

# New South Wales Retirement Benefits Act 1972 No 70

[1972-70]



New South Wales

## Status Information

### Currency of version

Current version for 23 September 2020 to date (accessed 15 October 2024 at 5:07)

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.

### Responsible Minister

- Treasurer

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### 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

# New South Wales Retirement Benefits Act 1972 No 70



New South Wales

## Contents

|   |    |
|---|----|
| <b>Long title</b> .....   | 6  |
| <b>Part 1 Preliminary</b> .....   | 6  |
| 1 Name of Act .....   | 6  |
| 2 Commencement .....  | 6  |
| 2A Closure of Fund .....  | 6  |
| 3 Definitions .....   | 7  |
| <b>Part 2 (Repealed)</b> .....  | 15 |
| <b>Part 3 Employee contributions</b> .....  | 16 |
| 10 Certain employees may elect to contribute to the Fund .....                                | 16 |
| 11 Certain persons required to contribute to Fund .....                                       | 16 |
| 12 Certain classes of persons may elect to contribute to the Fund .....                       | 17 |
| 12A Contributors to State Superannuation Fund becoming employees .....                        | 20 |
| 13 Contributions by certain persons aged sixty years or more at time of making election ..... | 21 |
| 14 Amount of benefit for which contributor must contribute .....                              | 21 |
| 15 Variation of benefits and contributions .....  | 21 |
| 16 Periodic opportunities to elect to become a contributor .....                              | 23 |
| 17 Certain moneys to be paid to Employees Reserve Account .....                               | 24 |
| 18 Rates of contribution .....  | 24 |
| 19 Payment of contributions .....   | 25 |
| 20 Cessation of payment of contributions .....  | 26 |

|   |           |
|---|-----------|
| 21 Exemption from payment of contributions .....  | 26        |
| 22 Election following increase in wages between review date and age of sixty years .....  | 26        |
| 23 Effect of lapse of period between employment by successive employers.....              | 27        |
| 24 Contributor may make additional contributions .....                                    | 28        |
| <b>Part 4 Benefits .....</b>  | <b>29</b> |
| 25 Definitions .....  | 29        |
| 26 Benefits .....   | 29        |
| 27 Alternative benefits .....   | 33        |
| 27A Pension to be paid to eligible surviving spouse or de facto partner .....             | 34        |
| 28 Benefit for certain dependants.....  | 35        |
| 29 Alternative benefits for widow .....   | 36        |
| 30 Withdrawal benefit .....   | 37        |
| 31 Certain benefit must be not less than certain amount .....                             | 38        |
| <b>Part 4A Automatic adjustment of pensions.....</b>                                      | <b>39</b> |
| 31A Definitions .....   | 39        |
| 31B Calculation of adjustment percentage.....   | 41        |
| 31C Adjustment of pensions: general cases.....  | 42        |
| 31D Adjustment of pensions: partial adjustment.....                                       | 42        |
| 31E Special provisions applicable to certain classes of pensions .....                    | 43        |
| 31F Minimum amount to which pensions may be reduced.....                                  | 44        |
| 31G Additional payment by employer .....  | 44        |
| 31H Calculation of percentages.....   | 44        |
| <b>Part 5 Employer contributions.....</b>   | <b>45</b> |
| 32 Payment of contributions by, and apportionment of contributions among, employers ..... | 45        |
| 33 Liability for initial credit.....  | 47        |
| 34 Payments by employer to reserve .....  | 47        |
| <b>Part 6 Management expenses .....</b>   | <b>48</b> |
| 35-49 (Repealed) .....  | 48        |
| <b>Part 7 Loans to contributors.....</b>  | <b>48</b> |
| 50 (Repealed) .....   | 48        |

|   |    |
|---|----|
| <b>Part 8 Assurance policies</b> .....  | 48 |
| 51 (Repealed) .....   | 48 |
| 52 Re-assignment by Board of policy of assurance .....                                  | 48 |
| <b>Part 9 General provisions</b> .....  | 48 |
| 53 Moneys payable to and by the Board and interest thereon .....                        | 48 |
| 54 Regulations.....   | 49 |
| 55 Provision of certain evidence.....   | 50 |
| 56 Board may require certain information.....   | 50 |
| 57 Benefits are not assignable etc .....  | 50 |
| 58 Payment without grant of probate etc .....   | 51 |
| 59 (Repealed) .....   | 51 |
| 59A Suspension of part of pension in certain circumstances.....                         | 51 |
| 60 Payment where beneficiary incapable .....  | 52 |
| 60A Payment where beneficiary is missing .....  | 52 |
| 61 Medical examination.....   | 52 |
| 62 Eligibility to contribute to superannuation scheme .....                             | 53 |
| 63 Introduction of new superannuation schemes prohibited in certain circumstances ..... | 54 |
| 64 Amendment of Schedules 2 and 2A.....   | 54 |
| 65 Elections and applications .....   | 55 |
| 66 Restoration of lost right etc under Act.....   | 55 |
| 67 Amendment of Act No 96, 1967 .....   | 56 |
| 68-72 (Repealed) .....  | 57 |
| 73 Election to convert certain pensions in 1977.....                                    | 57 |
| 74 Savings and transitional provisions .....  | 58 |
| <b>Schedule 1 Savings and transitional provisions</b> .....                             | 58 |
| <b>Schedule 2</b> .....   | 59 |
| <b>Schedule 2A Persons employed on a part-time basis</b> .....                          | 60 |
| <b>Schedule 3 Table of contributions</b> .....  | 62 |
| <b>Schedule 3A Table of contributors</b> .....  | 63 |

|  |    |
|--|----|
| <b>Schedule 4 (Repealed)</b> .....                       | 64 |
| <b>Schedule 4A Table of notional contributions</b> ..... | 64 |
| <b>Schedule 5</b> .....                                  | 64 |
| <b>Schedule 6 Table of allowances</b> .....              | 65 |

# New South Wales Retirement Benefits Act 1972 No 70



New South Wales

An Act to make provision for a scheme providing retirement and other benefits for certain employees of the Crown and of certain public authorities; to establish a New South Wales Retirement Fund; to amend the *Government Railways Act 1912*, the *Superannuation Act 1916*, the *Transport Act 1930*, the *Transport Employees Retirement Benefits Act 1967*, and the *Securities Industry Act 1970*; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act

- (1) This Act may be cited as the *New South Wales Retirement Benefits Act 1972*.
- (2) (Repealed)

### 2 Commencement

- (1) Section 1 and this section shall commence on the date of assent to this Act.
- (2) Part 6 and sections 3, 7, 10, 11, 12 (subsections (3) and (4) excepted), 56, 61, 64, 65, 67 (5) and 67 (6) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.
- (3) Subject to subsections (1), (2) and (4), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that is later than the day appointed pursuant to subsection (2).
- (4) Part 7 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that is later than the day appointed pursuant to subsection (3).
- (5) (Repealed)

### 2A Closure of Fund

- (1) In this section—

**commencement day** means the day on which the *Public Authorities Superannuation Act 1985* commences.

**Public Authorities Superannuation Fund** means the Fund established under the *Public Authorities Superannuation Act 1985*.

- (2) Notwithstanding any other provision of this Act—
- (a) a person is not entitled to elect on or after the commencement day to become a contributor,
  - (b) a person is not entitled to become a contributor pursuant to an election that was made before, but did not take effect before, the commencement day,
  - (c) a person who, immediately before the commencement day, was contributing to the Fund ceases on and from that day to be entitled or liable to contribute to the Fund, and
  - (d) a benefit under this Act is not payable on or after the commencement day to, or in relation to, a contributor unless the benefit was so payable before that day.
- (3) A benefit under this Act that had become payable before the commencement day but had not been paid, or had not commenced to be paid, before that day shall be paid from the Public Authorities Superannuation Fund.
- (4) Any pension under this Act of which payment had commenced before the commencement day shall, on and after that day, be paid from the Public Authorities Superannuation Fund.
- (5) Any amount that, before the commencement day, a person was liable to pay, but had not paid, to the New South Wales Retirement Fund is payable to the Public Authorities Superannuation Fund.
- (6) On and from 1 April 1988, a reference in this section to the Public Authorities Superannuation Fund shall be read as a reference to the State Authorities Superannuation Fund established under the *State Authorities Superannuation Act 1987*.

### 3 Definitions

- (1) In this Act, except to the extent that 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 an employee at a particular time, the amount determined by the Board as the amount of wages or salary payable at that time on an

annual basis to that employee, having regard to his ordinary remuneration but disregarding amounts payable in respect of overtime.

**appointed day** means the day appointed pursuant to section 2 (3).

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

**contributor** means—

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

**contributor to the Account** means a person who is contributing to the Account.

**contributor to the Transport Retirement Fund** means a person who is a contributor under the [Transport Employees Retirement Benefits Act 1967](#).

**employee** means a person employed by an employer but—

- (a) does not include a person employed on a part-time basis,
- (b) does not include a person who is not within a class of persons specified in the Second Column of Schedule 2,
- (c) does not, except in the case of—
  - (i) a person referred to in section 11 or 12 (3), or
  - (ii) a person who is within a class of persons referred to in section 12 (1) (a) (ii),include a person who, by virtue of his employment, participates in or, in the opinion of the Board, would with the effluxion of time participate in, a superannuation scheme,
- (d) subject to subsection (10), does not include a person who, for any reason based on non-compliance with a requirement as to medical fitness, is ineligible to participate in a superannuation scheme in which, but for that reason, he would be eligible to participate,
- (e) does not include a person who, being eligible to contribute to the Fund established under the [Superannuation Act 1916](#), has been granted exemption from contributing thereto,
- (f) does not include a person who, by an act or omission not involving a requirement



as to medical fitness, renders himself ineligible to participate in a superannuation scheme in which, but for the act or omission, he would be eligible to participate, and

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

**employer** means—

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

**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 New South Wales Retirement Fund established by this Act.

**initial credit** means—

- (a) in relation to a contributor who, before he became a contributor, was a contributor to the Account—an amount equal to the sum of—
- (i) the total amount of his contributions to the Account before he ceased to contribute thereto pursuant to section 12 (9) reduced, where any amounts have been paid to him pursuant to Part 9 of the [Government Railways Act 1912](#), by an amount determined by the Board, and
  - (ii) an allowance of an amount calculated as provided by subsection (2),
- (b) in relation to a contributor who, before he became a contributor, was a contributor to the Transport Retirement Fund—an amount equal to the sum of—
- (i) the amount of his initial credit, if any, within the meaning of the [Transport Employees Retirement Benefits Act 1967](#), immediately before he became a contributor,
  - (ii) an amount calculated as provided by subsection (3),
  - (iii) an amount calculated as provided by subsection (4),
- (c) in relation to a contributor who, before he became a contributor, was a participant in a superannuation scheme by virtue of his employment, not being a superannuation scheme referred to in paragraph (a) or (b)—any amount paid into the Fund by or in relation to the contributor as a consequence of an order under section 12 (1) or an election under section 12A, being the amount of any money

paid to him or on his behalf, or recovered by him or on his behalf, upon withdrawal from the scheme less such part of that amount, if any, as may be required, by terms and conditions referred to in section 12 (1) (c) or in accordance with a determination of the Board under section 12A (4), to be paid into the Fund on behalf of an employer or any other person or otherwise disbursed to or on behalf of an employer or any other person.

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

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

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

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

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

**retrenchment** means compulsory termination by an employer of the services of an employee on the ground that the employee's office has been abolished, no other office in the service of that employer or another employer having been found for him at not less than two-thirds of his annual wages at the date of that termination, but does not include termination of employment—

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

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

**Transport Retirement Fund** means the Transport Retirement Fund established by the [Transport Employees Retirement Benefits Act 1967](#).

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

- (1A) For the purposes of paragraph (a) of the definition of **employee** in subsection (1), a person is employed on a part-time basis if, and only if—
- (a) he is a person specified in Schedule 2A or is a member of a class of persons so specified, or
  - (b) he—
    - (i) is not a person referred to in paragraph (a),
    - (ii) is classified by his employer as a person employed on a part-time basis and the Minister has not directed the employer to withdraw that classification,
    - (iii) would be an employee if he were employed otherwise than on a part-time basis, and
    - (iv) has failed before the day prescribed for him by subsection (1B) to appeal to the Minister, in the manner prescribed, against the classification referred to in subparagraph (ii) or, where he has so appealed, his appeal has been dismissed.
- (1B) For the purposes of subsection (1A) (b) (iv), the day prescribed for a person by this subsection is—
- (a) the day that is three months after the day appointed under section 2 (2) of the [New South Wales Retirement Benefits \(Amendment\) Act 1976](#), or
  - (b) the day on which that person would, if he were not a person employed on a part-time basis, be entitled to elect to contribute to the Fund,
- whichever is the later day.
- (1C) In determining an appeal referred to in subsection (1A) (b) (iv), the Minister shall have regard to—
- (a) the hours and days during which work is ordinarily done at the appellant's place of employment by persons employed at that place, and
  - (b) such other matters as the Minister considers to be relevant.
- (1D) Where an appeal referred to in subsection (1A) (b) (iv) is upheld, the Minister may direct any employer of a person within a specified class of persons (being a class of which the successful appellant is a member) to withdraw any classification of that person as a person employed on a part-time basis and the employer shall forthwith—
- (a) inform that person of the direction and of the days specified by the Minister under

subsections (1E) (a) (ii) and (1E) (b) (ii), and

(b) give effect to the direction.

(1E) Where an appeal referred to in subsection (1A) (b) (iv) is upheld, section 10 or 12, whichever is appropriate, applies to and in respect of the successful appellant, and any person in respect of whom a direction under subsection (1D) applies, as if—

(a) in the case of section 10, the day on which an election may be made under that section were any day that is—

(i) not earlier than the day specified in section 10 (1), and

(ii) not later than a day specified by the Minister for the purposes of this paragraph when giving his decision on the appeal and when giving any direction under subsection (1D), and

(b) in the case of section 12, the day on which an election may be made under that section were any day that is—

(i) not earlier than the election date under that section for that appellant or person, and

(ii) not later than a day specified by the Minister for the purposes of this paragraph when giving his decision on the appeal and when giving any direction under subsection (1D).

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

(3) The amount referred to in paragraph (b) (ii) of the definition of **initial credit** in subsection (1) is, in respect of a contributor so referred to, an amount equal to the total amount of the contributions paid by him or on the behalf to the Transport Retirement Fund before he became a contributor under this Act, reduced by the sum of—

(a) the difference between that total amount and the total amount of contributions that would have been paid by him or on his behalf to the Transport Retirement Fund had they been made in accordance with Scale 2 of Schedule 2 to the [Transport Employees Retirement Benefits Act 1967](#), and

(b) where any amounts have been paid to him from the Transport Retirement Fund—such amount as the Board may determine.

- (4) The amount referred to in paragraph (b) (iii) of the definition of **initial credit** in subsection (1) is, in respect of a contributor so referred to, an amount equal to the sum of—
- (a) an amount of interest on his initial credit, if any, for the period for which he contributed to the Transport Retirement Fund, and
  - (b) an amount of interest on the amount calculated in accordance with paragraph (b) (ii) of that definition, calculated in a manner determined by the Board in respect of that person (regard being had to the respective dates of payment of each of the contributions so referred to),

the interest in each case being calculated at a rate or rates determined by the Board having regard to the average earning rate on the Transport Retirement Fund for each year ending on 30th June that ended during the period referred to in paragraph (a), that average earning rate being calculated in accordance with the formula

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

where, in the application of the formula in respect of a year ending on 30 June—

**I** represents the total amount of interest, dividends and rents credited to the Transport Retirement Fund during that year ending on 30th June, together with any profit derived from the realisation or appreciation of assets, reduced by—

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

**C** represents the amount of the Transport Retirement Fund at the beginning of that year ending on 30 June.

**D** represents the amount of the Transport Retirement Fund at the end of that year ending on 30 June,

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

- (5) For the purposes of this Act, the time at which a person becomes a contributor is, in the case of a person who becomes a contributor on more than one occasion, the later or latest of those occasions, except where the regulations otherwise provide.
- (6) Where a period of service is referred to in this Act in relation to an employee, the period so referred to is a period of continuous employment as an employee, being a

period that is continuous with, and includes, the period of employment by virtue of which he is an employee and, for the purposes of calculating the duration of the period of service of an employee—

- (a) he shall be deemed to have been an employee at a time before the coming into force of the provisions of this Act whereby he is an employee if, had those provisions been in force at that time, he would have been an employee at that time,
- (b) where he became an employee by reason of his being within a class of persons referred to in section 12 (1) (a) (ii), he shall be deemed to have been an employee during any continuous period immediately before he so became an employee during which he participated in, or, in the opinion of the Board, would with the effluxion of time have participated in, a superannuation scheme by virtue of his employment with—
  - (i) an employer, or
  - (ii) such other public or local authority constituted by an Act as the Minister may approve in respect of him,
- (b1) where he became an employee pursuant to an election under subsection (10), he shall be deemed to have been an employee during any continuous period immediately before he so became an employee during which—
  - (i) for any reason based on non-compliance with a requirement as to medical fitness, he was ineligible to participate in a superannuation scheme in which, but for that reason, he would have been eligible to participate, and
  - (ii) he was employed by an employer or such other public or local authority constituted by an Act as the Minister may approve in respect of him,
- (b2) where the employee—
  - (i) was a contributor to the State Superannuation Fund,
  - (ii) made the election referred to in section 12A (1), and
  - (iii) paid an amount to the Board in accordance with section 12A (3),the employee shall be deemed to have been an employee during any continuous period immediately before ceasing to be a contributor to the State Superannuation Fund during which the employee was such a contributor, and
- (c) he shall, if he becomes a contributor pursuant to an election under section 16, be deemed, notwithstanding paragraphs (a) and (b), not to have been an employee during any period before the day that was twelve months earlier than the day on which he becomes a contributor.

- (6A) Notwithstanding subsection (6), the regulations may prescribe that a period specified or described in the regulations is, or is not, a period of service for the purposes of this Act.
- (7) A reference in this Act to the first day of a pay period for or applicable to a person that next follows a specified day or event includes a reference to a pay period for or applicable to that person the first day of which is that specified day or the day on which the specified event occurred.
- (8) A reference in this Act to a description of a person, or to a class of persons, includes a reference to the name of a person and, where the reference is to a class of persons, the class may be described by reference to—
- (a) all persons within a specified class of persons, or
  - (b) all persons within a specified class of persons other than—
    - (i) a specified person or specified persons, or
    - (ii) a specified class, or specified classes, of persons.
- (9) Where this Act provides for the making of an election on a specified day, the Board may arrange for the election to be made in anticipation of that day but—
- (a) an election so made does not take effect before that day, and
  - (b) takes effect only to the extent that, had it not been made, it could be made on that day.
- (10) Where a person is not an employee by reason only of his being a person described in paragraph (d) of the definition of **employee** in subsection (1), he becomes an employee if, within the period of three months after being notified by the Board that he may do so, and while in the employment of an employer, he elects to be subject to the provisions of this Act.
- (11) In this Act, a reference to the amount in respect of which a contributor is contributing to the Fund—
- (a) is a reference to the amount upon which his rate of contribution is based, and
  - (b) does not include any amount referred to in section 26 (3) (b) or 26 (5) (c).

## Part 2

### 4-9 (Repealed)

## Part 3 Employee contributions

### 10 Certain employees may elect to contribute to the Fund

- (1) Subject to section 3 (9), on the day on which an employee completes twelve months' service on or after the appointed day he may, if he has not attained the age of sixty years, elect to contribute to the Fund unless he is a person who will become a contributor pursuant to section 11 or a person referred to in section 12 (2) or 12 (3).
- (2) Where an employee was, immediately before he became an employee, a participant in a superannuation scheme by virtue of his employment he shall, for the purposes of subsection (1), be deemed to have completed twelve months' service—
  - (a) on the day on which he became an employee, or
  - (b) on the day that is twelve months later than the day on which he took up the employment by virtue of which he became a participant in the superannuation scheme,whichever is the later day.
- (3) Where a person who becomes an employee by virtue of an election under section 3 (10) had completed more than nine months' service at the time he first became entitled to make that election, subsection (1) applies to him as if he had completed nine months' service at that time.
- (4) An employee who makes an election under this section shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day on which, pursuant to subsection (1), he is entitled to make the election.

### 11 Certain persons required to contribute to Fund

- (1) On and from the first day of the pay period applicable to him that next succeeds the appointed day, a person who, immediately before the appointed day, is a contributor within the meaning of the *Transport Employees Retirement Benefits Act 1967*, and has not attained the age of thirty years—
  - (a) shall cease to contribute to the Transport Retirement Fund,
  - (b) shall, except to the extent provided by this Act, cease to be entitled to receive any benefit under the *Transport Employees Retirement Benefits Act 1967*, and
  - (c) shall contribute to the Fund at the same rate as the rate at which he was contributing to the Transport Retirement Fund immediately before ceasing to contribute to the Transport Retirement Fund or, if the rate necessary to provide for his minimum benefit immediately before that day is a higher rate, at that higher rate.



- (2) Subject to section 3 (9), a person who will become a contributor pursuant to subsection (1) may, on the appointed day, elect to vary the amount in respect of which he is to contribute to the Fund to an amount that is not less than the minimum benefit, and not more than the maximum benefit, for him at a date determined by the Board.
- (3) Where a person makes an election under subsection (2), the necessary variation in his rate of contribution to the Fund shall take effect on and from a day determined by the Board, being a day that is not earlier than the day on which that person becomes a contributor.

## **12 Certain classes of persons may elect to contribute to the Fund**

- (1) The Minister—
  - (a) by order published in the Gazette may specify a class or classes of persons being either or both of the following classes, namely—
    - (i) a class of employees,
    - (ii) a class of persons in the employment of an employer, being persons who, immediately before the date of publication of the order in the Gazette, were participants in a superannuation scheme by virtue of their employment,
  - (b) shall, where he specifies a class or classes of persons referred to in paragraph (a), declare in the order that a specified date, being a date that is not earlier than 3 months later than the date of publication of the order in the Gazette, is the election date for the purposes of this section in respect of a person within any such class, and
  - (c) shall, where he specifies a class of persons referred to in paragraph (a) (ii), determine terms and conditions of either or both of the following kinds, namely—
    - (i) such terms and conditions as he thinks fit in compliance with which a person within that class may elect on that election date to become a contributor to the Fund,
    - (ii) such terms and conditions as he thinks fit which shall apply to a person within that class who elects on that election date to become a contributor to the Fund.
- (1A) The terms and conditions referred to in subsection (1) (c)—
  - (a) in relation to a person within a class of persons referred to in subsection (1) (a) (ii), may include terms and conditions in relation to the withdrawal from a superannuation scheme and the disposition of money payable to him or on his behalf, or recoverable by him or on his behalf, upon withdrawal from the scheme, and

(b) may be made to vary in their application according to time or circumstance.

(1B) The Board shall notify, in writing, a person referred to in subsection (1) (a) (ii) of the terms and conditions determined in relation to him under subsection (1) (c) as soon as practicable after the publication in the Gazette of the order under subsection (1) that relates to him.

(2) Subject to this section and compliance with any terms and conditions determined under subsection (1) (c) (i) in relation to him, an employee who—

(a) is an employee to whom an election date specified in an order under subsection (1) relates, and

(b) if he were to remain in the employment of an employer until immediately before that election date would complete not less than twelve months' service,

may, subject to section 3 (9), elect on that election date to contribute to the Fund.

(2A) A person within a class of persons referred to in subsection (1) (a) (ii) may, for the purpose of complying with any terms and conditions determined under subsection (1) in relation to him, withdraw from a superannuation scheme in which he was, immediately before the date of publication of the order in the Gazette, a participant by virtue of his employment as if he had resigned, immediately before his withdrawal from the superannuation scheme, from the employment of his employer.

(2B) Where a person within a class of persons referred to in subsection (1) (a) (ii) fails to comply with a term or condition of a kind referred to in subsection (1) (c) (ii), the Board may—

(a) treat the person for the purposes of this Act in such manner, and

(b) take such action,

as will, having regard to the circumstances of the case, on actuarial advice, be reasonably appropriate to deal with the failure.

(2C) Without limiting the generality of subsection (2B), the action which the Board may take under that subsection may include either of the following—

(a) treating the election by the person to contribute to the Fund as having been a nullity and refunding to him an amount equal to the sum of—

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

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

(b) withholding or reducing any benefit payable under this Act to the extent to which the benefit is attributable to the person's employer's contributions to the Fund, or to a lesser extent.

- (3) The Minister may, by order published in the Gazette after the appointed day declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section in respect of—
- (a) a contributor within the meaning of the *Transport Employees Retirement Benefits Act 1967* who attained the age of thirty years on or before the appointed day or an employee within the meaning of that Act who ceased to be such a contributor by reason of his having attained the age of sixty-five years on or before the publication of the order,
  - (b) a contributor to the Account,
  - (c) an officer within the meaning of the *Transport Act 1930* who was not, immediately before the appointed day, a contributor to a superannuation fund or account established under the *Transport Act 1930*, the *Government Railways Act 1912*, the *Superannuation Act 1916*, or the *Transport Employees Retirement Benefits Act 1967*, or
  - (d) a person who elected under section 24 (1) (b) of the *Railways Retirement Fund Act 1964*, or section 17 (2) (b) of the *Transport Employees Retirement Benefits Act 1967*, not to be a contributor.
- (4) Subject to this section, a person in respect of whom an election date has been specified under subsection (3) may, subject to section 3 (9), elect on that election date to contribute to the Fund.
- (5) A person aged sixty years or more is not entitled to make an election under this section unless—
- (a) he has completed ten years' service, or
  - (b) where he has not completed ten years' service—it would, in the opinion of the Board, be possible for him to continue in the service of an employer until he completes ten years' service before retirement.
- (6) Where the employer of a person within a class of persons referred to in subsection (1) (a) (ii) is entitled to be paid on its own behalf, or to recover on its own behalf, or has been paid on its own behalf, or has recovered on its own behalf, money from a superannuation scheme from which the person has withdrawn as a consequence of an order under subsection (1), the Minister may direct the employer, in writing, to pay the money into the Fund.
- (6A) The Board may, in any court of competent jurisdiction, recover as a debt from an employer any money that the employer has been directed to pay into the Fund pursuant to subsection (6).
- (7) Where an election by an employee under this section takes effect, the employee shall

contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day after the last day on which he could have made the election.

- (8) A person referred to in subsection (3) (a) who makes an election under this section shall, upon becoming a contributor, cease to contribute to the Transport Retirement Fund and, except to the extent provided by this Act, shall not be entitled to receive any benefit under the *Transport Employees Retirement Benefits Act 1967*.
- (9) A person referred to in subsection (3) (b) who makes an election under this section shall, upon becoming a contributor, cease to contribute to the Account and, except to the extent provided by this Act shall not be entitled to receive any benefit from the Account.
- (10) A person referred to in subsection (3) (c) shall, upon becoming a contributor, cease to be eligible for any benefit under section 132A of the *Transport Act 1930*.

#### **12A Contributors to State Superannuation Fund becoming employees**

- (1) Subject to subsection (2), a person who, not more than 3 months before becoming an employee, was a contributor to the State Superannuation Fund may, at the time of becoming an employee, elect to contribute to the Fund and to take the benefit of this section.
- (2) A person may not make an election referred to in subsection (1) if—
  - (a) the person has attained the age of 60 years, or
  - (b) immediately before ceasing to be a contributor to the State Superannuation Fund, the person was treated by the State Superannuation Board as if the person were not an employee within the meaning of the *Superannuation Act 1916*.
- (3) An employee who makes the election referred to in subsection (1) shall pay to the Board an amount equivalent to the sum (if any) received by the employee by virtue of ceasing to be a contributor to the State Superannuation Fund or such part thereof as the Board determines in respect of the employee.
- (4) The Board may determine that such part as it may specify of an amount paid to the Board by an employee as referred to in subsection (3) be paid into the Fund on behalf of any other person (whether an employer or not) who previously employed the employee during a period of service in respect of which any benefit payable from the Fund to or in respect of the employee is required to be calculated or may determine that that part be otherwise disbursed to or on behalf of that person.
- (5) An employee who makes the election referred to in subsection (1) shall contribute to the Fund on and from a day determined by the Board.
- (6) Nothing in this section prevents the application of section 10 to a person referred to in

subsection (1) who does not make the election referred to in that subsection.

### **13 Contributions by certain persons aged sixty years or more at time of making election**

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

- (a) he shall contribute to the Fund for the pension benefit referred to in section 26 (7) as if he were contributing for a lump sum benefit and shall, notwithstanding section 18, so contribute at such rate and over such period as is determined by the Board,
- (b) he shall, if he becomes entitled to a benefit from the Fund before he has paid the total amount of contributions that, in the opinion of the Board is the total amount of contributions necessary to provide the benefit for which he is contributing when he becomes so entitled, pay such contributions to the Fund, additional to those already paid by him, as are actuarially determined by the Board as being necessary to provide that benefit or make arrangements satisfactory to the Board for their payment, and
- (c) subject to compliance with paragraph (b), he is entitled to have taken into account in calculating the benefit to which he is entitled under section 26 (7) or to which any other person is entitled under section 28 an allowance of an amount equal to an amount of interest as provided by section 53 on the amount in respect of which he is contributing for the period that commenced on the day on which he attained the age of sixty years and ended on the day on which he retired or sooner died.

### **14 Amount of benefit for which contributor must contribute**

A person who elects to become a contributor shall, upon his election taking effect, contribute to the Fund in respect of an amount that is not less than the minimum benefit for that person nor more than the maximum benefit for that person—

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

### **15 Variation of benefits and contributions**

(1) In this section—

**contributor** means a contributor who has not attained the age of sixty years at his election date.

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

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

- (2) Subject to subsection (7), a contributor may, on a date determined by the Board for the purposes of this subsection in relation to the contributor or within three months thereafter, elect—
- (a) to contribute in respect of an increased amount not exceeding the maximum benefit for the contributor at the review date, or
  - (b) to reduce his rate of contribution to the Fund, but not so that he is contributing in respect of an amount that is less than his minimum benefit at the review date,
- and, except as provided in subsections (3) and (4), the amount in respect of which a contributor is contributing shall not be varied unless it is varied pursuant to such an election.
- (2A) Where an election is made by a contributor for the purposes of subsection (2) (a) or (b) in any year, the election shall be treated as relating to the review date for the contributor for that year, whether or not that review date is specified in the election.
- (3) Except pursuant to an election under subsection (2) (b), where the annual wages of a contributor are reduced, his rate of contribution to the Fund shall not be reduced unless the Board, on the application of the contributor, so approves and, where such an application is approved, the reduced contributions shall be paid on and from a day determined by the Board.
- (4) Where, at a review date for a contributor, the amount in respect of which he is contributing is less than the minimum benefit for the contributor at that date, he shall pay to the Fund such increased contributions as are required to be made in respect of an amount equal to that minimum benefit.
- (5) Where, as a result of an election under subsection (2) (b) or an application under subsection (3), a contributor's rate of contribution to the Fund is reduced—
- (a) a refund of any amount by which a past contribution to the Fund exceeded the reduced rate shall not be made,
  - (b) the amounts by which any of his past contributions to the Fund exceeded the reduced rate shall, subject to section 17, be taken into account when calculating any benefit to which he is entitled.
- (6) Where a contributor makes an election under subsection (2) or his rate of contribution to the Fund is increased under subsection (4), his contributions to the Fund at the varied rate shall be paid on and from a day determined by the Board that is not earlier than the election date nor more than three months after that date.
- (7) A contributor who is aged fifty years or more at his election date may not elect under subsection (2) (a) to increase the amount in respect of which he is contributing to the Fund to an amount greater than the amount ascertained in accordance with the

formula—

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

where—

**a** represents the contributor's annual wages at his next preceding review date within the meaning of this section.

**b** represents the sum of the amount in respect of which the contributor was contributing immediately before the election and the amount of his initial credit benefit if any.

**c** represents the contributor's annual wages at his review date that next preceded the review date referred to in the definition of the symbol **a**.

## **16 Periodic opportunities to elect to become a contributor**

(1) This section applies to—

(a) an employee who—

- (i) has not attained the age of sixty years, and
- (ii) having been entitled to elect under section 10 (1), or under this section, to become a contributor has failed to do so,

(b) an employee referred to in section 12 (1) (a) (i) or 12 (3) (d) who—

- (i) has not attained the age of sixty years, and
- (ii) having been entitled to elect under that section or under this section, to become a contributor has failed to do so, and

(c) an employee who—

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

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

(3) An employee to whom this section applies may, on or before the day appointed by a

notification published under subsection (2) or, where more than one such notification has been published, on or before the day appointed by the later or latest such notification, elect to contribute to the Fund.

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

### **17 Certain moneys to be paid to Employees Reserve Account**

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

### **18 Rates of contribution**

- (1) Where a person is liable initially to contribute to the Fund or becomes liable to contribute to the Fund in respect of an increased amount, the amount of his initial fortnightly contribution or, as the case may be, the amount of his additional fortnightly contribution in respect of that increased amount is the amount determined in accordance with the formula—

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

where—

**c** represents the amount of the fortnightly contribution or, as the case may be, the additional fortnightly contribution, to be paid by the contributor to the Fund.

**b** represents the amount in respect of which or, as the case may be, the amount of the increase in respect of which, the contributor is liable to contribute.

**r** represents the amount specified—

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

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

**z** is to be disregarded where the calculation to be made is a calculation relating to a contribution in respect of an increased amount but otherwise represents the amount of twelve cents.



- (2) (Repealed)
- (3) Where the rate at which a contributor is contributing to the Fund is reduced before he attains the age of sixty years, the amount in respect of which he is contributing at the reduced rate is the amount determined by the Board on an actuarial basis as the reduced amount in respect of which he is contributing.
- (4) Where a contribution to the fund that, but for this subsection, would be payable to the Fund by a contributor includes a fraction of a cent, the contribution shall be increased to the next higher whole cent.

### **19 Payment of contributions**

- (1) Subject to subsection (2), contributions required to be paid to the Fund shall be deducted by employers from the salaries or wages of contributors at each payment thereof and shall be paid by employers to the Board within a period of fourteen days from the date of deduction.
- (2) Subsection (1) does not apply to or in respect of contributions that, with the approval of the Board, are to be paid by the contributor directly to the Board.
- (3) Where the amount of a contribution that has been deducted from the salary or wages of a contributor and paid to the Fund, or paid directly by a contributor to the Fund, exceeds the amount of the contribution that should have been paid to the Fund, the Board may refund to the contributor the amount of the excess or treat it as a payment made by the contributor under section 24 (1) (b).
- (4) Where the amount of a contribution deducted from the salary or wages of a contributor and paid to the Fund, or paid by a contributor directly to the Fund, is less than the amount of the contribution required to be paid to the Fund, or where a contribution that should have been paid to the Fund is not so paid, the Board may—
  - (a) waive payment of the contribution to the extent that it is unpaid and reduce, to the extent that it considers appropriate having regard to the unpaid amount, the amount in respect of which the contributor would, but for that reduction, be contributing,
  - (b) allow an amount to be transferred from the balance at the contributor's credit under section 24, if any, in payment or part payment of the unpaid amount and interest thereon as provided by section 53, or
  - (c) deduct the unpaid amount, and interest thereon as provided by section 53—
    - (i) where a lump sum benefit is payable—from the total benefit that would otherwise be payable, or
    - (ii) where a pension is payable pursuant to section 26 (7)—from the amount by reference to which the pension is calculated,

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

## 20 Cessation of payment of contributions

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

## 21 Exemption from payment of contributions

- (1) Where—
  - (a) a contributor makes written application to the Board for an exemption under this section, and
  - (b) the Board is satisfied—
    - (i) that adequate provision has been made for the contributor and his family, if any, with respect to the retirement of the contributor, or
    - (ii) that there are other special circumstances which justify his being exempted from the payment of contributions under this Act,

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

- (2) Notwithstanding any other provision of this Act, while an order made under subsection (1) is in force, the person in respect of whom the order was made—
  - (a) shall not be required to contribute to the Fund, and
  - (b) shall be deemed not to be a contributor for the purposes of this Act.

## 22 Election following increase in wages between review date and age of sixty years

- (1) In this section **contributor** includes a person who ceased to be a contributor on his retirement.
- (2) Notwithstanding section 14, where a contributor is aged sixty years or more and, between his review date (within the meaning of section 15) that next preceded his attainment of that age and the day on which he attained that age, the amount of his

annual wages was increased to an amount greater than the multiple of one hundred dollars next higher than the amount of his wages immediately before the increase he shall contribute in respect of the additional amount referred to in subsection (3), unless he makes an election—

- (a) to contribute in respect of a lesser additional amount, or
- (b) not to contribute in respect of an additional amount.

(3) The additional amount in respect of which a contributor shall contribute under subsection (2), if he does not make an election under that subsection, is such an amount that—

- (a) the fraction obtained by dividing the total amount in respect of which he has elected to contribute by his annual wages on his attainment of the age of sixty years—

does not exceed—

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

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

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

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

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

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

### **23 Effect of lapse of period between employment by successive employers**

(1) Where an employee ceases to be employed by an employer and, not having attained

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

- (2) An employee complies with this subsection if—
- (a) not later than the expiration of the period of three months that next succeeds his resumption of employment with an employer, he applies to the Board for its approval to his broken service being reckoned as continuous service,
  - (b) he repays to the Board, or makes arrangements satisfactory to the Board for the payment of, the amount of any benefit under this Act that he received before, or receives after, making his application under paragraph (a) together with interest thereon in accordance with section 53 from the date on which the benefit was paid to him to the date on which he repays it to the Board, and
  - (c) where he would have been a contributor had he continued in the employment of an employer during the period between the cessation of his employment with an employer and his resumption of employment with an employer—he pays to the Board, or makes arrangements satisfactory to the Board for the payment of, the amount of any contributions that would have been payable by him had he so continued in the employment of an employer, together with interest thereon in accordance with section 53 as if he had so continued in the employment of an employer without paying those contributions.
- (3) Where an employee referred to in subsection (1) fails to comply with subsection (2) he shall, for the purposes of the application of this Act to him after the commencement of his employment secondly referred to in subsection (1), be deemed not to have been employed by an employer before that commencement.
- (4) This section applies to and in respect of a person who, having ceased to be an employee by reason of his becoming employed on a part-time basis, again becomes an employee by being employed otherwise than on a part-time basis, and it so applies as if, on ceasing to be an employee, he ceased to be employed by an employer and as if, upon again becoming an employee, he had resumed employment with an employer.

#### **24 Contributor may make additional contributions**

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

- (2) Payments made under subsection (1)—
- (a) form part of the Fund,
  - (b) shall bear interest as provided by section 53,
  - (c) shall not be withdrawn prior to a benefit becoming payable to or in respect of the contributor under this Act,
  - (d) may, on application by the contributor and subject to the approval of the Board, be employed in payment of any arrears of contributions payable by the contributor under this Act.
- (3) Where a contributor ceases for any reason to be employed by an employer, any amount standing to his credit in accordance with this section—
- (a) may be withdrawn by the contributor on a benefit becoming payable to him under this Act,
  - (b) where section 26 (6) or 27 applies to the contributor, may be the subject of an election under section 26 (6) or 27, as the case may be, as if it were an addition to the amount upon which the calculation of the pension is based, or
  - (c) where section 28 applies in respect of the contributor, may be paid as an addition to a benefit payable under that section in respect of the contributor.

## Part 4 Benefits

### 25 Definitions

- (1) For the purpose of calculating the amount of a benefit under this Act, a reference to the amount of a contribution is a reference to the amount paid to the Fund as that contribution, reduced by—
- (a) the value, if any, ascribed to the symbol **z** when calculating the amount of the contribution in accordance with the formula referred to in section 18 (1), and
  - (b) where any part of the contribution was refunded—an amount equal to the amount of the refund.
- (2) Where, during any period of his service, an employee is employed on a part-time basis, the amount of the benefit that would, but for this subsection, be payable to him, or in consequence of his death, shall be reduced as prescribed.

### 26 Benefits

- (1) In this section **prescribed amount** in relation to a contributor to whom subsection (2), (2A), (2B) or (4) applies is the lesser of—

- (a) the amount of the maximum benefit for the contributor together with his initial credit benefit (if any)—
    - (i) where he retires, or is retired, as provided in subsection (2) or (2A) or is retrenched—at the date of his retirement or retrenchment, or
    - (ii) where he retires as provided in subsection (4)—on the day on which he attains the age of sixty years, and
  - (b) an amount equal to the sum of—
    - (i) the total of the amounts of his contributions to the Fund,
    - (ii) the amount of his initial credit, if any, and
    - (iii) interest, as provided by section 53, on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on his attainment of the age of sixty years or his earlier retirement or retrenchment.
    - (iv) (Repealed)
- (1A) In subsections (2) and (4), a reference to the prescribed service is a reference to not less than 5 years' service.
- (2) Where a contributor who has completed the prescribed service ceases to be employed by an employer by reason of his retirement on attaining the age of 60 years at the end of a period of not less than 5 years' continuous service as a contributor, there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (2C).
- (2A) Where a contributor who has completed not less than 10 years' service ceases to be employed by an employer by reason of his retirement through infirmity of body or mind and the Board is satisfied that the infirmity—
- (a) incapacitates the contributor from performing his duties, and
  - (b) is likely to be permanent,
- there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (2C).
- (2B) Where a contributor who has completed not less than 10 years' service ceases to be employed by an employer by reason of his retrenchment, there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (3).
- (2C) The amount payable under subsection (2) or (2A) to a contributor referred to therein is an amount equal to the sum of—

- (a) the prescribed amount for the contributor,
  - (b) an allowance of an amount that is a percentage of the prescribed amount, being the percentage calculated, in accordance with the formula prescribed by Schedule 5, with respect to the number of months of service that had been completed by that person on or before his retirement, and
  - (c) if the contributor has paid contributions to the Fund in accordance with Schedule 3A—an allowance of an amount that is a percentage, being the percentage applicable in relation to the contributor under paragraph (b), of the difference between the prescribed amount and what the prescribed amount would have been if he had instead paid those contributions in accordance with Schedule 4A.
- (3) The amount payable under subsection (2B) to a contributor referred to therein is an amount equal to the sum of—
- (a) the prescribed amount for the contributor, and
  - (b) an allowance of an amount that is a percentage of the prescribed amount, being the percentage calculated, in accordance with the formula prescribed by Schedule 5, with respect to the number of months of service that had been completed by that person on or before his retrenchment.
- (4) Where a contributor (not being a contributor who attained the age of sixty years on or before his election date under section 12) continues in the service of an employer after he attains the age of sixty years and then retires after completing the prescribed service and at the end of a period of not less than 5 years' continuous service as a contributor, there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (5).
- (5) The amount payable under subsection (4) to a contributor referred to therein is an amount equal to the sum of—
- (a) an amount equal to the sum of—
    - (i) the total of the amounts of his contributions to the Fund, and
    - (ii) the amount of his initial credit, if any,
  - (b) interest, as provided by section 53, on the amounts referred to in paragraph (a) in respect of the period that commenced on the day on which he became a contributor and ended on the day on which he retired, and
  - (c) an allowance of an amount that is a percentage, being the percentage calculated, in accordance with the formula prescribed by Schedule 5, with respect to the number of months of service that had been completed by the contributor before his retirement, of the total of—

- (i) the maximum amount for the contributor or the amount of the benefit for which he was contributing, being the benefit, including his initial credit benefit (if any), related to his annual wage at the age of 60 years, whichever is the lesser amount, and
- (ii) interest on the lesser amount referred to in subparagraph (i) at the rate of 5½ per centum per annum compounded annually from the day on which he attained the age of 60 years until the day on which he retired.

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

(6) An election for the purposes of subsection (7) may be made by a contributor who retires on or after his attainment of the age of sixty years and, but for—

- (a) his having completed, on his retirement, a period of less than five years' continuous service as a contributor, or
- (b) his having attained the age of sixty years on or before his election date under section 12,

would be entitled to a benefit under subsection (2), (2A) or (4).

(7) There shall be paid from the Fund to a contributor referred to in subsection (6) and in accordance with his election—

- (a) a pension for himself for life on and from the day that next succeeds his retirement,
- (b) a pension for himself for life on and from the day that next succeeds his retirement with an increase of ten per centum in the amount thereof at the expiration of the period of three years that next succeeds the first payment of pension and at the expiration of each succeeding period of three years, each such increase being calculated by reference to the rate at which that first payment of pension was made,
- (c) a pension for himself for life on and from the day following his retirement and, if his spouse at the date on which the pension becomes payable is living at his death, a pension for that spouse for life, on and from the day that next succeeds his death, of an amount equal to five-eighths of the pension payable to him immediately before his death, or
- (d) pensions as provided in paragraph (c), with either pension, or with both pensions, as may be specified in the election, being increased as provided in the case of a pension referred to in paragraph (b).



- (8) The amount payable to a contributor as a pension under subsection (7) is the amount that, in the opinion of the Board, is the actuarial equivalent of the total benefit that would, but for a circumstance referred to in subsection (6) (a) or (6) (b), have been payable to him.

## **27 Alternative benefits**

- (1) This section does not apply to a contributor entitled to make an election under section 26 (6) but applies to any contributor who is entitled to an amount under section 26 because of his ceasing to be employed by an employer—
- (a) by reason of his retirement aged sixty years or more, or
  - (b) where he is aged fifty years or more, by reason of his retirement through infirmity of body or mind where the Board is satisfied that the infirmity—
    - (i) incapacitates the contributor from performing his duties, and
    - (ii) is likely to be permanent, or
  - (c) where he is aged fifty years or more, by reason of his retrenchment.
- (2) Where a person to whom this section applies so elects in relation to the whole or part of the lump sum benefit to which, but for the election and the operation of this section, he would be entitled under section 26 there shall be paid from the Fund instead of the lump sum benefit or part thereof to which the election relates—
- (a) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment,
  - (b) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment with an increase of ten per centum in the amount thereof at the expiration of the period of three years that next succeeds the first payment of pension and at the expiration of each succeeding period of three years, each such increase being calculated by reference to the rate at which that first payment of pension was made,
  - (c) a pension for himself for life on and from the day following his retirement or retrenchment and, if his spouse at the date on which the benefit under section 26 would have been payable is living at his death, a pension for that spouse for life, on and from the day that next succeeds his death of an amount equal to five-eighths of the pension payable to him immediately before his death, or
  - (d) pensions as provided in paragraph (c), with either pension, or with both pensions, as may be specified in the election, being increased as provided in the case of a pension referred to in paragraph (b).
- (3) An election under subsection (2)—

- (a) shall be made not later than three months before the day on which the lump sum benefit to which the election relates becomes payable,
  - (b) takes effect on the day on which any part of that lump sum benefit becomes, or would but for the election have become, payable,
  - (c) has no force or effect if the person who made the election dies before the election takes effect.
- (4) The amount of pension payable pursuant to an election under this section is the amount determined by the Board to be the actuarial equivalent of the lump sum benefit, or part thereof, to which the election relates, regard being had to any other pension, and any increase of pension, to which the election relates.
- (5) A widow to whom a pension referred to in subsection (2) (c) or (2) (d) is being paid may, at any time, elect to commute the whole or part of that pension and, upon such an election taking effect, there shall be paid to the widow from the fund, instead of the pension or part thereof to which the election relates, an amount of lump sum benefit determined by the Board to be the actuarial equivalent of the pension or part thereof to which the election relates.
- (6) Subsection (5) does not authorise the commutation of the amount of any increase of pension payable under Part 4A.

#### **27A Pension to be paid to eligible surviving spouse or de facto partner**

- (1) Despite any other provision of this Act, a pension is payable, on the death of a former contributor who elected to take a pension referred to in section 26 (7) (c) or 27 (2) (c), to an eligible surviving spouse or de facto partner who became the spouse or de facto partner of the former contributor after the time the pension became payable to the former contributor.

**Note—**

“De facto partner” is defined in section 21C of the [Interpretation Act 1987](#).

- (2) The amount of the pension to be paid is—
- (a) if the former contributor and eligible surviving spouse or de facto partner had been married or de facto partners for 3 years or more immediately before the death—an amount equal to five-eighths of the pension payable to the former contributor immediately before the death of the former contributor, or
  - (b) if the former contributor and eligible surviving spouse or de facto partner had been married or de facto partners for less than 3 years immediately before the death—an amount 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) A pension under this section is to be paid to an eligible surviving spouse or de facto partner for life on and from the day following the death of the former contributor and is to be increased as provided in the case of a pension referred to in section 26 (7) (b) or 27 (2) (b).

(4) In this section—

***eligible surviving spouse or de facto partner*** of a deceased former contributor means a person who has or had in his or her marriage or relationship with the deceased former contributor a child, being—

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

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

## **28 Benefit for certain dependants**

(1) Subject to this section, where the employment of a contributor ceases because of his death, there shall be paid from the fund to—

(a) his widow,

(b) if he died without leaving a widow—any child of his or his spouse who was, in the opinion of the Board, dependent on him immediately before his death, or

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

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

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

(a) in the case of a contributor who, before he died, had completed not less than ten years' service or, if he had attained the age of 60 years before he died, had completed not less than 5 years' service—

(i) if the contributor would, had he retired, or had he been retired, immediately before he died, have been entitled to a lump sum benefit—an amount equal to the total amount of that lump sum benefit, or

(ii) if the contributor would, had he retired, or had he been retired, immediately before he died, not have been so entitled—an amount equal to the amount by reference to which his pension would have been calculated, or

- (b) in any other case—an amount equal to the amount that would have been payable under section 30 had it applied to and in respect of the contributor immediately before he died.
- (3) Where a contributor with not less than 5 years' service dies aged sixty years or more and does not leave a widow or any dependant, there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such other person or persons as the Board may determine, an amount equal to the amount that, pursuant to subsection (2) (a) would have been payable from the Fund had he left a widow or dependant.
- (4) Where a contributor dies and a benefit is not payable pursuant to subsection (1) or (3), there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such person or persons as the Board may determine, a lump sum benefit of an amount equal to the amount that would have been payable under section 30 had it applied to and in respect of the contributor immediately before he died.
- (5) Where a child is eligible to receive a lump sum benefit under this section, the Board—
- (a) may, if there is a guardian of the child and the Board is satisfied that the amount of the benefit or some part thereof would, if paid to the guardian, be used for the maintenance, education and advancement of the child, pay that amount or part to the guardian, or
- (b) may, if the Board is not so satisfied or if there is no such guardian, expend the amount of the benefit, or any part thereof, for the benefit of the child in such manner as is determined by the Board.
- (6) Where more than one person is entitled to a benefit under this section, the Board shall apportion the benefit among them as it thinks fit.
- (7) The payment of any benefit or part of a benefit by the Board under this section discharges the Board and the Fund from all liability in respect of the benefit or part.

## **29 Alternative benefits for widow**

- (1) This section applies to a widow to whom, except to the extent that she otherwise elects under this section, a lump sum benefit is payable under section 28.
- (2) Where a widow to whom this section applies so elects in relation to the whole or part of the lump sum benefit to which, but for the election and the operation of this section, she would be entitled under section 28 there shall be paid to her from the Fund instead of the lump sum benefit or part thereof to which the election relates—
- (a) in the case of a widow aged fifty years or more—
- (i) a pension for herself for life on and from the day that next succeeds the death

of the contributor, or

- (ii) a pension for herself for life on and from the day that next succeeds the death of the contributor with an increase of ten per centum in the amount thereof at the expiration of the period of three years that next succeeds the first payment of pension and at the expiration of each succeeding period of three years, each such increase being calculated by reference to the rate at which the first payment of pension was made, or
  - (b) an annuity certain for a term of five years on and from the day that next succeeds the death of the contributor.
- (3) A widow to whom a pension referred to in subsection (2) (a) is being paid may, at any time, elect to commute the whole or part of that pension and, upon such an election taking effect there shall be paid to the widow from the Fund, instead of the pension or part thereof to which the election relates, an amount of lump sum benefit determined by the Board to be the actuarial equivalent of the pension or part thereof to which the election relates.
  - (4) The amount of pension or annuity payable pursuant to an election under subsection (2) is the amount determined by the Board to be the actuarial equivalent of the lump sum benefit, or part thereof, to which the election relates, regard being had to any increase of pension to which the election relates.
  - (5) Where the recipient under this Act of an annuity certain dies before the expiration of the term of the annuity, the Board may pay to the person entitled to receive payment of the annuity a lump sum that is the actuarial equivalent of payment of the annuity for the balance of the term thereof.
  - (6) An election under subsection (2) or (3) has no force or effect if the person who made the election dies before the election takes effect.
  - (7) This section does not authorise the commutation of the amount of any increase of pension payable under Part 4A.

### **30 Withdrawal benefit**

Subject to section 62, where a person who is a contributor ceases to be employed by an employer or, by reason of an order made under section 21 (1), ceases to be liable to contribute to the Fund and, but for this section, there would not be payable under this Act to or in respect of that person any lump sum benefit or pension or annuity, there shall be paid to him from the Fund as a lump sum benefit or, where he is deceased, to his personal representatives or, where he is deceased and has no personal representatives, to such person as the Board may determine—

- (a) in the case of a person, not being a person in respect of whom an order is in force under section 21 (1), who had been a contributor to the Transport Retirement Fund

and, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the sum of—

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

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

(b) (Repealed)

(c) in the case of a person who, at the time he ceased to be employed by an employer or ceased to be liable to contribute to the Fund, had completed less than ten years' service, an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund,

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

(iii) interest as provided by section 53 on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on the date on which he ceased to be employed by an employer or ceased to be liable to contribute to the Fund,

(d) in the case of a person who, at the time he ceased to be employed by an employer or ceased to be liable to contribute to the Fund, had completed not less than ten years' service, an amount equal to the sum of—

(i) the amount to which he would be entitled if paragraph (c) were applicable to him, and

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

### **31 Certain benefit must be not less than certain amount**

(1) This section applies to and in respect of—

(a) a contributor who is retired from the service of his employer through infirmity of body or mind, where the Board is satisfied that the infirmity—

(i) incapacitates the contributor from performing his duties, and

(ii) is likely to be permanent, and

(b) a contributor who dies if, in consequence of his death, a lump sum benefit becomes payable under section 28 (1).

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

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

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

where—

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

**n** represents the number of months of service completed by him at that time, and

(b) the amount that—

(i) where the contributor is retired or dies before he attains the age of sixty years—would have been payable to him under this Act had he retired on attaining the age of sixty years at the end of a period of not less than five years' continuous service as a contributor after having continued until that retirement to pay to the Fund contributions at the same rate as the rate at which he was paying them immediately before he was retired or died, as the case may be, or

(ii) where the contributor is retired or dies on or after attaining the age of sixty years—would have been paid to him under this Act if, on the day on which he is retired or dies, he had retired at the end of a period of not less than five years' continuous service as a contributor.

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

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

## Part 4A 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 this Act, but does not include so much of a pension as is referable to an addition to the amount upon which the calculation of the pension is based, as referred to in section 24 (3) (b).

**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 1975, and ending on and including 30 June 1976, 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—

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

- (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—

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

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 1 July in the particular year, and
  - (b) a person who was the spouse of a pensioner immediately before the pensioner's death, where the pensioner last became a pensioner on or before 1 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 59A 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 1st April in that year, and
- (b) a person who was the spouse of a pensioner immediately before the pensioner's death, where the 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—

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

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)—the person's late pensioner spouse 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 59A not been enacted.

### **31E Special provisions applicable to certain classes of pensions**

(1) In this section, **special pension** means a pension payable under section 26 (7) (b) or (d), section 27 (2) (b) or (d) or section 29 (2) (a) (ii).

(2) For the purposes of this section—

- (a) a person in receipt of a special pension shall be deemed also to be in receipt of a notional pension,
- (b) that notional pension is the pension that, in the opinion of the Board, would be payable if that person's pension had always been payable under section 26 (7) (a) or (c), section 27 (2) (a) or (c) or section 29 (2) (a) (i), as the case may require,

and

(c) that notional pension shall be deemed to be adjusted under this Part as if it were the pension actually payable to that person.

(3) Notwithstanding anything in this Part, where a person's notional pension is deemed to be adjusted by an amount, his special pension shall be adjusted by that amount, instead of by any other amount.

(4) Nothing in subsection (3) affects the operation of the provisions of section 26 (7) (b) or (d), section 27 (2) (b) or (d) or section 29 (2) (a) (ii) in so far as they provide for the increase of a special pension.

### **31F 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 the person's being the spouse 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 the person's being the spouse of a pensioner shall not be reduced below the fortnightly amount that would have been payable by reference to the pension that would, if this Part had not been enacted, have been payable to the late pensioner.

### **31G 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 spouse of a deceased pensioner or contributor, the employer in whose service the pensioner or deceased pensioner was employed at the date of his retirement, or in whose service the contributor was employed at the date of his death, 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 32 (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 32 (2) to be made to the Board.

### **31H 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.

## Part 5 Employer contributions

### 32 Payment of contributions by, and apportionment of contributions among, employers

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

**primary employer** in relation to such a contributor means the person who was the employer of the contributor immediately before that benefit became payable.

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

- (2) Where a benefit becomes payable from the Fund to or in respect of a contributor in respect of whom this section applies, the primary employer of the contributor shall, without further appropriation than this Act, pay to the Board—
- (a) where the benefit is a lump sum payable under section 26 (2) or (2A), an amount equal to the sum of—
- (i) the amount of the allowance in relation to the contributor under section 26 (2C) (b), and
  - (ii) the amount, if any, of the allowance in relation to the contributor under section 26 (2C) (c),
- (a1) where the benefit is a lump sum payable under section 26 (2B)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (3) (b),
- (b) where the benefit is a lump sum payable under section 26 (4)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (5) (c),
- (c) where, pursuant to section 28, an amount is payable that is equal to the amount that would have been payable in specified circumstances under another provision of this Act—an amount equal to the amount that would have been payable under this subsection if a lump sum benefit had been paid under that other provision in those circumstances,
- (d) where the benefit is a lump sum payable under section 30 (d)—an amount equal to the amount of the allowance in relation to the contributor under section 30 (d) (ii),

- (e) where the benefit is a lump sum payable in accordance with section 31—an amount equal to the sum of—
    - (i) one-half of the amount, if any, by which the lump sum payable under that section exceeds the lump sum benefit that would be payable if that section had not been enacted, and
    - (ii) the payments, if any, which the primary employer of the contributor would be required to make if that section had not been enacted and if the liability of the employer were determined under paragraph (a) or (c), or as the case may require,
  - (f) where the benefit is a pension payable pursuant to section 26 (7), 27 or 29—an amount that bears to the total amount of that pension in respect of a period specified by the Board the same proportion as is borne to the amount referred to in section 26 (8), 27 (4) or 29 (4), as the case may be, in relation to the pension by so much of the amount so referred to as is calculated by reference to section 26 (2C) (b) and (c), 26 (3) (b) or 26 (5) (c).
- (3) Where, pursuant to subsection (2), the primary employer of a contributor in respect of whom this section applies is required to make a payment, the Board shall serve the notice prescribed by subsection (4) on any secondary employer of the contributor and shall furnish the primary employer of the contributor with a copy thereof.
- (4) For the purposes of subsection (3), the notice for service on a secondary employer of a contributor in respect of whom this section applies is a notice to the effect that the secondary employer is liable to pay to the primary employer of the contributor a specified amount within a specified time, that amount being an amount determined by the Board on an actuarial basis having regard to—
- (a) the amount of the contributions to the Fund by the contributor, and the amount in respect of which he was contributing, while he was employed by that secondary employer, and
  - (b) such other matters as the Board thinks fit.
- (5) Where a notice is, pursuant to subsection (3) served on a secondary employer and the secondary employer fails, within the time specified in the notice, to pay to the primary employer so specified the amount so specified, that primary employer may, in a court of competent jurisdiction, recover from that secondary employer as a debt the amount so specified.
- (6) A reference in subsection (2) (f) to a pension does not include the amount of any increase payable under Part 4A.

### 33 Liability for initial credit

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

### 34 Payments by employer to reserve

- (1) Where, on the appointed day, any amount stands to the credit of an employer under section 31 of the *Transport Employees Retirement Benefits Act 1967*, the Board shall, without any further authority than this Act, transfer that amount to the Fund and shall credit the same amount to the employer in the books of the Board.
- (2) The Board shall pay to the Fund, and shall credit to an employer in the books of the Board, such proportion of any amount (including interest) repaid to the Board pursuant to section 23 (2) (b) as the Board determines to be that employer's proportion of that amount.
- (3) An employer may, with the approval of the Governor given on the recommendation of the Treasurer and the Board, pay to the Fund as part of his operating expenses for the financial year in which the payment is made, such amounts as the employer may determine.
- (3A) The Board shall credit to an employer, in the books of the Board—
  - (a) any money paid into the Fund by the employer in accordance with a direction under section 12 (6) (or section 12 (6) as applied by section 66 (3)),
  - (b) any money recovered by the Board from the employer under section 12 (6A) (or section 12 (6A) as applied by section 66 (3)), and
  - (c) any money paid into the Fund by or in relation to a contributor on behalf of the employer as may be required by terms and conditions referred to in section 12 (1) (c) or in accordance with a determination of the Board under section 12A (4).
- (4) Where an employer is required to make a payment under this Act or under section 29 of the *Transport Employees Retirement Benefits Act 1967*, the payment may be made from the amount credited to the employer under this section.
- (5) An amount standing to the credit of an employer pursuant to this section shall bear interest as provided by section 53.
- (6) Where an amount is paid into the Fund on behalf of a person other than an employer as required by terms and conditions referred to in section 12 (1) (c) or in accordance with a determination of the Board under section 12A (4), the provisions of subsections (3A), (4) and (5) apply to and in respect of that person in the same way as those provisions apply to and in respect of an employer.

## **Part 6 Management expenses**

**35-49 (Repealed)**

## **Part 7 Loans to contributors**

**50 (Repealed)**

## **Part 8 Assurance policies**

**51 (Repealed)**

### **52 Re-assignment by Board of policy of assurance**

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

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

## **Part 9 General provisions**

### **53 Moneys payable to and by the Board and interest thereon**

- (1) Where, pursuant to this Act, any moneys are payable to the Board, payment of the moneys becomes overdue—
  - (a) if it is not made within the period prescribed for payment of the moneys,
  - (b) if a time for payment of the moneys is prescribed otherwise than by reference to a specified period—if it is not made within fourteen days after that time, or
  - (c) in any other case—if it is not made within fourteen days after service by the Board on the person obliged to pay the moneys of a requisition for payment of the moneys.
- (2) Interest is payable to the Board on moneys overdue for payment and is so payable on and from the day on which payment of the moneys becomes overdue to the day on which payment of the moneys is made, but the Board may, in special circumstances and in a particular case, waive payment of any such interest or part thereof.
- (3) Moneys payable to the Board that are overdue for payment, and interest thereon as provided by this section, are recoverable by the Board in a court of competent jurisdiction as a debt.
- (4) Where interest is payable to the Board pursuant to this section or payable to or by the



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

- (5) Where interest is payable from the Fund on amounts paid to the Fund at different times during a financial year, the interest on those amounts shall, subject to this section, be calculated in a manner determined by the Board.
- (6) For the purposes of subsection (4), the prescribed rate of interest is—
- (a) in the case of interest payable pursuant to—
    - (i) paragraph (b) of the definition of **initial credit benefit** in section 3 (1),
    - (ii) section 13 (c),
    - (iii) section 23 (2) (b) and section 23 (2) (c),
    - (iv) section 26 (1) (b) (iii) and section 26 (5) (b),
    - (v) section 30 (c) (iii),
    - (vi) section 51 (4) (b), and
    - (vii) section 52 (b)—the rate per annum for the time being determined by order of the Board,
  - (b) in any other case, section 50 excepted, the rate per annum for the time being determined by order of the Board.
- (7) An order under subsection (6) may be made to vary according to time or circumstance.

#### **54 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 that by this Act are required or permitted to be prescribed or that are necessary or convenient for carrying out or giving effect to this Act.
- (2) A regulation may be made for the purposes of—
- (a) section 3 (5), so as to relate to an occasion, or
  - (b) section 3 (6A), so as to relate to a period,
- which occurred or commenced, as the case may be, before, on or after the date of assent to the [New South Wales Retirement Benefits \(Further Amendment\) Act 1983](#), but any such regulation may only have effect with respect to a contributor who dies,

retires or is retired on or after the date on which the regulation takes effect.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
- (b) apply differently according to different factors of a specified kind, or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

### **55 Provision of certain evidence**

- (1) For the purposes of this Act, the Board may require to be produced such evidence of the age, marriage, dependency or death of any person as it deems necessary and in default of the production of any such evidence the Board may itself obtain the evidence and deduct the expense incurred in obtaining it from any moneys payable from the Fund to the person required to produce the evidence.
- (2) Where, pursuant to subsection (1), the Board obtains evidence that a contributor failed to produce but sufficient moneys are not immediately payable from the Fund to the contributor to reimburse the Board for the expense incurred in obtaining the evidence, the employer of the contributor shall, on the requisition of the Board, deduct from the salary or wages of the contributor next payable the difference, as certified by the Board in the requisition, between the amount of the expenditure so incurred and the moneys immediately payable from the Fund and shall forward the amount so deducted to the Board.

### **56 Board may require certain information**

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

### **57 Benefits are not assignable etc**

- (1) 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 the *Family Provision Act 1982*,
  - (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 the *Family Provision Act 1982* 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 (Repealed)**

### **59A Suspension of part of pension in certain circumstances**

- (1) Notwithstanding anything in this Act, where a person entitled to receive a pension payable under this Act (including any increase payable under Part 4A) 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 4A, 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 that person's being the spouse of a pensioner, be taken into account as if it had been payable.

#### **60 Payment where beneficiary incapable**

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

#### **60A 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.

#### **61 Medical examination**

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

## **62 Eligibility to contribute to superannuation scheme**

- (1) This section has effect notwithstanding anything in this or any other Act.
- (2) Where a contributor would, but for this subsection, be entitled or required to participate in a superannuation scheme by reason of a change in his employment classification within the service of his employer, he may not participate in the superannuation scheme unless, not later than three months after the change in his employment classification, he elects not to contribute to the Fund.
- (3) Where a contributor ceases to be employed by an employer and, not more than three months later, being under the age of sixty years, he takes up employment with another person (whether an employer or not) by virtue of which he would, if he failed to comply with paragraphs (a), (b) and (c), be entitled or required to participate in a superannuation scheme, he may not participate in the superannuation scheme, and he continues as a contributor, if—
  - (a) within three months after taking up employment with that other person, he elects to continue to be subject to the provisions of this Act,
  - (b) he complies with section 23 (2) (b) as if his election under paragraph (a) were the application referred to in section 23 (2) (a), and
  - (c) he complies with section 23 (2) (c) as if his taking up of employment with that other person were the resumption of employment referred to in section 23 (2) (c).
- (4) A contributor who makes the election referred to in subsection (2) does not, on that account, cease to be a contributor until he participates in the superannuation scheme so referred to.
- (5) Where, pursuant to subsection (3), a person continues as a contributor—
  - (a) the person with whom he took up employment as referred to in that subsection shall be, and shall be deemed to have been on and from the commencement of the employment, an employer in relation to the contributor, and
  - (b) the contributor shall be deemed to have complied with section 23 (2).
- (6) Where a contributor elects, in the circumstances referred to in subsection (2), not to contribute to the Fund and pursuant to the superannuation scheme so referred to he elects to pay as a contribution under that scheme moneys paid under this Act, there shall, whatever the length of his service, be paid to his employer on his behalf from the Fund an amount equal to the amount that would have been payable to him pursuant to section 30 if, on becoming a participant in the superannuation scheme, he—
  - (a) had completed not less than five but less than ten, years' service, and

- (b) had ceased to be employed by an employer.
- (7) Moneys paid to an employer pursuant to subsection (6) on behalf of an employee shall be paid by the employer—
  - (a) in accordance with the requirements of the superannuation scheme in which the employee becomes a participant, and
  - (b) to the extent of any amount not required for the purposes of paragraph (a)—to the employee.
- (8) Where a contributor elects, in the circumstances referred to in subsection (2), not to contribute to the Fund and—
  - (a) the superannuation scheme so referred to entitles him to elect to pay as a contribution under that scheme moneys paid to him under this Act, but does not so elect, or
  - (b) the superannuation scheme so referred to does not entitle him so to elect,there shall be paid to him from the Fund an amount equal to the amount that would be paid to him pursuant to section 30 (section 30 (d) (ii) excepted) if, on becoming a participant in the superannuation scheme, he ceased to be employed by an employer.

### **63 Introduction of new superannuation schemes prohibited in certain circumstances**

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

### **64 Amendment of Schedules 2 and 2A**

- (1) On the recommendation of the Minister, the Governor may, by order published on the NSW legislation website, amend Schedule 2 by inserting matter therein or by omitting matter therefrom and may, by the same or a different order so published, make a declaration for the purposes of subsection (3).
- (1A) On the recommendation of the Minister, the Governor may, by order published on the NSW legislation website, amend Schedule 2A by inserting matter therein or by omitting matter therefrom.
- (2) An order under subsection (1) or (1A) takes effect on the day of its publication on the NSW legislation website or, where the order specifies that it takes effect on a specified later day, on that later day.
- (3) Where the Governor, by an order under subsection (1), so declares in relation to the

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

- (4) The name of an association of employees may, by an order under subsection (1) be added to the First Column of Schedule 2 if a substantial number of the members of the association are contributors.
- (5) An order may not be made under subsection (1) or (1A) if it would operate to deprive a person of any right conferred upon him by this Act before the making of the order.

## **65 Elections and applications**

An election or application under this Act—

- (a) shall be in writing,
- (b) shall, subject to this Act, be deemed not to have been validly made unless it is received in the office of the Board before the time on or before which it is required to be made,
- (c) may, with the approval of the Board, be amended or revoked, and
- (d) except where otherwise provided, takes effect on a day determined by the Board in respect thereof.

## **66 Restoration of lost right etc under Act**

- (1) Where a person is entitled to exercise a right or enjoy a privilege or benefit under this Act and, without having exercised the right or enjoyed the privilege or benefit, he ceases to be entitled so to do, he may exercise the right or enjoy the privilege or benefit if—
  - (a) the Board, being satisfied that it is just and equitable that it should do so, gives its consent to the exercise by him of the right or the enjoyment by him of the benefit or privilege, and
  - (b) he fulfils any conditions, and complies with any requirements, imposed by the Board in giving its consent.
- (2) Where pursuant to subsection (1) the Board consents to an election, or an application to the Board, being made after the time before which, but for that consent, it should have been made, the Board may, if it thinks fit, deal with the election or application as

if it had been made before that time.

- (3) Without limiting the generality of subsection (2), subsections (6) and (6A) of section 12 apply to and in respect of the employer of a person who makes an election under this section and who was, immediately before he made the election, a participant in a superannuation scheme by virtue of his employment, in the same way as those subsections apply to and in respect of the employer of a person referred to in section 12 (1) (a) (ii) who makes an election under section 12 (2).

#### **67 Amendment of Act No 96, 1967**

- (1) (Repealed)
- (2) A person who, immediately before the appointed day, was a member of the Transport Retirement Board constituted under the *Transport Employees Retirement Benefits Act 1967* is not entitled to any compensation by reason of his ceasing to hold office as such a member.
- (3) On and from the day appointed pursuant to section 2 (3)—
- (a) all real and personal property, including all investments, cash on deposit or in hand and all books, accounts, records, certificates and deeds and all right and interest therein and all management and control thereof that, immediately before that day, were vested in the Transport Retirement Board constituted under the *Transport Employees Retirement Benefits Act 1967*, are vested in the Board,
  - (b) all moneys and liquidated and unliquidated claims that, immediately before that day were payable to, or recoverable by, the Transport Retirement Board so constituted are payable to, and recoverable by, the Board,
  - (c) all suits, actions and proceedings pending immediately before that day at the suit of or against the Transport Retirement Board so constituted are suits, actions and proceedings pending at the suit of or, as the case may be, against the Board,
  - (d) all contracts, agreements and undertakings entered into with, and all securities given to or by, the Transport Retirement Board so constituted and in force immediately before that day shall be deemed to be contracts, agreements and undertakings, entered into with, and securities given to or by, the Board,
  - (e) the Board may pursue the same remedies for the recovery of moneys and the enforcement of claims, and may prosecute and defend the same actions, suits and proceedings as might, but for this section, have been pursued, prosecuted or defended by the Transport Retirement Board so constituted,
  - (f) the Board may enforce and realise any security or charge in favour of the Transport Retirement Board so constituted that was in force immediately before that day as if it were a security or charge in favour of the Board, and



(g) all debts and moneys that, immediately before that day, were due or payable to, and all liquidated and unliquidated claims that, immediately before that day, were recoverable against the Transport Retirement Board so constituted are debts due by, moneys payable by, and claims recoverable against the Board.

(h) (Repealed)

(4) On and from the appointed day—

(a) a person who, immediately before that day, was employed by the Transport Retirement Board constituted under the *Transport Employees Retirement Benefits Act 1967*, becomes an employee of the New South Wales Retirement Board and his service with the Transport Retirement Board shall be reckoned as service with the New South Wales Retirement Board,

(b) a person referred to in paragraph (a) shall be paid salary or wages at a rate not less than the rate that was payable to him immediately before that day, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males or females, as the case may require, for the time being in force pursuant to Part 5 of the *Industrial Arbitration Act 1940*, and

(c) where a condition of employment of a person referred to in paragraph (a) was, immediately before that day, regulated by an award or industrial agreement, the condition shall continue so to be regulated until an award or industrial agreement that is binding on the Board is made to regulate the condition.

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

(a) a member of the Board, who shall be chairman of, and convene meetings of, the Review Committee,

(b) a nominee of the Auditor-General, and

(c) the Government Actuary.

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

## **68-72 (Repealed)**

## **73 Election to convert certain pensions in 1977**

(1) A person in receipt of a pension under—

(a) section 26 (7) (b) may elect to convert his pension to a pension under section 26 (7) (a),

- (b) section 26 (7) (d) may elect to convert his pension to a pension under section 26 (7) (c), or
  - (c) section 29 (2) (a) (ii) may elect to convert her pension to a pension under section 29 (2) (a) (i).
- (2) An election under subsection (1) may only be made during a period determined by the Minister and specified in the Gazette.
- (3) Only one period may be determined under subsection (2), and the period shall—
- (a) commence before 1 May 1977,
  - (b) end before 1 August 1977, and
  - (c) be not less than 2 months in length.
- (4) The pension payable to a person consequent on an election under subsection (1) taking effect is the amount that, in the opinion of the Board, is the pension that would be payable if—
- (a) the pension, and
  - (b) where the pension is calculated by reference to the pension payable to that person's deceased spouse—the lastmentioned pension,
- had always been payable under section 26 (7) (a) or (c) or section 29 (2) (a) (i), as the case may require.
- (5) Any necessary adjustment shall be made in the amount of pension payable for any period before, as well as after, an election under subsection (1) to convert the pension takes effect.

#### **74 Savings and transitional provisions**

Schedule 1 has effect.

### **Schedule 1 Savings and transitional provisions**

(Section 74)

#### **1 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.

## 2 Repeal of Acts does not affect operation of savings, transitional and other provisions

- (1) Despite the repeal of the Acts listed in Column 1 of the Table to this subclause, the provisions listed in Column 2 continue to have effect and are taken to have been transferred to this Act.

### Table

| Column 1  | Column 2                         |
|---|----------------------------------|
| <i>New South Wales Retirement Benefits (Amendment) Act 1976</i>         | Clauses 2, 3 and 7 of Schedule 6 |
| <i>New South Wales Retirement Benefits (Amendment) Act 1979</i>         | Sections 3, 5 and 6              |
| <i>New South Wales Retirement Benefits (Further Amendment) Act 1983</i> | Clauses 2 and 3 of Schedule 2    |

- (2) The provisions listed in Column 2 of the Table to subclause (1) are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

## Schedule 2

(Sections 3 (1), 64)

| First Column<br>Employers                      | Second Column<br>Employees             |
|--|--|
| Board of Fire Commissioners of New South Wales | All persons employed by the Board.     |
| Builders Licensing Board                       | All persons employed by the Board.     |
| Dairy Industry Marketing Authority             | All persons employed by the Authority. |
| Fish Marketing Authority                       | All persons employed by the Authority. |
| Government Insurance Office of New South Wales | All persons employed by the Office.    |
| Metropolitan Waste Disposal Authority          | All persons employed by the Authority. |

|   |   |
|---|---|
| New South Wales Meat Industry Authority                                   | All persons employed by the Authority.                        |
| New South Wales Retirement Board  | All persons employed by the Board.                            |
| Pacific Power   | All persons employed by Pacific Power.                        |
| Rail Corporation  | All persons employed by the Corporation.                      |
| Urban Transit Authority   | All persons employed by the Authority.                        |
| The Commissioner for Main Roads   | All persons employed by the Commissioner.                     |
| The Commissioner for Motor Transport                                      | All persons employed by the Commissioner.                     |
| The Crown or a Minister of the Crown                                      | All persons employed by the Crown or a Minister of the Crown. |
| The Hunter Valley Conservation Trust                                      | All persons employed by the Trust.                            |
| Water Administration Ministerial Corporation                              | All persons employed by the Ministerial Corporation.          |
| Water and Sewerage Employees Union (Salaried Division and Wages Division) | All appointed officers and staff.                             |
| Bathurst Orange Development Corporation                                   | All persons employed by the Corporation.                      |
| Hawkesbury Agricultural College   | All persons employed by the College.                          |
| Orange Agricultural College   | All persons employed by the College.                          |
| Homebush Abattoir Corporation   | All persons employed by the Corporation.                      |
| New South Wales Film Corporation  | All persons employed by the Corporation.                      |
| Riverina College of Advanced Education                                    | All persons employed by the College.                          |
| Clann Limited   | All persons employed.   |
| Australian Transport Officers Federation (New South Wales Division)       | All appointed officers.                                       |
| The trustees of a state conservation area                                 | All persons employed by the trustees of any such area.        |

**Editorial note—**

See *New South Wales Retirements Benefits (Amendment) Act 1973*, sec 4 (2) which specified Schedule 2 to that Act as Schedule 2 to this Act, and the *New South Wales Retirement Benefits (Amendment) Act 1976*, sec 8 which revoked orders relating to the Schedule as so specified. See the Historical notes for information about this Schedule as subsequently substituted and amended.

## **Schedule 2A Persons employed on a part-time basis**

(Section 3 (1A) (a))

- 1** A person (other than a person referred to in clause 1A) who is employed as part of the ancillary staff in the Department of Education and—
  - (a) as a General Assistant has ordinary weekly working hours totalling less than 40,
  - (b) as a Clerical Assistant (Library) employed in a Secondary or Central School has ordinary weekly

working hours totalling less than 36 $\frac{1}{4}$ ,

(c) as a—

- (i) Senior Clerical Assistant, Grade 1 or 2,
- (ii) Clerical Assistant,
- (iii) Clerical Assistant (Library) employed in a Primary School,
- (iv) Clerical Aide,
- (v) Teachers Aide,
- (vi) Teachers Aide (Special), or
- (vii) Science Attendant,

has ordinary weekly working hours totalling less than 31 $\frac{1}{4}$ .

- 1A** A person who is employed as part of the ancillary staff in the Department of Education and who, being so employed—
- (a) at the one School in more than one of the classifications referred to in clause 1 (b) or (c), or
  - (b) at more than one School in one or more of those classifications,
- has ordinary weekly working hours totalling less than 30.
- 2** A person who is employed as a Farm Assistant in a School and has ordinary weekly working hours totalling less than 40.
- 3** A person who is part of the General Division of the Public Service, is employed in the Department of Education and has ordinary weekly working hours totalling less than 35.
- 4** A person who is employed as a Kitchen Assistant in a School and has ordinary weekly working hours totalling less than 33 $\frac{3}{4}$ .
- 5** A person who is employed in the Government Stores Department as a Female School Cleaner and has ordinary weekly working hours totalling less than 33.
- 6** A person who is employed in the Government Stores Department as a Male School Cleaner and has ordinary weekly working hours totalling less than 40.
- 7** A person who is employed by Rail Corporation as part of the Trading and Catering Staff and has ordinary weekly working hours totalling less than 40 or, in the case of a member of a train catering crew, has ordinary fortnightly working hours totalling less than 80.
- 8** A person who is employed by Rail Corporation as a Rest House Attendant and has ordinary weekly working hours totalling less than 40 or ordinary fortnightly working hours totalling less than 80.

## Schedule 3 Table of contributions

(Section 18 (1))

| <b>First Column</b>      | <b>Second Column</b>   |
|--------------------------|--|
| <b>Age next birthday</b> | <b>Fortnightly rate of contribution for \$1,000 of the amount in respect of which contributions will be made</b> |
|                          | <b>\$</b>  |
| 16                       | 0.22   |
| 17                       | 0.24   |
| 18                       | 0.25   |
| 19                       | 0.27   |
| 20                       | 0.28   |
| 21                       | 0.30   |
| 22                       | 0.32   |
| 23                       | 0.34   |
| 24                       | 0.36   |
| 25                       | 0.38   |
| 26                       | 0.41   |
| 27                       | 0.44   |
| 28                       | 0.47   |
| 29                       | 0.50   |
| 30                       | 0.53   |
| 31                       | 0.57   |
| 32                       | 0.61   |
| 33                       | 0.65   |
| 34                       | 0.70   |
| 35                       | 0.75   |
| 36                       | 0.81   |
| 37                       | 0.87   |
| 38                       | 0.94   |

|    |      |
|----|------|
| 39 | 1.02 |
| 40 | 1.10 |
| 41 | 1.20 |
| 42 | 1.30 |
| 43 | 1.42 |
| 44 | 1.56 |
| 45 | 1.72 |
| 46 | 1.90 |
| 47 | 2.10 |
| 48 | 2.35 |
| 49 | 2.64 |
| 50 | 2.99 |

### **Schedule 3A Table of contributors**

(Section 18 (1))

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

## Schedule 4 (Repealed)

### Schedule 4A Table of notional contributions

(Section 26)

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

**Note—**

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

## Schedule 5

(Sections 26 (2C) (b), 26 (3) (b), 26 (5) (c), 30 (d) (ii))

The formula prescribed by this Schedule is as follows—

$$\frac{200 \times I}{C + D - 1}$$

where—

***n*** represents the number of completed months of service of the contributor or, where that number is greater than 480, 480.

***S*** represents a percentage rounded off to 3 decimal places.



## Schedule 6 Table of allowances

(Section 3 (2))

| <b>First Column</b>  | <b>Second Column</b>   |
|--|--|
| <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 " "  |