:—

shall contribute in respect of the additional amount referred to in subsection (3), unless he makes an election—

(a) to contribute in respect of a lesser additional amount;  
or

(b) not to contribute in respect of an additional amount.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (b) Section 22 (3)—

Omit “may elect to contribute under subsection (2)”, insert instead “shall contribute under subsection (2), if he does not make an election under that subsection,”.

## (c) Section 22 (6)—

Omit the subsection, insert instead:—

(6) Where a person’s rate of contribution to the Fund is varied under this section, whether or not pursuant to an election made under this section, the variation shall be made from a date determined by the Board.

## (9) (a) Section 26 (1)—

After “(2)” where firstly occurring, insert “, (2A), (2B)”.

## (b) Section 26 (1) (a) (i)—

After “(2)”, insert “or (2A)”.

## (c) Section 26 (1) (b) (ii)—

After “any;”, insert “and”.

## (d) Section 26 (1) (b) (iii)—

Omit “retrenchment; and”, insert instead “retrenchment.”.

## (e) Section 26 (1) (b) (iv)—

Omit the subparagraph.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(f) Section 26 (1A)—

After section 26 (1), insert:—

(1A) In subsections (2) and (4), a reference to the prescribed service is a reference to not less than 5 years' service.

(g) Section 26 (2), (2A), (2B), (2C)—

Omit section 26 (2), insert instead:—

(2) Where a contributor who has completed the prescribed service ceases to be employed by an employer by reason of his retirement on attaining the age of 60 years at the end of a period of not less than 5 years' continuous service as a contributor, there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (2c).

(2A) Where a contributor who has completed not less than 10 years' service ceases to be employed by an employer by reason of his retirement through infirmity of body or mind and the Board is satisfied that the infirmity—

(a) incapacitates the contributor from performing his duties;  
and

(b) is likely to be permanent,

there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (2c).

(2B) Where a contributor who has completed not less than 10 years' service ceases to be employed by an employer by reason of his retrenchment, there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (3).



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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

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

- (a) the prescribed amount for the contributor;
- (b) an allowance of an amount that is a percentage of the prescribed amount, being the percentage calculated, in accordance with the formula prescribed by Schedule 5, with respect to the number of months of service that had been completed by that person on or before his retirement; and
- (c) if the contributor has paid contributions to the Fund in accordance with Schedule 3A—an allowance of an amount that is a percentage, being the percentage applicable in relation to the contributor under paragraph (b), of the difference between the prescribed amount and what the prescribed amount would have been if he had instead paid those contributions in accordance with Schedule 4A.

(h) Section 26 (3)—

Omit “(2)”, insert instead “(2B)”.

(i) Section 26 (3) (b)—

Omit the paragraph, insert instead:—

- (b) an allowance of an amount that is a percentage of the prescribed amount, being the percentage calculated, in accordance with the formula prescribed by Schedule 5, with respect to the number of months of service that had been completed by that person on or before his retrenchment.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (j) Section 26 (4)—

Omit “not less than ten years’ service of which not less than the last five years comprised a period of”, insert instead “the prescribed service and at the end of a period of not less than 5 years’ ”.

## (k) Section 26 (5) (a)–(c)—

Omit the paragraphs, insert instead:—

## (a) an amount equal to the sum of—

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

(ii) the amount of his initial credit, if any;

(b) interest, as provided by section 53, on the amounts referred to in paragraph (a) in respect of the period that commenced on the day on which he became a contributor and ended on the day on which he retired; and

(c) an allowance of an amount that is a percentage, being the percentage calculated, in accordance with the formula prescribed by Schedule 5, with respect to the number of months of service that had been completed by the contributor before his retirement, of the total of—

(i) the maximum amount for the contributor or the amount of the benefit for which he was contributing, being the benefit, including his initial credit benefit (if any), related to his annual wage at the age of 60 years, whichever is the lesser amount; and

(ii) interest on the lesser amount referred to in subparagraph (i) at the rate of  $5\frac{1}{2}$  per centum per annum compounded annually from the day on which he attained the age of 60 years until the day on which he retired.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (l) Section 26 (5A)—

After section 26 (5), insert:—

(5A) In subsection (5) (c) (i), “maximum amount”, in relation to a contributor, means the amount of the maximum benefit for the contributor together with his initial credit benefit (if any) on the day on which he attained the age of 60 years.

## (m) Section 26 (6)—

Omit “or (4)”, insert instead “, (2A) or (4)”.

## (10) Section 27 (1)—

Omit “has completed not less than ten years’ service and ceases”, insert instead “is entitled to an amount under section 26 because of his ceasing”.

## (11) (a) Section 28 (2) (a)—

After “service”, insert “or, if he had attained the age of 60 years before he died, had completed not less than 5 years’ service”.

## (b) Section 28 (2) (a) (i), (ii)—

After “retired” wherever occurring, insert “, or had he been retired,”.

## (c) Section 28 (3)—

Omit “ten”, insert instead “5”.

## (12) (a) Section 30—

After “employer” where firstly occurring, insert “or, by reason of an order made under section 21 (1), ceases to be liable to contribute to the Fund”.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 30 (a)—

After “person”, insert “, not being a person in respect of whom an order is in force under section 21 (1),”.

(c) Section 30 (b)—

Omit the paragraph.

(d) Section 30 (c), (d)—

After “employer” wherever occurring, insert “or ceased to be liable to contribute to the Fund”.

(e) Section 30 (c)—

Omit “not less than five, but”.

(f) Section 30 (d) (ii)—

Before “an allowance”, insert “where he does not cease to be liable to contribute to the Fund by reason of an order made under section 21 (1),”.

(g) Section 30 (d) (ii)—

Omit the subparagraph, insert instead:—

- (ii) where he does not cease to be liable to contribute to the Fund by reason of an order made under section 21 (1), an allowance of an amount that is a percentage of the amount referred to in subparagraph (i), being one-half of the percentage calculated, in accordance with the formula prescribed by Schedule 5, with respect to the number of months of service that had been completed by that person on or before the cessation of his employment.

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*New South Wales Retirement Benefits (Further Amendment).*


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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (13) (a) Section 31 (2) (a)—

Omit “(10 + n)”, insert instead “ $\frac{(120 + n)}{12}$ ”.

## (b) Section 31 (2) (a), definition of “n”—

Omit “years”, insert instead “months”.

## (c) Section 31 (2) (b) (i)—

Omit “or at the end”, insert instead “at the end”.

## (14) (a) Section 32 (2) (a), (a1)—

Omit section 32 (2) (a), insert instead:—

(a) where the benefit is a lump sum payable under section 26 (2) or (2A), an amount equal to the sum of—

- (i) the amount of the allowance in relation to the contributor under section 26 (2c) (b); and
- (ii) the amount, if any, of the allowance in relation to the contributor under section 26 (2c) (c);

(a1) where the benefit is a lump sum payable under section 26 (2B)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (3) (b);

## (b) Section 32 (2) (e) (ii)—

Omit “(a)”, insert instead “, (a1)”.

## (c) Section 32 (2) (f)—

Omit “section 26 (3) (b) or section”, insert instead “section 26 (2c) (b) and (c), 26 (3) (b) or”.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (15) (a) Section 53 (6) (a)—

Omit “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”, insert instead “the rate per annum for the time being determined by order of the Board;”.

## (b) Section 53 (6) (b)—

Omit the paragraph, insert instead:—

- (b) in any other case, section 50 excepted, the rate per annum for the time being determined by order of the Board.

## (c) Section 53 (7)—

Omit “(b) (ii)”.

## (16) Section 54 (2), (3)—

At the end of section 54, insert:—

## (2) A regulation may be made for the purposes of—

- (a) section 3 (5), so as to relate to an occasion; or  
(b) section 3 (6A), so as to relate to a period,

which occurred or commenced, as the case may be, before, on or after the date of assent to the New South Wales Retirement Benefits (Further Amendment) Act, 1983, but any such regulation may only have effect with respect to a contributor who dies, retires or is retired on or after the date on which the regulation takes effect.

## (3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;  
(b) apply differently according to different factors of a specified kind; or

*New South Wales Retirement Benefits (Further Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(17) (a) Schedule 3—

From the First and Second Columns, omit the matter relating to ages 51–60.

(b) Schedule 3—

Omit the footnote.

(18) Schedule 3A—

After Schedule 3, insert:—

## SCHEDULE 3A

(Sec. 18 (1).)

## TABLE OF CONTRIBUTIONS

First Column	Second Column
Age next birthday	Fortnightly rate of contribution for \$1,000 of the amount in respect of which contributions will be made
	\$
51	3.00
52	3.00
53	3.00
54	3.00
55	3.00
56	3.00
57	3.00
58	3.00
59	3.00
60	3.00

*New South Wales Retirement Benefits (Further Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(19) Schedule 4—

Omit the Schedule.

(20) Schedule 4A—

Before Schedule 5, insert:—

## SCHEDULE 4A

(Sec. 26.)

TABLE OF NOTIONAL CONTRIBUTIONS

First Column	Second Column
Age next birthday	Notional fortnightly rate of contribution for \$1,000 of the amount in respect of which contributions will be made
	\$
51	3.42
52	3.96
53	4.65
54	5.58
55	895.90 ÷ $n^*$
56	921.20 ÷ $n^*$
57	947.00 ÷ $n^*$
58	973.20 ÷ $n^*$
59	1,000.00 ÷ $n^*$
60	1,000.00 ÷ $n^*$

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



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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(21) Schedule 5—

Omit the Schedule, insert instead:—

SCHEDULE 5

(Secs. 26 (2c) (b),  
26 (3) (b), 26 (5) (c),  
30 (d) (ii).)

The formula prescribed by this Schedule is as follows:—

$$S = \frac{5 \times n}{12}$$

where—

“n” represents the number of completed months of service of the contributor or, where that number is greater than 480, 480;

“S” represents a percentage rounded off to 3 decimal places.

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SCHEDULE 2.

(Sec. 6.)

TRANSITIONAL AND OTHER PROVISIONS.

**Transitional provisions.**

1. (1) Where, immediately before 1st July, 1983, a contributor was contributing in accordance with Schedule 4 to the Principal Act by reason of the operation of section 18 (2) of that Act, that Act, as amended by this Act, shall apply to and in respect of that contributor as if references in that Act, as so amended, to Schedule 3A to that Act were references to Schedule 4 to that Act, as in force immediately before that day.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 2—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) Where, immediately before 1st July, 1983, a contributor who had attained the age of 50 years was contributing in accordance with Schedule 3 to the Principal Act, that Act, as amended by this Act, shall apply to and in respect of that contributor as if references in that Act, as so amended, to Schedule 4A to that Act were references to Schedule 3 to that Act, as in force immediately before that day.

**Authorisation of certain payments.**

2. (1) In subclauses (3) and (4), "prescribed period" means the period commencing with 1st April, 1976, and concluding with 30th June, 1983.

(2) In subclauses (3) and (4), a reference to the Principal Act includes a reference to that Act, as amended by this Act.

(3) During the prescribed period, the Principal Act shall be deemed to have had effect and to have effect, as the case may require, in relation to—

- (a) a contributor who, before he attained or attains the age of 60 years, was or is retired through infirmity of body or mind as referred to in section 26 (2) (b) of that Act; and
- (b) the application, pursuant to section 28 of that Act, of section 26 (3) of that Act in respect of any such contributor,

as if section 26 (3) of that Act were omitted therefrom and the following subsection were inserted instead:—

(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;
- (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; and
- (c) if the contributor has paid contributions to the Fund in accordance with Schedule 4—an allowance of an amount that is a percentage, being the percentage applicable in relation to the contributor under paragraph (b), of the difference between the prescribed amount and what the prescribed amount would have been if he had instead paid those contributions in accordance with Schedule 3.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 2—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(4) Notwithstanding section 8 (5) of the Principal Act, the Board may pay money out of the Reserve Account, within the meaning of that Act, for the purpose of the payment of—

- (a) any allowance which, during the prescribed period, became or becomes payable—
  - (i) under section 26 (3) (c) of that Act, to a contributor under the age of 60 years who was or is retired through infirmity of body or mind; or
  - (ii) by reason of the application, pursuant to section 28 of that Act, of section 26 (3) (c) of that Act in respect of any such contributor; and
- (b) any allowance which, during the period commencing with 1st July, 1983, and concluding with 30th June, 1984, becomes payable—
  - (i) under section 26 (2c) (c) of that Act, to a contributor referred to in paragraph (a) (i); or
  - (ii) by reason of the application, pursuant to section 28 of that Act, of section 26 (2c) (c) of that Act in respect of any such contributor.

(5) In subclause (6), “prescribed period” means the period commencing with the date of assent to this Act and concluding with 30th June, 1983.

(6) During the prescribed period, the Principal Act, as amended by this Act, shall be deemed to have effect, in relation to a contributor of or above the age of 60 years, as if the word “ten” wherever occurring were omitted from sections 26 (2) and (4), 27 (1) and 28 (2) (a) and (3) of that Act, as so amended, and the matter “5” were inserted instead.

**Amalgamation of funds.**

3. (1) In this clause “appointed day” means 1st July, 1983.

(2) On the appointed day, the Transport Retirement Fund is abolished.

(3) The amount standing to the credit of the Transport Retirement Fund immediately before the appointed day shall, on that day, form part of the New South Wales Retirement Fund.

(4) Any amount which, if this clause had not been enacted, would be payable on or after the appointed day from or to the Transport Retirement Fund shall be payable from or to the New South Wales Retirement Fund.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 2—*continued.*

TRANSITIONAL AND OTHER PROVISIONS—*continued.*

**Validation.**

4. Any payment—

- (a) which was made out of the Fund, within the meaning of the Principal Act, before the date of assent to this Act; and
- (b) which could have been lawfully made only if—
  - (i) sections 21 and 30 of that Act, as amended by this Act; and
  - (ii) an order made under section 21 (1) of that Act, as so amended, had been in force when the payment was made,

is hereby validated.

**Saving.**

5. Any determination made in respect of a person by the New South Wales Retirement Board before the date of assent to this Act for the purposes of section 21 (1) of the Principal Act shall be deemed to be an order made in respect of the person under section 21 (1) of that Act, as amended by this Act.

**Regulations.**

6. (1) The regulations made under the Principal Act may contain provisions of a transitional or saving nature consequent on the enactment of this Act or the Transport Retirement Benefits (Amendment) Act, 1983.

(2) A provision referred to in subclause (1) may take effect as from the date of assent to this Act or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State, the New South Wales Retirement Board or any other authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State, that Board or any other authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

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*New South Wales Retirement Benefits (Further Amendment).*

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SCHEDULE 2—*continued.*TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(4) A provision made under subclause (1) shall, if the regulations made under the Principal Act so provide, have effect notwithstanding any other clause of this Schedule.

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