

# Transport Employees Retirement Benefits Act 1967 No 96

[1967-96]



New South Wales

## Status Information

### Currency of version

Current version for 23 September 2020 to date (accessed 6 December 2023 at 2:08)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 23 September 2020

# Transport Employees Retirement Benefits Act 1967 No 96



New South Wales

## Contents

<b>Long title</b> .....	5
<b>Part 1 Preliminary</b> .....	5
1 Name of Act and commencement .....	5
2 (Repealed) .....	5
3 Definitions .....	5
<b>Part 2 (Repealed)</b> .....	12
<b>Part 3 Contributions and benefits</b> .....	12
10 Employee contributors .....	12
11 Contributors who formerly contributed to Railways Retirement Fund .....	12
12 Contributors who were formerly contributors to the Account, or are Transport Department officers or Police Department appointees .....	12
12A Certain persons deemed to be contributors .....	13
13 Amount of benefits .....	14
13A Further election by certain contributors .....	15
14 Variation of benefits .....	15
15 Increase in benefits triennially .....	16
16 Reduction of benefits where annual wages reduced .....	17
17 Certain persons may opt to make reduced contributions or not to contribute .....	18
18 Maximum benefits and special provisions relating to certain persons .....	20

19 Amount of contributions .....	21
20 Deduction of contributions from wages .....	22
21 Cessation of contributions .....	23
22 Exemption from contributing and reduced contributions .....	24
23 Benefit at age 65 years after 10 years service .....	24
23A Extension of rights to spouse pensions .....	27
24 Entitlement of widow, dependants etc .....	28
25 Refund of contributions where services terminate .....	29
25A Supplementary amounts .....	29
26 Minimum amount of lump sum benefit in certain cases .....	30
27 Calculation of contributions for purposes of sections 23 (3) (d) and 24 (1) (b) .....	31
28 Transferred officers .....	31
29 Payments by employer .....	32
30 Initial credit to be a liability of employer .....	33
31 Reserve payments by employers .....	35
<b>Part 3A Automatic adjustment of pensions</b> .....	<b>35</b>
31A Definitions .....	35
31B Calculation of adjustment percentage.....	36
31C Adjustment of pensions: general cases .....	38
31D Adjustment of pensions: partial adjustment.....	38
31E Minimum amount to which pensions may be reduced.....	39
31F Additional payment by employer.....	39
31G Calculation of percentages.....	39
<b>Parts 4, 5 (Repealed)</b> .....	<b>40</b>
<b>Part 6 Assurance policies</b> .....	<b>40</b>
51 Assignment of policies of assurance to the Board in certain cases .....	40
<b>Part 7 General provisions</b> .....	<b>41</b>
52 Prescribed rate of interest .....	41
52A, 52B (Repealed).....	41
53 Regulations.....	41
54 Elections .....	42

55 Evidence of age, marriage, dependency and death .....	42
56 Returns .....	42
57 Non-assignability of benefits .....	42
58 Payment without grant of probate etc .....	43
59 Extension of application of Act .....	43
60 (Repealed) .....	44
60A Suspension of part of pension in certain circumstances.....	44
61 Medical standards .....	44
62 Payment where beneficiary incapable .....	44
62A Payment where beneficiary is missing .....	44
63 Elections and applications out of time.....	45
64 Repeal of Railways Retirement Fund Act 1964 .....	45
65 Savings and transitional provisions .....	46
66–68 (Repealed) .....	46
<b>Schedule 1 Employers .....</b>	<b>46</b>
<b>Schedule 2 Table of contributions .....</b>	<b>46</b>
<b>Schedule 3 Table of allowances .....</b>	<b>48</b>
<b>Schedule 4 Conversion of lump sum of \$10,000 .....</b>	<b>50</b>
<b>Schedule 5 Conversion of lump sum of \$10,000 to pension .....</b>	<b>51</b>
<b>Schedule 6 Conversion of lump sum of \$10,000 .....</b>	<b>52</b>
<b>Schedule 7 Savings and transitional provisions .....</b>	<b>53</b>

# Transport Employees Retirement Benefits Act 1967 No 96



New South Wales

An Act to make provision for a scheme providing 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 establish a Transport Retirement Fund; to constitute a Transport Retirement Board and to define its powers, authorities, duties and functions; to repeal the *Railways Retirement Fund Act 1964*; to amend the *Government Railways Act 1912*, the *Transport Act 1930*, the *Superannuation Act 1916* and certain other Acts; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act and commencement

- (1) This Act may be cited as the *Transport Employees Retirement Benefits Act 1967*.
- (2)
  - (a) This Act, Parts 4 and 5 excepted, shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette, which day is in this Act referred to as “the commencement of this Act”.
  - (b) Part 4 shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette, which day shall be earlier than the day referred to in paragraph (a).
  - (c) Part 5 shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette, which day shall be not earlier than the day referred to in paragraph (a).

### 2 (Repealed)

### 3 Definitions

- (1) In this Act, unless the context or subject-matter otherwise indicates or requires—

**Account** means the Government Railways Superannuation Account under the *Government Railways Act 1912*.

**annual wages** means, in relation to a person, the amount determined by the Board as the wages or salary payable in a year to that person, having regard to his ordinary remuneration, excluding amounts payable in respect of overtime.

**benefit wage factor**, in relation to a person, means a number that is a multiple of one-half that has been nominated by that person as his benefit wage factor for the purposes of this Act.

**Board** means the SAS Trustee Corporation continued by the [Superannuation Administration Act 1996](#).

**contributor** means a person who is contributing to the Fund, and 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 was contributing to the Account immediately before he becomes a contributor.

**contributor to the Railways Retirement Fund** means a person who was a contributor under the [Railways Retirement Fund Act 1964](#) immediately before he becomes a contributor.

**employee** means—

- (a) a person who is employed by an employer, who is, by the terms of his employment, required not to engage in any employment outside the duties of his office and the date of confirmation of whose appointment is on or after the commencement of this Act, or
- (b) a person employed in the Police Department with the authority of the Premier, the date of confirmation of whose appointment is on or after the commencement of this Act,

but does not include—

- (c) any person engaged in casual employment, as defined in any award relating to his employment, or any person appointed or employed pursuant to section 101 of the [Transport Act 1930](#),
- (d) any person employed by the Commissioner for Railways temporarily as a workman on construction, deviation or duplication works, in the trading and catering services or in connection with any sawmill, other than a sawmill associated with a workshop,
- (e) any person who is employed in the Police Department and is a police cadet or a person employed under the [Police Regulation Act 1899](#) or the [Public Service Act 1902](#),
- (f) any person engaged as a contractor or on a contract basis, not being a person

employed under a contract of employment, 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, or a person eligible to make an election under section 11 of the *Public Authorities Superannuation Act 1985* or section 19 of the *State Authorities Superannuation Act 1987*.

**employer** means an employer whose name is specified in Schedule 1 or whose name is added to that Schedule under section 59.

**financial year** means—

- (a) except as provided by paragraph (b)—the year ended on 31 March, or  
(b) the period prescribed for the purposes of this definition.

**Fund** means the State Authorities Superannuation Fund established under the *State Authorities Superannuation Act 1987*.

**gratuity scheme officer** means a person referred to in paragraph (b) of subsection (1) of section 12 who elects to become a contributor.

**initial credit** means—

- (a) in relation to a contributor to the Account who under section 12 elects to become a contributor, an amount equal to the sum of—
- (i) his contributions to the Account before he ceased to contribute thereto pursuant to subsection (4) of section 12, reduced, where any amounts have been paid to that contributor from the Account pursuant to Part 9 of the *Government Railways Act 1912*, by such amount as the Board may determine, and
  - (ii) an allowance on those contributions, as so reduced, calculated in accordance with Schedule 3,
- (b) in relation to a contributor to the Railways Retirement Fund, an amount equal to the sum of—
- (i) his initial credit, if any, under the *Railways Retirement Fund Act 1964*, immediately before he becomes a contributor,
  - (ii) the contributions paid, and any contributions due but unpaid, by him to the Railways Retirement Fund before he becomes a contributor, reduced by the sum of—

- (a) the difference between the amount of those contributions and the amount of contributions that would have been paid or been due and payable by him to the Railways Retirement Fund had all contributions been made or been due and payable in accordance with Scale 2 of Schedule 1 to the *Railways Retirement Fund Act 1964*, and
  - (b) where any amounts have been paid to him from the Railways Retirement Fund, such amount as the Board may determine, and
  - (iii) interest calculated at the rate of three and three-quarters per centum per annum, compounded annually at the end of each financial year, on his initial credit, if any, referred to in subparagraph (i) for the period that he was a contributor to the Railways Retirement Fund and on the contributions referred to in subparagraph (ii) calculated as the Board determines, having regard to the dates of payment and refund of the contributions to the date immediately prior to his becoming a contributor,
- (c) in relation to a gratuity scheme officer or a Police Department appointee, the amount paid by him or on his behalf as referred to in subsection (2) of section 18.

**initial credit benefit** means, in relation to a person who under section 11 or 12 becomes a contributor, the benefit for which he would, upon attaining the age of sixty-five years and completing at least ten years' service, become eligible by virtue of paragraph (b) of subsection (1) of section 23.

**maximum benefit**, in relation to a person, the upper level of whose wage group—

- (a) is less than four thousand dollars, means an amount equivalent to five times the upper level of his wage group,
- (b) is four thousand dollars or more than four thousand dollars but less than eight thousand dollars, means an amount equivalent to twenty thousand dollars plus four times the difference between the upper level of his wage group and four thousand dollars,
- (c) is eight thousand dollars or more than eight thousand dollars but less than twelve thousand dollars, means an amount equivalent to thirty-six thousand dollars plus three times the difference between the upper level of his wage group and eight thousand dollars, or
- (d) is twelve thousand dollars or more, means an amount equivalent to forty-eight thousand dollars plus twice the difference between the upper level of his wage group and twelve thousand dollars,

less so much of his initial credit benefit, if any, as is a multiple of one hundred dollars.

**ordinary minimum benefit**, in relation to a person, means twice the lower level of



his wage group, less so much of his initial credit benefit, if any, as is a multiple of one hundred dollars.

**Police Department appointee** means a person employed in the Police Department with the authority of the Premier, not being a police cadet or a person employed under the *Police Regulation Act 1899*, or the *Public Service Act 1902*, where the date of confirmation of his appointment is before the commencement of this Act.

**prescribed** means prescribed by this Act or the regulations.

**Railways Retirement Fund** means the Railways Retirement Fund under the *Railways Retirement Fund Act 1964*.

**regulations** means regulations made under this Act.

**retrenchment** means compulsory termination by an employer of the services of a contributor on the ground that the contributor's office has been abolished, no other office in the service of his employer or another employer having been found for him at annual wages of not less than five-sixths of the annual wages applicable to him at the date of the compulsory termination, and **retrenched** has a corresponding meaning.

**service** means service under or employment by one or more employers, whether before or after the commencement of this Act.

- (2) For the purposes of this Act, a person who is an employee by reason of paragraph (b) of the definition of **employee** in subsection (1), or who is a Police Department appointee, shall be deemed to be employed by the Commissioner of Police.
- (3) The person by whom a contributor to the Account, a contributor to the Railways Retirement Fund or a contributor to the Fund is for the time being employed and whose name is not specified in Schedule 1 shall, for the purposes of this Act, be deemed to be the employer of that contributor.
- (4) A reference in this Act to an allowance on any contributions to the Account paid by a contributor to the Account is a reference to such percentage of those contributions as is specified in Schedule 3 under the heading "Allowance as a percentage of contributions to the Account" and is opposite the number of complete years, for which the contributor contributed to the Account, specified in that Schedule under the heading "Number of complete years of contributing to the Account".
- (5) A reference in this Act—
  - (a) to a wage group of a person is a reference to the range—
    - (i) that commences at one amount of annual wages and extends to and includes a higher amount of annual wages, the higher amount being two hundred dollars more than the lower and the lower being a multiple of two hundred dollars,

and

- (ii) that includes the amount of the annual wages of that person,
- (b) to the upper level of the wage group of a person is a reference to the higher amount, referred to in subparagraph (i) of paragraph (a), of that person's wage group, and
- (c) to the lower level of the wage group of a person is a reference to the lower amount, referred to in subparagraph (i) of paragraph (a), of that person's wage group,

but where the annual wages of a person are a multiple of two hundred dollars, the wage group of that person is the range, the lower level of which is his annual wages and the higher level of which is the sum of his annual wages and two hundred dollars.

- (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 Public Authorities Superannuation Board, whose employment commenced on or after one month from the commencement of the *Transport Employees Retirement Benefits (Amendment) 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, the New South Wales Retirement Board or the Public Authorities Superannuation 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 under section 59—
    - (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.

- (7) Where, after an employee’s appointment as an employee of an employer was or has been confirmed, he ceased or ceases to be employed by that employer and subsequently became or becomes an employee in the employment of the same or another employer, he shall, for the purposes of this Act, be deemed not to be an employee unless and until his appointment to the employment last referred to in this subsection is deemed, under subsection (6), to have been confirmed on a day ascertained in accordance with that subsection.
- (8) A reference in this Act to the first day of a pay period applicable to a person next following a particular date or event includes a reference to a pay period applicable to that person, the first day of which is that particular date or the date of that particular event.
- (9) Where a person has nominated a benefit wage factor for the purposes of this Act, the amount of the lump sum benefit for which he shall contribute under this Act shall be an amount equivalent to the difference between—
- (a) the product of that benefit wage factor and the upper level of his wage group, and
  - (b) so much of his initial credit benefit, if any, as is a multiple of one hundred dollars.
- (10) A reference in this Act to a refund of contributions made by any person is a reference to any contributions made by or on behalf of that person to the Account, the Railways Retirement Fund established under the *Railways Retirement Fund Act 1964*, or the Fund, reduced by the sum of—
- (a) any amounts paid from the Fund to that person,
  - (b) any amount determined by the Board in respect of his initial credit under subparagraph (i) of paragraph (a), or subparagraph (ii) of paragraph (b), of the definition of **initial credit** in subsection (1), and
  - (c) the difference between the contributions, if any, made by that person to that Railways Retirement Fund or the Fund and the contributions that would have been so made by him had those contributions been calculated wholly at the rates applicable to that portion of a benefit that is in excess of two thousand dollars, without any addition of interest.
- (11) In this Act, unless the context or subject-matter otherwise indicates or requires, a reference to an Act includes a reference to that Act as amended, whether by subsequent Acts or otherwise, and to any Act passed in substitution for that Act.

## **Part 2**

### **4-9 (Repealed)**

## **Part 3 Contributions and benefits**

### **10 Employee contributors**

An employee shall, subject to this Act, contribute to the Fund, in accordance with this Act—

- (a) in the case of an employee the name of whose employer is at the commencement of this Act specified in Schedule 1—as on and from the first day of the pay period applicable to him next following the date of confirmation of his appointment, or
- (b) in the case of an employee the name of whose employer is added to Schedule 1 under section 59—as on and from such date as the Governor may specify in the notification published under that section or as on and from the first day of the pay period applicable to him next following the date of confirmation of his appointment, whichever is the later.

### **11 Contributors who formerly contributed to Railways Retirement Fund**

A person who was, immediately before the commencement of this Act, a contributor within the meaning of the *Railways Retirement Fund Act 1964*, shall, subject to this Act, become a contributor to the Fund in accordance with this Act as on and from the first day of the pay period applicable to him next following that commencement and the contributions that would, but for the repeal of the *Railways Retirement Fund Act 1964*, have been payable on that day to the Railways Retirement Fund shall be paid to the Fund.

### **12 Contributors who were formerly contributors to the Account, or are Transport Department officers or Police Department appointees**

(1) The following persons, that is to say—

- (a) a contributor to the Account,
  - (b) an officer within the meaning of the *Transport Act 1930* who at the commencement of this Act was not a contributor to any superannuation fund or account established under the *Transport Act 1930*, the *Government Railways Act 1912*, the *Superannuation Act 1916*, the *Railways Retirement Fund Act 1964*, and the date of confirmation of whose appointment was before that commencement, and
  - (c) a Police Department appointee,
- may elect to become a contributor.

(2) A contributor to the Account, a gratuity scheme officer of 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 (3).

- (2A) In subsection (2) **prescribed date** means a date determined by the Board being—
- (a) in the case of a person referred to in paragraph (a) of subsection (1), 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 (1), 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 (1), 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.
- (3) A contributor to the Account, a gratuity scheme officer or a Police Department appointee who has made an election under this section shall, subject to this Act, become a contributor as on and from the first day of the pay period applicable to him next following the date on or before which he is required to make his election.
- (4) A contributor to the Account, upon becoming a contributor, shall cease to contribute to or, subject to this Act, to be entitled to receive any benefit from the Account.
- (5) A gratuity scheme officer, upon becoming a contributor, shall cease to be eligible for any benefit under section 132A of the *Transport Act 1930*.

#### **12A Certain persons deemed to be contributors**

- (1) In this section **prescribed person** means a person who elected under paragraph (b) of subsection (1) of section 24 of the *Railways Retirement Fund Act 1964*, not to become a contributor under that Act.
- (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 (2) and (3) of section 13 and made with the concurrence of the Board on or before the date on which he is deemed under subsection (2) 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.

### **13 Amount of benefits**

- (1) The amount of the lump sum benefit for which a person, upon becoming a contributor, shall, subject to this Act, contribute to the Fund shall be—
  - (a) in the case of an employee, an amount equal to his ordinary minimum benefit at the date he becomes a contributor,
  - (b) in the case of a contributor under section 11, such amount as is determined by the Board as being the actuarial equivalent appropriate to the rate of his contributions to the Railways Retirement Fund immediately before the commencement of this Act,
  - (c) in the case of a contributor under subsection (3) of section 12, an amount equal to his ordinary minimum benefit at the date applicable to him under that subsection.
- (2) A contributor or a person eligible to become a contributor may elect, in accordance with this section, for an additional amount of lump sum benefit.
- (3) An election under subsection (2) shall be made by the contributor—
  - (a) by his nominating the maximum benefit applicable to him, or
  - (b) by his nominating a benefit wage factor the application of which would produce an amount of lump sum benefit that is less than the maximum benefit then applicable to him,and any such nomination shall have effect on and from the date on which he becomes a contributor.
- (4) An election to be made under subsection (2) shall be made—
  - (a) by an employer on or before the date on which he becomes a contributor in accordance with section 10 or such later date as the Board in any particular case may allow,
  - (b) by a contributor under section 11 on or before a date, being not later than six months after the commencement of this Act, to be appointed for the purposes of this paragraph by the Governor and notified by proclamation published in the Gazette or such later date as the Board in any particular case may allow, or
  - (c) by a contributor to the Account, a gratuity scheme officer or a Police Department

appointee on or before the date on or before which he is required to make an election under section 12.

- (5) The contributions attributable to the additional amount of lump sum benefit for which a person elects to contribute under this section shall be payable as on and from the first day of the pay period next following the date on or before which he is required to make the election.

### **13A Further election by certain contributors**

- (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.

### **14 Variation of benefits**

- (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) a lump sum benefit calculated by applying 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.

## **15 Increase in benefits triennially**

- (1) Once in every period of three years the Board shall by proclamation published in the Gazette notify a date, being at least three months after the date of publication of the proclamation, on or before which a contributor, who at the date he makes the election referred to in this subsection, is contributing to the Fund for a lump sum benefit which



is less than the maximum benefit applicable to him at that date, may, within three months before that date, elect for a higher lump sum benefit by—

- (a) nominating his maximum benefit at that date, or
  - (b) nominating a benefit wage factor that would produce an amount of lump sum benefit that is less than his maximum benefit at that date.
- (2) An election under subsection (1) shall have effect notwithstanding any previous election made under this Act by the person making that election.
- (3) Where an election has been made under subsection (1) the increased contributions to be paid to the Fund by a contributor in pursuance of that election shall be payable as on and from the first day of the pay period next following the date notified under that subsection.

## **16 Reduction of benefits where annual wages reduced**

- (1) Where the annual wages of a contributor are reduced and as a result of the reduction his annual wages are in a lower wage group, then if the benefit for which he was, immediately before the reduction, contributing is greater than his maximum benefit calculated by reference to his new wage group, the lump sum benefit for which he shall be entitled to contribute shall be reduced to that maximum benefit, his contributions shall be adjusted actuarially and any excess contributions may be refunded by the Board.
- (2) Where the reduction in annual wages (in this section referred to as ***the reduction***) has not been made for disciplinary reasons and the contributor applies to the Board to be allowed to continue to contribute for the whole or part of the lump sum benefit for which he was contributing before the reduction—
- (a) the Board may allow him to do so if the application is made by the contributor within such time as may be prescribed or such longer time as the Board may, in any particular case, allow and—
    - (i) the reduction is due to medical reasons,
    - (ii) the contributor has held, for the period of not less than five years next preceding the reduction, the employment classification that he held immediately before the reduction,
    - (iii) the employer certifies that within a period of three years next following the date from which the reduction was made, the whole of which period is before the date on which he would attain the age of sixty-five years, the contributor's annual wages are likely to be restored to the wage group applicable to him before the reduction, or
    - (iv) there are special circumstances other than those referred to in subparagraph

(i), (ii) or (iii) on the basis of which the employer recommends that benefits and contributions should not be reduced following the reduction, and

(b) if the Board so allows him, the contributor shall contribute for the benefit applied for, his contributions shall be adjusted actuarially and any excess contributions may be refunded by the Board.

### **17 Certain persons may opt to make reduced contributions or not to contribute**

- (1) In this section, **prescribed date** means, in relation to a person, the date on which that person is entitled to make an election under this section.
- (2) An employee who, at the prescribed date, has attained the age of thirty years, may elect—
  - (a) to contribute for a lump sum benefit that is less than his ordinary minimum benefit, or
  - (b) not to become a contributor.
- (3) A contributor, other than an employee, who, at the prescribed date, has attained the age of thirty years may elect—
  - (a) to contribute for a lump sum benefit which is less than his ordinary minimum benefit,
  - (b) where he was a contributor to the Account, not to make any contributions to the Fund, or
  - (c) where he was a contributor to the Railways Retirement Fund, a gratuity scheme officer who has made an election under section 12 or a Police Department appointee who has made such an election, not to make any contributions to the Fund except, in the case of a gratuity scheme officer or a Police Department appointee, contributions under subsection (2) of section 18.
- (4) A contributor who after he becomes a contributor attains the age of thirty years, or who at the time he becomes a contributor has attained the age of thirty years, may elect—
  - (a) not to make any contributions to the Fund in respect of any increase in his annual wages received after he makes the election, or
  - (b) to contribute in respect of an increase in his annual wages received after he makes the election (that increase being an increase that brings his annual wages into a higher wage group) for a lump sum benefit that is less than the difference between his ordinary minimum benefit before he received that increase and his ordinary minimum benefit after he received that increase.

(5) An election under this section—

(a) shall be made—

- (i) in the case of an election made by a person, other than a contributor under section 11 or a contributor referred to in subsection (4)—on or before the date on which that person becomes, or would, but for his making the election, become, a contributor,
- (ii) in the case of a contributor under section 11, not being a contributor referred to in subsection (4)—on or before the date applicable to him under paragraph (b) of subsection (4) of section 13, or
- (iii) in the case of a contributor referred to in subsection (4) who after he becomes a contributor attains 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 annual wages into a higher wage group after he attains the age of thirty years,
- (iv) in the case of a contributor referred to in subsection (4) 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,

or at any later date that is within three months before the date notified under subsection (1) of section 15, and

- (b) except in the case of an election under paragraph (b) of subsection (2), paragraph (b) or (c) of subsection (3) or paragraph (a) of subsection (4), shall be made by nominating a benefit wage factor of less than two.

(6) Where a person referred to in subsection (4) makes an election under that subsection by nominating a benefit wage factor—

- (a) the difference between the upper level of his wage group before he received the increase and the upper level of his wage group after he received the increase, or
- (b) where he receives any subsequent increase, the difference between the upper level of his wage group before he received the increase first mentioned in paragraph (a) and the upper level of his wage group after he received the subsequent increase,

shall be multiplied by that benefit wage factor, and the contributor shall after he received the increase or subsequent increase, as the case may be, contribute, notwithstanding any other provision of this Act (section 18 excepted), for a lump sum benefit equivalent to the sum of the product of that multiplication and the lump sum benefit for which he was contributing immediately before he received the increase first mentioned in paragraph (a).

- (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.

**18 Maximum benefits and special provisions relating to certain persons**

- (1) Where, but for this subsection, a person would be required or entitled to contribute to the Fund—
- (a) (Repealed)
  - (b) for a lump sum benefit, excluding so much of his initial credit benefit, if any, as is a multiple of one hundred dollars, the contributions for which would exceed five per centum of the upper level of his wage group, he shall be required or entitled, as the case may be, to make contributions to the Fund for whichever of the following is the lesser—
    - (i) for a lump sum benefit, reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars, that would require contributions of five per centum of the upper level of his wage group, or
    - (ii) for his maximum benefit.
- (2) Where a gratuity scheme officer or a Police Department appointee elects to pay and, on or before the date applicable to him under subsection (3) of section 12, there is paid to the Fund by him, or by the Board on his behalf under subsection (6) of section 51 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 the number of his completed years of service from the date of confirmation of his appointment to the date on or before which he is required to make an election under subsection (2) of section 12, that amount—
- (a) shall be his initial credit, and
  - (b) shall not be taken into account for the purpose of calculating his contributions by reference to a percentage of the upper level of his wage group under subsection (1) or (3).
- (3) A contributor, other than an employee, may, if he has completed ten years service—
- (a) in the case of a contributor under section 11, at the date appointed under paragraph (b) of subsection (4) of section 13, or
  - (b) in the case of any other contributor, at the date on or before which he is required to make an election under subsection (2) of section 12,

elect—

(c) in the case of a contributor under section 11, on or before the date applicable to him under paragraph (b) of subsection (4) of section 13, and

(d) in the case of any other contributor, on or before the date on or before which he is required to make an election under subsection (2) of section 12,

to make contributions to the Fund for whichever of the following is the lesser—

(e) for a lump sum benefit, reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars, that would require contributions of ten per centum of the upper level of his wage group, or

(f) for his maximum benefit.

(4) Where a contributor referred to in subsection (3) who has made the election referred to in that subsection receives an increase in his annual wages after he makes that election and is, by reason of that increase, required or entitled to make increased contributions to the Fund, those increased contributions shall be of an amount—

(a) equal to five per centum of the difference between the upper level of his wage group before he received the increase and the upper level of his wage group after he received the increase, or

(b) where that percentage of that difference would, together with his previous contributions, produce a lump sum benefit greater than his maximum benefit, such lesser percentage of that difference as would produce his maximum benefit.

(5) Where, but for this subsection, a person would be contributing for a lump sum benefit the contributions for which are equal to five per centum, or, in the case of a contributor referred to in subsection (3), ten per centum, of the upper level of his wage group and the lump sum benefit, reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars, for which he would be eligible by reason of making those contributions is not a multiple of one hundred dollars, he shall, notwithstanding any other provision of this section, contribute for a lump sum benefit that is the next multiple of one hundred dollars that is higher than the lump sum benefit to which he would be entitled by contributing five per centum or ten per centum, as the case may be, of the upper level of his wage group.

## **19 Amount of contributions**

(1) The amount of contributions to be paid to the Fund by each contributor shall, subject to this Act, be based upon the amount of the lump sum benefit for which he is contributing and his age next birthday at the time the contributions or increased contributions become payable and shall be in accordance with the table of contributions contained in Schedule 2 and with subsection (2).

- (2) Where the lump sum benefit for which a contributor is contributing is—
- (a) less than two thousand dollars, the monthly contributions to be paid to the Fund by him shall bear to the appropriate monthly contributions specified in Scale 1 of the table of contributions contained in Schedule 2 for a benefit of two thousand dollars the same proportion as the benefit for which he is contributing bears to two thousand dollars, or
  - (b) more than but not a multiple of two thousand dollars, the monthly contributions to be paid to the Fund by him shall be the sum of—
    - (i) an amount equal to the monthly contributions specified in Scale 1, or Scale 1 and Scale 2, as the case may require, of the table of contributions contained in Schedule 2 that are appropriate in respect of so much of the benefit as is two thousand dollars or a multiple of two thousand dollars, as the case may be, and
    - (ii) an amount that bears to the appropriate monthly contributions specified in Scale 2 of the table of contributions contained in Schedule 2 for a benefit of two thousand dollars the same proportion as the difference between the portion of the benefit in respect of which contributions are payable under subparagraph (i) and the benefit for which he is contributing bears to two thousand dollars.
- (3) Notwithstanding any other provisions of this section, a contributor, the date of confirmation of whose appointment was before the first day of June, one thousand nine hundred and sixty-four, and a contributor who makes or on whose behalf is made a payment to the Fund of not less than one hundred and thirty dollars pursuant to subsection (2) of section 18, shall make his contributions to the Fund in accordance with Scale 2 of the table of contributions contained in Schedule 2.
- (4) Where under this section the contributions that would, but for this subsection, be payable by a contributor include a fraction of a cent, the contributions shall be calculated to the next higher whole cent.

## **20 Deduction of contributions from wages**

- (1) Contributions required to be paid to the Fund shall be deducted by the employer from the salaries or wages of contributors at each payment thereof and shall be paid by the employer to the Board within 7 days after the last day of the month to which the contributions relate.
- (2) Nothing contained in this section shall operate to prevent a contributor from making, with the approval of the Board, direct payments to the Fund in respect of his contributions.
- (3) Where contributions are not paid by the employer or contributor in accordance with

subsection (1) or (2), the Board may, by notice in writing, require the employer or contributor to pay, in addition to the contributions, interest calculated at the average earning rate on the Fund during the immediately preceding financial year, compounded annually at the end of each financial year, on the amount of contributions not so paid for the period from the expiration of seven days after the last day of the month to which the contributions relate or the due date for payment by the contributor, as the case may be, to the date on which the contributions are paid to the Board, and, upon receipt of the notification, the employer or contributor shall pay to the Board within seven days the amount of interest specified in the notification.

- (4) Any contributions deducted by an employer in accordance with subsection (1), or payable by a contributor referred to in subsection (2), and any interest required to be paid by an employer or contributor in accordance with subsection (3) shall be debts due to the Board and shall be recoverable in a court of competent jurisdiction.
- (5) Where the contributions that have been deducted from the salary or wages of a contributor and paid to the Fund or have been paid directly by a contributor to the Fund exceed the amount of contributions that the contributor is required to make under this Act, the Board shall refund to the contributor the amount of the excess contributions.
- (6) Where the contributions that have been deducted from the salary or wages of a contributor and paid to the Fund or have been paid directly by a contributor to the Fund are less than the amount of contributions that the contributor is required to make under this Act, or contributions have not been paid, the Board may—
  - (a) reduce, to the extent that it considers appropriate, having regard to the actuarial value of the deficiency, the amount of the lump sum benefit for which the contributor is eligible, or
  - (b) deduct from the lump sum benefit that would otherwise be payable the amount of contributions owing plus, if the Board so determines interest on that amount calculated at the average earning rate on the Fund for the immediately preceding financial year, compounded annually at the end of each financial year, from seven days after the dates on which the contributions were payable to the Fund to the date on which the lump sum benefit is paid.

## **21 Cessation of contributions**

- (1) The last month in respect of which a contributor is required to make a contribution to the Fund is the month that immediately precedes the month during which the contributor ceases to be employed by his employer, dies, retires, or attains the age of sixty-five years, whichever first occurs.
- (2) A contributor—
  - (a) who has ceased to contribute to the Fund as mentioned in subsection (1), or

(b) who is eligible for a benefit under this Act calculated by reference only to his initial credit,

shall, for the purposes of this Act, be deemed to be a contributor until he ceases to be employed by his employer, dies, retires, or attains the age of sixty-five years, whichever first occurs.

## **22 Exemption from contributing and reduced contributions**

- (1) Notwithstanding any other provision of this Act, the Board may exempt a contributor or employee from contributing to the Fund or reduce the lump sum benefit for which a contributor or employee is required to contribute to the Fund where the Board, on the application of the contributor or employee, is satisfied that adequate provision has been made for the contributor and his family, the contributor's husband is a contributor or there are other special circumstances that justify the exemption or reduction.
- (2) If the Board exempts a person from contributing to the Fund, the Board shall make a refund of contributions to that person.
- (3) If the Board reduces the benefit for which a person was contributing, the Board shall adjust his contributions actuarially and may make a refund of any excess contributions.

## **23 Benefit at age 65 years after 10 years service**

- (1) On the retirement of a contributor who has attained the age of sixty-five years and has completed at least ten years service there shall be paid from the Fund, as a lump sum benefit, the sum of—
  - (a) the amount of any lump sum benefit for which, at the time of his retirement, he is contributing in accordance with this Act, and
  - (b) an amount equivalent to the sum of—
    - (i) his initial credit, if any,
    - (ii) interest on his initial credit, if any, at the prescribed rate, compounded annually at the end of each financial year, for the period from the date he became a contributor to the date he attains the age of sixty-five years, and
    - (iii) one and one-half times the sum of his initial credit, if any, and that interest—

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 (3) were he eligible to receive a lump sum benefit under that subsection.

- (2) Where the services of a contributor are retained by his employer after he has attained



the age of sixty-five years, the lump sum benefit to which he would have been entitled had he retired at that age, together with interest at the prescribed rate, compounded annually at the end of each financial year, from the date of his sixty-fifth birthday, shall be paid from the Fund to him on his subsequent retirement or, in the event of his death prior thereto, that lump sum benefit and interest shall be paid in accordance with section 24.

- (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 (1) and (2), be deemed to have completed ten years' service at the age of sixty-five years.
- (3) A contributor who has completed at least ten years service and who—
- (a) retires on or after the date on which he attains the age of sixty years but before he attains the age of sixty-five years,
  - (b) 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, or
  - (c) is retrenched,
- shall be paid from the Fund, as a lump sum benefit, an amount equivalent to the sum of—
- (d) the difference between his contributions to the Fund, if any, and any such contributions previously refunded to him, together with interest on the difference at the prescribed rate, compounded annually at the end of each financial year, to the date on which he retires, is retired, or retrenched,
  - (e) his initial credit, if any, together with interest thereon at the prescribed rate, compounded annually at the end of each financial year, for the period from the date he became a contributor to the date on which he retires, is retired, or retrenched, and
  - (f) one and one-half times the sum of the amounts calculated in accordance with paragraphs (d) and (e).
- (4) Notwithstanding the provisions of subsections (1), (2) and (3), where a contributor, not being a contributor referred to in paragraph (b) or (c) of subsection (3), so elects, there shall be paid from the Fund in lieu of the whole or part, as he specifies in the election, of the lump sum benefit to which he would, but for the election, be entitled under subsection (1), (2) or (3)—
- (a) in the case of a male contributor—

- (i) a pension for himself for life from the day following his retirement, or
    - (ii) a pension for himself for life from the day following his retirement and five-eighths of that pension for his widow (being his wife at the date on which the lump sum benefit becomes payable) for her life from the day following his death, or
  - (b) in the case of a female contributor, a pension for herself for life from the day following her retirement.
- (5) The provisions of this section do not apply so as to authorise a contributor to make an election whereby the amount of the pension payable to him would be less than ten dollars per fortnight.
- (6) An election referred to in subsection (4) shall be made at least three months before the date on which the lump sum benefit becomes payable or on or before such later date as the Board in any particular case may allow and shall take effect on the date on which the lump sum benefit becomes payable.
- (7) Where a contributor makes an election under this section whereby a pension for the contributor, as referred to in subparagraph (i) of paragraph (a), or in paragraph (b), of subsection (4), is payable from the Fund and the contributor's age, in complete years, at the date the lump sum benefit would, but for the election, have become payable is included, in the case of a male contributor, in Schedule 4, or, in the case of a female contributor, in Schedule 6, the amount of the pension payable to the contributor shall be ascertained by multiplying the appropriate amount set out in Schedule 4, or Schedule 6, as the case may be, by the amount of the lump sum benefit and dividing the product by ten thousand.
- (8) Where a contributor makes an election under this section whereby a pension for himself and his widow, as referred to in subparagraph (ii) of paragraph (a) of subsection (4), is payable from the Fund and the ages of the contributor and his wife in complete years at the date the lump sum benefit would, but for the election, have become payable are both included in Schedule 5, the amount of the pension pursuant to that subparagraph shall be—
- (a) in respect of the contributor, ascertained by multiplying the appropriate amount set out in Schedule 5 by the amount of the lump sum benefit in respect of which he made the election and dividing the product by ten thousand, and
  - (b) in respect of his widow, five-eighths of the amount calculated under paragraph (a).
- (9) Where the age, in complete years, of a contributor who has made an election under subsection (4) at the date the lump sum benefit would, but for the election, have become payable is not included in Schedule 4, or Schedule 6, as the case may be, and

where the age, in complete years, of either the contributor or his wife at the date the lump sum benefit would, but for the election, have become payable, is not included in Schedule 5, the amount of the pension under this section shall be such amount as may be determined actuarially by the Board.

(10) If a contributor elected to take the benefit provided by subsection (4) (a) (ii), the benefit is taken to extend to the de facto partner of a deceased pensioner who dies on or after the commencement of this subsection.

(11) In this section—

**de facto partner** of a deceased pensioner means, if the deceased pensioner was, at the time of his or her death, in a de facto relationship within the meaning of the [Property \(Relationships\) Act 1984](#) with a person, that person.

### **23A Extension of rights to spouse pensions**

(1) This section applies to a contributor (the **pensioner**) who made an election under section 23 (4) (a) (ii) and who marries or enters into a de facto relationship after becoming entitled to a pension under this Act.

(2) If a pensioner dies on or after the commencement of this section leaving an eligible widow or de facto partner, there is payable to the eligible widow or de facto partner—

(a) if the deceased pensioner and eligible widow or de facto partner had been married or been in a de facto relationship for 3 years or more immediately before the pensioner's death—a pension at the rate of five-eighths of the pension the deceased pensioner was receiving, or entitled to receive, immediately before death, or

(b) if the deceased pensioner and eligible widow or de facto partner had been married or been in a de facto relationship for less than 3 years immediately before the pensioner's death—a pension as referred to in paragraph (a), but reduced on a pro rata basis according to the proportion that the period of the marriage or relationship bears to 3 years.

(3) In this section—

**eligible widow or de facto partner** of a deceased pensioner means a widow or de facto partner who has or had in the marriage or relationship with the deceased pensioner a child, being—

(a) a child of the widow or de facto partner and the deceased pensioner who was, in the opinion of the Board, wholly or substantially dependent on the deceased pensioner at any time during the marriage or relationship, or

(b) a child of the deceased pensioner who was conceived before and born alive after the death of the pensioner.

## **24 Entitlement of widow, dependants etc**

- (1) Subject to this section, where a contributor dies, his widow or, if he dies without leaving a widow, his child or children who was or were dependent, in the opinion of the Board, upon him at the time of his death or, if there is no widow or child or children so dependent, any other person or persons so dependent on him shall be entitled—
  - (a) in the case of a contributor with not less than ten years service who dies on or after he attains the age of sixty years, to receive a lump sum benefit from the Fund of an amount equivalent to the lump sum benefit that would have been payable to him had he retired on the date of his death, or
  - (b) in any other case, to receive a lump sum benefit from the Fund of an amount equivalent to twice the sum of—
    - (i) the difference between his contributions to the Fund, if any, and any such contributions previously refunded to him, together with interest on the difference at the prescribed rate, compounded annually at the end of each financial year, to the date of his death, and
    - (ii) his initial credit, if any, together with interest thereon at the prescribed rate, compounded annually at the end of each financial year, from the date he became a contributor to the date of his death.
- (2) Where more than one person is entitled to a benefit under this section, the Board shall determine the manner in which the benefit shall be apportioned and may pay the benefit accordingly.
- (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.
- (4) Where a contributor dies and does not leave a widow or any dependants, 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—
  - (a) in the case of a contributor with not less than ten years' service who dies on or after attaining the age of sixty years—equivalent to the amount that, pursuant to

subsection (1) (a), would have been payable from the Fund had he left a widow or dependant,

(b) in the case of a contributor with not less than ten years' service who dies before attaining the age of sixty years—equivalent to one and one-half times the sum of the amounts referred to in subsection (1) (b) (i) and (ii) that would have been applicable had he left a widow or dependant, or

(c) in any other case—equivalent to the refund of his contributions, together with interest thereon at the prescribed rate, compounded annually at the end of each financial year from the date on which he became a contributor until the date of his death.

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

## **25 Refund of contributions where services terminate**

Where the services of a contributor with his employer terminate for any reason whatsoever and there is not payable to or in respect of him any lump sum benefit or pension under any other provision of this Act, there shall be paid to the contributor from the Fund a refund of his contributions, together with interest thereon at the prescribed rate, compounded annually at the end of each financial year from the date on which he became a contributor until the date on which his services terminate.

### **25A Supplementary amounts**

(1) In subsection (2), **supplementary amount**, in relation to a contributor who ceases to be employed by an employer, dies or retires, means the difference between—

(a) the total of the amount of his initial credit, if any, and of the amount of his contributions and interest at the prescribed rate on those amounts, compounded annually at the end of each financial year, up to the day on which he ceases so to be employed, dies or retires, and

(b) the amount which that total would be if the prescribed rate were—

(i) for each financial year commencing with or after 1 July 1968, and ending with or before 30 June 1973—the average earning rate on the Fund for that year, as determined by the Board,

(ii) for each financial year commencing with or after 1 July 1973, and ending with or before 30 June 1982—5½ per centum per annum, and

(iii) for each financial year commencing with or after 1 July 1982—the rate for that financial year determined by order of the Board.

(2) There shall be paid from the Fund to a contributor who, on or after 1 July 1983—

- (a) ceases to be employed by his employer,
  - (b) dies, or
  - (c) retires,
- the supplementary amount for the contributor.

## **26 Minimum amount of lump sum benefit in certain cases**

- (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.

- (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 lump sum 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), an amount of one thousand dollars, or if the Board has under subsection (2) of section 61 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) if the Board has under subsection (2) of section 61 determined in respect of him a lesser amount than the amount applicable under subparagraph (i), or referred to in subparagraph (ii), 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), 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 in respect of him by the Board under subsection (2) of section 61, 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.
- (3) This section does not apply in relation to the payment of a benefit under section 24 (4).

## **27 Calculation of contributions for purposes of sections 23 (3) (d) and 24 (1) (b)**

In calculating, for the purposes of paragraph (d) of subsection (3) of section 23, or subparagraph (i) of paragraph (b) of subsection (1) of section 24, the amount of contributions made to the Fund by a contributor, there shall be deducted from the amount of contributions made to the Fund by that contributor the difference between—

- (a) the amount of any contributions paid by him in accordance with Scale 1 of the table of contributions contained in Schedule 2 in respect of any portion of the lump sum benefit for which he was contributing, and
- (b) the amount of contributions that would have been paid by him in respect of that portion had the contributions been made at the appropriate rate specified in Scale 2 of that table.

## **28 Transferred officers**

Where a contributor ceases to be employed by one employer and within such period as the Board considers reasonable he is subsequently employed, whether by reason of transfer or otherwise, by another employer, he shall, on his application, if the Board so approves and on such terms and conditions as may be approved by the Board, be entitled to be a contributor and to continue to contribute to the Fund on the same basis as if he had not ceased to be employed by the firstmentioned employer.

## 29 Payments by employer

- (1) In this section a reference to an employer in relation to the payment of a benefit from the Fund is a reference to the employer at the time that benefit becomes payable.
- (2) When a lump sum benefit becomes payable from the Fund the employer shall pay to the Board without further appropriation than this Act—
  - (a) in the case of a lump sum benefit payable under section 23, or under paragraph (a) of subsection (1) of section 24, or under section 26 otherwise than by reason of the death of the contributor before he attained the age of sixty years—an amount equivalent to sixty per centum of the lump sum benefit so payable or any lump sum benefit that would have been so payable had it not been converted into a pension, or
  - (b) in the case of a lump sum benefit payable under paragraph (b) of subsection (1) of section 24, or under section 26 by reason of the death of the contributor before the date on which he attained the age of sixty years—an amount equivalent to fifty per centum of the lump sum benefit so payable.
- (2A) In the case of a lump sum benefit payable under section 26 on or after the commencement of paragraph (k) of subsection (1) of section 2 of the *Transport Employees Retirement Benefits (Amendment) Act 1971*, the employer shall, notwithstanding the provisions of subsection (2), 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 26 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 (2), and if the said paragraph had not been enacted.
- (3) The payments required to be made to the Board by the employer pursuant to subsection (2) or subsection (2A) shall be paid by the employer to the Board within a period of fourteen days after a requisition, certifying that the amounts shown therein are payable by the employer in accordance with subsection (2) or (2A) as the case may be, has been served by the Board on the employer.
- (4) Where any such payment is not made in accordance with subsection (3), the Board may, by notice in writing, require the employer to pay, in addition to that payment, interest calculated at the average earning rate of the Fund during the immediately preceding financial year on the amount not paid, compounded annually at the end of each financial year, for the period from fourteen days after the service on the employer of the requisition referred to in subsection (3) to the date the amount is paid to the Board, and, upon receipt of the notification, the employer shall pay to the Board



within fourteen days the amount of interest specified in the notification.

- (5) Any payment due by an employer to the Board under this section is a debt due by the employer to the Board and is recoverable in a court of competent jurisdiction.
- (6) Where an employer becomes liable to make a payment under subsection (2) in respect of a contributor referred to in section 28, the Board shall serve on the employer and on any previous employer from whom any part of the payment may be recovered under this section a statement specifying the amount that the employer is entitled under subsection (7) to recover from any previous employer of the contributor, that amount being calculated on an actuarial basis having regard to the contributor's contributions and the lump sum benefit for which he was contributing while he was in the service of that previous employer and to such other matters as the Board thinks fit.
- (7) Where a statement referred to in subsection (6) is served on an employer, the employer may recover from any previous employer, as a debt, the amount specified in the statement as being recoverable from that previous employer in a court of competent jurisdiction.

### **30 Initial credit to be a liability of employer**

- (1) Subject to this section, the initial credit in respect of a contributor who was a contributor to the Account shall constitute a liability due to the Fund by the person who was the employer of the contributor at the date on or before which he became a contributor.
- (2) An employer shall pay to the Board the amount of his liability as determined under subsection (1) within one month after the service on him of a requisition of the Board requiring the payment of that amount.
- (3) The liability of an employer as determined under subsection (1) may be extinguished over such period not exceeding twenty years as the Board may approve by annual instalments of principal, together with interest at the average earning rate on the Fund during the immediately preceding financial year, compounded annually at the end of each financial year, on the outstanding balance of the liability.
- (4) Where any amount is not paid by an employer under the foregoing provisions of this section on or before the due date for payment thereof, the employer shall pay to the Board interest on the amount due at the average earning rate on the Fund during the immediately preceding financial year, compounded annually at the end of each financial year.
- (5) Where, in respect of a contributor, an amount becomes payable under subsection (4) of section 24 or under section 25, the liability of an employer under subsection (1) shall be adjusted by the Board by reducing the liability by, or by refunding, as the case

may require, the amount by which the contributor's initial credit exceeded an amount equivalent to the amount that would have been the refund of his contributions had he received a refund of contributions at the time he became a contributor.

- (6) Notwithstanding any other provision of this section, an employer may, with the approval of the Treasurer, make without further appropriation than this Act special payments to the Fund in any year of such amounts as may be determined by the employer towards reducing the aggregate liability that has arisen or is considered by the employer to be likely to arise under this section and any payments so made shall form part of the operating expenses of the employer in the financial year in which they are made.
- (7) Notwithstanding anything contained in any other Act, the Governor may, upon the recommendation of the Treasurer and the Board, approve of the payment to the Fund from the Consolidated Revenue Fund, upon such conditions as may be determined by the Governor on such a recommendation, of amounts towards reducing the aggregate liability of any employer that has arisen or is considered by the employer to be likely to arise under this section, and any payment so approved shall be made without further appropriation than this Act.
- (8) If at the commencement of this Act payments have been made under section 32 of the *Railways Retirement Fund Act 1964*, that in respect of an employer aggregate to an amount in excess of the initial credit liability of such employer as determined under that section of that Act, the excess shall, upon the commencement of this Act, be deemed to be a payment in respect of that employer under subsection (6).
- (9) Interest on any amount standing to the credit in the Fund of an employer by reason of any payment made by or on his behalf under subsection (6) or (7), or by reason of the operation of subsection (8), calculated at the average earning rate on the Fund during the immediately preceding financial year, compounded annually at the end of each financial year, from the date on which the amount was credited in the Fund to the employer to the date on which that employer's initial credit liability is established under subsection (1) shall be credited in the Fund to that employer.
- (10) Where after an employer's initial credit liability is established under subsection (1) and the amount of that liability is less than the amount standing to his credit by reason of any payments made by or on his behalf under subsection (6) or (7), or by reason of the operation of subsection (8)—
  - (a) interest on the difference calculated at the average earning rate on the Fund during the immediately preceding financial year, compounded annually at the end of each financial year, from the date on which that liability was established until that difference is, in accordance with paragraph (b), applied under the provisions of section 31 shall be credited to the employer, and
  - (b) the difference may, with the concurrence of the employer, be applied under the

provisions of section 31.

- (11) Any payment due by an employer to the Board under this section is a debt due by the employer to the Board and is recoverable in a court of competent jurisdiction.

### **31 Reserve payments by employers**

- (1) An employer may without further appropriation than this Act pay to the Fund, in addition to any amounts standing to his credit in the Fund by reason of any payments made by him or on his behalf under section 29 or 30, or by reason of the operation of subsection (8) of section 30, such further amounts as may be determined by the employer and approved by the Governor on the recommendation of the Treasurer and the Board and any such payments shall form part of the operating expenses of the employer in the financial year in which they are paid.
- (2) Any amounts so paid shall form part of the Fund and shall, in the books of the Board, be credited to the employer, together with interest, compounded annually at the end of each financial year, at the average earning rate on the Fund during the immediately preceding financial year.
- (3) Any amount credited to an employer under this section shall be available towards meeting any payments required to be made by the employer from time to time under this Act.

## **Part 3A Automatic adjustment of pensions**

### **31A Definitions**

- (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

**adjustment date**, in relation to a year, means the first day of the pension pay period that ends on the first pension pay day in the October that next follows that year.

**adjustment percentage**, in relation to a year, means (subject to section 31B (2)) the percentage for that year, calculated in accordance with section 31B.

**Index number**, in relation to a June quarter, means the number for that June quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician under the *Census and Statistics Act 1905* of the Parliament of the Commonwealth as amended from time to time or any Act of that Parliament passed in substitution therefor.

**June quarter**, in relation to a year, means the period commencing on and including 1 April in that year and ending on and including 30 June in that year.

**pension** means a pension payable under section 23.

**pensioner** means a person in receipt of a pension.

**quarter**, in relation to a year, means—

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

**year** means—

- (a) the period commencing on and including 1 July 1976, and ending on and including 30 June 1977, or
  - (b) a subsequent period commencing on and including 1 July and ending on and including the next following 30 June.
- (2) Where a pension is to be adjusted under this Part by reference to the adjustment percentage for a year, a reference (however expressed) in this Part to adjusting the pension is a reference to—
- (a) where the adjustment percentage is calculated in accordance with the formula set out in section 31B (1) (a)—increasing the pension, or
  - (b) where the adjustment percentage is calculated in accordance with the formula set out in section 31B (1) (b)—reducing the pension.

### **31B Calculation of adjustment percentage**

- (1) For the purposes of the definition of **adjustment percentage** in section 31A (1), the percentage for a year shall be calculated—
- (a) if the Index number for the June quarter in that year is greater than the Index number for the immediately preceding June quarter—in accordance with the following formula—
  
  - (b) if the Index number for the June quarter in that year is less than the Index number for the immediately preceding June quarter—in accordance with the following formula—

where—

**P** is the percentage to be obtained,

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

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

(2) Where—

(a) the percentage calculated for a year in accordance with subsection (1) (b) is less than 1.1% or any other percentage prescribed by the regulations, or

(b) the Index number for the June quarter in that year is the same as the Index number for the immediately preceding June quarter,

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

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

(a) the Index number for the June quarter in the firstmentioned year shall be deemed not to have been published, and

(b) the Index number for that quarter shall be deemed to be the same as the Index number for the June quarter in the last year for which there was an adjustment percentage.

(4) If at any time, whether before or after the commencement of this Part, the Australian Statistician has published in respect of a particular June quarter an Index number in substitution for an Index number previously published by him in respect of that quarter—

(a) except as provided in paragraph (b)—the publication of the later Index number shall be disregarded, or

(b) if the Minister so directs—regard shall, after the direction is given, be had to the later and not to the earlier Index number,

for the purposes of this Part.

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

### **31C Adjustment of pensions: general cases**

- (1) Subject to this Act, where there is an adjustment percentage for a year (in this section referred to as **the particular year**), the pension payable on the adjustment date for that year to a person to whom this section applies is hereby adjusted, on and from that adjustment date, by that percentage.
- (2) This section applies to—
  - (a) a person who last became a pensioner on or before 1st July in the particular year, and
  - (b) a person who is the widow of a pensioner, where that pensioner last became a pensioner on or before 1st July in the particular year and died before the adjustment date for that year.
- (3) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

### **31D Adjustment of pensions: partial adjustment**

- (1) Subject to this Act, where there is an adjustment percentage for a year (in this section referred to as **the particular year**), the pension payable on the adjustment date for that year to a person to whom this section applies is hereby adjusted, on and from that adjustment date, by the percentage calculated in accordance with the formula set out in subsection (3).
- (2) This section applies to—
  - (a) a person who last became a pensioner after 1 July in the particular year but on or before 1 April in that year, and
  - (b) a person who is the widow of a pensioner, where that pensioner last became a pensioner after 1 July in the particular year but on or before 1 April in that year and died before the adjustment date for that year,but does not apply to a person to whom section 31C applies.
- (3) The formula referred to in subsection (1) is—

where—

**A** is the percentage by which the pension is to be adjusted,

**P** is the adjustment percentage for the particular year, and

**Q** is the number of whole quarters of the particular year, being whole quarters after, and (if applicable) the whole quarter on the first day of which—

- (a) in the case of a person referred to in subsection (2) (a)—the person last became a pensioner, or
  - (b) in the case of a person referred to in subsection (2) (b)—her late pensioner husband last became a pensioner.
- (4) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

### **31E Minimum amount to which pensions may be reduced**

Notwithstanding anything in this Part—

- (a) a pension (other than a pension payable to a person by virtue of her being a widow of a pensioner) shall not be reduced below the fortnightly amount that would, if this Part had not been enacted, have been payable, and
- (b) a pension payable to a person by virtue of her being a widow of a pensioner shall not be reduced below the fortnightly amount that would have been payable to her by reference to the pension that would, if this Part had not been enacted, have been payable to her late husband.

### **31F Additional payment by employer**

- (1) Where, by virtue of there being an adjustment percentage for a year, an increased pension is payable to a pensioner or to the widow of a deceased pensioner, the employer in whose service the pensioner or deceased pensioner was employed at the date of his retirement shall pay to the Board at such intervals as may be determined by the Board and on the requisition of the Board, an amount equal to the difference between the amount of the increased pension and the amount of pension that would have been payable had there been no adjustment percentage for that year.
- (2) The provisions of section 29 (3), (4) and (5) apply to and in respect of any payment required by subsection (1) to be made to the Board in the same way as they apply to and in respect of any payment required by section 29 (2) or (2A) to be made to the Board.

### **31G Calculation of percentages**

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

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

## Parts 4, 5

### 32-50 (Repealed)

## Part 6 Assurance policies

### 51 Assignment of policies of assurance to the Board in certain cases

- (1) A contributor or pensioner whose life or the life of whose spouse (including husband or wife) is insured under a policy of endowment assurance (other than an industrial policy as defined in the *Life Insurance Act 1945*, as amended by subsequent Acts, of the Parliament of the Commonwealth) that has been in force for at least six years, upon which all premiums have been paid and that is unencumbered, may request the Board to accept an assignment of the policy and to continue the payment of premiums under the policy.
- (2) The Board—
  - (a) shall, upon a request being made under subsection (1) by a contributor to the Account, a contributor to the Railways Retirement Fund, a gratuity scheme officer or a Police Department appointee in respect of a policy that was in force at the commencement of this Act, and
  - (b) may, upon a request being made under that subsection by any contributor or pensioner,

inform the contributor or pensioner that it is prepared to comply with the request.

The Board shall, upon the assignment of the policy to it, cause the premiums to be duly paid and, on receipt by the Board of the maturity value of the policy, hand to the assignor or to his personal representatives any sums received on the policy, less the sum of the amount of the premiums paid by the Board and interest at the prescribed rate, compounded annually at the end of each financial year, on the premiums paid by the Board from the respective dates of their payment to the date on which the maturity value of the policy is received by the Board.

- (3) Where the contingencies specified in a policy, or the terms of a policy other than those relating to contingencies, are such that in the opinion of the Board a disproportionate loss could be incurred by accepting an assignment of the policy, the Board may, notwithstanding subsection (1) or (2), decline to comply with the request under that subsection.
- (4) The Board may at any time before the maturity of any policy assigned to it under this section return the policy to the assignor upon repayment of all moneys paid by the Board for premiums thereon together with compound interest at the prescribed rate, compounded annually at the end of each financial year, on the premiums paid by the Board from the respective dates of their payment to the date of the repayment.



- (5) A gratuity scheme officer or a Police Department appointee who is entitled under subsection (2) to assign a policy to the Board may, before doing so and not later than three months before the date applicable to him under subsection (2) of section 12, in writing, request the Board, upon the assignment of the policy to it, to pay to the Fund an amount, not being greater than the value of the policy as assessed by the Board having regard to its surrender value as certified by the insurer and to such other matters as the Board thinks fit, as a payment on his behalf under subsection (2) of section 18.
- (6) Where the Board notifies a gratuity scheme officer or Police Department appointee that it is prepared to make any payment under subsection (5) and the policy is, before the date applicable to him under subsection (2) of section 12, assigned to the Board under subsection (2), the Board shall make that payment to the Fund under subsection (2) of section 18 on behalf of the gratuity scheme officer or the Police Department appointee.
- (7) Where the Board makes a payment under subsection (6), the payment shall be deemed to be a premium for the purposes of this section and the provisions of subsections (2) and (4) relating to interest on premiums shall apply, *mutatis mutandis*, to any such payment.
- (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 (4) of section 23 and is in receipt of a pension in accordance with that election.

## **Part 7 General provisions**

### **52 Prescribed rate of interest**

- (1) For the purposes of this Act, the prescribed rate means four and one-quarter per centum per annum or, where some higher rate is prescribed, that higher rate.
- (2) Different rates may be prescribed under this section for the purposes of different provisions of this Act.

### **52A, 52B (Repealed)**

### **53 Regulations**

- (1) The Governor may, on the recommendation of the Board, make regulations not inconsistent with this Act for or with respect to all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) (Repealed)
- (2A) Regulations may be made amending the Schedules, or substituting other Schedules,

in order to provide for monthly contributions.

(3) (Repealed)

#### **54 Elections**

An election 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 expiration of the time on or before which it is required to be made, and
- (c) shall be binding on the person making the election and on the Board.

#### **55 Evidence of age, marriage, dependency and death**

- (1) For the purposes of this Act the Board may require 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 from whom the evidence is required.
- (2) Where sufficient moneys are not immediately payable from the Fund to the person, being a contributor, from whom any such evidence is required, his employer shall on the requisition of the Board deduct the difference between the amount of the expenditure so incurred and the moneys immediately payable from the Fund from the contributor's wages and shall forward the amount deducted to the Board.

#### **56 Returns**

The Board may at any time require any 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.

#### **57 Non-assignability of benefits**

- (1) 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.
- (2) Nothing in this section prevents the Board from making, at the request of a person to whom an amount by way of a benefit is payable, a payment of the whole or a part of the amount on behalf of the person.

- (3) Any payment made under subsection (2) shall be deemed to have been made to the person entitled to the benefit.

#### **58 Payment without grant of probate etc**

- (1) Where a person dies and—

- (a) a benefit is or becomes payable from the Fund in relation to the deceased,
- (b) production to the Board of probate of the will, or letters of administration of the estate, of the deceased has not been arranged, and
- (c) the Board has not, within the period of 3 months that next succeeds the death of the deceased, received a notice of intention to apply for a grant of probate of the will, or letters of administration of the estate, of the deceased,

the Board may, if it so decides, make a payment of the whole or any part of the benefit in accordance with subsection (2), being a payment that does not exceed \$50,000 or, where some other amount is prescribed for the purposes of this section, that other amount.

- (2) Where the Board makes a decision under subsection (1), the Board may—

- (a) pay the whole or any part of the amount of the benefit to an eligible person within the meaning of Chapter 3 of the *Succession Act 2006*,
- (b) after paying the funeral expenses of the deceased or reimbursing a person who has paid those expenses—pay the whole or any part of the balance to any person referred to in paragraph (a), or
- (c) in special circumstances, pay the whole or any part of the amount of the benefit, or the balance referred to in paragraph (b), to some other person.

- (3) Where a contributor or former contributor dies and the Board is of the opinion that proceedings might be instituted under Chapter 3 of the *Succession Act 2006* in relation to the estate, or notional estate, of the deceased, the Board may, despite any other provision of this Act, pay to the personal representatives of the deceased any benefit that, but for this subsection, would have been paid to some other person.

#### **59 Extension of application of Act**

- (1) Any person may apply for the provisions of this Act to be extended to him.
- (2) The Minister may lay the application before both Houses of Parliament and, if either House of Parliament does not, within twenty-one sitting days, disapprove of the application, the Governor may, by notification published on the NSW legislation website, notify that the name of the applicant is added to Schedule 1 as on and from a day to be specified in the notification, not being earlier than the date of the

notification, and thereupon the name of that person shall be deemed to be added to that Schedule and that Schedule shall be deemed to be amended accordingly.

## **60 (Repealed)**

### **60A Suspension of part of pension in certain circumstances**

- (1) Notwithstanding anything in this Act, where a person entitled to receive a pension under section 23 (including any increase payable under Part 3A) would, in the opinion of the Board, thereby be prejudicially affected in respect of any benefits otherwise receivable by that person, the amount of pension payable shall be such lesser amount than that provided for under this Act as the Board from time to time determines.
- (2) Where the Board, under subsection (1), reduces the amount of an increase payable under Part 3A, the amount of the increase as determined by the Board shall be payable in respect of such periods or at such times by way of lump sum or otherwise as the Board from time to time determines.
- (3) A part of a pension that is not paid because of the Board's determination under subsection (1) shall, in calculating a pension payable to a person by virtue of her being a widow of a pensioner, be taken into account as if it had been payable.

## **61 Medical standards**

- (1) Notwithstanding any other provision of this Act, an employee shall not be entitled to become a contributor unless the Board is satisfied that he meets the medical standards from time to time laid down by the Board.
- (2) The Board shall, in respect of an employee who cannot satisfy the medical standards referred to in subsection (1), accept him as a contributor for limited benefits, being benefits for such amount of less than one thousand dollars as the Board may determine in respect of him payable as is mentioned in section 26.

## **62 Payment where beneficiary incapable**

- (1) Where a person to whom a pension is payable under this Act is, in the opinion of the Board, incapable of handling or administering his own affairs by reason of his illness, imprisonment or any other cause the Board may pay the pension 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 pension would be payable or of any person wholly or partly dependent on him.
- (2) Any payment made under subsection (1) shall be deemed to have been made to the person entitled to the pension.

### **62A Payment where beneficiary is missing**

- (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is

payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

- (2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

### **63 Elections and applications out of time**

Notwithstanding anything provided in this Act, where under this Act an election or application may or is required to be made by a person within a prescribed period or on or before a prescribed date and that person makes the election or application either before the commencement or after the expiration of that period or after that date, and the Board is satisfied that—

- (a) hardship would accrue to that person or his dependants if the election or application were not accepted, and
- (b) in all the circumstances of the case it is desirable that the election or application should be accepted,

the Board may accept the election or application and deal with it as if it had been made within the prescribed period or on or before the prescribed date.

### **64 Repeal of [Railways Retirement Fund Act 1964](#)**

- (1) The [Railways Retirement Fund Act 1964](#) is hereby repealed.
- (2) A member of the Railways Retirement Fund Board constituted under the [Railways Retirement Fund Act 1964](#) shall not be entitled to any compensation by reason of his ceasing to hold office as such a member.
- (3) 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 which immediately before the commencement of this Act were vested in the Railways Retirement Fund Board shall be vested in and belong to the Board.
- (4) All moneys and liquidated and unliquidated claims which immediately before the commencement of this Act were payable to or recoverable by the Railways Retirement Fund Board shall be moneys and liquidated and unliquidated claims payable to or recoverable by the Board.
- (5) All suits, actions and proceedings pending immediately before the commencement of this Act at the suit of the Railways Retirement Fund Board or of any person against the Railways Retirement Fund Board in respect of any matter or claim shall respectively be suits, actions and proceedings pending at the suit of the Board or of such other person against the Board, as the case may be.

- (6) All contracts, agreements and undertakings entered into with, and all securities lawfully given to or by, the Railways Retirement Fund Board and in force immediately before the commencement of this Act shall be deemed to be contracts, agreements and undertakings entered into with, and securities given to or by, the Board.
- (7) The Board may pursue the same remedy for the recovery of any such moneys and claims and for the prosecution of such suits, claims and proceedings as the Railways Retirement Fund Board might have done but for this Act.
- (8) The Board may enforce and realise any security or charge existing immediately before the commencement of this Act in favour of the Railways Retirement Fund Board in respect of any such moneys and claims as if the security or charge were existing in favour of the Board.
- (9) All debts due and moneys payable by the Railways Retirement Fund Board immediately before the commencement of this Act and all liquidated or unliquidated claims recoverable against the Railways Retirement Fund Board immediately before that commencement shall be debts due and moneys payable by, and claims recoverable against, the Board.
- (10) All moneys and other assets vested in or belonging to the Board or recovered by the Board by virtue of this section shall form part of the Fund, and all moneys recovered from the Board by virtue of this section shall be paid from the Fund.

## **65 Savings and transitional provisions**

Schedule 7 has effect.

## **66-68 (Repealed)**

### **Schedule 1 Employers**

The Commissioner for Railways  
The Commissioner for Government Transport  
The Commissioner for Motor Transport  
The Commissioner of Police  
The New South Wales Retirement Board

### **Schedule 2 Table of contributions**

	<b>Scale 1</b>	<b>Scale 2</b>
<b>Age next birthday</b>	<b>Fortnightly rate of contribution for the first \$2,000 of the amount of the lump sum benefit</b>	<b>Fortnightly rate of contribution for each \$2,000 of the amount of the lump sum benefit in excess of the first \$2,000</b>
	\$	\$
16 years	0.25	0.20

17 "	0.26	0.21
18 "	0.27	0.22
19 "	0.28	0.23
20 "	0.29	0.24
21 "	0.30	0.25
22 "	0.31	0.26
23 "	0.32	0.27
24 "	0.33	0.28
25 "	0.35	0.30
26 "	0.37	0.32
27 "	0.39	0.34
28 "	0.41	0.36
29 "	0.43	0.38
30 "	0.45	0.40
31 "	0.47	0.42
32 "	0.49	0.44
33 "	0.52	0.47
34 "	0.55	0.50
35 "	0.58	0.53
36 "	0.61	0.56
37 "	0.64	0.59
38 "	0.68	0.63
39 "	0.72	0.67
40 "	0.76	0.71
41 years	0.81	0.76
42 "	0.86	0.81
43 "	0.92	0.87

44	"	0.98	0.93
45	"	1.05	1.00
46	"	1.13	1.08
47	"	1.22	1.17
48	"	1.32	1.27
49	"	1.43	1.38
50	"	1.56	1.51
51	"	1.70	1.65
52	"	1.87	1.82
53	"	2.07	2.02
54	"	2.30	2.25
55	"	2.58	2.53
56	"	2.93	2.88
57	"	3.36	3.31
58	"	3.92	3.87
59	"	4.66	4.61
60	"	$741.30 \div n$	$734.80 \div n$
61	"	$756.00 \div n$	$750.80 \div n$
62	"	$770.90 \div n$	$767.00 \div n$
63	"	$785.60 \div n$	$783.00 \div n$
64	"	$793.70 \div n$	$792.40 \div n$
65	"	$800.00 \div n$	$800.00 \div n$

**Note—**

*n* denotes the number of complete fortnightly contributions payable before contributions would be due to cease on attainment of age 65 years.

### Schedule 3 Table of allowances

<b>Number of complete years of contributing to the Account</b>	<b>Allowance as a percentage of contributions to the Account</b>
--	--



45 years and over	100.0 per centum
44 years	96.0 " "
43 "	92.0 " "
42 "	88.0 " "
41 "	84.0 " "
40 "	80.0 " "
39 "	76.0 " "
38 "	73.0 " "
37 "	70.0 " "
36 "	67.0 " "
35 "	65.0 " "
34 "	63.0 " "
33 "	61.0 " "
32 "	59.0 " "
31 "	57.0 " "
30 "	55.0 " "
29 "	53.0 " "
28 "	51.0 " "
27 "	49.0 " "
26 "	47.0 " "
25 "	45.0 " "
24 "	43.0 " "
23 years	41.1 per centum
22 "	39.2 " "
21 "	37.3 " "
20 "	35.4 " "
19 "	33.5 " "

18 "	31.6 " "
17 "	29.8 " "
16 "	28.0 " "
15 "	26.2 " "
14 "	24.4 " "
13 "	22.6 " "
12 "	20.8 " "
11 "	19.0 " "
10 "	17.3 " "
9 "	15.6 " "
8 "	13.9 " "
7 "	12.2 " "
6 "	10.5 " "
5 "	8.8 " "
4 "	7.1 " "
3 "	5.4 " "
2 "	3.7 " "
1 year	2.0 " "

### **Schedule 4 Conversion of lump sum of \$10,000**

#### **Fortnightly Pension—Men**

<b>Age in complete years at date of commencement of pension</b>	<b>Fortnightly pension</b>
	<b>\$</b>
60	32.73
61	33.78
62	34.90
63	36.08
64	37.34
65	38.68

66	40.11
67	41.64
68	43.28
69	45.05
70	46.95

### Schedule 5 Conversion of lump sum of \$10,000 to pension

Age of husband in complete years	Age of wife in complete years										
	50	51	52	53	54	55	56	57	58	59	60
<i>Fortnightly pension in dollars and cents</i>											
60	24.79	25.02	25.26	25.51	25.77	26.04	26.31	26.58	26.85	27.12	27.39
61	25.09	25.33	25.58	25.85	26.12	26.40	26.68	26.97	27.26	27.55	27.85
62	25.39	25.64	25.90	26.19	26.47	26.76	27.06	27.37	27.68	27.99	28.31
63	25.69	25.95	26.24	26.53	26.82	27.13	27.45	27.77	28.10	28.44	28.77
64	25.98	26.26	26.55	26.86	27.18	27.51	27.84	28.18	28.53	28.88	29.24
65	26.29	26.57	26.88	27.21	27.54	27.89	28.23	28.59	28.96	29.33	29.71
66	26.60	26.90	27.21	27.55	27.90	28.26	28.62	29.00	29.39	29.78	30.19
67	26.91	27.23	27.55	27.89	28.26	28.63	29.00	29.41	29.82	30.24	30.67
68	27.22	27.56	27.89	28.24	28.62	29.00	29.40	29.82	30.26	30.70	31.15
69	27.53	27.89	28.23	28.59	28.98	29.37	29.78	30.22	30.68	31.15	31.63
70	27.84	28.20	28.58	28.96	29.35	29.74	30.16	30.62	31.10	31.60	32.13
Age of husband in complete years	Age of wife in complete years										
	61	62	63	64	65	66	67	68	69	70	
<i>Fortnightly pension in dollars and cents</i>											
60	27.66	27.94	28.22	28.49	28.75	29.00	29.25	29.49	29.74	29.98	
61	28.14	28.43	28.73	29.03	29.31	29.60	29.88	30.14	30.41	30.67	
62	28.63	28.94	29.27	29.57	29.88	30.20	30.51	30.80	31.09	31.38	
63	29.12	29.46	29.80	30.14	30.47	30.80	31.14	31.48	31.80	32.11	

64	29.61	29.98	30.34	30.71	31.07	31.44	31.79	32.16	32.52	32.87
65	30.10	30.50	30.89	31.29	31.69	32.09	32.48	32.87	33.25	33.63
66	30.60	31.03	31.45	31.88	32.31	32.75	33.17	33.59	34.01	34.42
67	31.11	31.56	32.01	32.48	32.94	33.41	33.87	34.33	34.79	35.23
68	31.62	32.10	32.58	33.08	33.58	34.08	34.58	35.08	35.58	36.06
69	32.13	32.63	33.16	33.69	34.23	34.77	35.30	35.84	36.39	36.93
70	32.67	33.22	33.77	34.32	34.87	35.45	36.03	36.61	37.20	37.79

## Schedule 6 Conversion of lump sum of \$10,000

### Fortnightly Pension—Women

**Age in complete years at date of commencement of pension**      **Fortnightly pension**

\$

50	22.91
51	23.34
52	23.80
53	24.29
54	24.82
55	25.38
56	25.98
57	26.63
58	27.33
59	28.08
60	28.88
61	29.74
62	30.66
63	31.66
64	32.74
65	33.91
66	35.17
67	36.53
68	38.01

69	39.61
70	41.33

## Schedule 7 Savings and transitional provisions

(Section 65)

### 1 Transitional provision consequent on enactment of [Transport Employees Retirement Benefits \(Amendment\) Act 1979](#)

- (1) Part 3, as amended by the amending Act, applies in respect of a contributor who died on or after 25 May 1979 (the date of commencement of the amending Act).
- (2) Part 3, as in force before the commencement of the amending Act, applies in respect of a contributor who died before 25 May 1979 as if the amending Act had not been enacted.
- (3) This clause is taken to have commenced on 25 May 1979 (the date of commencement of the amending Act).
- (4) Subclauses (1) and (2) re-enact (with minor modifications) section 3 of the amending Act. Subclauses (1) and (2) are transferred provision to which section 30A of the [Interpretation Act 1987](#) applies.
- (5) In this clause—

**amending Act** means the [Transport Employees Retirement Benefits \(Amendment\) Act 1979](#).

### 2 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts—
  - [Superannuation Legislation Amendment \(Family Law\) Act 2003](#) (but only to the extent that it amends this Act)
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision 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 or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its

publication.