NEW SOUTH WALES RETIREMENT BENEFITS BILL.

Schedule of the Amendment referred to in Legislative Council's Message of 16 *November,* 1972.

Page 62, clause 64. *After* line 26 *insert*—

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

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 8 *November,* 1972.

The LEGISLATIVE COUNCIL *has this day agreed to this Bill with an Amendment.*

A. W. SAXON,
Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, 16 *November,* 1972.

New South Wales

ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1972.

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

BE

94053 53—A

NOTE.—The words to be *inserted* are printed in **black letter.**

New South Wales Retirement Benefits.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title and division of Act.

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

(2) This Act is divided as follows : —

PART I.—PRELIMINARY—*ss.* 1–3.

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

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

PART IV.—BENEFITS—*ss.* 25–31.

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

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

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

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

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

SCHEDULES.

Commencement.

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

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

(3)

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

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

Interpretation.

3. (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);

"average

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

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

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

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

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

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

"contributor" means—

(a) a person who is contributing, or is liable to contribute, to the Fund;

(b) a person who was so contributing, or was liable so to contribute, but ceased, pursuant to section 20 (1) so to contribute; and

(c) a person eligible for a benefit under this Act calculated by reference only to his initial credit;

"contributor to the Account" means a person who is contributing to the Account;

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

"employee"

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

(a) does not include a person who is not, by the terms of his employment with that employer, precluded from engaging in other paid employment;

(b) does not include a person who is not within a class of persons specified in the Second Column of Schedule 1 or 2;

(c) does not, except in the case of—

(i) a person referred to in section 11 or 12 (3); or

(ii) a person who is within a class of persons to which regulations under section 12 (6) relate,

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

(d) subject to subsection (10), does not include a person who, for any reason based on non-compliance with a requirement as to medical fitness, is ineligible to participate in a superannuation scheme in which, but for that reason, he would be eligible to participate;

(e) does not include a person who, being eligible to contribute to the Fund established under the Superannuation Act, 1916, has been granted exemption from contributing thereto;

(f) does not include a person who, by an act or omission not involving a requirement as to medical fitness, renders himself ineligible to participate in a superannuation scheme in which, but for the act or omission, he would be eligible to participate; and

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

"employer" means—

(a) the Crown or a Minister of the Crown;

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

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

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

"initial credit" means—

(a) in relation to a contributor who, before he became a contributor, was a contributor to the Account—an amount equal to the sum of—

(i) the total amount of his contributions to the Account before he ceased to contribute thereto pursuant to section 12 (9) reduced, where any amounts have been paid to him pursuant to Part IX of the Government Railways Act, 1912, by an amount determined by the Board; and

(ii) an allowance of an amount calculated as provided by subsection (2);

(b) in relation to a contributor who, before he became a contributor, was a contributor to the Transport Retirement Fund—an amount equal to the sum of—

(i) the amount of his initial credit, if any, within the meaning of the Transport Employees Retirement Benefits Act, 1967, immediately before he became a contributor;

(ii)

(ii) an amount calculated as provided by subsection (3);

(iii) an amount calculated as provided by subsection (4);

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

(a) his initial credit; and

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

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

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

"regulations" means regulations made under this Act;

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

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

(a) by reason of the expiration of the term of service for which the employee was engaged; or

(b) where the employee was engaged until certain work ceased to be available—by reason of that work ceasing to be available;

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

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

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

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

(3)

(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 his behalf to the Transport Retirement Fund before he became a contributor under this Act, reduced by the sum of—

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

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

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

(a) an amount of interest on his initial credit, if any, for the period for which he contributed to the Transport Retirement Fund; and

(b) an amount of interest on the amount calculated in accordance with paragraph (b) (ii) of that definition, calculated in a manner determined by the Board in respect of that person (regard being had to the respective dates of payment of each of the contributions so referred to),

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

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

where,

where, in the application of the formula in respect of a financial year—

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

(a) the amount of any interest charges against the Transport Retirement Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Transport Retirement Fund;

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

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

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

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

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

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

(b)

(b) any period during which, by the operation of paragraph (c) or (d) of the definition of "employee" in subsection (1) he was not an employee shall, if he became an employee pursuant to regulations referred to in section 12 (6) or pursuant to an election under subsection (10), be reckoned as if he had been an employee during that period;

(c) he shall, if he becomes a contributor pursuant to an election under section 16, be deemed, notwithstanding paragraphs (a) and (b), not to have been an employee during any period before the day that was twelve months earlier than the day on which he becomes a contributor.

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

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

(a) all persons within a specified class of persons; or

(b) all persons within a specified class of persons other than—

(i) a specified person or specified persons; or

(ii) a specified class, or specified classes, of persons.

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

(a) an election so made does not take effect before that day; and

(b) takes effect only to the extent that, had it not been made, it could be made on that day.

(10)

(10) Where a person is not an employee by reason only of his being a person described in paragraph (d) of the definition of "employee" in subsection (1), he becomes an employee if, within the period three months after being notified by the Board that he may do so, and while in the employment of an employer, he elects to be subject to the provisions of this Act.

PART II.

THE NEW SOUTH WALES RETIREMENT FUND.

Establishment of New South Wales Retirement Fund.

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

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

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

Power to invest Fund.

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

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

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

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

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

8. (1) In this section— Guaranteed minimum interest yield.

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

$$1.0275\ I$$

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

(a) the amount of any interest charges against the Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Fund as referred to in section 48;

"formula

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

$$0.0275\ (A + B)$$

where—

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

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

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

(a) the amount ascertained in accordance with formula X in respect of that financial year;

(b) the sum of the amounts ascertained in accordance with formula X in respect of each preceding financial year; and

(c) the total amount, if any, paid by employers under subsection (3) before the end of that financial year;

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

(a) the amount ascertained in accordance with formula Y in respect of that financial year; and

(b) the sum of the amounts ascertained in accordance with formula Y in respect of each preceding financial year.

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

(3) Where the Board certifies—

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

(b) that in respect of a financial year succeeding the financial year referred to in paragraph (a), prescribed amount Y exceeded prescribed amount X,

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

Actuarial investigation of Fund.

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

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

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

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

PART

PART III.

EMPLOYEE CONTRIBUTIONS.

Certain employees may elect to contribute to the Fund.

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

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

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

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

whichever is the later day.

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

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

Certain persons required to contribute to Fund.

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

(a) shall cease to contribute to the Transport Retirement Fund;

(b) shall, except to the extent provided by this Act, cease to be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967; and

(c) shall contribute to the Fund at the same rate as the rate at which he was contributing to the Transport Retirement Fund immediately before ceasing to contribute to the Transport Retirement Fund or, if the rate necessary to provide for his minimum benefit immediately before that day is a higher rate, at that higher rate.

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

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

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

12. (1) The Minister may, by order published in the Gazette, declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section for an employee within the meaning of this Act who is within a class of persons specified in the order.

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

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

(b) if he were to remain in the employment of an employer until immediately before that election date, would complete not less than twelve months' service, may, subject to section 3 (9), elect on that election date, to contribute to the Fund.

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

(a) a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, who attained the age of thirty years on or before the appointed day or an employee within the meaning of that Act who ceased to be such a contributor by reason of his having attained the age of sixty-five years on or before the publication of the order;

(b) a contributor to the Account;

(c) an officer within the meaning of the Transport Act, 1930, who was not, immediately before the appointed day, a contributor to a superannuation fund or account established under the Transport

Act,

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

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

(8) A person referred to in subsection (3) (a) who makes an election under this section shall, upon becoming a contributor, cease to contribute to the Transport Retirement Fund and, except to the extent provided by this Act, shall not be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967.

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

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

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

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

(a) he shall, notwithstanding section 18, contribute to the Fund at such rate and over such period as is determined by the Board;

(b) he shall, if he becomes entitled to a benefit from the Fund before he has paid the total amount of contributions that, in the opinion of the Board is the total amount of contributions necessary to provide the lump sum benefit for which he is contributing when he becomes so entitled, pay such contributions to the Fund, additional to those already paid by him, as are actuarially determined by the Board as being necessary to provide that lump sum benefit or make arrangements satisfactory to the Board for their payment; and

(c) subject to compliance with paragraph (b), he is entitled to have added to that lump sum benefit an allowance of an amount equal to an amount of interest on that lump sum benefit as provided by section 53 for the period that commenced on the

day

day on which he attained the age of sixty years and ended on the day on which he retired or sooner died.

Amount of lump sum benefit for which contributor must contribute.

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

(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.

Variation of benefits and contributions.

15. (1) In this section—

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

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

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

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

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

(b)

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

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

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

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

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

(a) a refund of any amount by which a past contribution to the Fund exceeded the reduced rate shall not be made; and

(b) the amounts by which any of his past contributions to the Fund exceeded the reduced rate shall, subject to section 17, form part of his lump sum benefit.

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

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

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

where—

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

"b" represents the sum of the amount of the lump sum benefit for which the contributor was contributing immediately before the election and the amount of his initial credit benefit if any;

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

16. (1) This section applies to— **Periodic opportunities to elect to become a contributor.**

(a) an employee who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under section 10 (1), or under this section, to become a contributor has failed to do so;

(b) an employee referred to in section 12 (2) or 12 (3) (d) who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under that section, or under this section, to become a contributor has failed to do so; and

(c)

(c) an employee who—

(i) has not attained the age of sixty years; and

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

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

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

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

Certain moneys to be paid to Employees Reserve Account.

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

18.

Rates of contribution.

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

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

where—

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

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

"r" represents the amount specified—

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

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

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

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

(a) the amount of twelve cents; or

(b)

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

(i) became, by the operation of section 10 of the Transport Employees Retirement Benefits Act, 1967, a contributor within the meaning of that Act;

(ii) became, by the operation of section 12 of the Railways Retirement Fund Act, 1964, a contributor within the meaning of that Act; or

(iii) being a person referred to in section 12 (1) (b) or 12 (1) (c) of the Transport Employees Retirement Benefits Act, 1967, elected to contribute to the Transport Retirement Fund under section 12 (1) of that Act and is contributing under Scale 1 and Scale 2 of Schedule 2 to that Act—

the amount of seven cents.

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

(a) becomes a contributor;

(b) elects under section 15 (2) (a) to contribute for an increased lump sum benefit; or

(c) is required under section 15 (4) to increase his contributions to the Fund,

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

(3) Where the rate at which a contributor is contributing to the Fund is reduced before he attains the age of sixty years, the lump sum benefit for which he is contributing at the reduced rate is the amount determined by the Board on an actuarial basis as the reduced amount of lump sum benefit for which he is contributing.

(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.

Payment of contributions.

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

(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

than the amount of the contribution required to be paid to the Fund, or where a contribution that should have been paid to the Fund is not so paid, the Board may—

(a) waive payment of the contribution to the extent that it is unpaid and reduce, to the extent that it considers appropriate having regard to the unpaid amount, the amount of the lump sum benefit for which the contributor would, but for that reduction, be eligible;

(b) allow an amount to be transferred from the balance at the contributor's credit under section 24, if any, in payment or part payment of the unpaid amount and interest thereon as provided by section 53; or

(c) deduct from the amount of the lump sum benefit that would otherwise be payable the unpaid amount and interest thereon as provided by section 53,

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

Cessation of payment of contributions.

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

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

(3)

(3) Where a contributor who has made an election under section 18 (2) is aged sixty years or more and a benefit for which he is contributing emerges before he has completed payment in accordance with that election of the total contributions that are necessary to provide the benefit, the Board may deduct from the benefit such contributions additional to those already paid as are actuarially determined by the Board to be necessary to provide the benefit, unless those additional contributions are sooner paid.

Exemption from payment of contributions.

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

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

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

22. (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 may, subject to this section, elect to contribute for an additional lump sum benefit not exceeding the amount referred to in subsection (3).

(3)

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

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

does not exceed—

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

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

(a) the increase is effective from a day that was earlier than the day on which he attained that age; and

(b) was payable in respect of a period that included the day on which he attained that age.

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

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

(b) where the increase in annual wages is paid after the attainment by the contributor of that age—within three months after the day on which the increase is paid.

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

Effect of lapse of period between employment by successive employers.

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

(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.

Contributor may make additional contributions.

24. (1) A contributor may—

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

(b) pay directly to the Fund any amount additional to those contributions.

(2) Payments made under subsection (1)—

(a) form part of the Fund;

(b) shall bear interest as provided by section 53;

(c) shall not be withdrawn prior to a benefit becoming payable to or in respect of the contributor under this Act;

(d) may, on application by the contributor and subject to the approval of the Board, be employed in payment of any arrears of contributions payable by the contributor under this Act.

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

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

(b) where section 27 applies to the contributor, may be the subject of an election under that section as if it were an addition to the lump sum benefit that, but for the election, would be payable under section 26; or

(c) where section 28 applies in respect of the contributor, may be paid as an addition to a benefit payable under that section in respect of the contributor.

PART IV.

BENEFITS.

Interpretation.

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

(a) the value, if any, ascribed to the symbol "z" when calculating the amount of the contribution in accordance with the formula referred to in section 18 (1); and

(b) where any part of the contribution was refunded—an amount equal to the amount of the refund.

Benefits.

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

(a) the amount of the maximum benefit for the contributor—

(i) where he retires, or is retired, as provided in subsection (2) or is retrenched—at the date of his retirement or retrenchment; or

(ii) where he retires as provided in subsection (4)—on the day on which he attains the age of sixty years; and

(b) an amount equal to the sum of—

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

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

(iii) interest, as provided by section 53, on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on his attainment of the age of sixty years or his earlier retirement or retrenchment; and

(iv) in the case of a contributor aged sixty years or more, the amount determined by the Board to be the actuarial equivalent of contributions (if any) remaining to be paid by him pursuant to an election under section 18 (2).

(2) Where a contributor who has completed not less than ten years' service ceases to be employed by an employer by reason of—

(a) his retirement on attaining the age of sixty years;

(b) his retirement through infirmity of body or mind, where the Board is satisfied that the infirmity—

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

(ii) is likely to be permanent; or

(c) his retrenchment,

there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (3).

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

(a) the prescribed amount for the contributor; and

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

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

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

(a) the prescribed amount for the contributor;

(b) interest as provided by section 53 on the amounts referred to in paragraph (a) in respect of the period that commenced on the date on which he attained the age of sixty years and ended on the date on which he retired; and

(c) an allowance of an amount that is a percentage of the total of the amounts calculated under paragraphs (a) and (b), being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by the contributor before his retirement.

27. (1) This section applies to a contributor who has completed not less than ten years' service and ceases to be employed by an employer— Alternative benefits.

(a) by reason of his retirement aged sixty years or more; or

(b) where he is aged fifty years or more, by reason of his retirement through infirmity of body or mind where the Board is satisfied that the infirmity—

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

(ii) is likely to be permanent; or

(c) where he is aged fifty years or more, by reason of his retrenchment.

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

(a) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment;

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

(c) a pension for himself for life on and from the day following his retirement or retrenchment and, if his spouse at the date on which the benefit under section 26 would have been payable is living at his death, a pension for that spouse for life, on and

from

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.

Benefit for certain dependants.

28. (1) Subject to this section, where a contributor dies before he is paid any benefit under this Act, there shall be paid from the Fund to—

(a) his widow;

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

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

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

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

(a) in the case of a contributor who, before he died, had completed not less than ten years' service—an amount equal to the amount that would have been paid to the contributor under section 26 had he retired immediately before he died; or

(b) in any other case—an amount equal to the amount that would have been payable under section 30 had it applied to and in respect of the contributor immediately before he died.

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

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

as

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. (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. Alternative benefits for widow.

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

she

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.

Withdrawal benefit.

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

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

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

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

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

(b) in the case of any other person who, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the total of the amounts of his contributions to the Fund;

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

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

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

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

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

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

(ii) an allowance of an amount that is a percentage of the amount referred to in subparagraph (i), being one-half of the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before the cessation of his employment.

31. (1) This section applies to and in respect of— Certain benefit must be not less than certain amount.

(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—

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

where—

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

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

and

(b) the amount that—

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

(ii)

(ii) where the contributor is retired or dies on or after attaining the age of sixty years—

would have been paid to him under this Act if, on the day on which he is retired or dies, he had retired otherwise than as referred to in subsection (1) (a).

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

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

PART V.

EMPLOYER CONTRIBUTIONS.

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

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

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

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

(2)

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

(b) where the lump sum benefit is payable under section 26 (4)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (5) (c);

(c) where, pursuant to section 28, an amount is payable that is equal to the amount that would have been payable in specified circumstances under another provision of this Act—an amount equal to the amount that would have been payable under this subsection if a lump sum benefit had been paid under that other provision in those circumstances;

(d) where the lump sum benefit is payable under section 30 (d)—an amount equal to the amount of the allowance in relation to the contributor under section 30 (d) (ii);

(e) where the lump sum benefit is payable in accordance with section 31—an amount equal to the sum of—

(i) one-half of the amount, if any, by which the lump sum payable under that section exceeds the lump sum benefit that would be payable if that section had not been enacted; and

(ii) the payments, if any, which the primary employer of the contributor would be required to make if that section had not

been

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

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

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

(a) the amount of the contributions to the Fund by the contributor, and the amount of the lump sum benefit for which he was contributing, while he was employed by that secondary employer; and

(b) such other matters as the Board thinks fit.

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

Liability for initial credit.

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

Payments by employer to reserve.

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

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

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

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

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

PART

PART VI.

THE NEW SOUTH WALES RETIREMENT BOARD.

Constitution of New South Wales Retirement Board.

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

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

(a) for a period not exceeding five years; and

(b) on such terms and conditions as the Governor thinks fit, including terms and conditions for or with respect to preserving rights accrued or accruing under any Act.

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

(a) one shall, in and by the instrument of his appointment or by a subsequent instrument, be appointed as Chairman;

(b) one may, in like manner, be appointed as executive member;

(c) one shall, in like manner, be appointed as contributor member;

(d) one shall, in like manner, be appointed as employer member.

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

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

Deputies for members.

36. The Governor may appoint—

(a) subject to section 37, a deputy to act for the Chairman—

(i) during the illness or absence of the Chairman; or

(ii) where there is an executive member, during the illness or absence of both the Chairman and the executive member;

(b) where there is an executive member, a deputy to act (otherwise than pursuant to section 37) for the executive member during his illness or absence; and

(c) deputies to act respectively for the contributor member or the employer member during the illness or absence of the member for whom he is the deputy,

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

Executive member to act as Chairman in certain circumstances.

37. Where there is an executive member of the Board, he shall have and may exercise, during the illness or absence of the Chairman, the powers, authorities, duties and functions of the Chairman.

Casual vacancies.

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

Certain acts, etc., not invalidated.

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

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

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

Vacation of office.

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

(a) dies;

(b) becomes bankrupt or compounds with his creditors;

(c) absents himself from three consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Governor;

(d) becomes a mentally ill person, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958;

(e) resigns his office by writing under his hand addressed to the Minister and the resignation is accepted by the Governor; or

(f) attains the age of sixty-five years.

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

Remuneration and fees payable to members.

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

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

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

Quorum.

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

Chairman to have casting vote.

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

Powers, etc., of Board.

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

46.

Delegation by Board.

46. (1) The Board may delegate any of its powers, authorities, duties or functions under this Act or under the regulations, except this power of delegation, to any member or employee of the Board.

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

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

Staff of Board.

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

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

Cost of management of Fund.

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

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

49. The Board shall, as soon as practicable after the end of a financial year, submit a report to the Minister giving information as to its operations and as to any general decisions adopted by it in the course thereof during that financial year. Report by Board.

PART VII.

Loans to Contributors.

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

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

(b) any amount standing to his credit pursuant to section 24.

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

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

(4) Where a benefit becomes payable under section 26, 28, 30 or 31 in respect of a contributor to whom a loan has been made under subsection (1) before the loan has been fully repaid with interest thereon, the amount of the benefit shall be reduced by the amount of the loan and interest thereon unpaid at the date the benefit became payable.

PART VIII.

Assurance Policies.

Board may accept assignment of certain policies of assurance.

51. (1) In this section "pensioner" means—

(a) a person who receives a lump sum benefit under this Act by reason of his having been a contributor;

(b) a person who receives a lump sum benefit under this Act as the widow or child of a person who was a contributor;

(c) a person who is in receipt of a pension pursuant to an election under section 27 or 29; or

(d) a person who commutes a pension under section 27 (5) or 29 (3).

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

(3) Where the life of a contributor or pensioner, or the life of his spouse, is insured under a policy to which this section applies, the Board may, on the application of the contributor or pensioner, accept an assignment to it of the policy.

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

(a) the total amount of the premiums paid by the Board; and

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

Re-assignment by Board of policy of assurance.

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

(a) the total amount of the premiums paid by the Board; and

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

PART

PART IX.

General Provisions.

Moneys payable to and by the Board and interest thereon.

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

(a) if it is not made within the period prescribed for payment of the moneys;

(b) if a time for payment of the moneys is prescribed otherwise than by reference to a specified period—if it is not made within fourteen days after that time; or

(c) in any other case—if it is not made within fourteen days after service by the Board on the person obliged to pay the moneys of a requisition for payment of the moneys.

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

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

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

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

(6)

(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)—

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

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

(i) the rate prescribed for that case; or

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

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

Regulations.

54. 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.

55.

Provision of certain evidence.

55. (1) For the purposes of this Act, the Board may require to be produced such evidence of the age, marriage, dependency or death of any person as it deems necessary and in default of the production of any such evidence the Board may itself obtain the evidence and deduct the expense incurred in obtaining it from any moneys payable from the Fund to the person required to produce the evidence.

(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.

Board may require certain information.

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

Benefits are not assignable, etc.

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

Estates not exceeding $1,000.

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

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

(b)

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

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

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

Disputes and appeals.

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

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

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

Payment where beneficiary incapable.

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

(2)

(2) Any payment made under subsection (1) shall be deemed to have been made to the person entitled to the benefit.

Medical examination.

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

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

Eligibility to contribute to superannuation scheme.

62. (1) This section has effect notwithstanding anything in this or any other Act.

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

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

which

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).

Introduction of new superannuation schemes prohibited in certain circumstances.

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

Amendment of Schedule 2.

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

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

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

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

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

Elections and applications.

65. An election or application under this Act—

(a) shall be in writing;

(b) shall, subject to this Act, be deemed not to have been validly made unless it is received in the office of the Board before the time on or before which it is required to be made;

(c) may, with the approval of the Board, be amended or revoked; and

(d)

(d) except where otherwise provided, takes effect on a day determined by the Board in respect thereof.

Restoration of lost right, etc., under Act.

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

(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.

Amendment of Act No. 96, 1967.

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

Sec. 2. (Division of Act.)

(a) by omitting from section 2 the matter relating to Part IV;

Sec. 3. (Interpretation.)

(b) (i) by omitting from section 3 (1) the definition of "Board" and by inserting instead the following definition:—

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

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

(iii)

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

; or

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

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

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

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

(d) by omitting from section 8 (3) the word "application" and by inserting instead the word "appreciation"; Sec. 8. (Guaranteed minimum interest yield.)

(e) (i) by omitting from section 9 (1) the word "seventy" and by inserting instead the word "seventy-seven"; Sec. 9. (Triennial investigation of Fund.)

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

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

(f) by omitting Part IV; Part IV. (The Transport Retirement Board.)

(g) by omitting from section 65 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board"; Sec. 65. (References to Railways Retirement Fund Board in Acts, ordinances, etc.)

(h) by omitting from Schedule 1 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board". Sch. 1.

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

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

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

(b) all moneys and liquidated and unliquidated claims that, immediately before that day were payable to, or recoverable by, the Transport Retirement Board so constituted are payable to, and recoverable by, the Board;

(c) all suits, actions and proceedings pending immediately before that day at the suit of or against the Transport Retirement Board so constituted are suits, actions and proceedings pending at the suit of or, as the case may be, against the Board;

(d) all contracts, agreements and undertakings entered into with, and all securities given to or by, the Transport Retirement Board so constituted and in force immediately before that day shall be deemed to be contracts, agreements and undertakings, entered into with, and securities given to or by, the Board;

(e) the Board may pursue the same remedies for the recovery of moneys and the enforcement of claims, and may prosecute and defend the same actions, suits and proceedings as might, but for this section, have been pursued, prosecuted or defended by the Transport Retirement Board so constituted;

(f) the Board may enforce and realise any security or charge in favour of the Transport Retirement Board so constituted that was in force immediately before that day as if it were a security or charge in favour of the Board;

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

(h) a reference, whether express or implied, in any Act (other than this Act) ordinance, order, regulation or by-law or in any other instrument or document (other than an instrument or document appointing a member of the Transport Retirement Board) to the Transport Retirement Board shall be read and construed as a reference to the Board.

(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 V of the Industrial Arbitration Act, 1940; and

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

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

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

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

(c) the Government Actuary.

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

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

Variation of benefits.

14. (1) In this section—

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

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

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

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

(a) in the case of a contributor who is contributing for his ordinary minimum benefit—for the ordinary minimum benefit appropriate for his higher wage group;

(b) in the case of a contributor who is contributing for his maximum benefit—for the maximum benefit appropriate for his higher wage group; or

(c) in the case of a contributor who had nominated a benefit wage factor—for the lesser of—

(i) the maximum benefit appropriate for his higher wage group; and

(ii) a lump sum benefit calculated by applying to the upper level of the wage group in which his increased salary falls the benefit wage factor last nominated by him before that review date and by deducting from the resulting amount so much of his initial credit benefit, if any, as is a multiple of one hundred dollars.

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

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

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

(a) where the review date for the contributor is not determined as provided by subsection (4)—on and from the first day of the pay period next following a date determined by the Board in relation to the contributor for the purposes of this section; or

(b) where the review date for the contributor is determined as provided by subsection (4)—on and from the first day of the pay period next following the date with effect from which the annual wages of the contributor were increased.

69. The Government Railways Act, 1912, is amended by omitting section 109A and by inserting instead the following section :— Amendment of Act No. 30, 1912. Subst. sec. 109A.

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

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

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

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

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

SCHEDULES.

SCHEDULES.

SCHEDULE 1

Sec. 3 (1).

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

SCHEDULE 2

Sec. 3 (1).
Sec. 64.

First Column	Second Column
Employers	Employees

SCHEDULE

SCHEDULE 3

Sec. 18 (1).

TABLE OF CONTRIBUTIONS

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

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

SCHEDULE 4

Sec. 18 (2).

TABLE OF CONTRIBUTIONS

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

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

SCHEDULE 5

Sec. 26.

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

SCHEDULE 6

Sec. 3 (2).

TABLE OF ALLOWANCES

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account	Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account
45 years and over	100·0 per centum	23 years	41·1 per centum
44 years	96·0 " "	22 "	39·2 " "
43 "	92·0 " "	21 "	37·3 " "
42 "	88·0 " "	20 "	35·4 " "
41 "	84·0 " "	19 "	33·5 " "
40 "	80·0 " "	18 "	31·6 " "
39 "	76·0 " "	17 "	29·8 " "
38 "	73·0 " "	16 "	28·0 " "
37 "	70·0 " "	15 "	26·2 " "
36 "	67·0 " "	14 "	24·4 " "
35 "	65·0 " "	13 "	22·6 " "
34 "	63·0 " "	12 "	20·8 " "
33 "	61·0 " "	11 "	19·0 " "
32 "	59·0 " "	10 "	17·3 " "
31 "	57·0 " "	9 "	15·6 " "
30 "	55·0 " "	8 "	13·9 " "
29 "	53·0 " "	7 "	12·2 " "
28 "	51·0 " "	6 "	10·5 " "
27 "	49·0 " "	5 "	8·8 " "
26 "	47·0 " "	4 "	7·1 " "
25 "	45·0 " "	3 "	5·4 " "
24 "	43·0 " "	2 "	3·7 " "
		1 year	2·0 " "

BY AUTHORITY
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972
[65c]

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 8 November, 1972.

The LEGISLATIVE COUNCIL *has this day agreed to this Bill with an Amendment.*

Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, November, 1972.

New South Wales

ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1972.

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

BE

94053 53—A

NOTE.—The words to be *inserted* are printed in **black letter.**

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title and division of Act.

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

(2) This Act is divided as follows: —

PART I.—PRELIMINARY—*ss.* 1–3.

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

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

PART IV.—BENEFITS—*ss.* 25–31.

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

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

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

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

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

SCHEDULES.

Commencement.

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

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

(3)

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

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

Interpretation.

3. (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);

"average

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

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

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

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

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

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

"contributor" means—

(a) a person who is contributing, or is liable to contribute, to the Fund;

(b) a person who was so contributing, or was liable so to contribute, but ceased, pursuant to section 20 (1) so to contribute; and

(c) a person eligible for a benefit under this Act calculated by reference only to his initial credit;

"contributor to the Account" means a person who is contributing to the Account;

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

"employee"

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

(a) does not include a person who is not, by the terms of his employment with that employer, precluded from engaging in other paid employment;

(b) does not include a person who is not within a class of persons specified in the Second Column of Schedule 1 or 2;

(c) does not, except in the case of—

(i) a person referred to in section 11 or 12 (3); or

(ii) a person who is within a class of persons to which regulations under section 12 (6) relate,

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

(d) subject to subsection (10), does not include a person who, for any reason based on non-compliance with a requirement as to medical fitness, is ineligible to participate in a superannuation scheme in which, but for that reason, he would be eligible to participate;

(e) does not include a person who, being eligible to contribute to the Fund established under the Superannuation Act, 1916, has been granted exemption from contributing thereto;

(f) does not include a person who, by an act or omission not involving a requirement as to medical fitness, renders himself ineligible to participate in a superannuation scheme in which, but for the act or omission, he would be eligible to participate; and

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

"employer" means—

(a) the Crown or a Minister of the Crown;

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

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

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

"initial credit" means—

(a) in relation to a contributor who, before he became a contributor, was a contributor to the Account—an amount equal to the sum of—

(i) the total amount of his contributions to the Account before he ceased to contribute thereto pursuant to section 12 (9) reduced, where any amounts have been paid to him pursuant to Part IX of the Government Railways Act, 1912, by an amount determined by the Board; and

(ii) an allowance of an amount calculated as provided by subsection (2);

(b) in relation to a contributor who, before he became a contributor, was a contributor to the Transport Retirement Fund—an amount equal to the sum of—

(i) the amount of his initial credit, if any, within the meaning of the Transport Employees Retirement Benefits Act, 1967, immediately before he became a contributor;

(ii)

(ii) an amount calculated as provided by subsection (3);

(iii) an amount calculated as provided by subsection (4);

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

(a) his initial credit; and

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

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

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

"regulations" means regulations made under this Act;

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

employer

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

(a) by reason of the expiration of the term of service for which the employee was engaged; or

(b) where the employee was engaged until certain work ceased to be available—by reason of that work ceasing to be available;

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

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

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

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

(3) 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 his behalf to the Transport Retirement Fund before he became a contributor under this Act, reduced by the sum of—

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

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

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

(a) an amount of interest on his initial credit, if any, for the period for which he contributed to the Transport Retirement Fund; and

(b) an amount of interest on the amount calculated in accordance with paragraph (b) (ii) of that definition, calculated in a manner determined by the Board in respect of that person (regard being had to the respective dates of payment of each of the contributions so referred to),

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

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

where,

where, in the application of the formula in respect of a financial year—

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

(a) the amount of any interest charges against the Transport Retirement Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Transport Retirement Fund;

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

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

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

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

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

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

(b) any period during which, by the operation of paragraph (c) or (d) of the definition of "employee" in subsection (1) he was not an employee shall, if he became an employee pursuant to regulations referred to in section 12 (6) or pursuant to an election under subsection (10), be reckoned as if he had been an employee during that period;

(c) he shall, if he becomes a contributor pursuant to an election under section 16, be deemed, notwithstanding paragraphs (a) and (b), not to have been an employee during any period before the day that was twelve months earlier than the day on which he becomes a contributor.

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

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

(a) all persons within a specified class of persons; or

(b) all persons within a specified class of persons other than—

(i) a specified person or specified persons; or

(ii) a specified class, or specified classes, of persons.

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

(a) an election so made does not take effect before that day; and

(b) takes effect only to the extent that, had it not been made, it could be made on that day.

(10)

(10) Where a person is not an employee by reason only of his being a person described in paragraph (d) of the definition of "employee" in subsection (1), he becomes an employee if, within the period three months after being notified by the Board that he may do so, and while in the employment of an employer, he elects to be subject to the provisions of this Act.

PART II.

THE NEW SOUTH WALES RETIREMENT FUND.

Establishment of New South Wales Retirement Fund.

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

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

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

Power to invest Fund.

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

Audit of accounts relating to Fund.

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

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

Borrowing powers of Board.

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

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

Guaranteed minimum interest yield.

8. (1) In this section—

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

$$1.0275\ I$$

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

(a) the amount of any interest charges against the Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Fund as referred to in section 48;

"formula

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

$$0.0275 (A + B)$$

where—

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

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

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

(a) the amount ascertained in accordance with formula X in respect of that financial year;

(b) the sum of the amounts ascertained in accordance with formula X in respect of each preceding financial year; and

(c) the total amount, if any, paid by employers under subsection (3) before the end of that financial year;

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

(a) the amount ascertained in accordance with formula Y in respect of that financial year; and

(b) the sum of the amounts ascertained in accordance with formula Y in respect of each preceding financial year.

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

(3) Where the Board certifies—

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

(b) that in respect of a financial year succeeding the financial year referred to in paragraph (a), prescribed amount Y exceeded prescribed amount X,

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

Actuarial investigation of Fund.

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

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

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

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

PART

PART III.

EMPLOYEE CONTRIBUTIONS.

Certain employees may elect to contribute to the Fund.

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

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

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

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

whichever is the later day.

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

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

Certain persons required to contribute to Fund.

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

(a) shall cease to contribute to the Transport Retirement Fund;

(b) shall, except to the extent provided by this Act, cease to be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967; and

(c) shall contribute to the Fund at the same rate as the rate at which he was contributing to the Transport Retirement Fund immediately before ceasing to contribute to the Transport Retirement Fund or, if the rate necessary to provide for his minimum benefit immediately before that day is a higher rate, at that higher rate.

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

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

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

12. (1) The Minister may, by order published in the Gazette, declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section for an employee within the meaning of this Act who is within a class of persons specified in the order.

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

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

(b) if he were to remain in the employment of an employer until immediately before that election date, would complete not less than twelve months' service, may, subject to section 3 (9), elect on that election date, to contribute to the Fund.

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

(a) a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, who attained the age of thirty years on or before the appointed day or an employee within the meaning of that Act who ceased to be such a contributor by reason of his having attained the age of sixty-five years on or before the publication of the order;

(b) a contributor to the Account;

(c) an officer within the meaning of the Transport Act, 1930, who was not, immediately before the appointed day, a contributor to a superannuation fund or account established under the Transport

Act,

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

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

(8) 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.

13. Where a person aged sixty years or more makes an election under section 12— **Contributions by certain persons aged sixty years or more at time of making election.**

(a) he shall, notwithstanding section 18, contribute to the Fund at such rate and over such period as is determined by the Board;

(b) he shall, if he becomes entitled to a benefit from the Fund before he has paid the total amount of contributions that, in the opinion of the Board is the total amount of contributions necessary to provide the lump sum benefit for which he is contributing when he becomes so entitled, pay such contributions to the Fund, additional to those already paid by him, as are actuarially determined by the Board as being necessary to provide that lump sum benefit or make arrangements satisfactory to the Board for their payment; and

(c) subject to compliance with paragraph (b), he is entitled to have added to that lump sum benefit an allowance of an amount equal to an amount of interest on that lump sum benefit as provided by section 53 for the period that commenced on the

day

day on which he attained the age of sixty years and ended on the day on which he retired or sooner died.

Amount of lump sum benefit for which contributor must contribute.

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

(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.

Variation of benefits and contributions.

15. (1) In this section—

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

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

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

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

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

(b)

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

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

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

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

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

(a) a refund of any amount by which a past contribution to the Fund exceeded the reduced rate shall not be made; **and**

(b) the amounts by which any of his past contributions to the Fund exceeded the reduced rate shall, subject to section 17, form part of his lump sum benefit.

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

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

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

where—

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

"b" represents the sum of the amount of the lump sum benefit for which the contributor was contributing immediately before the election and the amount of his initial credit benefit if any;

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

16. (1) This section applies to— Periodic opportunities to elect to become a contributor.

(a) an employee who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under section 10 (1), or under this section, to become a contributor has failed to do so;

(b) an employee referred to in section 12 (2) or 12 (3) (d) who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under that section, or under this section, to become a contributor has failed to do so; and

(c)

(c) an employee who—

(i) has not attained the age of sixty years; and

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

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

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

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

Certain moneys to be paid to Employees Reserve Account.

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

18.

Rates of contribution.

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

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

where—

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

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

"r" represents the amount specified—

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

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

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

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

(a) the amount of twelve cents; or

(b)

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

(i) became, by the operation of section 10 of the Transport Employees Retirement Benefits Act, 1967, a contributor within the meaning of that Act;

(ii) became, by the operation of section 12 of the Railways Retirement Fund Act, 1964, a contributor within the meaning of that Act; or

(iii) being a person referred to in section 12 (1) (b) or 12 (1) (c) of the Transport Employees Retirement Benefits Act, 1967, elected to contribute to the Transport Retirement Fund under section 12 (1) of that Act and is contributing under Scale 1 and Scale 2 of Schedule 2 to that Act—

the amount of seven cents.

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

(a) becomes a contributor;

(b) elects under section 15 (2) (a) to contribute for an increased lump sum benefit; or

(c) is required under section 15 (4) to increase his contributions to the Fund,

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

(3) Where the rate at which a contributor is contributing to the Fund is reduced before he attains the age of sixty years, the lump sum benefit for which he is contributing at the reduced rate is the amount determined by the Board on an actuarial basis as the reduced amount of lump sum benefit for which he is contributing.

(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.

Payment of contributions.

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

(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

than the amount of the contribution required to be paid to the Fund, or where a contribution that should have been paid to the Fund is not so paid, the Board may—

(a) waive payment of the contribution to the extent that it is unpaid and reduce, to the extent that it considers appropriate having regard to the unpaid amount, the amount of the lump sum benefit for which the contributor would, but for that reduction, be eligible;

(b) allow an amount to be transferred from the balance at the contributor's credit under section 24, if any, in payment or part payment of the unpaid amount and interest thereon as provided by section 53; or

(c) deduct from the amount of the lump sum benefit that would otherwise be payable the unpaid amount and interest thereon as provided by section 53,

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

Cessation of payment of contributions.

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

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

(3)

(3) Where a contributor who has made an election under section 18 (2) is aged sixty years or more and a benefit for which he is contributing emerges before he has completed payment in accordance with that election of the total contributions that are necessary to provide the benefit, the Board may deduct from the benefit such contributions additional to those already paid as are actuarially determined by the Board to be necessary to provide the benefit, unless those additional contributions are sooner paid.

Exemption from payment of contributions.

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

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

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

22. (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 may, subject to this section, elect to contribute for an additional lump sum benefit not exceeding the amount referred to in subsection (3).

(3)

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

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

does not exceed—

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

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

(a) the increase is effective from a day that was earlier than the day on which he attained that age; and

(b) was payable in respect of a period that included the day on which he attained that age.

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

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

(b) where the increase in annual wages is paid after the attainment by the contributor of that age—within three months after the day on which the increase is paid.

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

Effect of lapse of period between employment by successive employers.

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

(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.

Contributor may make additional contributions.

24. (1) A contributor may—

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

(b) pay directly to the Fund any amount additional to those contributions.

(2) Payments made under subsection (1)—

(a) form part of the Fund;

(b) shall bear interest as provided by section 53;

(c) shall not be withdrawn prior to a benefit becoming payable to or in respect of the contributor under this Act;

(d) may, on application by the contributor and subject to the approval of the Board, be employed in payment of any arrears of contributions payable by the contributor under this Act.

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

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

(b) where section 27 applies to the contributor, may be the subject of an election under that section as if it were an addition to the lump sum benefit that, but for the election, would be payable under section 26; or

(c) where section 28 applies in respect of the contributor, may be paid as an addition to a benefit payable under that section in respect of the contributor.

PART IV.

BENEFITS.

Interpretation.

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

(a) the value, if any, ascribed to the symbol "z" when calculating the amount of the contribution in accordance with the formula referred to in section 18 (1); and

(b) where any part of the contribution was refunded—an amount equal to the amount of the refund.

Benefits.

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

(a) the amount of the maximum benefit for the contributor—

(i) where he retires, or is retired, as provided in subsection (2) or is retrenched—at the date of his retirement or retrenchment; or

(ii) where he retires as provided in subsection (4)—on the day on which he attains the age of sixty years; and

(b) an amount equal to the sum of—

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

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

(iii) interest, as provided by section 53, on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on his attainment of the age of sixty years or his earlier retirement or retrenchment; and

(iv) in the case of a contributor aged sixty years or more, the amount determined by the Board to be the actuarial equivalent of contributions (if any) remaining to be paid by him pursuant to an election under section 18 (2).

(2) Where a contributor who has completed not less than ten years' service ceases to be employed by an employer by reason of—

(a) his retirement on attaining the age of sixty years;

(b) his retirement through infirmity of body or mind, where the Board is satisfied that the infirmity—

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

(ii) is likely to be permanent; or

(c) his retrenchment,

there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (3).

(3)

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

(a) the prescribed amount for the contributor; and

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

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

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

(a) the prescribed amount for the contributor;

(b) interest as provided by section 53 on the amounts referred to in paragraph (a) in respect of the period that commenced on the date on which he attained the age of sixty years and ended on the date on which he retired; and

(c) an allowance of an amount that is a percentage of the total of the amounts calculated under paragraphs (a) and (b), being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by the contributor before his retirement.

27. (1) This section applies to a contributor who has completed not less than ten years' service and ceases to be employed by an employer— Alternative benefits.

(a) by reason of his retirement aged sixty years or more; or

(b) where he is aged fifty years or more, by reason of his retirement through infirmity of body or mind where the Board is satisfied that the infirmity—

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

(ii) is likely to be permanent; or

(c) where he is aged fifty years or more, by reason of his retrenchment.

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

(a) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment;

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

(c) a pension for himself for life on and from the day following his retirement or retrenchment and, if his spouse at the date on which the benefit under section 26 would have been payable is living at his death, a pension for that spouse for life, on and

from 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.

Benefit for certain dependants.

28. (1) Subject to this section, where a contributor dies before he is paid any benefit under this Act, there shall be paid from the Fund to—

(a) his widow;

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

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

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

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

(a) in the case of a contributor who, before he died, had completed not less than ten years' service—an amount equal to the amount that would have been paid to the contributor under section 26 had he retired immediately before he died; or

(b) in any other case—an amount equal to the amount that would have been payable under section 30 had it applied to and in respect of the contributor immediately before he died.

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

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

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.

Alternative benefits for widow.

29. (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

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.

Withdrawal benefit.

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

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

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

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

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

(b) in the case of any other person who, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the total of the amounts of his contributions to the Fund;

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

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

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

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

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

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

(ii) an allowance of an amount that is a percentage of the amount referred to in subparagraph (i), being one-half of the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before the cessation of his employment.

Certain benefit must be not less than certain amount.

31. (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—

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

where—

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

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

and

(b) the amount that—

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

(ii)

(ii) where the contributor is retired or dies on or after attaining the age of sixty years—

would have been paid to him under this Act if, on the day on which he is retired or dies, he had retired otherwise than as referred to in subsection (1) (a).

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

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

PART V.

EMPLOYER CONTRIBUTIONS.

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

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

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

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

(2)

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

(b) where the lump sum benefit is payable under section 26 (4)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (5) (c);

(c) where, pursuant to section 28, an amount is payable that is equal to the amount that would have been payable in specified circumstances under another provision of this Act—an amount equal to the amount that would have been payable under this subsection if a lump sum benefit had been paid under that other provision in those circumstances;

(d) where the lump sum benefit is payable under section 30 (d)—an amount equal to the amount of the allowance in relation to the contributor under section 30 (d) (ii);

(e) where the lump sum benefit is payable in accordance with section 31—an amount equal to the sum of—

(i) one-half of the amount, if any, by which the lump sum payable under that section exceeds the lump sum benefit that would be payable if that section had not been enacted; and

(ii) the payments, if any, which the primary employer of the contributor would be required to make if that section had not

been

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

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

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

(a) the amount of the contributions to the Fund by the contributor, and the amount of the lump sum benefit for which he was contributing, while he was employed by that secondary employer; and

(b) such other matters as the Board thinks fit.

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

Liability for initial credit.

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

34.

Payments by employer to reserve.

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

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

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

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

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

PART

PART VI.

THE NEW SOUTH WALES RETIREMENT BOARD.

Constitution of New South Wales Retirement Board.

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

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

(a) for a period not exceeding five years; and

(b) on such terms and conditions as the Governor thinks fit, including terms and conditions for or with respect to preserving rights accrued or accruing under any Act.

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

(a) one shall, in and by the instrument of his appointment or by a subsequent instrument, be appointed as Chairman;

(b) one may, in like manner, be appointed as executive member;

(c) one shall, in like manner, be appointed as contributor member;

(d) one shall, in like manner, be appointed as employer member.

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

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

Deputies for members.

36. The Governor may appoint—

(a) subject to section 37, a deputy to act for the Chairman—

(i) during the illness or absence of the Chairman; or

(ii) where there is an executive member, during the illness or absence of both the Chairman and the executive member;

(b) where there is an executive member, a deputy to act (otherwise than pursuant to section 37) for the executive member during his illness or absence; and

(c) deputies to act respectively for the contributor member or the employer member during the illness or absence of the member for whom he is the deputy,

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

Executive member to act as Chairman in certain circumstances.

37. Where there is an executive member of the Board, he shall have and may exercise, during the illness or absence of the Chairman, the powers, authorities, duties and functions of the Chairman.

Casual vacancies.

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

Certain acts, etc., not invalidated.

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

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

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

Vacation of office.

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

(a) dies;

(b) becomes bankrupt or compounds with his creditors;

(c) absents himself from three consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Governor;

(d) becomes a mentally ill person, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958;

(e) resigns his office by writing under his hand addressed to the Minister and the resignation is accepted by the Governor; or

(f) attains the age of sixty-five years.

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

Remuneration and fees payable to members.

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

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

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

Quorum.

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

Chairman to have casting vote.

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

Powers, etc., of Board.

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

46.

Delegation by Board.

46. (1) The Board may delegate any of its powers, authorities, duties or functions under this Act or under the regulations, except this power of delegation, to any member or employee of the Board.

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

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

Staff of Board.

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

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

Cost of management of Fund.

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

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

49. The Board shall, as soon as practicable after the end of a financial year, submit a report to the Minister giving information as to its operations and as to any general decisions adopted by it in the course thereof during that financial year. Report by Board.

PART VII.

Loans to Contributors.

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

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

(b) any amount standing to his credit pursuant to section 24.

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

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

(4) Where a benefit becomes payable under section 26, 28, 30 or 31 in respect of a contributor to whom a loan has been made under subsection (1) before the loan has been fully repaid with interest thereon, the amount of the benefit shall be reduced by the amount of the loan and interest thereon unpaid at the date the benefit became payable.

PART VIII.

Assurance Policies.

Board may accept assignment of certain policies of assurance.

51. (1) In this section "pensioner" means—

(a) a person who receives a lump sum benefit under this Act by reason of his having been a contributor;

(b) a person who receives a lump sum benefit under this Act as the widow or child of a person who was a contributor;

(c) a person who is in receipt of a pension pursuant to an election under section 27 or 29; or

(d) a person who commutes a pension under section 27 (5) or 29 (3).

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

(3) Where the life of a contributor or pensioner, or the life of his spouse, is insured under a policy to which this section applies, the Board may, on the application of the contributor or pensioner, accept an assignment to it of the policy.

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

(a) the total amount of the premiums paid by the Board; and

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

Re-assignment by Board of policy of assurance.

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

(a) the total amount of the premiums paid by the Board; and

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

PART

PART IX.

GENERAL PROVISIONS.

Moneys payable to and by the Board and interest thereon.

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

(a) if it is not made within the period prescribed for payment of the moneys;

(b) if a time for payment of the moneys is prescribed otherwise than by reference to a specified period—if it is not made within fourteen days after that time; or

(c) in any other case—if it is not made within fourteen days after service by the Board on the person obliged to pay the moneys of a requisition for payment of the moneys.

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

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

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

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

(6)

(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)—

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

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

(i) the rate prescribed for that case; or

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

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

Regulations.

54. 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.

Provision of certain evidence.

55. (1) For the purposes of this Act, the Board may require to be produced such evidence of the age, marriage, dependency or death of any person as it deems necessary and in default of the production of any such evidence the Board may itself obtain the evidence and deduct the expense incurred in obtaining it from any moneys payable from the Fund to the person required to produce the evidence.

(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.

Board may require certain information.

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

Benefits are not assignable, etc.

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

Estates not exceeding $1,000.

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

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

(b)

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

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

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

Disputes and appeals.

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

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

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

Payment where beneficiary incapable.

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

(2)

(2) Any payment made under subsection (1) shall be deemed to have been made to the person entitled to the benefit.

Medical examination.

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

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

Eligibility to contribute to superannuation scheme.

62. (1) This section has effect notwithstanding anything in this or any other Act.

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

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

which

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).

Introduction of new superannuation schemes prohibited in certain circumstances.

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

64.

Amendment of Schedule 2.

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

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

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

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

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

Elections and applications.

65. An election or application under this Act—

(a) shall be in writing;

(b) shall, subject to this Act, be deemed not to have been validly made unless it is received in the office of the Board before the time on or before which it is required to be made;

(c) may, with the approval of the Board, be amended or revoked; and

(d)

(d) except where otherwise provided, takes effect on a day determined by the Board in respect thereof.

Restoration of lost right, etc., under Act.

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

(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.

Amendment of Act No. 96, 1967.

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

Sec. 2. (Division of Act.)

(a) by omitting from section 2 the matter relating to Part IV;

Sec. 3. (Interpretation.)

(b) (i) by omitting from section 3 (1) the definition of "Board" and by inserting instead the following definition:—

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

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

(iii)

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

; or

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

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

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

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

(d) by omitting from section 8 (3) the word "application" and by inserting instead the word "appreciation"; Sec. 8. (Guaranteed minimum interest yield.)

(e) (i) by omitting from section 9 (1) the word "seventy" and by inserting instead the word "seventy-seven"; Sec. 9. (Triennial investigation of Fund.)

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

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

(f)

(f) by omitting Part IV; Part IV. (The Transport Retirement Board.)

(g) by omitting from section 65 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board"; Sec. 65. (References to Railways Retirement Fund Board in Acts, ordinances, etc.)

(h) by omitting from Schedule 1 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board". Sch. 1.

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

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

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

(b) all moneys and liquidated and unliquidated claims that, immediately before that day were payable to, or recoverable by, the Transport Retirement Board so constituted are payable to, and recoverable by, the Board;

(c) all suits, actions and proceedings pending immediately before that day at the suit of or against the Transport Retirement Board so constituted are suits, actions and proceedings pending at the suit of or, as the case may be, against the Board;

(d) all contracts, agreements and undertakings entered into with, and all securities given to or by, the Transport Retirement Board so constituted and in force immediately before that day shall be deemed to be contracts, agreements and undertakings, entered into with, and securities given to or by, the Board;

(e) the Board may pursue the same remedies for the recovery of moneys and the enforcement of claims, and may prosecute and defend the same actions, suits and proceedings as might, but for this section, have been pursued, prosecuted or defended by the Transport Retirement Board so constituted;

(f) the Board may enforce and realise any security or charge in favour of the Transport Retirement Board so constituted that was in force immediately before that day as if it were a security or charge in favour of the Board;

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

(h) a reference, whether express or implied, in any Act (other than this Act) ordinance, order, regulation or by-law or in any other instrument or document (other than an instrument or document appointing a member of the Transport Retirement Board) to the Transport Retirement Board shall be read and construed as a reference to the Board.

(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 V of the Industrial Arbitration Act, 1940; and

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

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

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

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

(c) the Government Actuary.

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

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

14. (1) In this section— Variation of benefits.

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

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

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

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

(a) in the case of a contributor who is contributing for his ordinary minimum benefit—for the ordinary minimum benefit appropriate for his higher wage group;

(b) in the case of a contributor who is contributing for his maximum benefit—for the maximum benefit appropriate for his higher wage group; or

(c) in the case of a contributor who had nominated a benefit wage factor—for the lesser of—

(i) the maximum benefit appropriate for his higher wage group; and

(ii) a lump sum benefit calculated by applying to the upper level of the wage group in which his increased salary falls the benefit wage factor last nominated by him before that review date and by deducting from the resulting amount so much of his initial credit benefit, if any, as is a multiple of one hundred dollars.

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

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

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

(a) where the review date for the contributor is not determined as provided by subsection (4)—on and from the first day of the pay period next following a date determined by the Board in relation to the contributor for the purposes of this section; or

(b) where the review date for the contributor is determined as provided by subsection (4)—on and from the first day of the pay period next following the date with effect from which the annual wages of the contributor were increased.

69. The Government Railways Act, 1912, is amended by omitting section 109A and by inserting instead the following section :— Amendment of Act No. 30, 1912. Subst. sec. 109A.

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

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

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

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

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

SCHEDULES.

SCHEDULES.

SCHEDULE 1

Sec. 3 (1).

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

SCHEDULE 2

Sec. 3 (1).
Sec. 64.

First Column	Second Column
Employers	Employees

SCHEDULE

SCHEDULE 3

Sec. 18 (1).

TABLE OF CONTRIBUTIONS

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

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

SCHEDULE 4

Sec. 18 (2).

TABLE OF CONTRIBUTIONS

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

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

SCHEDULE 5

Sec. 26.

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

SCHEDULE

SCHEDULE 6

Sec. 3 (2).

TABLE OF ALLOWANCES

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account	Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account
45 years and over	100·0 per centum	23 years	41·1 per centum
44 years	96·0 " "	22 "	39·2 " "
43 "	92·0 " "	21 "	37·3 " "
42 "	88·0 " "	20 "	35·4 " "
41 "	84·0 " "	19 "	33·5 " "
40 "	80·0 " "	18 "	31·6 " "
39 "	76·0 " "	17 "	29·8 " "
38 "	73·0 " "	16 "	28·0 " "
37 "	70·0 " "	15 "	26·2 " "
36 "	67·0 " "	14 "	24·4 " "
35 "	65·0 " "	13 "	22·6 " "
34 "	63·0 " "	12 "	20·8 " "
33 "	61·0 " "	11 "	19·0 " "
32 "	59·0 " "	10 "	17·3 " "
31 "	57·0 " "	9 "	15·6 " "
30 "	55·0 " "	8 "	13·9 " "
29 "	53·0 " "	7 "	12·2 " "
28 "	51·0 " "	6 "	10·5 " "
27 "	49·0 " "	5 "	8·8 " "
26 "	47·0 " "	4 "	7·1 " "
25 "	45·0 " "	3 "	5·4 " "
24 "	43·0 " "	2 "	3·7 " "
		1 year	2·0 " "

BY AUTHORITY
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 8 *November,* 1972.

New South Wales

ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1972.

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

BE

94053 53—A

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title and division of Act.

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

(2) This Act is divided as follows: —

PART I.—PRELIMINARY—*ss.* 1–3.

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

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

PART IV.—BENEFITS—*ss.* 25–31.

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

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

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

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

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

SCHEDULES.

Commencement.

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

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

(3)

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

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

Interpretation.

3. (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);

"average

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

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

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

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

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

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

"contributor" means—

(a) a person who is contributing, or is liable to contribute, to the Fund;

(b) a person who was so contributing, or was liable so to contribute, but ceased, pursuant to section 20 (1) so to contribute; and

(c) a person eligible for a benefit under this Act calculated by reference only to his initial credit;

"contributor to the Account" means a person who is contributing to the Account;

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

"employee"

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

(a) does not include a person who is not, by the terms of his employment with that employer, precluded from engaging in other paid employment;

(b) does not include a person who is not within a class of persons specified in the Second Column of Schedule 1 or 2;

(c) does not, except in the case of—

(i) a person referred to in section 11 or 12 (3); or

(ii) a person who is within a class of persons to which regulations under section 12 (6) relate,

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

(d) subject to subsection (10), does not include a person who, for any reason based on non-compliance with a requirement as to medical fitness, is ineligible to participate in a superannuation scheme in which, but for that reason, he would be eligible to participate;

(e) does not include a person who, being eligible to contribute to the Fund established under the Superannuation Act, 1916, has been granted exemption from contributing thereto;

(f) does not include a person who, by an act or omission not involving a requirement as to medical fitness, renders himself ineligible to participate in a superannuation scheme in which, but for the act or omission, he would be eligible to participate; and

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

"employer" means—

(a) the Crown or a Minister of the Crown;

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

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

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

"initial credit" means—

(a) in relation to a contributor who, before he became a contributor, was a contributor to the Account—an amount equal to the sum of—

(i) the total amount of his contributions to the Account before he ceased to contribute thereto pursuant to section 12 (9) reduced, where any amounts have been paid to him pursuant to Part IX of the Government Railways Act, 1912, by an amount determined by the Board; and

(ii) an allowance of an amount calculated as provided by subsection (2);

(b) in relation to a contributor who, before he became a contributor, was a contributor to the Transport Retirement Fund—an amount equal to the sum of—

(i) the amount of his initial credit, if any, within the meaning of the Transport Employees Retirement Benefits Act, 1967, immediately before he became a contributor;

(ii)

(ii) an amount calculated as provided by subsection (3);

(iii) an amount calculated as provided by subsection (4);

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

(a) his initial credit; and

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

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

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

"regulations" means regulations made under this Act;

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

employer

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

(a) by reason of the expiration of the term of service for which the employee was engaged; or

(b) where the employee was engaged until certain work ceased to be available—by reason of that work ceasing to be available;

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

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

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

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

(3) 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 his behalf to the Transport Retirement Fund before he became a contributor under this Act, reduced by the sum of—

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

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

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

(a) an amount of interest on his initial credit, if any, for the period for which he contributed to the Transport Retirement Fund; and

(b) an amount of interest on the amount calculated in accordance with paragraph (b) (ii) of that definition, calculated in a manner determined by the Board in respect of that person (regard being had to the respective dates of payment of each of the contributions so referred to),

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

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

where,

where, in the application of the formula in respect of a financial year—

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

(a) the amount of any interest charges against the Transport Retirement Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Transport Retirement Fund;

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

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

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

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

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

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

(b) any period during which, by the operation of paragraph (c) or (d) of the definition of "employee" in subsection (1) he was not an employee shall, if he became an employee pursuant to regulations referred to in section 12 (6) or pursuant to an election under subsection (10), be reckoned as if he had been an employee during that period;

(c) he shall, if he becomes a contributor pursuant to an election under section 16, be deemed, notwithstanding paragraphs (a) and (b), not to have been an employee during any period before the day that was twelve months earlier than the day on which he becomes a contributor.

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

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

(a) all persons within a specified class of persons; or

(b) all persons within a specified class of persons other than—

(i) a specified person or specified persons; or

(ii) a specified class, or specified classes, of persons.

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

(a) an election so made does not take effect before that day; and

(b) takes effect only to the extent that, had it not been made, it could be made on that day.

(10)

(10) Where a person is not an employee by reason only of his being a person described in paragraph (d) of the definition of "employee" in subsection (1), he becomes an employee if, within the period three months after being notified by the Board that he may do so, and while in the employment of an employer, he elects to be subject to the provisions of this Act.

PART II.

THE NEW SOUTH WALES RETIREMENT FUND.

Establishment of New South Wales Retirement Fund.

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

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

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

Power to invest Fund.

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

Audit of accounts relating to Fund.

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

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

Borrowing powers of Board.

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

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

Guaranteed minimum interest yield.

8. (1) In this section—

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

$$1.0275\ I$$

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

(a) the amount of any interest charges against the Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Fund as referred to in section 48;

"formula

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

$$0.0275 (A + B)$$

where—

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

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

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

(a) the amount ascertained in accordance with formula X in respect of that financial year;

(b) the sum of the amounts ascertained in accordance with formula X in respect of each preceding financial year; and

(c) the total amount, if any, paid by employers under subsection (3) before the end of that financial year;

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

(a) the amount ascertained in accordance with formula Y in respect of that financial year; and

(b) the sum of the amounts ascertained in accordance with formula Y in respect of each preceding financial year.

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

(3) Where the Board certifies—

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

(b) that in respect of a financial year succeeding the financial year referred to in paragraph (a), prescribed amount Y exceeded prescribed amount X,

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

Actuarial investigation of Fund.

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

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

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

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

PART

PART III.

EMPLOYEE CONTRIBUTIONS.

Certain employees may elect to contribute to the Fund.

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

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

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

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

whichever is the later day.

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

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

Certain persons required to contribute to Fund.

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

(a) shall cease to contribute to the Transport Retirement Fund;

(b) shall, except to the extent provided by this Act, cease to be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967; and

(c) shall contribute to the Fund at the same rate as the rate at which he was contributing to the Transport Retirement Fund immediately before ceasing to contribute to the Transport Retirement Fund or, if the rate necessary to provide for his minimum benefit immediately before that day is a higher rate, at that higher rate.

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

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

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

12. (1) The Minister may, by order published in the Gazette, declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section for an employee within the meaning of this Act who is within a class of persons specified in the order.

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

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

(b) if he were to remain in the employment of an employer until immediately before that election date, would complete not less than twelve months' service, may, subject to section 3 (9), elect on that election date, to contribute to the Fund.

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

(a) a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, who attained the age of thirty years on or before the appointed day or an employee within the meaning of that Act who ceased to be such a contributor by reason of his having attained the age of sixty-five years on or before the publication of the order;

(b) a contributor to the Account;

(c) an officer within the meaning of the Transport Act, 1930, who was not, immediately before the appointed day, a contributor to a superannuation fund or account established under the Transport

Act,

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

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

(8) 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.

13. Where a person aged sixty years or more makes an election under section 12— Contributions by certain persons aged sixty years or more at time of making election.

(a) he shall, notwithstanding section 18, contribute to the Fund at such rate and over such period as is determined by the Board;

(b) he shall, if he becomes entitled to a benefit from the Fund before he has paid the total amount of contributions that, in the opinion of the Board is the total amount of contributions necessary to provide the lump sum benefit for which he is contributing when he becomes so entitled, pay such contributions to the Fund, additional to those already paid by him, as are actuarially determined by the Board as being necessary to provide that lump sum benefit or make arrangements satisfactory to the Board for their payment; and

(c) subject to compliance with paragraph (b), he is entitled to have added to that lump sum benefit an allowance of an amount equal to an amount of interest on that lump sum benefit as provided by section 53 for the period that commenced on the

day

day on which he attained the age of sixty years and ended on the day on which he retired or sooner died.

Amount of lump sum benefit for which contributor must contribute.

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

(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.

Variation of benefits and contributions.

15. (1) In this section—

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

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

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

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

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

(b)

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

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

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

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

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

(a) a refund of any amount by which a past contribution to the Fund exceeded the reduced rate shall not be made; and

(b) the amounts by which any of his past contributions to the Fund exceeded the reduced rate shall, subject to section 17, form part of his lump sum benefit.

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

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

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

where—

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

"b" represents the sum of the amount of the lump sum benefit for which the contributor was contributing immediately before the election and the amount of his initial credit benefit if any;

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

Periodic opportunities to elect to become a contributor.

16. (1) This section applies to—

(a) an employee who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under section 10 (1), or under this section, to become a contributor has failed to do so;

(b) an employee referred to in section 12 (2) or 12 (3) (d) who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under that section, or under this section, to become a contributor has failed to do so; and

(c)

(c) an employee who—

(i) has not attained the age of sixty years; and

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

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

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

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

Certain moneys to be paid to Employees Reserve Account.

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

18.

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

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

where—

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

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

"r" represents the amount specified—

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

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

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

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

(a) the amount of twelve cents; or

(b)

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

(i) became, by the operation of section 10 of the Transport Employees Retirement Benefits Act, 1967, a contributor within the meaning of that Act;

(ii) became, by the operation of section 12 of the Railways Retirement Fund Act, 1964, a contributor within the meaning of that Act; or

(iii) being a person referred to in section 12 (1) (b) or 12 (1) (c) of the Transport Employees Retirement Benefits Act, 1967, elected to contribute to the Transport Retirement Fund under section 12 (1) of that Act and is contributing under Scale 1 and Scale 2 of Schedule 2 to that Act—

the amount of seven cents.

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

(a) becomes a contributor;

(b) elects under section 15 (2) (a) to contribute for an increased lump sum benefit; or

(c) is required under section 15 (4) to increase his contributions to the Fund,

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

(3) Where the rate at which a contributor is contributing to the Fund is reduced before he attains the age of sixty years, the lump sum benefit for which he is contributing at the reduced rate is the amount determined by the Board on an actuarial basis as the reduced amount of lump sum benefit for which he is contributing.

(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.

Payment of contributions.

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

(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

than the amount of the contribution required to be paid to the Fund, or where a contribution that should have been paid to the Fund is not so paid, the Board may—

(a) waive payment of the contribution to the extent that it is unpaid and reduce, to the extent that it considers appropriate having regard to the unpaid amount, the amount of the lump sum benefit for which the contributor would, but for that reduction, be eligible;

(b) allow an amount to be transferred from the balance at the contributor's credit under section 24, if any, in payment or part payment of the unpaid amount and interest thereon as provided by section 53; or

(c) deduct from the amount of the lump sum benefit that would otherwise be payable the unpaid amount and interest thereon as provided by section 53,

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

Cessation of payment of contributions.

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

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

(3)

(3) Where a contributor who has made an election under section 18 (2) is aged sixty years or more and a benefit for which he is contributing emerges before he has completed payment in accordance with that election of the total contributions that are necessary to provide the benefit, the Board may deduct from the benefit such contributions additional to those already paid as are actuarially determined by the Board to be necessary to provide the benefit, unless those additional contributions are sooner paid.

Exemption from payment of contributions.

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

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

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

22. (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 may, subject to this section, elect to contribute for an additional lump sum benefit not exceeding the amount referred to in subsection (3).

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

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

does not exceed—

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

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

(a) the increase is effective from a day that was earlier than the day on which he attained that age; and

(b) was payable in respect of a period that included the day on which he attained that age.

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

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

(b) where the increase in annual wages is paid after the attainment by the contributor of that age—within three months after the day on which the increase is paid.

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

Effect of lapse of period between employment by successive employers.

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

(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)

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

Contributor may make additional contributions.

24. (1) A contributor may—

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

(b) pay directly to the Fund any amount additional to those contributions.

(2) Payments made under subsection (1)—

(a) form part of the Fund;

(b) shall bear interest as provided by section 53;

(c) shall not be withdrawn prior to a benefit becoming payable to or in respect of the contributor under this Act;

(d) may, on application by the contributor and subject to the approval of the Board, be employed in payment of any arrears of contributions payable by the contributor under this Act.

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

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

(b) where section 27 applies to the contributor, may be the subject of an election under that section as if it were an addition to the lump sum benefit that, but for the election, would be payable under section 26; or

(c) where section 28 applies in respect of the contributor, may be paid as an addition to a benefit payable under that section in respect of the contributor.

PART IV.

BENEFITS.

Interpretation.

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

(a) the value, if any, ascribed to the symbol "z" when calculating the amount of the contribution in accordance with the formula referred to in section 18 (1); and

(b) where any part of the contribution was refunded—an amount equal to the amount of the refund.

Benefits.

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

(a) the amount of the maximum benefit for the contributor—

(i) where he retires, or is retired, as provided in subsection (2) or is retrenched—at the date of his retirement or retrenchment; or

(ii) where he retires as provided in subsection (4)—on the day on which he attains the age of sixty years; and

(b) an amount equal to the sum of—

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

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

(iii) interest, as provided by section 53, on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on his attainment of the age of sixty years or his earlier retirement or retrenchment; and

(iv) in the case of a contributor aged sixty years or more, the amount determined by the Board to be the actuarial equivalent of contributions (if any) remaining to be paid by him pursuant to an election under section 18 (2).

(2) Where a contributor who has completed not less than ten years' service ceases to be employed by an employer by reason of—

(a) his retirement on attaining the age of sixty years;

(b) his retirement through infirmity of body or mind, where the Board is satisfied that the infirmity—

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

(ii) is likely to be permanent; or

(c) his retrenchment,

there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (3).

(3)

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

(a) the prescribed amount for the contributor; and

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

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

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

(a) the prescribed amount for the contributor;

(b) interest as provided by section 53 on the amounts referred to in paragraph (a) in respect of the period that commenced on the date on which he attained the age of sixty years and ended on the date on which he retired; and

(c) an allowance of an amount that is a percentage of the total of the amounts calculated under paragraphs (a) and (b), being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by the contributor before his retirement.

27. (1) This section applies to a contributor who has completed not less than ten years' service and ceases to be employed by an employer— Alternative benefits.

(a) by reason of his retirement aged sixty years or more; or

(b) where he is aged fifty years or more, by reason of his retirement through infirmity of body or mind where the Board is satisfied that the infirmity—

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

(ii) is likely to be permanent; or

(c) where he is aged fifty years or more, by reason of his retrenchment.

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

(a) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment;

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

(c) a pension for himself for life on and from the day following his retirement or retrenchment and, if his spouse at the date on which the benefit under section 26 would have been payable is living at his death, a pension for that spouse for life, on and

from

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.

28. (1) Subject to this section, where a contributor dies before he is paid any benefit under this Act, there shall be paid from the Fund to— Benefit for certain dependants.

(a) his widow;

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

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

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

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

(a) in the case of a contributor who, before he died, had completed not less than ten years' service—an amount equal to the amount that would have been paid to the contributor under section 26 had he retired immediately before he died; or

(b) in any other case—an amount equal to the amount that would have been payable under section 30 had it applied to and in respect of the contributor immediately before he died.

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

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

as

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. (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. Alternative benefits for widow.

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

she

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.

Withdrawal benefit.

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

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

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

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

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

(b)

(b) in the case of any other person who, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the total of the amounts of his contributions to the Fund;

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

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

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

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

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

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

(ii) an allowance of an amount that is a percentage of the amount referred to in subparagraph (i), being one-half of the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before the cessation of his employment.

31. (1) This section applies to and in respect of— Certain benefit must be not less than certain amount.

(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—

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

where—

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

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

and

(b) the amount that—

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

(ii)

(ii) where the contributor is retired or dies on or after attaining the age of sixty years—

would have been paid to him under this Act if, on the day on which he is retired or dies, he had retired otherwise than as referred to in subsection (1) (a).

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

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

PART V.

EMPLOYER CONTRIBUTIONS.

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

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

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

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

(2)

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

(b) where the lump sum benefit is payable under section 26 (4)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (5) (c);

(c) where, pursuant to section 28, an amount is payable that is equal to the amount that would have been payable in specified circumstances under another provision of this Act—an amount equal to the amount that would have been payable under this subsection if a lump sum benefit had been paid under that other provision in those circumstances;

(d) where the lump sum benefit is payable under section 30 (d)—an amount equal to the amount of the allowance in relation to the contributor under section 30 (d) (ii);

(e) where the lump sum benefit is payable in accordance with section 31—an amount equal to the sum of—

(i) one-half of the amount, if any, by which the lump sum payable under that section exceeds the lump sum benefit that would be payable if that section had not been enacted; and

(ii) the payments, if any, which the primary employer of the contributor would be required to make if that section had not

been

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

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

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

(a) the amount of the contributions to the Fund by the contributor, and the amount of the lump sum benefit for which he was contributing, while he was employed by that secondary employer; and

(b) such other matters as the Board thinks fit.

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

Liability for initial credit.

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

Payments by employer to reserve.

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

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

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

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

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

PART

PART VI.

THE NEW SOUTH WALES RETIREMENT BOARD.

Constitution of New South Wales Retirement Board.

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

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

(a) for a period not exceeding five years; and

(b) on such terms and conditions as the Governor thinks fit, including terms and conditions for or with respect to preserving rights accrued or accruing under any Act.

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

(a) one shall, in and by the instrument of his appointment or by a subsequent instrument, be appointed as Chairman;

(b) one may, in like manner, be appointed as executive member;

(c) one shall, in like manner, be appointed as contributor member;

(d) one shall, in like manner, be appointed as employer member.

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

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

Deputies for members.

36. The Governor may appoint—

(a) subject to section 37, a deputy to act for the Chairman—

(i) during the illness or absence of the Chairman; or

(ii) where there is an executive member, during the illness or absence of both the Chairman and the executive member;

(b) where there is an executive member, a deputy to act (otherwise than pursuant to section 37) for the executive member during his illness or absence; and

(c) deputies to act respectively for the contributor member or the employer member during the illness or absence of the member for whom he is the deputy,

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

Executive member to act as Chairman in certain circumstances.

37. Where there is an executive member of the Board, he shall have and may exercise, during the illness or absence of the Chairman, the powers, authorities, duties and functions of the Chairman.

Casual vacancies.

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

Certain acts, etc., not invalidated.

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

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

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

Vacation of office.

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

(a) dies;

(b) becomes bankrupt or compounds with his creditors;

(c) absents himself from three consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Governor;

(d) becomes a mentally ill person, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958;

(e) resigns his office by writing under his hand addressed to the Minister and the resignation is accepted by the Governor; or

(f) attains the age of sixty-five years.

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

42.

Remuneration and fees payable to members.

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

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

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

Quorum.

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

Chairman to have casting vote.

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

Powers, etc., of Board.

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

46.

Delegation by Board.

46. (1) The Board may delegate any of its powers, authorities, duties or functions under this Act or under the regulations, except this power of delegation, to any member or employee of the Board.

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

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

Staff of Board.

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

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

Cost of management of Fund.

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

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

49.

Report by Board.

49. The Board shall, as soon as practicable after the end of a financial year, submit a report to the Minister giving information as to its operations and as to any general decisions adopted by it in the course thereof during that financial year.

PART VII.

Loans to Contributors.

Board may lend certain amount to contributor.

50. (1) The Board may lend to a contributor, on such terms and conditions as the Board determines, an amount not exceeding the total of—

(a) the amount of the benefit that would be payable under section 30 if the contributor were to resign from the service of his employer on the day on which he applies for the loan; and

(b) any amount standing to his credit pursuant to section 24.

(2) Where a loan is made to a contributor pursuant to subsection (1) and the Board, by notice in writing, requires the employer of the contributor to deduct from the salary or wages of the contributor at each payment thereof, in addition to the normal contributions of the contributor, such instalments as the Board may require in repayment of the loan and interest thereon, the employer shall comply with the terms of the notice.

(3) The provisions of section 19 relating to the deduction of contributions from the salary or wages of contributors and their remittance to the Board apply in respect of the deduction and remittance of the instalments referred to in subsection (2).

(4) Where a benefit becomes payable under section 26, 28, 30 or 31 in respect of a contributor to whom a loan has been made under subsection (1) before the loan has been fully repaid with interest thereon, the amount of the benefit shall be reduced by the amount of the loan and interest thereon unpaid at the date the benefit became payable.

PART VIII.

Assurance Policies.

Board may accept assignment of certain policies of assurance.

51. (1) In this section "pensioner" means—

(a) a person who receives a lump sum benefit under this Act by reason of his having been a contributor;

(b) a person who receives a lump sum benefit under this Act as the widow or child of a person who was a contributor;

(c) a person who is in receipt of a pension pursuant to an election under section 27 or 29; or

(d) a person who commutes a pension under section 27 (5) or 29 (3).

(2) This section applies to and in respect of an unencumbered policy of endowment assurance (not being an industrial policy as defined in the Life Insurance Act 1945 of the Parliament of the Commonwealth or any Act of that Parliament amending or replacing that Act) that has been in force for a period of at least six years and in respect of which no premiums that have fallen due remain unpaid.

(3) Where the life of a contributor or pensioner, or the life of his spouse, is insured under a policy to which this section applies, the Board may, on the application of the contributor or pensioner, accept an assignment to it of the policy.

(4) The Board shall, where it has accepted assignment of a policy to which this section applies, cause the premiums to be duly paid and, on receipt by the Board of the maturity value of the policy, pay to the assignor or, where he is dead, to his personal representatives, the amount so received reduced by the sum of—

(a) the total amount of the premiums paid by the Board; and

(b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date on which the Board receives the maturity value of the policy.

Re-assignment by Board of policy of assurance.

52. Where the Board has accepted assignment of a policy to which section 51 applies it may, at any time before maturity of the policy, re-assign it to the assignor upon repayment to the Board of the sum of—

(a) the total amount of the premiums paid by the Board; and

(b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date of the re-assignment.

PART

PART IX.

GENERAL PROVISIONS.

Moneys payable to and by the Board and interest thereon.

53. (1) Where, pursuant to this Act, any moneys are payable to the Board, payment of the moneys becomes overdue—

(a) if it is not made within the period prescribed for payment of the moneys;

(b) if a time for payment of the moneys is prescribed otherwise than by reference to a specified period—if it is not made within fourteen days after that time; or

(c) in any other case—if it is not made within fourteen days after service by the Board on the person obliged to pay the moneys of a requisition for payment of the moneys.

(2) Interest is payable to the Board on moneys overdue for payment and is so payable on and from the day on which payment of the moneys becomes overdue to the day on which payment of the moneys is made, but the Board may, in special circumstances and in a particular case, waive payment of any such interest or part thereof.

(3) Moneys payable to the Board that are overdue for payment, and interest thereon as provided by this section, are recoverable by the Board in a court of competent jurisdiction as a debt.

(4) Where interest is payable to the Board pursuant to this section or payable to or by the Board or from the Fund under any other provision of this Act, the interest shall be compounded at the end of each financial year during the period for which it is so payable, and at the end of that period, and shall be calculated at the prescribed rate.

(5) Where interest is payable from the Fund on amounts paid to the Fund at different times during a financial year, the interest on those amounts shall, subject to this section, be calculated in a manner determined by the Board.

(6)

(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)—

five and one-half per centum per annum or, where a higher rate of interest is prescribed for such a case, that higher rate; or

(b) in any other case (section 50 excepted)—

(i) the rate prescribed for that case; or

(ii) where no rate is prescribed for that case—a rate specified by the Minister by order published in the Gazette on the recommendation of the Board made after having regard to earning rates, and estimated earning rates, on the Fund.

(7) An order under subsection (6) (b) (ii) may be made to vary according to time or circumstance.

Regulations.

54. 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.

Provision of certain evidence.

55. (1) For the purposes of this Act, the Board may require to be produced such evidence of the age, marriage, dependency or death of any person as it deems necessary and in default of the production of any such evidence the Board may itself obtain the evidence and deduct the expense incurred in obtaining it from any moneys payable from the Fund to the person required to produce the evidence.

(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.

Board may require certain information.

56. The Board may at any time require an employer to furnish such returns with respect to persons employed by him who are or were contributors or who may become eligible to become contributors as the Board may decide and may at any time require any contributor or employee or person who was a contributor to furnish such information as the Board may decide is necessary for the purpose of any investigation in connection with the Fund.

Benefits are not assignable, etc.

57. Lump sum benefits under this Act and other payments from the Fund shall not be in any way assigned or charged or passed by operation of law to any person other than the person who is entitled thereto under this Act.

Estates not exceeding $1,000.

58. (1) Where a person dies and there is due from the Fund to or in respect of him an amount not exceeding $1,000, the Board may, unless—

(a) probate of the will or letters of administration of the estate of that person have been produced to the Board; or

(b)

(b) notice in writing of the existence of the will of that person and of intention to prove it, or notice of intention to take out letters of administration of the estate of that person, is given to the Board within three months of the death of that person,

pay the amount, or after paying the funeral expenses of the deceased or reimbursing any person who paid those expenses pay the balance of the amount, to the widow or to such other person as the Board in the circumstances thinks fit.

(2) Proceedings may not be instituted against the Board in respect of anything done in pursuance of this section, but nothing in this section relieves a person receiving payment in pursuance of this section from any liability to account for or apply the amount paid to him in accordance with law.

Disputes and appeals.

59. (1) Subject to this section, a dispute under this Act shall be determined by the Board.

(2) A person aggrieved by a decision of the Board under subsection (1) may, within a period of six months from the date of the decision, appeal to the Minister, who shall thereupon refer the matter for opinion to a Judge of the Supreme Court, and shall decide the point in accordance with that opinion.

(3) A decision of the Minister under subsection (2) is final and conclusive and not subject to appeal.

Payment where beneficiary incapable.

60. (1) Where a person to whom a benefit is payable under this Act is, in the opinion of the Board, incapable of administering his own affairs by reason of his illness, imprisonment or any other cause the Board may pay the benefit to some other person to be applied wholly for the care, maintenance, benefit and support of the person to whom, but for the provisions of this section, the benefit would be payable, or of any person dependent on him.

(2)

(2) Any payment made under subsection (1) shall be deemed to have been made to the person entitled to the benefit.

Medical examination.

61. (1) The Board may require an employee to undergo a medical examination in order to determine his eligibility to receive a benefit under section 31.

(2) The Board may, in respect of an employee who does not undergo or fails to pass a medical examination referred to in subsection (1), determine his benefit under section 31 as less than the amount provided by that section but not less than the sum of one-sixth of the amount of the annual wages being paid to the contributor at the time the benefit becomes payable together with one-thirtieth of the amount of those annual wages for each completed year of his service.

Eligibility to contribute to superannuation scheme.

62. (1) This section has effect notwithstanding anything in this or any other Act.

(2) Where a contributor would, but for this subsection, be entitled or required to participate in a superannuation scheme by reason of a change in his employment classification within the service of his employer, he may not participate in the superannuation scheme unless, not later than three months after the change in his employment classification, he elects not to contribute to the Fund.

(3) Where a contributor ceases to be employed by an employer and, not more than three months later, being under the age of sixty years, he takes up employment with another person (whether an employer or not) by virtue of

which

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).

Introduction of new superannuation schemes prohibited in certain circumstances.

63. Where an employee who is within a class of persons specified in the Second Column of Schedule 1 or 2 is a contributor, or is eligible to elect to become a contributor or will, with the effluxion of time, be eligible to elect to become a contributor, his employer shall not, without the approval of the Minister, introduce a superannuation scheme in which the employee would be eligible to participate.

64.

Amendment of Schedule 2.

64. (1) On the recommendation of the Minister, the Governor may, by order published in the Gazette, amend Schedule 2 by inserting matter therein or by omitting matter therefrom and may, by the same or a different order so published, make a declaration for the purposes of subsection (3).

(2) An order under subsection (1) takes effect on the day of its publication in the Gazette or, where the order specifies that it takes effect on a specified later day, on that later day.

(3) Where the Governor, by an order under subsection (1), so declares in relation to the employer of a person who becomes an employee within the meaning of this Act by virtue of the order, the total contributor liability of that employer under this Act in respect of that employee shall be met by the employer by his making to the Fund, while the employee is employed by him, periodic payments at a rate to be notified by the Board to the employer as the rate determined by the Board to be necessary to meet the maximum possible liability of the employer, having regard to the contribution rate of the employee and the possibility of his being employed by that or any other employer until he attains the age of sixty-five years.

(4) The name of an association of employees may, by an order under subsection (1) be added to the First Column of Schedule 2 if a substantial number of the members of the association are contributors.

Elections and applications.

65. An election or application under this Act—

(a) shall be in writing;

(b) shall, subject to this Act, be deemed not to have been validly made unless it is received in the office of the Board before the time on or before which it is required to be made;

(c) may, with the approval of the Board, be amended or revoked; and

(d) except where otherwise provided, takes effect on a day determined by the Board in respect thereof.

66.

Restoration of lost right, etc., under Act.

66. (1) Where a person is entitled to exercise a right or enjoy a privilege or benefit under this Act and, without having exercised the right or enjoyed the privilege or benefit, he ceases to be entitled so to do, he may exercise the right or enjoy the privilege or benefit if—

(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.

Amendment of Act No. 96, 1967.

67. (1) The Transport Employees Retirement Benefits Act, 1967, is amended—

(a) by omitting from section 2 the matter relating to Part IV; Sec. 2. (Division of Act.)

(b) (i) by omitting from section 3 (1) the definition of "Board" and by inserting instead the following definition:— Sec. 3. (Interpretation.)

"Board" means the New South Wales Retirement Board constituted by the New South Wales Retirement Benefits Act, 1972;

(ii) by omitting from paragraph (e) of the definition of "employee" in section 3 (1) the word "or" where thirdly occurring;

(iii)

(iii) by inserting at the end of paragraph (f) of the definition of "employee" in section 3 (1) the following word and new paragraph :—

; or

(g) a person eligible to make an election under section 10 of the New South Wales Retirement Benefits Act, 1972, or a person who, pursuant to section 11 of that Act, becomes a contributor within the meaning of that Act, or a person who ceases, pursuant to section 12 (8) of that Act, to contribute to the Transport Retirement Fund;

(iv) by omitting from section 3 (6) (b) the words "Transport Retirement Board" wherever occurring and by inserting instead the words "New South Wales Retirement Board";

(c) by inserting at the end of section 4 the following new subsection :— Sec. 4. (The Fund.)

(4) The cost of management of the Fund is a charge against, and shall be paid out of, the Fund.

(d) by omitting from section 8 (3) the word "application" and by inserting instead the word "appreciation"; Sec. 8. (Guaranteed minimum interest yield.)

(e) (i) by omitting from section 9 (1) the word "seventy" and by inserting instead the word "seventy-seven"; Sec. 9. (Triennial investigation of Fund.)

(ii) by inserting at the end of section 9 the following new subsection :—

(4) The Board shall, not later than two months after it receives a report under subsection (3), forward the report to the Minister together with such comments thereon as it deems appropriate.

(f) by omitting Part IV; Part IV. (The Transport Retirement Board.)

(g) by omitting from section 65 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board"; Sec. 65. (References to Railways Retirement Fund Board in Acts, ordinances, etc.)

(h) by omitting from Schedule 1 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board". Sch. 1.

(2) A person who, immediately before the appointed day, was a member of the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, is not entitled to any compensation by reason of his ceasing to hold office as such a member.

(3) On and from the day appointed pursuant to section 2 (3)—

(a) all real and personal property, including all investments, cash on deposit or in hand and all books, accounts, records, certificates and deeds and all right and interest therein and all management and control thereof that, immediately before that day, were vested in the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, are vested in the Board;

(b) all moneys and liquidated and unliquidated claims that, immediately before that day were payable to, or recoverable by, the Transport Retirement Board so constituted are payable to, and recoverable by, the Board:

(c) all suits, actions and proceedings pending immediately before that day at the suit of or against the Transport Retirement Board so constituted are suits, actions and proceedings pending at the suit of or, as the case may be, against the Board;

(d) all contracts, agreements and undertakings entered into with, and all securities given to or by, the Transport Retirement Board so constituted and in force immediately before that day shall be deemed to be contracts, agreements and undertakings, entered into with, and securities given to or by, the Board;

(e) the Board may pursue the same remedies for the recovery of moneys and the enforcement of claims, and may prosecute and defend the same actions, suits and proceedings as might, but for this section, have been pursued, prosecuted or defended by the Transport Retirement Board so constituted;

(f) the Board may enforce and realise any security or charge in favour of the Transport Retirement Board so constituted that was in force immediately before that day as if it were a security or charge in favour of the Board;

(g) all debts and moneys that, immediately before that day, were due or payable to, and all liquidated and unliquidated claims that, immediately before that day, were recoverable against the Transport Retirement Board so constituted are debts due by, moneys payable by, and claims recoverable against the Board; and

(h) a reference, whether express or implied, in any Act (other than this Act) ordinance, order, regulation or by-law or in any other instrument or document (other than an instrument or document appointing a member of the Transport Retirement Board) to the Transport Retirement Board shall be read and construed as a reference to the Board.

(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 V of the Industrial Arbitration Act, 1940; and

(c) where a condition of employment of a person referred to in paragraph (a) was, immediately before that day, regulated by an award or industrial agreement, the condition shall continue so to be regulated until an award or industrial agreement that is binding on the Board is made to regulate the condition.

(5) The Minister shall appoint a Review Committee consisting of—

(a) a member of the Board, who shall be chairman of, and convene meetings of, the Review Committee;

(b) a nominee of the Auditor-General; and

(c) the Government Actuary.

(6) The Board shall, as between the Transport Retirement Fund and the New South Wales Retirement Fund make such adjustments of the assets and liabilities of those Funds as the Review Committee considers to be a necessary consequence of the operation of this Act.

68. The Transport Employees Retirement Benefits Act, 1967, is further amended by omitting section 14 and by inserting instead the following section :— Further amendment of Act No. 96, 1967. Subst. sec. 14.

Variation of benefits.

14. (1) In this section—

"contributor" includes an employee who ceased to be a contributor on his attainment of the age of sixty-five years;

"review date" means, in relation to a contributor, a date determined by the Board for the purpose of calculating the lump sum benefit applicable in relation to the annual wages of the contributor at that date.

(2) Except as provided by this section and by sections 15 and 16, the lump sum benefit for which a contributor is contributing shall not be varied.

(3) Subject to subsection (4), where the annual wages of a contributor are increased so that the amount thereof falls within a wage group that is higher than the wage group within which the amount thereof fell immediately before the increase he shall, not earlier than the review date that next follows the increase, contribute as provided by subsection (6)—

(a) in the case of a contributor who is contributing for his ordinary minimum benefit—for the ordinary minimum benefit appropriate for his higher wage group;

(b) in the case of a contributor who is contributing for his maximum benefit—for the maximum benefit appropriate for his higher wage group; or

(c) in the case of a contributor who had nominated a benefit wage factor—for the lesser of—

(i) the maximum benefit appropriate for his higher wage group; and

(ii) a lump sum benefit calculated by applying to the upper level of the wage group in which his increased salary falls the benefit wage factor last nominated by him before that review date and by deducting from the resulting amount so much of his initial credit benefit, if any, as is a multiple of one hundred dollars.

(4) Where a lump sum benefit becomes payable in respect of a contributor, subsection (3) applies as if the date on which the lump sum benefit became payable were a review date for the contributor.

(5) For the purposes of subsection (4), a reference in subsection (3) to an increase of annual wages includes a reference to such an increase paid after a lump sum benefit became payable under this Act if the increase took effect on and from a day that is earlier than, and is in respect of, a period that includes the date on which the lump sum benefit became payable.

(6) The increased contributions to be paid to the Fund by a contributor contributing for an increased lump sum benefit pursuant to this section shall be payable—

(a) where the review date for the contributor is not determined as provided by subsection (4)—on and from the first day of the pay period next following a date determined by the Board in relation to the contributor for the purposes of this section; or

(b) where the review date for the contributor is determined as provided by subsection (4)—on and from the first day of the pay period next following the date with effect from which the annual wages of the contributor were increased.

69. The Government Railways Act, 1912, is amended by omitting section 109A and by inserting instead the following section :— Amendment of Act No. 30, 1912. Subst. sec. 109A.

109A. This Part does not apply to or in respect of a person who became an officer after the commencement of the Railways Retirement Fund Act, 1964, and before the day appointed pursuant to subsection (3) of section 2 of the New South Wales Retirement Benefits Act, 1972, or who becomes an officer on or after that day. This part not to apply to certain persons.

70. The Transport Act, 1930, is amended by omitting section 132B and by inserting instead the following section :— Amendment of Act No. 18, 1930. Subst. sec. 132B.

132B. This Part does not apply to or in respect of a person who is an officer whose appointment was confirmed after the commencement of the Transport Employees Retirement Benefits Act, 1967, and before the day appointed pursuant to subsection (3) of section 2 of the New South Wales Retirement Benefits Act, 1972, or whose appointment is confirmed on or after that day. This Part not to apply to certain persons.

71. The Superannuation Act, 1916, is amended by inserting in the definition of "Employee" in section 3 (1) after the figures "1967," the words "or the New South Wales Retirement Benefits Act, 1972,". Amendment of Act No. 28, 1916. Sec. 3. (Interpretation).

72. The Securities Industry Act, 1970, is amended by omitting from paragraph (e) of the definition of "exempt dealer" in section 4 (1) the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board". Amendment of Act No. 35, 1970. Sec. 4. (Interpretation.)

SCHEDULES.

SCHEDULES.

SCHEDULE 1

Sec. 3 (1).

First Column	Second Column
Employers	Employees
Public Transport Commission of New South Wales.	Persons employed by the Commission pursuant to— (a) the Government Railways Act, 1930 (other than persons so employed temporarily as workmen on construction, deviation or duplication works, in the trading or catering services or in connection with a sawmill that is not associated with a workshop); (b) the Transport Act, 1930; and (c) sections 16 and 18 of the Public Transport Commission Act, 1972.
The Commissioner for Motor Transport.	Persons employed by the Commissioner.
The Crown or a Minister of the Crown	Persons employed in the Police Department otherwise than— (a) as police cadets; (b) under the Police Regulation Act, 1899; or (c) under the Public Service Act, 1902.
New South Wales Retirement Board	Persons employed by the Board.

SCHEDULE 2

Sec. 3 (1).
Sec. 64.

First Column	Second Column
Employers	Employees

SCHEDULE

SCHEDULE 3

Sec. 18 (1).

TABLE OF CONTRIBUTIONS

First Column		Second Column	First Column (*continued*)		Second Column (*continued*)
Age next birthday		Fortnightly rate of contribution for $1,000 of the amount of the lump sum benefit	Age next birthday		Fortnightly rate of contribution for $1,000 of the amount of the lump sum benefit
		$			$
	16	0.22	41		1.20
	17	0.24	42		1.30
	18	0.25	43		1.42
	19	0.27	44		1.56
	20	0.28	45		1.72
	21	0.30	46		1.90
	22	0.32	47		2.10
	23	0.34	48		2.35
	24	0.36	49		2.64
	25	0.38	50		2.99
	26	0.41	51		3.42
	27	0.44	52		3.96
	28	0.47	53		4.65
	29	0.50	54		5.58
	30	0.53	55		895.90 ÷ *n**
	31	0.57	56		921.20 ÷ *n**
	32	0.61			
	33	0.65	57		947.00 ÷ *n**
	34	0.70	58		973.20 ÷ *n**
	35	0.75	59, 60		1,000.00 ÷ *n**
	36	0.81			
	37	0.87			
	38	0.94			
	39	1.02			
	40	1.10			

**n* denotes the number of complete fortnightly contributions payable before contributions would be due to cease on attainment of age 60 years.

SCHEDULE 4

Sec. 18 (2).

TABLE OF CONTRIBUTIONS

First Column	Second Column
Age next birthday	Fortnightly contribution payable for 10 Years for nominal benefit of $1,000*
	$
51	3.15
52	3.32
53	3.51
54	3.70
55	3.90
56	4.12
57	4.35
58	4.58
59	4.84
60	5.10

* The amount of the benefit at the end of the 10 year period is $1,000 together with interest thereon as provided by section 53 from age 60 years to the end of the 10 year period.

SCHEDULE 5

Sec. 26.

First Column	Second Column
Completed years of service	Employer subsidy—amount of percentage
Under 10	Nil
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20	100
21	105
22	110
23	115
24	120
25	125
26	130
27	135
28	140
29	145
30	150
31	155
32	160
33	165
34	170
35	175
36	180
37	185
38	190
39	195
40 or more	200

SCHEDULE

SCHEDULE 6

Sec. 3 (2).

TABLE OF ALLOWANCES

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account	Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account
45 years and over	100·0 per centum	23 years	41·1 per centum
44 years	96·0 " "	22 "	39·2 " "
43 "	92·0 " "	21 "	37·3 " "
42 "	88·0 " "	20 "	35·4 " "
41 "	84·0 " "	19 "	33·5 " "
40 "	80·0 " "	18 "	31·6 " "
39 "	76·0 " "	17 "	29·8 " "
38 "	73·0 " "	16 "	28·0 " "
37 "	70·0 " "	15 "	26·2 " "
36 "	67·0 " "	14 "	24·4 " "
35 "	65·0 " "	13 "	22·6 " "
34 "	63·0 " "	12 "	20·8 " "
33 "	61·0 " "	11 "	19·0 " "
32 "	59·0 " "	10 "	17·3 " "
31 "	57·0 " "	9 "	15·6 " "
30 "	55·0 " "	8 "	13·9 " "
29 "	53·0 " "	7 "	12·2 " "
28 "	51·0 " "	6 "	10·5 " "
27 "	49·0 " "	5 "	8·8 " "
26 "	47·0 " "	4 "	7·1 " "
25 "	45·0 " "	3 "	5·4 " "
24 "	43·0 " "	2 "	3·7 " "
		1 year	2·0 " "

BY AUTHORITY
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

No. , 1972.

A BILL

To make provision for a scheme providing retirement and other benefits for certain employees of the Crown and of certain public authorities; to establish a New South Wales Retirement Fund; to constitute a New South Wales Retirement Board to manage that Fund and the Transport Retirement Fund; to amend the Government Railways Act, 1912, the Superannuation Act, 1916, the Transport Act, 1930, the Transport Employees Retirement Benefits Act, 1967, and the Securities Industry Act, 1970; and for purposes connected therewith.

[MR MADDISON—6 *September*, 1972.]

BE

94053 53—A

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title and division of Act.

1. (1) This Act may be cited as the "New South Wales Retirement Benefits Act, 1972".

(2) This Act is divided as follows: —

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—THE NEW SOUTH WALES RETIREMENT FUND—*ss.* 4–9.

PART III.—EMPLOYEE CONTRIBUTIONS—*ss.* 10–24.

PART IV.—BENEFITS—*ss.* 25–31.

PART V.—EMPLOYER CONTRIBUTIONS—*ss.* 32–34.

PART VI.—THE NEW SOUTH WALES RETIREMENT BOARD—*ss.* 35–49.

PART VII.—LOANS TO CONTRIBUTORS—*s.* 50.

PART VIII.—ASSURANCE POLICIES—*ss.* 51 and 52.

PART IX.—GENERAL PROVISIONS—*ss.* 53–72.

SCHEDULES.

Commencement.

2. (1) Section 1 and this section shall commence on the date of assent to this Act.

(2) Part VI and sections 3, 7, 10, 11, 12 (subsections (3) and (4) excepted), 56, 61, 64, 65, 67 (5) and 67 (6) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) 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 VII shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that is later than the day appointed pursuant to subsection (3).

(5) Notwithstanding that a day has not been appointed pursuant to subsection (3), or that a day so appointed has not arrived, when the Board has been constituted it may exercise and perform such powers, authorities, duties and functions as the Board thinks necessary for the purpose of preparing for the coming into operation of the provisions of this Act that commence on the day so appointed, being powers, authorities, duties and functions that could be exercised or performed by it on or after that day.

Interpretation.

3. (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);

"average

"average earning rate on the Fund" means, in relation to a financial year—

(a) where that financial year commences on or after the appointed day, the percentage rate per annum calculated by the formula—

$$\frac{200 \times I}{A + B - I}$$

where I, A and B have, in relation to a financial year, the same meanings as they have in section 8 in relation to that financial year; and

(b) where that financial year is the financial year current on the day next preceding the appointed day—the rate of five and one-half per centum per annum;

"Board" means the New South Wales Retirement Board constituted by this Act;

"contributor" means—

(a) a person who is contributing, or is liable to contribute, to the Fund;

(b) a person who was so contributing, or was liable so to contribute, but ceased, pursuant to section 20 (1) so to contribute; and

(c) a person eligible for a benefit under this Act calculated by reference only to his initial credit;

"contributor to the Account" means a person who is contributing to the Account;

"contributor to the Transport Retirement Fund" means a person who is a contributor under the Transport Employees Retirement Benefits Act, 1967;

"employee"

"employee" means a person employed by an employer but—

(a) does not include a person who is not, by the terms of his employment with that employer, precluded from engaging in other paid employment;

(b) does not include a person who is not within a class of persons specified in the Second Column of Schedule 1 or 2;

(c) does not, except in the case of—

(i) a person referred to in section 11 or 12 (3); or

(ii) a person who is within a class of persons to which regulations under section 12 (6) relate,

include a person who, by virtue of his employment, participates in or, in the opinion of the Board, would with the effluxion of time participate in, a superannuation scheme;

(d) subject to subsection (10), does not include a person who, for any reason based on non-compliance with a requirement as to medical fitness, is ineligible to participate in a superannuation scheme in which, but for that reason, he would be eligible to participate;

(e) does not include a person who, being eligible to contribute to the Fund established under the Superannuation Act, 1916, has been granted exemption from contributing thereto;

(f) does not include a person who, by an act or omission not involving a requirement as to medical fitness, renders himself ineligible to participate in a superannuation scheme in which, but for the act or omission, he would be eligible to participate; and

(g) does not include a person engaged as a contractor, or on a contract basis, otherwise than under a contract of employment;

"employer" means—

(a) the Crown or a Minister of the Crown;

(b) a person described in the First Column of Schedule 1 or Schedule 2 and an association of persons so described;

"financial year" means any period of twelve months ending on the thirtieth day of June;

"Fund" means the New South Wales Retirement Fund established by this Act;

"initial credit" means—

(a) in relation to a contributor who, before he became a contributor, was a contributor to the Account—an amount equal to the sum of—

(i) the total amount of his contributions to the Account before he ceased to contribute thereto pursuant to section 12 (9) reduced, where any amounts have been paid to him pursuant to Part IX of the Government Railways Act, 1912, by an amount determined by the Board; and

(ii) an allowance of an amount calculated as provided by subsection (2);

(b) in relation to a contributor who, before he became a contributor, was a contributor to the Transport Retirement Fund—an amount equal to the sum of—

(i) the amount of his initial credit, if any, within the meaning of the Transport Employees Retirement Benefits Act, 1967, immediately before he became a contributor;

(ii) an amount calculated as provided by subsection (3);

(iii) an amount calculated as provided by subsection (4);

"initial credit benefit" means, in relation to a contributor who, immediately before he became a contributor, was a contributor to the Account or the Transport Retirement Fund—an amount equal to the sum of—

(a) his initial credit; and

(b) interest on that initial credit, as provided by section 53, for the period from the date on which he became a contributor to the date on which he attains the age of sixty years;

"maximum benefit" means, in relation to a person at a particular time, an amount equivalent to twice his annual wages at that time, reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars;

"minimum benefit" means, in relation to a person at a particular time, an amount equivalent to one-half of his annual wages at that time reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars;

"regulations" means regulations made under this Act;

"retrenchment" means compulsory termination by an employer of the services of an employee on the ground that the employee's office has been abolished, no other office in the service of that

employer or another employer having been found for him at not less than two-thirds of his annual wages at the date of that termination, but does not include termination of employment—

(a) by reason of the expiration of the term of service for which the employee was engaged; or

(b) where the employee was engaged until certain work ceased to be available—by reason of that work ceasing to be available;

"superannuation scheme" means a retirement scheme, fund or arrangement to or in respect of which an employer or a public or local authority constituted by an Act makes, or is liable to make, a payment in respect of a person employed by the employer or authority but does not include the scheme established by this Act;

"Transport Retirement Fund" means the Transport Retirement Fund established by the Transport Employees Retirement Benefits Act, 1967;

"widow" includes widower and words in the feminine gender relating to a widow include the corresponding words in the masculine gender that relate to a widower.

(2) For the purposes of paragraph (a) (ii) of the definition of "initial credit" in subsection (1), the amount of allowance for a contributor is an amount equal to such percentage of the amount referred to in paragraph (a) (i) of that definition as is specified in the Second Column of Schedule 6 opposite the number of years specified in the First Column of that Schedule that is equal to the number of complete years for which the contributor contributed to the Account.

(3) 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 his behalf to the Transport Retirement Fund before he became a contributor under this Act, reduced by the sum of—

(a) the difference between that total amount and the total amount of contributions that would have been paid by him or on his behalf to the Transport Retirement Fund had they been made in accordance with Scale 2 of Schedule 2 to the Transport Employees Retirement Benefits Act, 1967; and

(b) where any amounts have been paid to him from the Transport Retirement Fund—such amount as the Board may determine.

(4) The amount referred to in paragraph (b) (iii) of the definition of "initial credit" in subsection (1) is, in respect of a contributor so referred to, an amount equal to the sum of—

(a) an amount of interest on his initial credit, if any, for the period for which he contributed to the Transport Retirement Fund; and

(b) an amount of interest on the amount calculated in accordance with paragraph (b) (ii) of that definition, calculated in a manner determined by the Board in respect of that person (regard being had to the respective dates of payment of each of the contributions so referred to),

the interest in each case being calculated at a rate or rates determined by the Board having regard to the average earning rate on the Transport Retirement Fund for each financial year that ended during the period referred to in paragraph (a), that average earning rate being calculated in accordance with the formula

$$\frac{200 \times I}{C + D - I}$$

where,

where, in the application of the formula in respect of a financial year—

"I" represents the total amount of interest, dividends and rents credited to the Transport Retirement Fund during that financial year, together with any profit derived from the realisation or appreciation of assets, reduced by—

(a) the amount of any interest charges against the Transport Retirement Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Transport Retirement Fund;

"C" represents the amount of the Transport Retirement Fund at the beginning of that financial year;

"D" represents the amount of the Transport Retirement Fund at the end of that financial year,

and, in determining the values to be assigned to the symbols "I", "C" and "D", accrued income and expenditure, including costs of management accrued and not paid, shall be taken into account.

(5) For the purposes of this Act, the time at which a person becomes a contributor is, in the case of a person who becomes a contributor on more than one occasion, the later or latest of those occasions.

(6) Where a period of service is referred to in this Act in relation to an employee, the period so referred to is a period of continuous employment as an employee, being a period that is continuous with, and includes, the period of employment by virtue of which he is an employee and, for the purposes of calculating the duration of the period of service of an employee—

(a) he shall be deemed to have been an employee at a time before the coming into force of the provisions of this Act whereby he is an employee if, had those provisions been in force at that time, he would have been an employee at that time;

(b) any period during which, by the operation of paragraph (c) or (d) of the definition of "employee" in subsection (1) he was not an employee shall, if he became an employee pursuant to regulations referred to in section 12 (6) or pursuant to an election under subsection (10), be reckoned as if he had been an employee during that period;

(c) he shall, if he becomes a contributor pursuant to an election under section 16, be deemed, notwithstanding paragraphs (a) and (b), not to have been an employee during any period before the day that was twelve months earlier than the day on which he becomes a contributor.

(7) A reference in this Act to the first day of a pay period for or applicable to a person that next follows a specified day or event includes a reference to a pay period for or applicable to that person the first day of which is that specified day or the day on which the specified event occurred.

(8) A reference in this Act to a description of a person, or to a class of persons, includes a reference to the name of a person and, where the reference is to a class of persons, the class may be described by reference to—

(a) all persons within a specified class of persons; or

(b) all persons within a specified class of persons other than—

(i) a specified person or specified persons; or

(ii) a specified class, or specified classes, of persons.

(9) Where this Act provides for the making of an election on a specified day, the Board may arrange for the election to be made in anticipation of that day but—

(a) an election so made does not take effect before that day; and

(b) takes effect only to the extent that, had it not been made, it could be made on that day.

(10)

(10) Where a person is not an employee by reason only of his being a person described in paragraph (d) of the definition of "employee" in subsection (1), he becomes an employee if, within the period three months after being notified by the Board that he may do so, and while in the employment of an employer, he elects to be subject to the provisions of this Act.

PART II.

THE NEW SOUTH WALES RETIREMENT FUND.

Establishment of New South Wales Retirement Fund.

4. (1) The Board shall establish a New South Wales Retirement Fund into which shall be paid the contributions and any other payments made by employers, contributors and other persons under this Act, and from which shall be paid the benefits and other amounts payable under this Act including the cost of administering this Act and managing the Fund.

(2) Moneys derived from the investment of the Fund or borrowed pursuant to section 7 shall form part of the Fund.

(3) Where, in respect of an instrument relating to a transaction, the Board, or a broker, dealer or other person acting on behalf of the Board in respect of that transaction, would, but for this subsection, be liable to pay stamp duty under the Stamp Duties Act, 1920, in respect of the instrument, the Board, broker, dealer or other person, as the case may be, shall not be so liable.

Power to invest Fund.

5. The provisions of the Superannuation Act, 1916, with respect to the investment of the State Superannuation Fund apply to and in respect of the Board and investment of the Fund as if the Board and the Fund referred to in those provisions were the Board and the Fund within the meaning of this Act.

Audit of accounts relating to Fund.

6. (1) The accounts relating to the Fund shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by any law relating to the audit of public accounts.

(2) The Audit Act, 1902, applies to members and employees of the Board in the same manner as it applies to accounting officers in public departments.

Borrowing powers of Board.

7. (1) The Treasurer may, on the application of the Board and on such terms and conditions as the Treasurer thinks fit, lend money to the Board.

(2) The Board may, for the purpose of obtaining temporary financial accommodation, borrow not more than $2,000,000 by way of overdraft from any bank.

Guaranteed minimum interest yield.

8. (1) In this section—

"formula X" means, in relation to a financial year, the amount ascertained in accordance with the formula—

$$1.0275\ I$$

where "I" represents the total amount of interest, dividends and rents credited to the Fund during that financial year, together with any profit derived from the realisation or appreciation of assets, reduced by—

(a) the amount of any interest charges against the Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Fund as referred to in section 48;

"formula

"formula Y" means, in relation to a financial year, the amount ascertained in accordance with the formula—

$$0.0275 (A + B)$$

where—

"A" represents the amount of the Fund at the beginning of that financial year;

"B" represents the amount of the Fund at the end of that financial year;

"prescribed amount "X" " means, in relation to a financial year, the sum of—

(a) the amount ascertained in accordance with formula X in respect of that financial year;

(b) the sum of the amounts ascertained in accordance with formula X in respect of each preceding financial year; and

(c) the total amount, if any, paid by employers under subsection (3) before the end of that financial year;

"prescribed amount Y" means, in relation to a financial year, the sum of—

(a) the amount ascertained in accordance with formula Y in respect of that financial year; and

(b) the sum of the amounts ascertained in accordance with formula Y in respect of each preceding financial year.

(2) In determining the values to be assigned to the symbols "I", "A" and "B" for the purposes of formula X and formula Y, accrued income and expenditure, including costs of management accrued and not paid, shall be taken into account including, in the case of the symbol "A", any payment under subsection (3).

(3) Where the Board certifies—

(a) that, in respect of the financial year that ended on the thirtieth day of June that next succeeded the appointed day, the amount ascertained in accordance with formula Y exceeded the amount ascertained in accordance with formula X; or

(b) that in respect of a financial year succeeding the financial year referred to in paragraph (a), prescribed amount Y exceeded prescribed amount X,

each employer shall, on the requisition of the Board, pay to the Fund in respect of the financial year to which the certificate relates an amount that bears to the amount of that excess the same proportion as the total contributions to the Fund paid by his employees during that financial year bears to the total contributions paid to the Fund by all employees of all employers during that financial year.

Actuarial investigation of Fund.

9. (1) An investigation of the Fund shall be made as at 30th June, 1977, and as at the expiration of each period of three years thereafter.

(2) Each investigation under subsection (1) shall be made by an actuary or actuaries appointed by the Board for the purpose.

(3) An actuary who makes, or actuaries who make, an investigation referred to in subsection (1) shall report to the Board the result of the investigation and shall state whether or not in his or their opinion any reduction or increase should be made in the rates of contributions payable to the Fund.

(4) The Board shall, not later than two months after it receives a report under subsection (3), forward the report to the Minister together with such comments thereon as it deems appropriate.

PART

PART III.

EMPLOYEE CONTRIBUTIONS.

Certain employees may elect to contribute to the Fund.

10. (1) Subject to section 3 (9), on the day on which an employee completes twelve months' service on or after the appointed day he may, if he has not attained the age of sixty years, elect to contribute to the Fund unless he is a person who will become a contributor pursuant to section 11 or a person referred to in section 12 (2) or 12 (3).

(2) Where an employee was, immediately before he became an employee, a participant in a superannuation scheme by virtue of his employment he shall, for the purposes of subsection (1), be deemed to have completed twelve months' service—

(a) on the day on which he became an employee; or

(b) on the day that is twelve months later than the day on which he took up the employment by virtue of which he became a participant in the superannuation scheme,

whichever is the later day.

(3) Where a person who becomes an employee by virtue of an election under section 3 (10) had completed more than nine months' service at the time he first became entitled to make that election, subsection (1) applies to him as if he had completed nine months' service at that time.

(4) An employee who makes an election under this section shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day on which, pursuant to subsection (1), he is entitled to make the election.

11.

Certain persons required to contribute to Fund.

11. (1) On and from the first day of the pay period applicable to him that next succeeds the appointed day, a person who, immediately before the appointed day, is a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, and has not attained the age of thirty years—

(a) shall cease to contribute to the Transport Retirement Fund;

(b) shall, except to the extent provided by this Act, cease to be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967; and

(c) shall contribute to the Fund at the same rate as the rate at which he was contributing to the Transport Retirement Fund immediately before ceasing to contribute to the Transport Retirement Fund or, if the rate necessary to provide for his minimum benefit immediately before that day is a higher rate, at that higher rate.

(2) Subject to section 3 (9), a person who will become a contributor pursuant to subsection (1) may, on the appointed day, elect to vary the lump sum benefit to which his rate of contribution pursuant to subsection (1) (c) would entitle him, subject to the varied lump sum benefit being not less than the minimum benefit, and not more than the maximum benefit, for him at a date determined by the Board.

(3) Where a person makes an election under subsection (2), the necessary variation in his rate of contribution to the Fund shall take effect on and from a day determined by the Board, being a day that is not earlier than the day on which that person becomes a contributor.

Certain classes of persons may elect to contribute to the Fund.

12. (1) The Minister may, by order published in the Gazette, declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section for an employee within the meaning of this Act who is within a class of persons specified in the order.

(2) Subject to this section and the regulations, an employee who—

(a) is an employee to whom an election date specified in an order under subsection (1) relates; and

(b) if he were to remain in the employment of an employer until immediately before that election date, would complete not less than twelve months' service, may, subject to section 3 (9), elect on that election date, to contribute to the Fund.

(3) The Minister may, by order published in the Gazette after the appointed day declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section in respect of—

(a) a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, who attained the age of thirty years on or before the appointed day or an employee within the meaning of that Act who ceased to be such a contributor by reason of his having attained the age of sixty-five years on or before the publication of the order;

(b) a contributor to the Account;

(c) an officer within the meaning of the Transport Act, 1930, who was not, immediately before the appointed day, a contributor to a superannuation fund or account established under the Transport

Act,

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) Regulations may be made for the purposes of subsection (2) with respect to the terms and conditions upon and subject to which a person who is within a class of persons described in the regulations and is a participant in a superannuation scheme may elect to become a contributor to the Fund and any such regulation may be made to vary in its application according to time or circumstance.

(7) Where an election by an employee under this section takes effect, the employee shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day after the last day on which he could have made the election.

(8) 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.

13. Where a person aged sixty years or more makes an election under section 12— **Contributions by certain persons aged sixty years or more at time of making election.**

(a) he shall, notwithstanding section 18, contribute to the Fund at such rate and over such period as is determined by the Board;

(b) he shall, if he becomes entitled to a benefit from the Fund before he has paid the total amount of contributions that, in the opinion of the Board is the total amount of contributions necessary to provide the lump sum benefit for which he is contributing when he becomes so entitled, pay such contributions to the Fund, additional to those already paid by him, as are actuarially determined by the Board as being necessary to provide that lump sum benefit or make arrangements satisfactory to the Board for their payment; and

(c) subject to compliance with paragraph (b), he is entitled to have added to that lump sum benefit an allowance of an amount equal to an amount of interest on that lump sum benefit as provided by section 53 for the period that commenced on the

day

day on which he attained the age of sixty years and ended on the day on which he retired or sooner died.

Amount of lump sum benefit for which contributor must contribute.

14. A person who elects to become a contributor shall, upon his election taking effect, contribute to the Fund for a lump sum benefit of an amount that is not less than the minimum benefit for that person nor more than the maximum benefit for that person—

(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.

Variation of benefits and contributions.

15. (1) In this section—

"contributor" means a contributor who has not attained the age of sixty years at his election date;

"election date" means, in relation to a contributor, a date determined by the Board for the purposes of subsection (2);

"review date" means, in relation to a contributor, a date determined by the Board for the purpose of calculating the lump sum benefit applicable in relation to the annual wages of the contributor at that date.

(2) Subject to subsection (7), a contributor may, on a date determined by the Board for the purposes of this subsection in relation to the contributor or within three months thereafter, elect—

(a) to contribute for an increased lump sum benefit not exceeding the maximum benefit for the contributor at the review date; or

(b)

(b) to reduce his rate of contribution to the Fund, but not so that he is contributing for a benefit that is less than his minimum benefit at the review date,

and, except as provided in subsections (3) and (4), the lump sum benefit for which a contributor is contributing shall not be varied unless it is varied pursuant to such an election.

(3) Except pursuant to an election under subsection (2) (b), where the annual wages of a contributor are reduced, his rate of contribution to the Fund shall not be reduced unless the Board, on the application of the contributor, so approves and, where such an application is approved, the reduced contributions shall be paid on and from a day determined by the Board.

(4) Where, at a review date for a contributor, the lump sum benefit for which he is contributing is less than the minimum benefit for the contributor at that date, he shall pay to the Fund such increased contributions as are required to provide for that minimum benefit.

(5) Where, as a result of an election under subsection (2) (b) or an application under subsection (3), a contributor's rate of contribution to the Fund is reduced—

(a) a refund of any amount by which a past contribution to the Fund exceeded the reduced rate shall not be made; and

(b) the amounts by which any of his past contributions to the Fund exceeded the reduced rate shall, subject to section 17, form part of his lump sum benefit.

(6) Where a contributor makes an election under subsection (2) or his rate of contribution to the Fund is increased under subsection (4), his contributions to the Fund at the varied rate shall be paid on and from a day determined by the Board that is not earlier than the election date nor more than three months after that date.

(7) A contributor who is aged fifty years or more at his election date may not elect under subsection (2) (a) to increase the lump sum benefit for which he is contributing to the Fund to an amount greater than the amount ascertained in accordance with the formula—

$$\frac{a}{4} + \frac{a \times b}{c}$$

where—

"a" represents the contributor's annual wages at his next preceding review date within the meaning of this section;

"b" represents the sum of the amount of the lump sum benefit for which the contributor was contributing immediately before the election and the amount of his initial credit benefit if any;

"c" represents the contributor's annual wages at his review date that next preceded the review date referred to in the definition of the symbol "a".

16. (1) This section applies to— Periodic opportunities to elect to become a contributor.

(a) an employee who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under section 10 (1), or under this section, to become a contributor has failed to do so;

(b) an employee referred to in section 12 (2) or 12 (3) (d) who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under that section, or under this section, to become a contributor has failed to do so; and

(c)

(c) an employee who—

(i) has not attained the age of sixty years; and

(ii) pursuant to section 21 (1) is not a contributor and has not been a contributor during the period of twelve months that next preceded the later or latest of the days appointed pursuant to subsection (2).

(2) The Board shall, by notification published in the Gazette before the expiration of the period of three years that next succeeds the appointed day, and by a notification so published once during every third year that succeeds the expiration of that period, appoint a day for the purpose of making an election under this section, being a day that is not earlier than three months after the publication of the notification.

(3) An employee to whom this section applies may, on or before the day appointed by a notification published under subsection (2) or, where more than one such notification has been published, on or before the day appointed by the later or latest such notification, elect to contribute to the Fund.

(4) An employee who becomes a contributor pursuant to an election under this section shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day appointed under subsection (2) for making the election.

Certain moneys to be paid to Employees Reserve Account.

17. Where a contributor attains the age of sixty years and the Board is of the opinion that the contributions made or to be made by him would, but for this section, entitle him to receive amounts referred to in section 26 (1) (b) that would exceed the amount of the maximum benefit for the contributor at that age, an amount equal to the excess shall be paid to the credit of the contributor as if the contributor had paid it pursuant to section 24 (1) (b).

18.

18. (1) Where a person is liable initially to contribute to the Fund for a lump sum benefit or becomes liable to contribute to the Fund for an increased lump sum benefit, the amount of his initial fortnightly contributions or, as the case may be, the amount of his additional fortnightly contributions in respect of the amount by which the lump sum benefit is increased, is the amount determined in accordance with the formula— Rates of contribution.

$$c = \frac{b \times r}{1000} + z$$

where—

"c" represents the amount of the fortnightly contribution or, as the case may be, the additional fortnightly contribution, to be paid by the contributor to the Fund;

"b" represents the amount of the lump sum benefit or, as the case may be, the amount of the increase in lump sum benefit, for which the contributor is liable to contribute;

"r" represents the amount specified—

(a) in the Second Column of Schedule 3; or

(b) where the contributor is a person who has made an election under subsection (2)—in the Second Column of Schedule 4,

opposite the age specified in the First Column of that Schedule that is the age next birthday of the contributor;

"z" is disregarded where the calculation to be made is a calculation relating to an increase in lump sum benefit but otherwise represents—

(a) the amount of twelve cents; or

(b) in the case of a contributor referred to in section 11 or in section 12 (3) (a) who, in either case—

(i) became, by the operation of section 10 of the Transport Employees Retirement Benefits Act, 1967, a contributor within the meaning of that Act;

(ii) became, by the operation of section 12 of the Railways Retirement Fund Act, 1964, a contributor within the meaning of that Act; or

(iii) being a person referred to in section 12 (1) (b) or 12 (1) (c) of the Transport Employees Retirement Benefits Act, 1967, elected to contribute to the Transport Retirement Fund under section 12 (1) of that Act and is contributing under Scale 1 and Scale 2 of Schedule 2 to that Act—

the amount of seven cents.

(2) Where a person aged fifty years or more—

(a) becomes a contributor;

(b) elects under section 15 (2) (a) to contribute for an increased lump sum benefit; or

(c) is required under section 15 (4) to increase his contributions to the Fund,

he may, in the case referred to in paragraph (a), elect to have his rate of contribution based on Schedule 4 or, in the cases referred to in paragraphs (b) and (c), elect to have the rate of increase in contributions so based.

(3) Where the rate at which a contributor is contributing to the Fund is reduced before he attains the age of sixty years, the lump sum benefit for which he is contributing at the reduced rate is the amount determined by the Board on an actuarial basis as the reduced amount of lump sum benefit for which he is contributing.

(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.

Payment of contributions.

19. (1) Subject to subsection (2), contributions required to be paid to the Fund shall be deducted by employers from the salaries or wages of contributors at each payment thereof and shall be paid by employers to the Board within a period of fourteen days from the date of deduction.

(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

than the amount of the contribution required to be paid to the Fund, or where a contribution that should have been paid to the Fund is not so paid, the Board may—

(a) waive payment of the contribution to the extent that it is unpaid and reduce, to the extent that it considers appropriate having regard to the unpaid amount, the amount of the lump sum benefit for which the contributor would, but for that reduction, be eligible;

(b) allow an amount to be transferred from the balance at the contributor's credit under section 24, if any, in payment or part payment of the unpaid amount and interest thereon as provided by section 53; or

(c) deduct from the amount of the lump sum benefit that would otherwise be payable the unpaid amount and interest thereon as provided by section 53,

and any amount transferred or deducted under paragraph (b) or (c) (interest as provided by section 53 excepted) shall be deemed to be a contribution to the Fund made by the contributor.

Cessation of payment of contributions.

20. (1) Subject to this section and section 62, a contributor who pays contributions to the Fund in accordance with Schedule 3 or Schedule 4 shall cease to pay those contributions on the first day of the pay period applicable to him during which he ceases to be employed by an employer, dies, retires or attains the age of sixty years, whichever first occurs.

(2) Notwithstanding subsection (1), a contributor who attains the age of sixty years shall continue to make any contributions to which an election under section 18 (2) relates.

(3)

(3) Where a contributor who has made an election under section 18 (2) is aged sixty years or more and a benefit for which he is contributing emerges before he has completed payment in accordance with that election of the total contributions that are necessary to provide the benefit, the Board may deduct from the benefit such contributions additional to those already paid as are actuarially determined by the Board to be necessary to provide the benefit, unless those additional contributions are sooner paid.

Exemption from payment of contributions.

21. (1) Notwithstanding any other provision of this Act, a contributor is not required to continue to contribute to the Fund if the Board, on the application of the contributor, is satisfied that adequate provision has been made for the contributor and his family or that there are other special circumstances justifying exemption from, or cessation of, payment of the contributions.

(2) Section 30 continues to apply to a person who, pursuant to subsection (1), is not a contributor.

Election following increase in wages between review date and age of sixty years.

22. (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 may, subject to this section, elect to contribute for an additional lump sum benefit not exceeding the amount referred to in subsection (3).

(3)

(3) The additional amount for which a contributor may elect to contribute under subsection (2) is such an amount that—

(a) the fraction obtained by dividing the amount of his total lump sum benefit after the election by his annual wages on his attainment of the age of sixty years—

does not exceed—

(b) the fraction obtained by dividing the amount of the lump sum benefit for which he was contributing immediately before his attainment of the age of sixty years by his annual wages at the review date referred to in that subsection.

(4) For the purposes of this section, the annual wages of a contributor on his attainment of the age of sixty years include any increase in his annual wages paid after he attains that age if—

(a) the increase is effective from a day that was earlier than the day on which he attained that age; and

(b) was payable in respect of a period that included the day on which he attained that age.

(5) An election under this section shall be made—

(a) where the increase in annual wages is paid on or before the attainment by the contributor of the age of sixty years—within three months after his attainment of that age; or

(b) where the increase in annual wages is paid after the attainment by the contributor of that age—within three months after the day on which the increase is paid.

(6) Where an election is made under this section, the necessary variation in the rate of contribution to the Fund shall be made from a date determined by the Board.

Effect of lapse of period between employment by successive employers.

23. (1) Where an employee ceases to be employed by an employer and, not having attained the age of sixty years he is, on or before the expiration of the next succeeding period of three months, employed by the same or a different employer, he shall, for the purposes of this Act, be deemed not to have ceased to be an employee if he complies with subsection (2).

(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)

(3) Where an employee referred to in subsection (1) fails to comply with subsection (2) he shall, for the purposes of the application of this Act to him after the commencement of his employment secondly referred to in subsection (1), be deemed not to have been employed by an employer before that commencement.

Contributor may make additional contributions.

24. (1) A contributor may—

(a) authorise his employer to deduct from his salary or wages and pay to the Fund any amount in excess of the contributions payable by him under this Act and may at any time cancel the authorisation;

(b) pay directly to the Fund any amount additional to those contributions.

(2) Payments made under subsection (1)—

(a) form part of the Fund;

(b) shall bear interest as provided by section 53;

(c) shall not be withdrawn prior to a benefit becoming payable to or in respect of the contributor under this Act;

(d) may, on application by the contributor and subject to the approval of the Board, be employed in payment of any arrears of contributions payable by the contributor under this Act.

(3) Where a contributor ceases for any reason to be employed by an employer, any amount standing to his credit in accordance with this section—

(a) may be withdrawn by the contributor on a benefit becoming payable to him under this Act;

(b) where section 27 applies to the contributor, may be the subject of an election under that section as if it were an addition to the lump sum benefit that, but for the election, would be payable under section 26; or

(c) where section 28 applies in respect of the contributor, may be paid as an addition to a benefit payable under that section in respect of the contributor.

PART IV.

BENEFITS.

Interpretation.

25. For the purpose of calculating the amount of a benefit under this Act, a reference to the amount of a contribution is a reference to the amount paid to the Fund as that contribution, reduced by—

(a) the value, if any, ascribed to the symbol "z" when calculating the amount of the contribution in accordance with the formula referred to in section 18 (1); and

(b) where any part of the contribution was refunded—an amount equal to the amount of the refund.

Benefits.

26. (1) In this section "prescribed amount" in relation to a contributor who retires or is retired as provided in subsection (2) or (4) or is retrenched is the lesser of—

(a) the amount of the maximum benefit for the contributor—

(i) where he retires, or is retired, as provided in subsection (2) or is retrenched—at the date of his retirement or retrenchment; or

(ii) where he retires as provided in subsection (4)—on the day on which he attains the age of sixty years; and

(b) an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund;

(ii) the amount of his initial credit, if any;

(iii) interest, as provided by section 53, on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on his attainment of the age of sixty years or his earlier retirement or retrenchment; and

(iv) in the case of a contributor aged sixty years or more, the amount determined by the Board to be the actuarial equivalent of contributions (if any) remaining to be paid by him pursuant to an election under section 18 (2).

(2) Where a contributor who has completed not less than ten years' service ceases to be employed by an employer by reason of—

(a) his retirement on attaining the age of sixty years;

(b) his retirement through infirmity of body or mind, where the Board is satisfied that the infirmity—

(i) incapacitates the contributor from performing his duties; and

(ii) is likely to be permanent; or

(c) his retrenchment,

there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (3).

(3) The amount payable under subsection (2) to a contributor referred to therein is an amount equal to the sum of—

(a) the prescribed amount for the contributor; and

(b) an allowance of an amount that is a percentage of the prescribed amount, being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before his retirement or retrenchment.

(4) Where a contributor continues in the service of an employer after he attains the age of sixty years and then retires after completing not less than ten years' service, there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (5).

(5) The amount payable under subsection (4) to a contributor referred to therein is an amount equal to the sum of—

(a) the prescribed amount for the contributor;

(b) interest as provided by section 53 on the amounts referred to in paragraph (a) in respect of the period that commenced on the date on which he attained the age of sixty years and ended on the date on which he retired; and

(c) an allowance of an amount that is a percentage of the total of the amounts calculated under paragraphs (a) and (b), being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by the contributor before his retirement.

27. (1) This section applies to a contributor who has completed not less than ten years' service and ceases to be employed by an employer— Alternative benefits.

(a) by reason of his retirement aged sixty years or more; or

(b) where he is aged fifty years or more, by reason of his retirement through infirmity of body or mind where the Board is satisfied that the infirmity—

(i) incapacitates the contributor from performing his duties; and

(ii) is likely to be permanent; or

(c) where he is aged fifty years or more, by reason of his retrenchment.

(2) Where a person to whom this section applies so elects in relation to the whole or part of the lump sum benefit to which, but for the election and the operation of this section, he would be entitled under section 26 there shall be paid from the Fund instead of the lump sum benefit or part thereof to which the election relates—

(a) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment;

(b) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment with an increase of ten per centum in the amount thereof at the expiration of the period of three years that next succeeds the first payment of pension and at the expiration of each succeeding period of three years, each such increase being calculated by reference to the rate at which that first payment of pension was made;

(c) a pension for himself for life on and from the day following his retirement or retrenchment and, if his spouse at the date on which the benefit under section 26 would have been payable is living at his death, a pension for that spouse for life, on and

from 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.

Benefit for certain dependants.

28. (1) Subject to this section, where a contributor dies before he is paid any benefit under this Act, there shall be paid from the Fund to—

(a) his widow;

(b) if he died without leaving a widow—any child of his or his spouse who was, in the opinion of the Board, dependent on him immediately before his death; or

(c) if he died without leaving a widow and there is no such child—any other person who was, in the opinion of the Board, dependent on him immediately before his death,

a lump sum benefit of an amount specified in subsection (2).

(2) The amount payable under subsection (1) to a person referred to therein is—

(a) in the case of a contributor who, before he died, had completed not less than ten years' service—an amount equal to the amount that would have been paid to the contributor under section 26 had he retired immediately before he died; or

(b) in any other case—an amount equal to the amount that would have been payable under section 30 had it applied to and in respect of the contributor immediately before he died.

(3) Where a contributor with not less than ten years' service dies aged sixty years or more and does not leave a widow or any dependant, there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such other person or persons as the Board may determine, an amount equal to the lump sum benefit to which he would have been entitled under section 26 had he retired immediately before he died.

(4) Where a contributor dies and a benefit is not payable pursuant to subsection (1) or (3), there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such person or persons

as

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. (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. Alternative benefits for widow.

(2) Where a widow to whom this section applies so elects in relation to the whole or part of the lump sum benefit to which, but for the election and the operation of this section,

she

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.

Withdrawal benefit.

30. Subject to section 62, where a person who is a contributor ceases to be employed by an employer and, but for this section, there would not be payable under this Act to or in respect of that person any lump sum benefit or pension or annuity, there shall be paid to him from the Fund as a lump sum benefit or, where he is deceased, to his personal representatives or, where he is deceased and has no personal representatives, to such person as the Board may determine—

(a) in the case of a person who had been a contributor to the Transport Retirement Fund and, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund under this Act; and

(ii) the total of the amounts of his contributions to the Transport Retirement Fund,

reduced by the difference between the amount referred to in subparagraph (ii) and the total amount of the contributions that would have been paid by him to the Transport Retirement Fund had all his contributions thereto been made in accordance with Scale 2 of Schedule 2 of the Transport Employees Retirement Benefits Act, 1967;

(b)

(b) in the case of any other person who, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the total of the amounts of his contributions to the Fund;

(c) in the case of a person who, at the time he ceased to be employed by an employer, had completed not less than five, but less than ten years' service, an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund;

(ii) the amount of his initial credit, if any; and

(iii) interest as provided by section 53 on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on the date on which he ceased to be employed by an employer;

(d) in the case of a person who, at the time he ceased to be employed by an employer, had completed not less than ten years' service, an amount equal to the sum of—

(i) the amount to which he would be entitled if paragraph (c) were applicable to him; and

(ii) an allowance of an amount that is a percentage of the amount referred to in subparagraph (i), being one-half of the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before the cessation of his employment.

31. (1) This section applies to and in respect of— Certain benefit must be not less than certain amount.

(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—

$$\frac{a}{30} \times (10 + n)$$

where—

"a" represents the annual wages of the contributor immediately before his retirement or death, as the case may be;

"n" represents the number of years of service completed by him at that time;

and

(b) the amount that—

(i) where the contributor is retired or dies before he attains the age of sixty years—would have been payable to him under this Act had he retired on attaining the age of sixty years after having continued until that retirement to pay to the Fund contributions at the same rate as the rate at which he was paying them immediately before he was retired or died, as the case may be; or

(ii)

(ii) where the contributor is retired or dies on or after attaining the age of sixty years—

would have been paid to him under this Act if, on the day on which he is retired or dies, he had retired otherwise than as referred to in subsection (1) (a).

(3) Where the benefit payable to or in respect of a contributor to or in respect of whom this section applies would, but for this subsection, be less than the minimum benefit for the contributor, the amount of the benefit payable to or in respect of the contributor shall, subject to subsection (4), be the amount of that minimum benefit.

(4) Nothing in this section operates to prejudice or affect the operation of section 61.

PART V.

EMPLOYER CONTRIBUTIONS.

Payment of contributions by, and apportionment of contributions among, employers.

32. (1) In this section, a reference to a contributor in respect of whom this section applies is a reference to a contributor to or in respect of whom a lump sum benefit has become payable from the Fund and—

"primary employer" in relation to such a contributor means the person who was the employer of the contributor immediately before that lump sum benefit became payable;

"secondary employer" in relation to such a contributor means any person (other than the primary employer of the contributor) who employed the contributor during the period of service in respect of which the lump sum benefit became payable.

(2)

(2) Where a lump sum 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 lump sum benefit is payable under section 26 (2)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (3) (b);

(b) where the lump sum benefit is payable under section 26 (4)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (5) (c);

(c) where, pursuant to section 28, an amount is payable that is equal to the amount that would have been payable in specified circumstances under another provision of this Act—an amount equal to the amount that would have been payable under this subsection if a lump sum benefit had been paid under that other provision in those circumstances;

(d) where the lump sum benefit is payable under section 30 (d)—an amount equal to the amount of the allowance in relation to the contributor under section 30 (d) (ii);

(e) where the lump sum benefit is payable in accordance with section 31—an amount equal to the sum of—

(i) one-half of the amount, if any, by which the lump sum payable under that section exceeds the lump sum benefit that would be payable if that section had not been enacted; and

(ii) the payments, if any, which the primary employer of the contributor would be required to make if that section had not

been

been enacted and if the liability of the employer were determined under paragraph (a) or (d), or as the case may require.

(3) Where, pursuant to subsection (2), the primary employer of a contributor in respect of whom this section applies is required to make a payment, the Board shall serve the notice prescribed by subsection (4) on any secondary employer of the contributor and shall furnish the primary employer of the contributor with a copy thereof.

(4) For the purposes of subsection (3), the notice for service on a secondary employer of a contributor in respect of whom this section applies is a notice to the effect that the secondary employer is liable to pay to the primary employer of the contributor a specified amount within a specified time, that amount being an amount determined by the Board on an actuarial basis having regard to—

(a) the amount of the contributions to the Fund by the contributor, and the amount of the lump sum benefit for which he was contributing, while he was employed by that secondary employer; and

(b) such other matters as the Board thinks fit.

(5) Where a notice is, pursuant to subsection (3) served on a secondary employer and the secondary employer fails, within the time specified in the notice, to pay to the primary employer so specified the amount so specified, that primary employer may, in a court of competent jurisdiction, recover from that secondary employer as a debt the amount so specified.

Liability for initial credit.

33. The initial credit of a contributor who was a contributor to the Account is a liability due to the Fund by the person who was the employer of the contributor at the date on which the contributor last contributed to the Account.

Payments by employer to reserve.

34. (1) Where, on the appointed day, any amount stands to the credit of an employer under section 31 of the Transport Employees Retirement Benefits Act, 1967, the Board shall, without any further authority than this Act, transfer that amount to the Fund and shall credit the same amount to the employer in the books of the Board.

(2) The Board shall pay to the Fund, and shall credit to an employer in the books of the Board, such proportion of any amount (including interest) repaid to the Board pursuant to section 23 (2) (b) as the Board determines to be that employer's proportion of that amount.

(3) An employer may, with the approval of the Governor given on the recommendation of the Treasurer and the Board, pay to the Fund as part of his operating expenses for the financial year in which the payment is made, such amounts as the employer may determine.

(4) Where an employer is required to make a payment under this Act or under section 29 of the Transport Employees Retirement Benefits Act, 1967, the payment may be made from the amount credited to the employer under this section.

(5) An amount standing to the credit of an employer pursuant to this section shall bear interest as provided by section 53.

PART

PART VI.

THE NEW SOUTH WALES RETIREMENT BOARD.

Constitution of New South Wales Retirement Board.

35. (1) There is hereby constituted a body corporate with the corporate name "New South Wales Retirement Board".

(2) The Board shall consist of four persons, each appointed by the Governor on the recommendation of the Minister—

(a) for a period not exceeding five years; and

(b) on such terms and conditions as the Governor thinks fit, including terms and conditions for or with respect to preserving rights accrued or accruing under any Act.

(3) Of the persons referred to in subsection (2)—

(a) one shall, in and by the instrument of his appointment or by a subsequent instrument, be appointed as Chairman;

(b) one may, in like manner, be appointed as executive member;

(c) one shall, in like manner, be appointed as contributor member;

(d) one shall, in like manner, be appointed as employer member.

(4) A person who is appointed Chairman or executive member of the Board may, by the terms of his appointment as such, be required to devote the whole of his time to the duties of his office.

(5) Before making a recommendation to the Governor with respect to the appointment of the contributor member and the employer member, the Minister may consult such persons, including associations of employees, as he thinks fit.

Deputies for members.

36. The Governor may appoint—

(a) subject to section 37, a deputy to act for the Chairman—

(i) during the illness or absence of the Chairman; or

(ii) where there is an executive member, during the illness or absence of both the Chairman and the executive member;

(b) where there is an executive member, a deputy to act (otherwise than pursuant to section 37) for the executive member during his illness or absence; and

(c) deputies to act respectively for the contributor member or the employer member during the illness or absence of the member for whom he is the deputy,

and a person so appointed shall have and may exercise and perform, while acting for the person for whom he is the deputy, the powers, authorities, duties and functions conferred or imposed upon that person as a member of the Board and, where he acts for the Chairman or the executive member, of the Chairman or executive member, as the case may be.

Executive member to act as Chairman in certain circumstances.

37. Where there is an executive member of the Board, he shall have and may exercise, during the illness or absence of the Chairman, the powers, authorities, duties and functions of the Chairman.

Casual vacancies.

38. Where a vacancy occurs in the office of a member the Governor may appoint a person to fill the vacancy and the person so appointed shall hold office instead of, and for the unexpired term of office of, his predecessor.

Certain acts, etc., not invalidated.

39. No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of any member of the Board and a deputy was not available to act in his place under section 36 or 37.

Public Service Act, 1902, not to apply to member of Board.

40. Subject to section 35 (2) (b), the provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment by the Governor of any member of the Board, and such a member is not, in his capacity as a member, subject to the provisions of that Act during his term of office.

Vacation of office.

41. (1) A member of the Board vacates his office if he—

(a) dies;

(b) becomes bankrupt or compounds with his creditors;

(c) absents himself from three consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Governor;

(d) becomes a mentally ill person, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958;

(e) resigns his office by writing under his hand addressed to the Minister and the resignation is accepted by the Governor; or

(f) attains the age of sixty-five years.

(2) A person who is of or above the age of sixty-five years is not eligible for appointment as a member of the Board.

Remuneration and fees payable to members.

42. (1) The members of the Board and their deputies shall be paid such remuneration and fees as the Governor may from time to time determine in respect of each of them.

(2) Subject to subsection (3) where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of the office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member or of a deputy member of the Board or from accepting and retaining any remuneration payable to a member or to a deputy member under this section.

(3) Subsection (2) does not apply to or in respect of a member of the Board who pursuant to section 35 (4), is required to devote the whole of his time to the duties of his office.

Quorum.

43. Two members of the Board, one of whom is the Chairman or, where there is an executive member, the executive member, shall constitute a quorum of the Board and any business transacted at a meeting of the Board at which a quorum is present is valid.

Chairman to have casting vote.

44. Where the voting at any meeting of the Board is equal the Chairman or person acting in his place shall, in addition to having a deliberative vote, have a casting vote.

Powers, etc., of Board.

45. The Board shall manage the Fund and, on and from the appointed day, shall manage the Transport Retirement Fund and shall have and may exercise and perform such other powers, authorities, duties and functions as are conferred or imposed on it by or under this or any other Act.

46.

Delegation by Board.

46. (1) The Board may delegate any of its powers, authorities, duties or functions under this Act or under the regulations, except this power of delegation, to any member or employee of the Board.

(2) The decision of any member or employee of the Board made when he is acting in pursuance of a delegation under this section shall be deemed to be the decision of the Board.

(3) A delegation under this section may be revoked by the Board at any time and does not prevent the exercise of any power, authority, duty or function by the Board.

Staff of Board.

47. (1) The Board may appoint and employ such staff as may be necessary for the proper exercise and performance of its powers, authorities, duties and functions.

(2) The Board may, with the approval of the Minister administering a Government Department or with the approval of a statutory body or an employer, make use of the services of any person employed in the service of that Government Department, statutory body or employer.

Cost of management of Fund.

48. (1) Subject to this section, the cost of management of the Fund and any expenditure incurred by the Board pursuant to section 2 (5) are charges against, and shall be paid out of, the Fund.

(2) In so far as the cost of managing the Fund is attributable to the operation of section 12 in respect of an employee who, being eligible to elect under that section to become a contributor, fails so to elect, the amount thereof, as determined by the Board, shall be paid to the Board by the person who, at the time of that failure, is the employer of that employee.

49. The Board shall, as soon as practicable after the end of a financial year, submit a report to the Minister giving information as to its operations and as to any general decisions adopted by it in the course thereof during that financial year. Report by Board.

PART VII.

Loans to Contributors.

50. (1) The Board may lend to a contributor, on such terms and conditions as the Board determines, an amount not exceeding the total of— Board may lend certain amount to contributor.

(a) the amount of the benefit that would be payable under section 30 if the contributor were to resign from the service of his employer on the day on which he applies for the loan; and

(b) any amount standing to his credit pursuant to section 24.

(2) Where a loan is made to a contributor pursuant to subsection (1) and the Board, by notice in writing, requires the employer of the contributor to deduct from the salary or wages of the contributor at each payment thereof, in addition to the normal contributions of the contributor, such instalments as the Board may require in repayment of the loan and interest thereon, the employer shall comply with the terms of the notice.

(3) The provisions of section 19 relating to the deduction of contributions from the salary or wages of contributors and their remittance to the Board apply in respect of the deduction and remittance of the instalments referred to in subsection (2).

(4) Where a benefit becomes payable under section 26, 28, 30 or 31 in respect of a contributor to whom a loan has been made under subsection (1) before the loan has been fully repaid with interest thereon, the amount of the benefit shall be reduced by the amount of the loan and interest thereon unpaid at the date the benefit became payable.

PART VIII.

Assurance Policies.

Board may accept assignment of certain policies of assurance.

51. (1) In this section "pensioner" means—

(a) a person who receives a lump sum benefit under this Act by reason of his having been a contributor;

(b) a person who receives a lump sum benefit under this Act as the widow or child of a person who was a contributor;

(c) a person who is in receipt of a pension pursuant to an election under section 27 or 29; or

(d) a person who commutes a pension under section 27 (5) or 29 (3).

(2) This section applies to and in respect of an unencumbered policy of endowment assurance (not being an industrial policy as defined in the Life Insurance Act 1945 of the Parliament of the Commonwealth or any Act of that Parliament amending or replacing that Act) that has been in force for a period of at least six years and in respect of which no premiums that have fallen due remain unpaid.

(3) Where the life of a contributor or pensioner, or the life of his spouse, is insured under a policy to which this section applies, the Board may, on the application of the contributor or pensioner, accept an assignment to it of the policy.

(4) The Board shall, where it has accepted assignment of a policy to which this section applies, cause the premiums to be duly paid and, on receipt by the Board of the maturity value of the policy, pay to the assignor or, where he is dead, to his personal representatives, the amount so received reduced by the sum of—

(a) the total amount of the premiums paid by the Board; and

(b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date on which the Board receives the maturity value of the policy.

Re-assignment by Board of policy of assurance.

52. Where the Board has accepted assignment of a policy to which section 51 applies it may, at any time before maturity of the policy, re-assign it to the assignor upon repayment to the Board of the sum of—

(a) the total amount of the premiums paid by the Board; and

(b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date of the re-assignment.

PART

PART IX.

General Provisions.

Moneys payable to and by the Board and interest thereon.

53. (1) Where, pursuant to this Act, any moneys are payable to the Board, payment of the moneys becomes overdue—

(a) if it is not made within the period prescribed for payment of the moneys;

(b) if a time for payment of the moneys is prescribed otherwise than by reference to a specified period—if it is not made within fourteen days after that time; or

(c) in any other case—if it is not made within fourteen days after service by the Board on the person obliged to pay the moneys of a requisition for payment of the moneys.

(2) Interest is payable to the Board on moneys overdue for payment and is so payable on and from the day on which payment of the moneys becomes overdue to the day on which payment of the moneys is made, but the Board may, in special circumstances and in a particular case, waive payment of any such interest or part thereof.

(3) Moneys payable to the Board that are overdue for payment, and interest thereon as provided by this section, are recoverable by the Board in a court of competent jurisdiction as a debt.

(4) Where interest is payable to the Board pursuant to this section or payable to or by the Board or from the Fund under any other provision of this Act, the interest shall be compounded at the end of each financial year during the period for which it is so payable, and at the end of that period, and shall be calculated at the prescribed rate.

(5) Where interest is payable from the Fund on amounts paid to the Fund at different times during a financial year, the interest on those amounts shall, subject to this section, be calculated in a manner determined by the Board.

(6)

(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)—

five and one-half per centum per annum or, where a higher rate of interest is prescribed for such a case, that higher rate; or

(b) in any other case (section 50 excepted)—

(i) the rate prescribed for that case; or

(ii) where no rate is prescribed for that case—a rate specified by the Minister by order published in the Gazette on the recommendation of the Board made after having regard to earning rates, and estimated earning rates, on the Fund.

(7) An order under subsection (6) (b) (ii) may be made to vary according to time or circumstance.

Regulations.

54. 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.

55.

Provision of certain evidence.

55. (1) For the purposes of this Act, the Board may require to be produced such evidence of the age, marriage, dependency or death of any person as it deems necessary and in default of the production of any such evidence the Board may itself obtain the evidence and deduct the expense incurred in obtaining it from any moneys payable from the Fund to the person required to produce the evidence.

(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.

Board may require certain information.

56. The Board may at any time require an employer to furnish such returns with respect to persons employed by him who are or were contributors or who may become eligible to become contributors as the Board may decide and may at any time require any contributor or employee or person who was a contributor to furnish such information as the Board may decide is necessary for the purpose of any investigation in connection with the Fund.

Benefits are not assignable, etc.

57. Lump sum benefits under this Act and other payments from the Fund shall not be in any way assigned or charged or passed by operation of law to any person other than the person who is entitled thereto under this Act.

Estates not exceeding $1,000.

58. (1) Where a person dies and there is due from the Fund to or in respect of him an amount not exceeding $1,000, the Board may, unless—

(a) probate of the will or letters of administration of the estate of that person have been produced to the Board; or

(b)

(b) notice in writing of the existence of the will of that person and of intention to prove it, or notice of intention to take out letters of administration of the estate of that person, is given to the Board within three months of the death of that person,

pay the amount, or after paying the funeral expenses of the deceased or reimbursing any person who paid those expenses pay the balance of the amount, to the widow or to such other person as the Board in the circumstances thinks fit.

(2) Proceedings may not be instituted against the Board in respect of anything done in pursuance of this section, but nothing in this section relieves a person receiving payment in pursuance of this section from any liability to account for or apply the amount paid to him in accordance with law.

Disputes and appeals.

59. (1) Subject to this section, a dispute under this Act shall be determined by the Board.

(2) A person aggrieved by a decision of the Board under subsection (1) may, within a period of six months from the date of the decision, appeal to the Minister, who shall thereupon refer the matter for opinion to a Judge of the Supreme Court, and shall decide the point in accordance with that opinion.

(3) A decision of the Minister under subsection (2) is final and conclusive and not subject to appeal.

Payment where beneficiary incapable.

60. (1) Where a person to whom a benefit is payable under this Act is, in the opinion of the Board, incapable of administering his own affairs by reason of his illness, imprisonment or any other cause the Board may pay the benefit to some other person to be applied wholly for the care, maintenance, benefit and support of the person to whom, but for the provisions of this section, the benefit would be payable, or of any person dependent on him.

(2)

(2) Any payment made under subsection (1) shall be deemed to have been made to the person entitled to the benefit.

Medical examination.

61. (1) The Board may require an employee to undergo a medical examination in order to determine his eligibility to receive a benefit under section 31.

(2) The Board may, in respect of an employee who does not undergo or fails to pass a medical examination referred to in subsection (1), determine his benefit under section 31 as less than the amount provided by that section but not less than the sum of one-sixth of the amount of the annual wages being paid to the contributor at the time the benefit becomes payable together with one-thirtieth of the amount of those annual wages for each completed year of his service.

Eligibility to contribute to superannuation scheme.

62. (1) This section has effect notwithstanding anything in this or any other Act.

(2) Where a contributor would, but for this subsection, be entitled or required to participate in a superannuation scheme by reason of a change in his employment classification within the service of his employer, he may not participate in the superannuation scheme unless, not later than three months after the change in his employment classification, he elects not to contribute to the Fund.

(3) Where a contributor ceases to be employed by an employer and, not more than three months later, being under the age of sixty years, he takes up employment with another person (whether an employer or not) by virtue of

which

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).

Introduction of new superannuation schemes prohibited in certain circumstances.

63. Where an employee who is within a class of persons specified in the Second Column of Schedule 1 or 2 is a contributor, or is eligible to elect to become a contributor or will, with the effluxion of time, be eligible to elect to become a contributor, his employer shall not, without the approval of the Minister, introduce a superannuation scheme in which the employee would be eligible to participate.

64.

Amendment of Schedule 2.

64. (1) On the recommendation of the Minister, the Governor may, by order published in the Gazette, amend Schedule 2 by inserting matter therein or by omitting matter therefrom and may, by the same or a different order so published, make a declaration for the purposes of subsection (3).

(2) An order under subsection (1) takes effect on the day of its publication in the Gazette or, where the order specifies that it takes effect on a specified later day, on that later day.

(3) Where the Governor, by an order under subsection (1), so declares in relation to the employer of a person who becomes an employee within the meaning of this Act by virtue of the order, the total contributor liability of that employer under this Act in respect of that employee shall be met by the employer by his making to the Fund, while the employee is employed by him, periodic payments at a rate to be notified by the Board to the employer as the rate determined by the Board to be necessary to meet the maximum possible liability of the employer, having regard to the contribution rate of the employee and the possibility of his being employed by that or any other employer until he attains the age of sixty-five years.

(4) The name of an association of employees may, by an order under subsection (1) be added to the First Column of Schedule 2 if a substantial number of the members of the association are contributors.

Elections and applications.

65. An election or application under this Act—

(a) shall be in writing;

(b) shall, subject to this Act, be deemed not to have been validly made unless it is received in the office of the Board before the time on or before which it is required to be made;

(c) may, with the approval of the Board, be amended or revoked; and

(d) except where otherwise provided, takes effect on a day determined by the Board in respect thereof.

66.

Restoration of lost right, etc., under Act.

66. (1) Where a person is entitled to exercise a right or enjoy a privilege or benefit under this Act and, without having exercised the right or enjoyed the privilege or benefit, he ceases to be entitled so to do, he may exercise the right or enjoy the privilege or benefit if—

(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.

Amendment of Act No. 96, 1967.

67. (1) The Transport Employees Retirement Benefits Act, 1967, is amended—

Sec. 2. (Division of Act.)

(a) by omitting from section 2 the matter relating to Part IV;

Sec. 3. (Interpretation.)

(b) (i) by omitting from section 3 (1) the definition of "Board" and by inserting instead the following definition:—

"Board" means the New South Wales Retirement Board constituted by the New South Wales Retirement Benefits Act, 1972;

(ii) by omitting from paragraph (e) of the definition of "employee" in section 3 (1) the word "or" where thirdly occurring;

(iii)

(iii) by inserting at the end of paragraph (f) of the definition of "employee" in section 3 (1) the following word and new paragraph :—

; or

(g) a person eligible to make an election under section 10 of the New South Wales Retirement Benefits Act, 1972, or a person who, pursuant to section 11 of that Act, becomes a contributor within the meaning of that Act, or a person who ceases, pursuant to section 12 (8) of that Act, to contribute to the Transport Retirement Fund;

(iv) by omitting from section 3 (6) (b) the words "Transport Retirement Board" wherever occurring and by inserting instead the words "New South Wales Retirement Board";

(c) by inserting at the end of section 4 the following new subsection :— Sec. 4. (The Fund.)

(4) The cost of management of the Fund is a charge against, and shall be paid out of, the Fund.

(d) by omitting from section 8 (3) the word "application" and by inserting instead the word "appreciation"; Sec. 8. (Guaranteed minimum interest yield.)

(e) (i) by omitting from section 9 (1) the word "seventy" and by inserting instead the word "seventy-seven"; Sec. 9. (Triennial investigation of Fund.)

(ii) by inserting at the end of section 9 the following new subsection :—

(4) The Board shall, not later than two months after it receives a report under subsection (3), forward the report to the Minister together with such comments thereon as it deems appropriate.

(f) by omitting Part IV; Part IV. (The Transport Retirement Board.)

(g) by omitting from section 65 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board"; Sec. 65. (References to Railways Retirement Fund Board in Acts, ordinances, etc.)

(h) by omitting from Schedule 1 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board". Sch. 1.

(2) A person who, immediately before the appointed day, was a member of the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, is not entitled to any compensation by reason of his ceasing to hold office as such a member.

(3) On and from the day appointed pursuant to section 2 (3)—

(a) all real and personal property, including all investments, cash on deposit or in hand and all books, accounts, records, certificates and deeds and all right and interest therein and all management and control thereof that, immediately before that day, were vested in the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, are vested in the Board;

(b) all moneys and liquidated and unliquidated claims that, immediately before that day were payable to, or recoverable by, the Transport Retirement Board so constituted are payable to, and recoverable by, the Board;

(c) all suits, actions and proceedings pending immediately before that day at the suit of or against the Transport Retirement Board so constituted are suits, actions and proceedings pending at the suit of or, as the case may be, against the Board;

(d) all contracts, agreements and undertakings entered into with, and all securities given to or by, the Transport Retirement Board so constituted and in force immediately before that day shall be deemed to be contracts, agreements and undertakings, entered into with, and securities given to or by, the Board;

(e) the Board may pursue the same remedies for the recovery of moneys and the enforcement of claims, and may prosecute and defend the same actions, suits and proceedings as might, but for this section, have been pursued, prosecuted or defended by the Transport Retirement Board so constituted;

(f) the Board may enforce and realise any security or charge in favour of the Transport Retirement Board so constituted that was in force immediately before that day as if it were a security or charge in favour of the Board;

(g) all debts and moneys that, immediately before that day, were due or payable to, and all liquidated and unliquidated claims that, immediately before that day, were recoverable against the Transport Retirement Board so constituted are debts due by, moneys payable by, and claims recoverable against the Board; and

(h) a reference, whether express or implied, in any Act (other than this Act) ordinance, order, regulation or by-law or in any other instrument or document (other than an instrument or document appointing a member of the Transport Retirement Board) to the Transport Retirement Board shall be read and construed as a reference to the Board.

(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 V of the Industrial Arbitration Act, 1940; and

(c) where a condition of employment of a person referred to in paragraph (a) was, immediately before that day, regulated by an award or industrial agreement, the condition shall continue so to be regulated until an award or industrial agreement that is binding on the Board is made to regulate the condition.

(5) The Minister shall appoint a Review Committee consisting of—

(a) a member of the Board, who shall be chairman of, and convene meetings of, the Review Committee;

(b) a nominee of the Auditor-General; and

(c) the Government Actuary.

(6) The Board shall, as between the Transport Retirement Fund and the New South Wales Retirement Fund make such adjustments of the assets and liabilities of those Funds as the Review Committee considers to be a necessary consequence of the operation of this Act.

68. The Transport Employees Retirement Benefits Act, 1967, is further amended by omitting section 14 and by inserting instead the following section : — Further amendment of Act No. 96, 1967. Subst. sec. 14.

Variation of benefits.

14. (1) In this section—

"contributor" includes an employee who ceased to be a contributor on his attainment of the age of sixty-five years;

"review date" means, in relation to a contributor, a date determined by the Board for the purpose of calculating the lump sum benefit applicable in relation to the annual wages of the contributor at that date.

(2) Except as provided by this section and by sections 15 and 16, the lump sum benefit for which a contributor is contributing shall not be varied.

(3) Subject to subsection (4), where the annual wages of a contributor are increased so that the amount thereof falls within a wage group that is higher than the wage group within which the amount thereof fell immediately before the increase he shall, not earlier than the review date that next follows the increase, contribute as provided by subsection (6)—

(a) in the case of a contributor who is contributing for his ordinary minimum benefit—for the ordinary minimum benefit appropriate for his higher wage group;

(b) in the case of a contributor who is contributing for his maximum benefit—for the maximum benefit appropriate for his higher wage group; or

(c) in the case of a contributor who had nominated a benefit wage factor—for the lesser of—

(i) the maximum benefit appropriate for his higher wage group; and

(ii)

(ii) a lump sum benefit calculated by applying to the upper level of the wage group in which his increased salary falls the benefit wage factor last nominated by him before that review date and by deducting from the resulting amount so much of his initial credit benefit, if any, as is a multiple of one hundred dollars.

(4) Where a lump sum benefit becomes payable in respect of a contributor, subsection (3) applies as if the date on which the lump sum benefit became payable were a review date for the contributor.

(5) For the purposes of subsection (4), a reference in subsection (3) to an increase of annual wages includes a reference to such an increase paid after a lump sum benefit became payable under this Act if the increase took effect on and from a day that is earlier than, and is in respect of, a period that includes the date on which the lump sum benefit became payable.

(6) The increased contributions to be paid to the Fund by a contributor contributing for an increased lump sum benefit pursuant to this section shall be payable—

(a) where the review date for the contributor is not determined as provided by subsection (4)—on and from the first day of the pay period next following a date determined by the Board in relation to the contributor for the purposes of this section; or

(b) where the review date for the contributor is determined as provided by subsection (4)—on and from the first day of the pay period next following the date with effect from which the annual wages of the contributor were increased.

69. The Government Railways Act, 1912, is amended by omitting section 109A and by inserting instead the following section :— Amendment of Act No. 30, 1912. Subst. sec. 109A.

109A. This Part does not apply to or in respect of a person who became an officer after the commencement of the Railways Retirement Fund Act, 1964, and before the day appointed pursuant to subsection (3) of section 2 of the New South Wales Retirement Benefits Act, 1972, or who becomes an officer on or after that day. This part not to apply to certain persons.

70. The Transport Act, 1930, is amended by omitting section 132B and by inserting instead the following section :— Amendment of Act No. 18, 1930. Subst. sec. 132B.

132B. This Part does not apply to or in respect of a person who is an officer whose appointment was confirmed after the commencement of the Transport Employees Retirement Benefits Act, 1967, and before the day appointed pursuant to subsection (3) of section 2 of the New South Wales Retirement Benefits Act, 1972, or whose appointment is confirmed on or after that day. This Part not to apply to certain persons.

71. The Superannuation Act, 1916, is amended by inserting in the definition of "Employee" in section 3 (1) after the figures "1967," the words "or the New South Wales Retirement Benefits Act, 1972,". Amendment of Act No. 28, 1916. Sec. 3. (Interpretation).

72. The Securities Industry Act, 1970, is amended by omitting from paragraph (e) of the definition of "exempt dealer" in section 4 (1) the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board". Amendment of Act No. 35, 1970. Sec. 4. (Interpretation.)

SCHEDULES.

SCHEDULES.

SCHEDULE 1

Sec. 3 (1).

First Column	Second Column
Employers	Employees
The Commissioner for Railways ..	Persons employed by the Commissioner (other than persons so employed temporarily as workmen on construction, deviation or duplication works, in the trading or catering services or in connection with a sawmill that is not associated with a workshop).
The Commissioner for Government Transport.	Persons employed by the Commissioner.
The Commissioner for Motor Transport.	Persons employed by the Commissioner.
The Crown or a Minister of the Crown	Persons employed in the Police Department otherwise than— (a) as police cadets; (b) under the Police Regulation Act, 1899; or (c) under the Public Service Act, 1902.
New South Wales Retirement Board	Persons employed by the Board.

SCHEDULE 2

Sec. 3 (1).
Sec. 64.

First Column	Second Column
Employers	Employees

SCHEDULE

SCHEDULE 3

Sec. 18 (1).

TABLE OF CONTRIBUTIONS

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Age next birthday	Fortnightly rate of contribution for $1,000 of the amount of the lump sum benefit	Age next birthday	Fortnightly rate of contribution for $1,000 of the amount of the lump sum benefit
	$		$
16	0.22	41	1.20
17	0.24	42	1.30
18	0.25	43	1.42
19	0.27	44	1.56
20	0.28	45	1.72
21	0.30	46	1.90
22	0.32	47	2.10
23	0.34	48	2.35
24	0.36	49	2.64
25	0.38	50	2.99
26	0.41	51	3.42
27	0.44	52	3.96
28	0.47	53	4.65
29	0.50	54	5.58
30	0.53	55	895.90 ÷ *n**
31	0.57	56	921.20 ÷ *n**
32	0.61		
33	0.65	57	947.00 ÷ *n**
34	0.70	58	973.20 ÷ *n**
35	0.75	59, 60	1,000.00 ÷ *n**
36	0.81		
37	0.87		
38	0.94		
39	1.02		
40	1.10		

**n* denotes the number of complete fortnightly contributions payable before contributions would be due to cease on attainment of age 60 years.

SCHEDULE 4

Sec. 18 (2).

TABLE OF CONTRIBUTIONS

First Column	Second Column
Age next birthday	Fortnightly contribution payable for 10 Years for nominal benefit of $1,000*
	$
51	3.15
52	3.32
53	3.51
54	3.70
55	3.90
56	4.12
57	4.35
58	4.58
59	4.84
60	5.10

* The amount of the benefit at the end of the 10 year period is $1,000 together with interest thereon as provided by section 53 from age 60 years to the end of the 10 year period.

SCHEDULE 5

Sec. 26.

First Column	Second Column
Completed years of service	Employer subsidy—amount of percentage
Under 10	Nil
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20	100
21	105
22	110
23	115
24	120
25	125
26	130
27	135
28	140
29	145
30	150
31	155
32	160
33	165
34	170
35	175
36	180
37	185
38	190
39	195
40 or more	200

SCHEDULE 6

Sec. 3 (2).

TABLE OF ALLOWANCES

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account	Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account
45 years and over	100·0 per centum	23 years	41·1 per centum
44 years	96·0 " "	22 "	39·2 " "
43 "	92·0 " "	21 "	37·3 " "
42 "	88·0 " "	20 "	35·4 " "
41 "	84·0 " "	19 "	33·5 " "
40 "	80·0 " "	18 "	31·6 " "
39 "	76·0 " "	17 "	29·8 " "
38 "	73·0 " "	16 "	28·0 " "
37 "	70·0 " "	15 "	26·2 " "
36 "	67·0 " "	14 "	24·4 " "
35 "	65·0 " "	13 "	22·6 " "
34 "	63·0 " "	12 "	20·8 " "
33 "	61·0 " "	11 "	19·0 " "
32 "	59·0 " "	10 "	17·3 " "
31 "	57·0 " "	9 "	15·6 " "
30 "	55·0 " "	8 "	13·9 " "
29 "	53·0 " "	7 "	12·2 " "
28 "	51·0 " "	6 "	10·5 " "
27 "	49·0 " "	5 "	8·8 " "
26 "	47·0 " "	4 "	7·1 " "
25 "	45·0 " "	3 "	5·4 " "
24 "	43·0 " "	2 "	3·7 " "
		1 year	2·0 " "

BY AUTHORITY
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972
[65c]

PROOF

NEW SOUTH WALES RETIREMENT BENEFITS BILL, 1972

EXPLANATORY NOTE

THE objects of this Bill are—

(a) to establish a New South Wales Retirement Fund and to provide for its investment;

(b) to provide for a guarantee of an interest yield from the Fund of not less than five and one-half per centum per annum;

(c) to provide for a triennial investigation of, and report upon, the Fund by an actuary or by actuaries;

(d) to close off from future entrants the Transport Retirement Fund constituted under the Transport Employees Retirement Benefits Act, 1967;

(e) to require existing contributors to the Transport Retirement Fund who are under the age of thirty years to contribute to the New South Wales Retirement Fund;

(f) to permit certain classes of persons, including existing contributors to the Transport Retirement Fund who are aged thirty years or more and the Railways Superannuation Account, to elect to contribute to the New South Wales Retirement Fund;

(g) to permit certain other classes of persons who are unable to contribute to a governmental or semi-governmental superannuation scheme to elect to come within the scheme propounded by the Bill;

(h) to proclaim from time to time the classes referred to in paragraph (g) and to renew every three years a right of election not previously exercised;

(i) to require persons who become contributors to elect to contribute for a lump sum benefit that (without employer subsidy and other additions) amounts to not less than one-half his annual wages and not more than twice his annual wages;

(j) to enable a contributor to the Fund to vary, at specified times, the amount of lump sum benefit for which he is contributing;

(k) to enable a contributor to make additional contributions to the Fund that bear interest but are repayable only when a benefit to which the contributor is otherwise entitled arises;

(l) to require the employer, or the successive employers, of a contributor to subsidise the lump sum benefit for which the contributor is contributing to an extent that varies according to the length of service of the contributor calculated in accordance with the Act, the maximum amount of subsidy being, after forty or more years such service, twice the amount of the lump sum benefit;

(m) to provide for the payment to a contributor of full benefits upon—

(i) his retirement on or after his attainment of the age of sixty years;

(ii) his retirement through permanent infirmity of body or mind; or

(iii) his retrenchment,

and for payment of a lesser benefit if he ceases to be a contributor from any other cause (other than death);

(n) to provide that a contributor to the Fund may elect to take, instead of a specified part, or instead of the whole, of his lump sum benefit any one of several specified pension entitlements for himself, or for himself and, after his death, for his widow;

(o) to provide for the payment, on the death of a contributor, of certain benefits for his widow or dependants, with certain pension options;

(p) to make provision for the payment and apportionment of employer contributions;

(q) to constitute a New South Wales Retirement Board to manage the New South Wales Retirement Fund and, to the extent that it remains operative, the Transport Retirement Fund;

(r) to abolish the Transport Retirement Board and to make provision with respect to the apportionment of its assets and liabilities and the transfer of its employees to the employment of the New South Wales Retirement Board;

(s) to enable the Board to lend money to a contributor;

(t) to enable the Board to accept responsibility for payment of the premiums on an assurance policy on the life of a contributor or his spouse;

(u) to require an employee who is eligible to contribute both to the Fund and to another governmental or semi-governmental superannuation scheme to elect between them;

(v) to prohibit, in certain circumstances, the introduction by an employer to whom the Bill relates of a new superannuation scheme for any of his employees who are eligible to contribute to the Fund;

(w) to make provisions consequential upon, or ancillary to, the foregoing.

PROOF

No. , 1972.

A BILL

To make provision for a scheme providing retirement and other benefits for certain employees of the Crown and of certain public authorities; to establish a New South Wales Retirement Fund; to constitute a New South Wales Retirement Board to manage that Fund and the Transport Retirement Fund; to amend the Government Railways Act, 1912, the Superannuation Act, 1916, the Transport Act, 1930, the Transport Employees Retirement Benefits Act, 1967, and the Securities Industry Act, 1970; and for purposes connected therewith.

[MR MADDISON—6 *September*, 1972.]

BE

94053 53—A

New South Wales Retirement Benefits.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title and division of Act.

1. (1) This Act may be cited as the "New South Wales Retirement Benefits Act, 1972".

(2) This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—THE NEW SOUTH WALES RETIREMENT FUND—*ss.* 4–9.

PART III.—EMPLOYEE CONTRIBUTIONS—*ss.* 10–24.

PART IV.—BENEFITS—*ss.* 25–31.

PART V.—EMPLOYER CONTRIBUTIONS—*ss.* 32–34.

PART VI.—THE NEW SOUTH WALES RETIREMENT BOARD—*ss.* 35–49.

PART VII.—LOANS TO CONTRIBUTORS—*s.* 50.

PART VIII.—ASSURANCE POLICIES—*ss.* 51 and 52.

PART IX.—GENERAL PROVISIONS—*ss.* 53–72.

SCHEDULES.

Commencement.

2. (1) Section 1 and this section shall commence on the date of assent to this Act.

(2) Part VI and sections 3, 7, 10, 11, 12 (subsections (3) and (4) excepted), 56, 61, 64, 65, 67 (5) and 67 (6) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3)

(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 VII shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that is later than the day appointed pursuant to subsection (3).

(5) Notwithstanding that a day has not been appointed pursuant to subsection (3), or that a day so appointed has not arrived, when the Board has been constituted it may exercise and perform such powers, authorities, duties and functions as the Board thinks necessary for the purpose of preparing for the coming into operation of the provisions of this Act that commence on the day so appointed, being powers, authorities, duties and functions that could be exercised or performed by it on or after that day.

Interpretation.

3. (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);

"average

"average earning rate on the Fund" means, in relation to a financial year—

(a) where that financial year commences on or after the appointed day, the percentage rate per annum calculated by the formula—

$$\frac{200 \times I}{A + B - I}$$

where I, A and B have, in relation to a financial year, the same meanings as they have in section 8 in relation to that financial year; and

(b) where that financial year is the financial year current on the day next preceding the appointed day—the rate of five and one-half per centum per annum;

"Board" means the New South Wales Retirement Board constituted by this Act;

"contributor" means—

(a) a person who is contributing, or is liable to contribute, to the Fund;

(b) a person who was so contributing, or was liable so to contribute, but ceased, pursuant to section 20 (1) so to contribute; and

(c) a person eligible for a benefit under this Act calculated by reference only to his initial credit;

"contributor to the Account" means a person who is contributing to the Account;

"contributor to the Transport Retirement Fund" means a person who is a contributor under the Transport Employees Retirement Benefits Act, 1967;

"employee"

"employee" means a person employed by an employer but—

(a) does not include a person who is not, by the terms of his employment with that employer, precluded from engaging in other paid employment;

(b) does not include a person who is not within a class of persons specified in the Second Column of Schedule 1 or 2;

(c) does not, except in the case of—

(i) a person referred to in section 11 or 12 (3); or

(ii) a person who is within a class of persons to which regulations under section 12 (6) relate,

include a person who, by virtue of his employment, participates in or, in the opinion of the Board, would with the effluxion of time participate in, a superannuation scheme;

(d) subject to subsection (10), does not include a person who, for any reason based on non-compliance with a requirement as to medical fitness, is ineligible to participate in a superannuation scheme in which, but for that reason, he would be eligible to participate;

(e) does not include a person who, being eligible to contribute to the Fund established under the Superannuation Act, 1916, has been granted exemption from contributing thereto;

(f) does not include a person who, by an act or omission not involving a requirement as to medical fitness, renders himself ineligible to participate in a superannuation scheme in which, but for the act or omission, he would be eligible to participate; and

(g)

(g) does not include a person engaged as a contractor, or on a contract basis, otherwise than under a contract of employment;

"employer" means—

(a) the Crown or a Minister of the Crown;

(b) a person described in the First Column of Schedule 1 or Schedule 2 and an association of persons so described;

"financial year" means any period of twelve months ending on the thirtieth day of June;

"Fund" means the New South Wales Retirement Fund established by this Act;

"initial credit" means—

(a) in relation to a contributor who, before he became a contributor, was a contributor to the Account—an amount equal to the sum of—

(i) the total amount of his contributions to the Account before he ceased to contribute thereto pursuant to section 12 (9) reduced, where any amounts have been paid to him pursuant to Part IX of the Government Railways Act, 1912, by an amount determined by the Board; and

(ii) an allowance of an amount calculated as provided by subsection (2);

(b) in relation to a contributor who, before he became a contributor, was a contributor to the Transport Retirement Fund—an amount equal to the sum of—

(i) the amount of his initial credit, if any, within the meaning of the Transport Employees Retirement Benefits Act, 1967, immediately before he became a contributor;

(ii)

(ii) an amount calculated as provided by subsection (3);

(iii) an amount calculated as provided by subsection (4);

"initial credit benefit" means, in relation to a contributor who, immediately before he became a contributor, was a contributor to the Account or the Transport Retirement Fund—an amount equal to the sum of—

(a) his initial credit; and

(b) interest on that initial credit, as provided by section 53, for the period from the date on which he became a contributor to the date on which he attains the age of sixty years;

"maximum benefit" means, in relation to a person at a particular time, an amount equivalent to twice his annual wages at that time, reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars;

"minimum benefit" means, in relation to a person at a particular time, an amount equivalent to one-half of his annual wages at that time reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars;

"regulations" means regulations made under this Act;

"retrenchment" means compulsory termination by an employer of the services of an employee on the ground that the employee's office has been abolished, no other office in the service of that

employer

employer or another employer having been found for him at not less than two-thirds of his annual wages at the date of that termination, but does not include termination of employment—

(a) by reason of the expiration of the term of service for which the employee was engaged; or

(b) where the employee was engaged until certain work ceased to be available—by reason of that work ceasing to be available;

"superannuation scheme" means a retirement scheme, fund or arrangement to or in respect of which an employer or a public or local authority constituted by an Act makes, or is liable to make, a payment in respect of a person employed by the employer or authority but does not include the scheme established by this Act;

"Transport Retirement Fund" means the Transport Retirement Fund established by the Transport Employees Retirement Benefits Act, 1967;

"widow" includes widower and words in the feminine gender relating to a widow include the corresponding words in the masculine gender that relate to a widower.

(2) For the purposes of paragraph (a) (ii) of the definition of "initial credit" in subsection (1), the amount of allowance for a contributor is an amount equal to such percentage of the amount referred to in paragraph (a) (i) of that definition as is specified in the Second Column of Schedule 6 opposite the number of years specified in the First Column of that Schedule that is equal to the number of complete years for which the contributor contributed to the Account.

(3) 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 his behalf to the Transport Retirement Fund before he became a contributor under this Act, reduced by the sum of—

(a) the difference between that total amount and the total amount of contributions that would have been paid by him or on his behalf to the Transport Retirement Fund had they been made in accordance with Scale 2 of Schedule 2 to the Transport Employees Retirement Benefits Act, 1967; and

(b) where any amounts have been paid to him from the Transport Retirement Fund—such amount as the Board may determine.

(4) The amount referred to in paragraph (b) (iii) of the definition of "initial credit" in subsection (1) is, in respect of a contributor so referred to, an amount equal to the sum of—

(a) an amount of interest on his initial credit, if any, for the period for which he contributed to the Transport Retirement Fund; and

(b) an amount of interest on the amount calculated in accordance with paragraph (b) (ii) of that definition, calculated in a manner determined by the Board in respect of that person (regard being had to the respective dates of payment of each of the contributions so referred to),

the interest in each case being calculated at a rate or rates determined by the Board having regard to the average earning rate on the Transport Retirement Fund for each financial year that ended during the period referred to in paragraph (a), that average earning rate being calculated in accordance with the formula

$$\frac{200 \times I}{C + D - I}$$

where,

where, in the application of the formula in respect of a financial year—

"I" represents the total amount of interest, dividends and rents credited to the Transport Retirement Fund during that financial year, together with any profit derived from the realisation or appreciation of assets, reduced by—

(a) the amount of any interest charges against the Transport Retirement Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Transport Retirement Fund;

"C" represents the amount of the Transport Retirement Fund at the beginning of that financial year;

"D" represents the amount of the Transport Retirement Fund at the end of that financial year,

and, in determining the values to be assigned to the symbols "I", "C" and "D", accrued income and expenditure, including costs of management accrued and not paid, shall be taken into account.

(5) For the purposes of this Act, the time at which a person becomes a contributor is, in the case of a person who becomes a contributor on more than one occasion, the later or latest of those occasions.

(6) Where a period of service is referred to in this Act in relation to an employee, the period so referred to is a period of continuous employment as an employee, being a period that is continuous with, and includes, the period of employment by virtue of which he is an employee and, for the purposes of calculating the duration of the period of service of an employee—

(a) he shall be deemed to have been an employee at a time before the coming into force of the provisions of this Act whereby he is an employee if, had those provisions been in force at that time, he would have been an employee at that time;

(b)

(b) any period during which, by the operation of paragraph (c) or (d) of the definition of "employee" in subsection (1) he was not an employee shall, if he became an employee pursuant to regulations referred to in section 12 (6) or pursuant to an election under subsection (10), be reckoned as if he had been an employee during that period;

(c) he shall, if he becomes a contributor pursuant to an election under section 16, be deemed, notwithstanding paragraphs (a) and (b), not to have been an employee during any period before the day that was twelve months earlier than the day on which he becomes a contributor.

(7) A reference in this Act to the first day of a pay period for or applicable to a person that next follows a specified day or event includes a reference to a pay period for or applicable to that person the first day of which is that specified day or the day on which the specified event occurred.

(8) A reference in this Act to a description of a person, or to a class of persons, includes a reference to the name of a person and, where the reference is to a class of persons, the class may be described by reference to—

(a) all persons within a specified class of persons; or

(b) all persons within a specified class of persons other than—

(i) a specified person or specified persons; or

(ii) a specified class, or specified classes, of persons.

(9) Where this Act provides for the making of an election on a specified day, the Board may arrange for the election to be made in anticipation of that day but—

(a) an election so made does not take effect before that day; and

(b) takes effect only to the extent that, had it not been made, it could be made on that day.

(10)

(10) Where a person is not an employee by reason only of his being a person described in paragraph (d) of the definition of "employee" in subsection (1), he becomes an employee if, within the period three months after being notified by the Board that he may do so, and while in the employment of an employer, he elects to be subject to the provisions of this Act.

PART II.

THE NEW SOUTH WALES RETIREMENT FUND.

Establishment of New South Wales Retirement Fund.

4. (1) The Board shall establish a New South Wales Retirement Fund into which shall be paid the contributions and any other payments made by employers, contributors and other persons under this Act, and from which shall be paid the benefits and other amounts payable under this Act including the cost of administering this Act and managing the Fund.

(2) Moneys derived from the investment of the Fund or borrowed pursuant to section 7 shall form part of the Fund.

(3) Where, in respect of an instrument relating to a transaction, the Board, or a broker, dealer or other person acting on behalf of the Board in respect of that transaction, would, but for this subsection, be liable to pay stamp duty under the Stamp Duties Act, 1920, in respect of the instrument, the Board, broker, dealer or other person, as the case may be, shall not be so liable.

Power to invest Fund.

5. The provisions of the Superannuation Act, 1916, with respect to the investment of the State Superannuation Fund apply to and in respect of the Board and investment of the Fund as if the Board and the Fund referred to in those provisions were the Board and the Fund within the meaning of this Act.

Audit of accounts relating to Fund.

6. (1) The accounts relating to the Fund shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by any law relating to the audit of public accounts.

(2) The Audit Act, 1902, applies to members and employees of the Board in the same manner as it applies to accounting officers in public departments.

Borrowing powers of Board.

7. (1) The Treasurer may, on the application of the Board and on such terms and conditions as the Treasurer thinks fit, lend money to the Board.

(2) The Board may, for the purpose of obtaining temporary financial accommodation, borrow not more than $2,000,000 by way of overdraft from any bank.

Guaranteed minimum interest yield.

8. (1) In this section—

"formula X" means, in relation to a financial year, the amount ascertained in accordance with the formula—

$$1.0275\ I$$

where "I" represents the total amount of interest, dividends and rents credited to the Fund during that financial year, together with any profit derived from the realisation or appreciation of assets, reduced by—

(a) the amount of any interest charges against the Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Fund as referred to in section 48;

"formula

"formula Y" means, in relation to a financial year, the amount ascertained in accordance with the formula—

$$0.0275\ (A + B)$$

where—

"A" represents the amount of the Fund at the beginning of that financial year;

"B" represents the amount of the Fund at the end of that financial year;

"prescribed amount "X" " means, in relation to a financial year, the sum of—

(a) the amount ascertained in accordance with formula X in respect of that financial year;

(b) the sum of the amounts ascertained in accordance with formula X in respect of each preceding financial year; and

(c) the total amount, if any, paid by employers under subsection (3) before the end of that financial year;

"prescribed amount Y" means, in relation to a financial year, the sum of—

(a) the amount ascertained in accordance with formula Y in respect of that financial year; and

(b) the sum of the amounts ascertained in accordance with formula Y in respect of each preceding financial year.

(2) In determining the values to be assigned to the symbols "I", "A" and "B" for the purposes of formula X and formula Y, accrued income and expenditure, including costs of management accrued and not paid, shall be taken into account including, in the case of the symbol "A", any payment under subsection (3).

(3) Where the Board certifies—

(a) that, in respect of the financial year that ended on the thirtieth day of June that next succeeded the appointed day, the amount ascertained in accordance with formula Y exceeded the amount ascertained in accordance with formula X; or

(b) that in respect of a financial year succeeding the financial year referred to in paragraph (a), prescribed amount Y exceeded prescribed amount X,

each employer shall, on the requisition of the Board, pay to the Fund in respect of the financial year to which the certificate relates an amount that bears to the amount of that excess the same proportion as the total contributions to the Fund paid by his employees during that financial year bears to the total contributions paid to the Fund by all employees of all employers during that financial year.

Actuarial investigation of Fund.

9. (1) An investigation of the Fund shall be made as at 30th June, 1977, and as at the expiration of each period of three years thereafter.

(2) Each investigation under subsection (1) shall be made by an actuary or actuaries appointed by the Board for the purpose.

(3) An actuary who makes, or actuaries who make, an investigation referred to in subsection (1) shall report to the Board the result of the investigation and shall state whether or not in his or their opinion any reduction or increase should be made in the rates of contributions payable to the Fund.

(4) The Board shall, not later than two months after it receives a report under subsection (3), forward the report to the Minister together with such comments thereon as it deems appropriate.

PART

PART III.

EMPLOYEE CONTRIBUTIONS.

Certain employees may elect to contribute to the Fund.

10. (1) Subject to section 3 (9), on the day on which an employee completes twelve months' service on or after the appointed day he may, if he has not attained the age of sixty years, elect to contribute to the Fund unless he is a person who will become a contributor pursuant to section 11 or a person referred to in section 12 (2) or 12 (3).

(2) Where an employee was, immediately before he became an employee, a participant in a superannuation scheme by virtue of his employment he shall, for the purposes of subsection (1), be deemed to have completed twelve months' service—

(a) on the day on which he became an employee; or

(b) on the day that is twelve months later than the day on which he took up the employment by virtue of which he became a participant in the superannuation scheme,

whichever is the later day.

(3) Where a person who becomes an employee by virtue of an election under section 3 (10) had completed more than nine months' service at the time he first became entitled to make that election, subsection (1) applies to him as if he had completed nine months' service at that time.

(4) An employee who makes an election under this section shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day on which, pursuant to subsection (1), he is entitled to make the election.

Certain persons required to contribute to Fund.

11. (1) On and from the first day of the pay period applicable to him that next succeeds the appointed day, a person who, immediately before the appointed day, is a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, and has not attained the age of thirty years—

(a) shall cease to contribute to the Transport Retirement Fund;

(b) shall, except to the extent provided by this Act, cease to be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967; and

(c) shall contribute to the Fund at the same rate as the rate at which he was contributing to the Transport Retirement Fund immediately before ceasing to contribute to the Transport Retirement Fund or, if the rate necessary to provide for his minimum benefit immediately before that day is a higher rate, at that higher rate.

(2) Subject to section 3 (9), a person who will become a contributor pursuant to subsection (1) may, on the appointed day, elect to vary the lump sum benefit to which his rate of contribution pursuant to subsection (1) (c) would entitle him, subject to the varied lump sum benefit being not less than the minimum benefit, and not more than the maximum benefit, for him at a date determined by the Board.

(3) Where a person makes an election under subsection (2), the necessary variation in his rate of contribution to the Fund shall take effect on and from a day determined by the Board, being a day that is not earlier than the day on which that person becomes a contributor.

Certain classes of persons may elect to contribute to the Fund.

12. (1) The Minister may, by order published in the Gazette, declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section for an employee within the meaning of this Act who is within a class of persons specified in the order.

(2) Subject to this section and the regulations, an employee who—

(a) is an employee to whom an election date specified in an order under subsection (1) relates; and

(b) if he were to remain in the employment of an employer until immediately before that election date, would complete not less than twelve months' service, may, subject to section 3 (9), elect on that election date, to contribute to the Fund.

(3) The Minister may, by order published in the Gazette after the appointed day declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section in respect of—

(a) a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, who attained the age of thirty years on or before the appointed day or an employee within the meaning of that Act who ceased to be such a contributor by reason of his having attained the age of sixty-five years on or before the publication of the order;

(b) a contributor to the Account;

(c) an officer within the meaning of the Transport Act, 1930, who was not, immediately before the appointed day, a contributor to a superannuation fund or account established under the Transport

Act.

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) Regulations may be made for the purposes of subsection (2) with respect to the terms and conditions upon and subject to which a person who is within a class of persons described in the regulations and is a participant in a superannuation scheme may elect to become a contributor to the Fund and any such regulation may be made to vary in its application according to time or circumstance.

(7) Where an election by an employee under this section takes effect, the employee shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day after the last day on which he could have made the election.

(8) A person referred to in subsection (3) (a) who makes an election under this section shall, upon becoming a contributor, cease to contribute to the Transport Retirement Fund and, except to the extent provided by this Act, shall not be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967.

(9) A person referred to in subsection (3) (b) who makes an election under this section shall, upon becoming a contributor, cease to contribute to the Account and, except to the extent provided by this Act shall not be entitled to receive any benefit from the Account.

(10) A person referred to in subsection (3) (c) shall, upon becoming a contributor, cease to be eligible for any benefit under section 132A of the Transport Act, 1930.

Contributions by certain persons aged sixty years or more at time of making election.

13. Where a person aged sixty years or more makes an election under section 12—

(a) he shall, notwithstanding section 18, contribute to the Fund at such rate and over such period as is determined by the Board;

(b) he shall, if he becomes entitled to a benefit from the Fund before he has paid the total amount of contributions that, in the opinion of the Board is the total amount of contributions necessary to provide the lump sum benefit for which he is contributing when he becomes so entitled, pay such contributions to the Fund, additional to those already paid by him, as are actuarially determined by the Board as being necessary to provide that lump sum benefit or make arrangements satisfactory to the Board for their payment; and

(c) subject to compliance with paragraph (b), he is entitled to have added to that lump sum benefit an allowance of an amount equal to an amount of interest on that lump sum benefit as provided by section 53 for the period that commenced on the

day

day on which he attained the age of sixty years and ended on the day on which he retired or sooner died.

Amount of lump sum benefit for which contributor must contribute.

14. A person who elects to become a contributor shall, upon his election taking effect, contribute to the Fund for a lump sum benefit of an amount that is not less than the minimum benefit for that person nor more than the maximum benefit for that person—

(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.

Variation of benefits and contributions.

15. (1) In this section—

"contributor" means a contributor who has not attained the age of sixty years at his election date;

"election date" means, in relation to a contributor, a date determined by the Board for the purposes of subsection (2);

"review date" means, in relation to a contributor, a date determined by the Board for the purpose of calculating the lump sum benefit applicable in relation to the annual wages of the contributor at that date.

(2) Subject to subsection (7), a contributor may, on a date determined by the Board for the purposes of this subsection in relation to the contributor or within three months thereafter, elect—

(a) to contribute for an increased lump sum benefit not exceeding the maximum benefit for the contributor at the review date; or

(b)

(b) to reduce his rate of contribution to the Fund, but not so that he is contributing for a benefit that is less than his minimum benefit at the review date,

and, except as provided in subsections (3) and (4), the lump sum benefit for which a contributor is contributing shall not be varied unless it is varied pursuant to such an election.

(3) Except pursuant to an election under subsection (2) (b), where the annual wages of a contributor are reduced, his rate of contribution to the Fund shall not be reduced unless the Board, on the application of the contributor, so approves and, where such an application is approved, the reduced contributions shall be paid on and from a day determined by the Board.

(4) Where, at a review date for a contributor, the lump sum benefit for which he is contributing is less than the minimum benefit for the contributor at that date, he shall pay to the Fund such increased contributions as are required to provide for that minimum benefit.

(5) Where, as a result of an election under subsection (2) (b) or an application under subsection (3), a contributor's rate of contribution to the Fund is reduced—

(a) a refund of any amount by which a past contribution to the Fund exceeded the reduced rate shall not be made; and

(b) the amounts by which any of his past contributions to the Fund exceeded the reduced rate shall, subject to section 17, form part of his lump sum benefit.

(6) Where a contributor makes an election under subsection (2) or his rate of contribution to the Fund is increased under subsection (4), his contributions to the Fund at the varied rate shall be paid on and from a day determined by the Board that is not earlier than the election date nor more than three months after that date.

(7) A contributor who is aged fifty years or more at his election date may not elect under subsection (2) (a) to increase the lump sum benefit for which he is contributing to the Fund to an amount greater than the amount ascertained in accordance with the formula—

$$\frac{a}{4} + \frac{a \times b}{c}$$

where—

"a" represents the contributor's annual wages at his next preceding review date within the meaning of this section;

"b" represents the sum of the amount of the lump sum benefit for which the contributor was contributing immediately before the election and the amount of his initial credit benefit if any;

"c" represents the contributor's annual wages at his review date that next preceded the review date referred to in the definition of the symbol "a".

Periodic opportunities to elect to become a contributor.

16. (1) This section applies to—

(a) an employee who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under section 10 (1), or under this section, to become a contributor has failed to do so;

(b) an employee referred to in section 12 (2) or 12 (3) (d) who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under that section, or under this section, to become a contributor has failed to do so; and

(c)

(c) an employee who—

(i) has not attained the age of sixty years; and

(ii) pursuant to section 21 (1) is not a contributor and has not been a contributor during the period of twelve months that next preceded the later or latest of the days appointed pursuant to subsection (2).

(2) The Board shall, by notification published in the Gazette before the expiration of the period of three years that next succeeds the appointed day, and by a notification so published once during every third year that succeeds the expiration of that period, appoint a day for the purpose of making an election under this section, being a day that is not earlier than three months after the publication of the notification.

(3) An employee to whom this section applies may, on or before the day appointed by a notification published under subsection (2) or, where more than one such notification has been published, on or before the day appointed by the later or latest such notification, elect to contribute to the Fund.

(4) An employee who becomes a contributor pursuant to an election under this section shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day appointed under subsection (2) for making the election.

Certain moneys to be paid to Employees Reserve Account.

17. Where a contributor attains the age of sixty years and the Board is of the opinion that the contributions made or to be made by him would, but for this section, entitle him to receive amounts referred to in section 26 (1) (b) that would exceed the amount of the maximum benefit for the contributor at that age, an amount equal to the excess shall be paid to the credit of the contributor as if the contributor had paid it pursuant to section 24 (1) (b).

18. (1) Where a person is liable initially to contribute to the Fund for a lump sum benefit or becomes liable to contribute to the Fund for an increased lump sum benefit, the amount of his initial fortnightly contributions or, as the case may be, the amount of his additional fortnightly contributions in respect of the amount by which the lump sum benefit is increased, is the amount determined in accordance with the formula— Rates of contribution.

$$c = \frac{b \times r}{1000} + z$$

where—

"c" represents the amount of the fortnightly contribution or, as the case may be, the additional fortnightly contribution, to be paid by the contributor to the Fund;

"b" represents the amount of the lump sum benefit or, as the case may be, the amount of the increase in lump sum benefit, for which the contributor is liable to contribute;

"r" represents the amount specified—

(a) in the Second Column of Schedule 3; or

(b) where the contributor is a person who has made an election under subsection (2)—in the Second Column of Schedule 4,

opposite the age specified in the First Column of that Schedule that is the age next birthday of the contributor;

"z" is disregarded where the calculation to be made is a calculation relating to an increase in lump sum benefit but otherwise represents—

(a) the amount of twelve cents; or

(b)

(b) in the case of a contributor referred to in section 11 or in section 12 (3) (a) who, in either case—

(i) became, by the operation of section 10 of the Transport Employees Retirement Benefits Act, 1967, a contributor within the meaning of that Act;

(ii) became, by the operation of section 12 of the Railways Retirement Fund Act, 1964, a contributor within the meaning of that Act; or

(iii) being a person referred to in section 12 (1) (b) or 12 (1) (c) of the Transport Employees Retirement Benefits Act, 1967, elected to contribute to the Transport Retirement Fund under section 12 (1) of that Act and is contributing under Scale 1 and Scale 2 of Schedule 2 to that Act—

the amount of seven cents.

(2) Where a person aged fifty years or more—

(a) becomes a contributor;

(b) elects under section 15 (2) (a) to contribute for an increased lump sum benefit; or

(c) is required under section 15 (4) to increase his contributions to the Fund,

he may, in the case referred to in paragraph (a), elect to have his rate of contribution based on Schedule 4 or, in the cases referred to in paragraphs (b) and (c), elect to have the rate of increase in contributions so based.

(3)

(3) Where the rate at which a contributor is contributing to the Fund is reduced before he attains the age of sixty years, the lump sum benefit for which he is contributing at the reduced rate is the amount determined by the Board on an actuarial basis as the reduced amount of lump sum benefit for which he is contributing.

(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.

Payment of contributions.

19. (1) Subject to subsection (2), contributions required to be paid to the Fund shall be deducted by employers from the salaries or wages of contributors at each payment thereof and shall be paid by employers to the Board within a period of fourteen days from the date of deduction.

(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

than the amount of the contribution required to be paid to the Fund, or where a contribution that should have been paid to the Fund is not so paid, the Board may—

(a) waive payment of the contribution to the extent that it is unpaid and reduce, to the extent that it considers appropriate having regard to the unpaid amount, the amount of the lump sum benefit for which the contributor would, but for that reduction, be eligible;

(b) allow an amount to be transferred from the balance at the contributor's credit under section 24, if any, in payment or part payment of the unpaid amount and interest thereon as provided by section 53; or

(c) deduct from the amount of the lump sum benefit that would otherwise be payable the unpaid amount and interest thereon as provided by section 53,

and any amount transferred or deducted under paragraph (b) or (c) (interest as provided by section 53 excepted) shall be deemed to be a contribution to the Fund made by the contributor.

Cessation of payment of contributions.

20. (1) Subject to this section and section 62, a contributor who pays contributions to the Fund in accordance with Schedule 3 or Schedule 4 shall cease to pay those contributions on the first day of the pay period applicable to him during which he ceases to be employed by an employer, dies, retires or attains the age of sixty years, whichever first occurs.

(2) Notwithstanding subsection (1), a contributor who attains the age of sixty years shall continue to make any contributions to which an election under section 18 (2) relates.

(3)

(3) Where a contributor who has made an election under section 18 (2) is aged sixty years or more and a benefit for which he is contributing emerges before he has completed payment in accordance with that election of the total contributions that are necessary to provide the benefit, the Board may deduct from the benefit such contributions additional to those already paid as are actuarially determined by the Board to be necessary to provide the benefit, unless those additional contributions are sooner paid.

Exemption from payment of contributions.

21. (1) Notwithstanding any other provision of this Act, a contributor is not required to continue to contribute to the Fund if the Board, on the application of the contributor, is satisfied that adequate provision has been made for the contributor and his family or that there are other special circumstances justifying exemption from, or cessation of, payment of the contributions.

(2) Section 30 continues to apply to a person who, pursuant to subsection (1), is not a contributor.

Election following increase in wages between review date and age of sixty years.

22. (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 may, subject to this section, elect to contribute for an additional lump sum benefit not exceeding the amount referred to in subsection (3).

(3)

(3) The additional amount for which a contributor may elect to contribute under subsection (2) is such an amount that—

(a) the fraction obtained by dividing the amount of his total lump sum benefit after the election by his annual wages on his attainment of the age of sixty years—

does not exceed—

(b) the fraction obtained by dividing the amount of the lump sum benefit for which he was contributing immediately before his attainment of the age of sixty years by his annual wages at the review date referred to in that subsection.

(4) For the purposes of this section, the annual wages of a contributor on his attainment of the age of sixty years include any increase in his annual wages paid after he attains that age if—

(a) the increase is effective from a day that was earlier than the day on which he attained that age; and

(b) was payable in respect of a period that included the day on which he attained that age.

(5) An election under this section shall be made—

(a) where the increase in annual wages is paid on or before the attainment by the contributor of the age of sixty years—within three months after his attainment of that age; or

(b) where the increase in annual wages is paid after the attainment by the contributor of that age—within three months after the day on which the increase is paid.

(6) Where an election is made under this section, the necessary variation in the rate of contribution to the Fund shall be made from a date determined by the Board.

Effect of lapse of period between employment by successive employers.

23. (1) Where an employee ceases to be employed by an employer and, not having attained the age of sixty years he is, on or before the expiration of the next succeeding period of three months, employed by the same or a different employer, he shall, for the purposes of this Act, be deemed not to have ceased to be an employee if he complies with subsection (2).

(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.

Contributor may make additional contributions.

24. (1) A contributor may—

(a) authorise his employer to deduct from his salary or wages and pay to the Fund any amount in excess of the contributions payable by him under this Act and may at any time cancel the authorisation;

(b) pay directly to the Fund any amount additional to those contributions.

(2) Payments made under subsection (1)—

(a) form part of the Fund;

(b) shall bear interest as provided by section 53;

(c) shall not be withdrawn prior to a benefit becoming payable to or in respect of the contributor under this Act;

(d) may, on application by the contributor and subject to the approval of the Board, be employed in payment of any arrears of contributions payable by the contributor under this Act.

(3) Where a contributor ceases for any reason to be employed by an employer, any amount standing to his credit in accordance with this section—

(a) may be withdrawn by the contributor on a benefit becoming payable to him under this Act;

(b) where section 27 applies to the contributor, may be the subject of an election under that section as if it were an addition to the lump sum benefit that, but for the election, would be payable under section 26; or

(c) where section 28 applies in respect of the contributor, may be paid as an addition to a benefit payable under that section in respect of the contributor.

PART IV.

BENEFITS.

Interpretation.

25. For the purpose of calculating the amount of a benefit under this Act, a reference to the amount of a contribution is a reference to the amount paid to the Fund as that contribution, reduced by—

(a) the value, if any, ascribed to the symbol "z" when calculating the amount of the contribution in accordance with the formula referred to in section 18 (1); and

(b) where any part of the contribution was refunded—an amount equal to the amount of the refund.

Benefits.

26. (1) In this section "prescribed amount" in relation to a contributor who retires or is retired as provided in subsection (2) or (4) or is retrenched is the lesser of—

(a) the amount of the maximum benefit for the contributor—

(i) where he retires, or is retired, as provided in subsection (2) or is retrenched—at the date of his retirement or retrenchment; or

(ii) where he retires as provided in subsection (4)—on the day on which he attains the age of sixty years; and

(b) an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund;

(ii) the amount of his initial credit, if any;

(iii) interest, as provided by section 53, on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on his attainment of the age of sixty years or his earlier retirement or retrenchment; and

(iv) in the case of a contributor aged sixty years or more, the amount determined by the Board to be the actuarial equivalent of contributions (if any) remaining to be paid by him pursuant to an election under section 18 (2).

(2) Where a contributor who has completed not less than ten years' service ceases to be employed by an employer by reason of—

(a) his retirement on attaining the age of sixty years;

(b) his retirement through infirmity of body or mind, where the Board is satisfied that the infirmity—

(i) incapacitates the contributor from performing his duties; and

(ii) is likely to be permanent; or

(c) his retrenchment,

there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (3).

(3) The amount payable under subsection (2) to a contributor referred to therein is an amount equal to the sum of—

(a) the prescribed amount for the contributor; and

(b) an allowance of an amount that is a percentage of the prescribed amount, being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before his retirement or retrenchment.

(4) Where a contributor continues in the service of an employer after he attains the age of sixty years and then retires after completing not less than ten years' service, there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (5).

(5) The amount payable under subsection (4) to a contributor referred to therein is an amount equal to the sum of—

(a) the prescribed amount for the contributor;

(b) interest as provided by section 53 on the amounts referred to in paragraph (a) in respect of the period that commenced on the date on which he attained the age of sixty years and ended on the date on which he retired; and

(c) an allowance of an amount that is a percentage of the total of the amounts calculated under paragraphs (a) and (b), being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by the contributor before his retirement.

27. (1) This section applies to a contributor who has completed not less than ten years' service and ceases to be employed by an employer— Alternative benefits.

(a) by reason of his retirement aged sixty years or more; or

(b) where he is aged fifty years or more, by reason of his retirement through infirmity of body or mind where the Board is satisfied that the infirmity—

(i) incapacitates the contributor from performing his duties; and

(ii) is likely to be permanent; or

(c) where he is aged fifty years or more, by reason of his retrenchment.

(2) Where a person to whom this section applies so elects in relation to the whole or part of the lump sum benefit to which, but for the election and the operation of this section, he would be entitled under section 26 there shall be paid from the Fund instead of the lump sum benefit or part thereof to which the election relates—

(a) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment;

(b) a pension for himself for life on and from the day that next succeeds his retirement or retrenchment with an increase of ten per centum in the amount thereof at the expiration of the period of three years that next succeeds the first payment of pension and at the expiration of each succeeding period of three years, each such increase being calculated by reference to the rate at which that first payment of pension was made;

(c) a pension for himself for life on and from the day following his retirement or retrenchment and, if his spouse at the date on which the benefit under section 26 would have been payable is living at his death, a pension for that spouse for life, on and

from 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.

Benefit for certain dependants.

28. (1) Subject to this section, where a contributor dies before he is paid any benefit under this Act, there shall be paid from the Fund to—

(a) his widow;

(b) if he died without leaving a widow—any child of his or his spouse who was, in the opinion of the Board, dependent on him immediately before his death; or

(c) if he died without leaving a widow and there is no such child—any other person who was, in the opinion of the Board, dependent on him immediately before his death,

a lump sum benefit of an amount specified in subsection (2).

(2) The amount payable under subsection (1) to a person referred to therein is—

(a) in the case of a contributor who, before he died, had completed not less than ten years' service—an amount equal to the amount that would have been paid to the contributor under section 26 had he retired immediately before he died; or

(b) in any other case—an amount equal to the amount that would have been payable under section 30 had it applied to and in respect of the contributor immediately before he died.

(3) Where a contributor with not less than ten years' service dies aged sixty years or more and does not leave a widow or any dependant, there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such other person or persons as the Board may determine, an amount equal to the lump sum benefit to which he would have been entitled under section 26 had he retired immediately before he died.

(4) Where a contributor dies and a benefit is not payable pursuant to subsection (1) or (3), there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such person or persons

as

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. (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. Alternative benefits for widow.

(2) Where a widow to whom this section applies so elects in relation to the whole or part of the lump sum benefit to which, but for the election and the operation of this section,

she

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.

Withdrawal benefit.

30. Subject to section 62, where a person who is a contributor ceases to be employed by an employer and, but for this section, there would not be payable under this Act to or in respect of that person any lump sum benefit or pension or annuity, there shall be paid to him from the Fund as a lump sum benefit or, where he is deceased, to his personal representatives or, where he is deceased and has no personal representatives, to such person as the Board may determine—

(a) in the case of a person who had been a contributor to the Transport Retirement Fund and, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund under this Act; and

(ii) the total of the amounts of his contributions to the Transport Retirement Fund,

reduced by the difference between the amount referred to in subparagraph (ii) and the total amount of the contributions that would have been paid by him to the Transport Retirement Fund had all his contributions thereto been made in accordance with Scale 2 of Schedule 2 of the Transport Employees Retirement Benefits Act, 1967;

(b)

(b) in the case of any other person who, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the total of the amounts of his contributions to the Fund;

(c) in the case of a person who, at the time he ceased to be employed by an employer, had completed not less than five, but less than ten years' service, an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund;

(ii) the amount of his initial credit, if any; and

(iii) interest as provided by section 53 on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on the date on which he ceased to be employed by an employer;

(d) in the case of a person who, at the time he ceased to be employed by an employer, had completed not less than ten years' service, an amount equal to the sum of—

(i) the amount to which he would be entitled if paragraph (c) were applicable to him; and

(ii) an allowance of an amount that is a percentage of the amount referred to in subparagraph (i), being one-half of the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before the cessation of his employment.

Certain benefit must be not less than certain amount.

31. (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—

$$\frac{a}{30} \times (10 + n)$$

where—

"a" represents the annual wages of the contributor immediately before his retirement or death, as the case may be;

"n" represents the number of years of service completed by him at that time;

and

(b) the amount that—

(i) where the contributor is retired or dies before he attains the age of sixty years—would have been payable to him under this Act had he retired on attaining the age of sixty years after having continued until that retirement to pay to the Fund contributions at the same rate as the rate at which he was paying them immediately before he was retired or died, as the case may be; or

(ii) where the contributor is retired or dies on or after attaining the age of sixty years—

would have been paid to him under this Act if, on the day on which he is retired or dies, he had retired otherwise than as referred to in subsection (1) (a).

(3) Where the benefit payable to or in respect of a contributor to or in respect of whom this section applies would, but for this subsection, be less than the minimum benefit for the contributor, the amount of the benefit payable to or in respect of the contributor shall, subject to subsection (4), be the amount of that minimum benefit.

(4) Nothing in this section operates to prejudice or affect the operation of section 61.

PART V.

Employer Contributions.

Payment of contributions by, and apportionment of contributions among, employers.

32. (1) In this section, a reference to a contributor in respect of whom this section applies is a reference to a contributor to or in respect of whom a lump sum benefit has become payable from the Fund and—

"primary employer" in relation to such a contributor means the person who was the employer of the contributor immediately before that lump sum benefit became payable;

"secondary employer" in relation to such a contributor means any person (other than the primary employer of the contributor) who employed the contributor during the period of service in respect of which the lump sum benefit became payable.

(2)

(2) Where a lump sum 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 lump sum benefit is payable under section 26 (2)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (3) (b);

(b) where the lump sum benefit is payable under section 26 (4)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (5) (c);

(c) where, pursuant to section 28, an amount is payable that is equal to the amount that would have been payable in specified circumstances under another provision of this Act—an amount equal to the amount that would have been payable under this subsection if a lump sum benefit had been paid under that other provision in those circumstances;

(d) where the lump sum benefit is payable under section 30 (d)—an amount equal to the amount of the allowance in relation to the contributor under section 30 (d) (ii);

(e) where the lump sum benefit is payable in accordance with section 31—an amount equal to the sum of—

(i) one-half of the amount, if any, by which the lump sum payable under that section exceeds the lump sum benefit that would be payable if that section had not been enacted; and

(ii) the payments, if any, which the primary employer of the contributor would be required to make if that section had not

been

been enacted and if the liability of the employer were determined under paragraph (a) or (d), or as the case may require.

(3) Where, pursuant to subsection (2), the primary employer of a contributor in respect of whom this section applies is required to make a payment, the Board shall serve the notice prescribed by subsection (4) on any secondary employer of the contributor and shall furnish the primary employer of the contributor with a copy thereof.

(4) For the purposes of subsection (3), the notice for service on a secondary employer of a contributor in respect of whom this section applies is a notice to the effect that the secondary employer is liable to pay to the primary employer of the contributor a specified amount within a specified time, that amount being an amount determined by the Board on an actuarial basis having regard to—

(a) the amount of the contributions to the Fund by the contributor, and the amount of the lump sum benefit for which he was contributing, while he was employed by that secondary employer; and

(b) such other matters as the Board thinks fit.

(5) Where a notice is, pursuant to subsection (3) served on a secondary employer and the secondary employer fails, within the time specified in the notice, to pay to the primary employer so specified the amount so specified, that primary employer may, in a court of competent jurisdiction, recover from that secondary employer as a debt the amount so specified.

Liability for initial credit.

33. The initial credit of a contributor who was a contributor to the Account is a liability due to the Fund by the person who was the employer of the contributor at the date on which the contributor last contributed to the Account.

Payments by employer to reserve.

34. (1) Where, on the appointed day, any amount stands to the credit of an employer under section 31 of the Transport Employees Retirement Benefits Act, 1967, the Board shall, without any further authority than this Act, transfer that amount to the Fund and shall credit the same amount to the employer in the books of the Board.

(2) The Board shall pay to the Fund, and shall credit to an employer in the books of the Board, such proportion of any amount (including interest) repaid to the Board pursuant to section 23 (2) (b) as the Board determines to be that employer's proportion of that amount.

(3) An employer may, with the approval of the Governor given on the recommendation of the Treasurer and the Board, pay to the Fund as part of his operating expenses for the financial year in which the payment is made, such amounts as the employer may determine.

(4) Where an employer is required to make a payment under this Act or under section 29 of the Transport Employees Retirement Benefits Act, 1967, the payment may be made from the amount credited to the employer under this section.

(5) An amount standing to the credit of an employer pursuant to this section shall bear interest as provided by section 53.

PART

PART VI.

THE NEW SOUTH WALES RETIREMENT BOARD.

Constitution of New South Wales Retirement Board.

35. (1) There is hereby constituted a body corporate with the corporate name "New South Wales Retirement Board".

(2) The Board shall consist of four persons, each appointed by the Governor on the recommendation of the Minister—

(a) for a period not exceeding five years; and

(b) on such terms and conditions as the Governor thinks fit, including terms and conditions for or with respect to preserving rights accrued or accruing under any Act.

(3) Of the persons referred to in subsection (2)—

(a) one shall, in and by the instrument of his appointment or by a subsequent instrument, be appointed as Chairman;

(b) one may, in like manner, be appointed as executive member;

(c) one shall, in like manner, be appointed as contributor member;

(d) one shall, in like manner, be appointed as employer member.

(4) A person who is appointed Chairman or executive member of the Board may, by the terms of his appointment as such, be required to devote the whole of his time to the duties of his office.

(5) Before making a recommendation to the Governor with respect to the appointment of the contributor member and the employer member, the Minister may consult such persons, including associations of employees, as he thinks fit.

Deputies for members.

36. The Governor may appoint—

(a) subject to section 37, a deputy to act for the Chairman—

(i) during the illness or absence of the Chairman; or

(ii) where there is an executive member, during the illness or absence of both the Chairman and the executive member;

(b) where there is an executive member, a deputy to act (otherwise than pursuant to section 37) for the executive member during his illness or absence; and

(c) deputies to act respectively for the contributor member or the employer member during the illness or absence of the member for whom he is the deputy,

and a person so appointed shall have and may exercise and perform, while acting for the person for whom he is the deputy, the powers, authorities, duties and functions conferred or imposed upon that person as a member of the Board and, where he acts for the Chairman or the executive member, of the Chairman or executive member, as the case may be.

Executive member to act as Chairman in certain circumstances.

37. Where there is an executive member of the Board, he shall have and may exercise, during the illness or absence of the Chairman, the powers, authorities, duties and functions of the Chairman.

Casual vacancies.

38. Where a vacancy occurs in the office of a member the Governor may appoint a person to fill the vacancy and the person so appointed shall hold office instead of, and for the unexpired term of office of, his predecessor.

Certain acts, etc., not invalidated.

39. No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of any member of the Board and a deputy was not available to act in his place under section 36 or 37.

Public Service Act, 1902, not to apply to member of Board.

40. Subject to section 35 (2) (b), the provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment by the Governor of any member of the Board, and such a member is not, in his capacity as a member, subject to the provisions of that Act during his term of office.

Vacation of office.

41. (1) A member of the Board vacates his office if he—

(a) dies;

(b) becomes bankrupt or compounds with his creditors;

(c) absents himself from three consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Governor;

(d) becomes a mentally ill person, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958;

(e) resigns his office by writing under his hand addressed to the Minister and the resignation is accepted by the Governor; or

(f) attains the age of sixty-five years.

(2) A person who is of or above the age of sixty-five years is not eligible for appointment as a member of the Board.

Remuneration and fees payable to members.

42. (1) The members of the Board and their deputies shall be paid such remuneration and fees as the Governor may from time to time determine in respect of each of them.

(2) Subject to subsection (3) where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of the office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member or of a deputy member of the Board or from accepting and retaining any remuneration payable to a member or to a deputy member under this section.

(3) Subsection (2) does not apply to or in respect of a member of the Board who pursuant to section 35 (4), is required to devote the whole of his time to the duties of his office.

Quorum.

43. Two members of the Board, one of whom is the Chairman or, where there is an executive member, the executive member, shall constitute a quorum of the Board and any business transacted at a meeting of the Board at which a quorum is present is valid.

Chairman to have casting vote.

44. Where the voting at any meeting of the Board is equal the Chairman or person acting in his place shall, in addition to having a deliberative vote, have a casting vote.

Powers, etc., of Board.

45. The Board shall manage the Fund and, on and from the appointed day, shall manage the Transport Retirement Fund and shall have and may exercise and perform such other powers, authorities, duties and functions as are conferred or imposed on it by or under this or any other Act.

46.

Delegation by Board.

46. (1) The Board may delegate any of its powers, authorities, duties or functions under this Act or under the regulations, except this power of delegation, to any member or employee of the Board.

(2) The decision of any member or employee of the Board made when he is acting in pursuance of a delegation under this section shall be deemed to be the decision of the Board.

(3) A delegation under this section may be revoked by the Board at any time and does not prevent the exercise of any power, authority, duty or function by the Board.

Staff of Board.

47. (1) The Board may appoint and employ such staff as may be necessary for the proper exercise and performance of its powers, authorities, duties and functions.

(2) The Board may, with the approval of the Minister administering a Government Department or with the approval of a statutory body or an employer, make use of the services of any person employed in the service of that Government Department, statutory body or employer.

Cost of management of Fund.

48. (1) Subject to this section, the cost of management of the Fund and any expenditure incurred by the Board pursuant to section 2 (5) are charges against, and shall be paid out of, the Fund.

(2) In so far as the cost of managing the Fund is attributable to the operation of section 12 in respect of an employee who, being eligible to elect under that section to become a contributor, fails so to elect, the amount thereof, as determined by the Board, shall be paid to the Board by the person who, at the time of that failure, is the employer of that employee.

49. The Board shall, as soon as practicable after the end of a financial year, submit a report to the Minister giving information as to its operations and as to any general decisions adopted by it in the course thereof during that financial year. Report by Board.

PART VII.

LOANS TO CONTRIBUTORS.

50. (1) The Board may lend to a contributor, on such terms and conditions as the Board determines, an amount not exceeding the total of— Board may lend certain amount to contributor.

(a) the amount of the benefit that would be payable under section 30 if the contributor were to resign from the service of his employer on the day on which he applies for the loan; and

(b) any amount standing to his credit pursuant to section 24.

(2) Where a loan is made to a contributor pursuant to subsection (1) and the Board, by notice in writing, require the employer of the contributor to deduct from the salary or wages of the contributor at each payment thereof, in addition to the normal contributions of the contributor, such instalments as the Board may require in repayment of the loan and interest thereon, the employer shall comply with the terms of the notice.

(3) The provisions of section 19 relating to the deduction of contributions from the salary or wages of contributors and their remittance to the Board apply in respect of the deduction and remittance of the instalments referred to in subsection (2).

(4)

(4) Where a benefit becomes payable under section 26, 28, 30 or 31 in respect of a contributor to whom a loan has been made under subsection (1) before the loan has been fully repaid with interest thereon, the amount of the benefit shall be reduced by the amount of the loan and interest thereon unpaid at the date the benefit became payable.

PART VIII.

Assurance Policies.

Board may accept assignment of certain policies of assurance.

51. (1) In this section "pensioner" means—

(a) a person who receives a lump sum benefit under this Act by reason of his having been a contributor;

(b) a person who receives a lump sum benefit under this Act as the widow or child of a person who was a contributor;

(c) a person who is in receipt of a pension pursuant to an election under section 27 or 29; or

(d) a person who commutes a pension under section 27 (5) or 29 (3).

(2) This section applies to and in respect of an unencumbered policy of endowment assurance (not being an industrial policy as defined in the Life Insurance Act 1945 of the Parliament of the Commonwealth or any Act of that Parliament amending or replacing that Act) that has been in force for a period of at least six years and in respect of which no premiums that have fallen due remain unpaid.

(3)

(3) Where the life of a contributor or pensioner, or the life of his spouse, is insured under a policy to which this section applies, the Board may, on the application of the contributor or pensioner, accept an assignment to it of the policy.

(4) The Board shall, where it has accepted assignment of a policy to which this section applies, cause the premiums to be duly paid and, on receipt by the Board of the maturity value of the policy, pay to the assignor or, where he is dead, to his personal representatives, the amount so received reduced by the sum of—

(a) the total amount of the premiums paid by the Board; and

(b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date on which the Board receives the maturity value of the policy.

Re-assignment by Board of policy of assurance.

52. Where the Board has accepted assignment of a policy to which section 51 applies it may, at any time before maturity of the policy, re-assign it to the assignor upon repayment to the Board of the sum of—

(a) the total amount of the premiums paid by the Board; and

(b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date of the re-assignment.

PART

PART IX.

General Provisions.

Moneys payable to and by the Board and interest thereon.

53. (1) Where, pursuant to this Act, any moneys are payable to the Board, payment of the moneys becomes overdue—

(a) if it is not made within the period prescribed for payment of the moneys;

(b) if a time for payment of the moneys is prescribed otherwise than by reference to a specified period—if it is not made within fourteen days after that time; or

(c) in any other case—if it is not made within fourteen days after service by the Board on the person obliged to pay the moneys of a requisition for payment of the moneys.

(2) Interest is payable to the Board on moneys overdue for payment and is so payable on and from the day on which payment of the moneys becomes overdue to the day on which payment of the moneys is made, but the Board may, in special circumstances and in a particular case, waive payment of any such interest or part thereof.

(3) Moneys payable to the Board that are overdue for payment, and interest thereon as provided by this section, are recoverable by the Board in a court of competent jurisdiction as a debt.

(4) Where interest is payable to the Board pursuant to this section or payable to or by the Board or from the Fund under any other provision of this Act, the interest shall be compounded at the end of each financial year during the period for which it is so payable, and at the end of that period, and shall be calculated at the prescribed rate.

(5) Where interest is payable from the Fund on amounts paid to the Fund at different times during a financial year, the interest on those amounts shall, subject to this section, be calculated in a manner determined by the Board.

(6)

(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)—

five and one-half per centum per annum or, where a higher rate of interest is prescribed for such a case, that higher rate; or

(b) in any other case (section 50 excepted)—

(i) the rate prescribed for that case; or

(ii) where no rate is prescribed for that case—a rate specified by the Minister by order published in the Gazette on the recommendation of the Board made after having regard to earning rates, and estimated earning rates, on the Fund.

(7) An order under subsection (6) (b) (ii) may be made to vary according to time or circumstance.

Regulations.

54. 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.

55.

Provision of certain evidence.

55. (1) For the purposes of this Act, the Board may require to be produced such evidence of the age, marriage, dependency or death of any person as it deems necessary and in default of the production of any such evidence the Board may itself obtain the evidence and deduct the expense incurred in obtaining it from any moneys payable from the Fund to the person required to produce the evidence.

(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.

Board may require certain information.

56. The Board may at any time require an employer to furnish such returns with respect to persons employed by him who are or were contributors or who may become eligible to become contributors as the Board may decide and may at any time require any contributor or employee or person who was a contributor to furnish such information as the Board may decide is necessary for the purpose of any investigation in connection with the Fund.

Benefits are not assignable, etc.

57. Lump sum benefits under this Act and other payments from the Fund shall not be in any way assigned or charged or passed by operation of law to any person other than the person who is entitled thereto under this Act.

Estates not exceeding $1,000.

58. (1) Where a person dies and there is due from the Fund to or in respect of him an amount not exceeding $1,000, the Board may, unless—

(a) probate of the will or letters of administration of the estate of that person have been produced to the Board; or

(b)

(b) notice in writing of the existence of the will of that person and of intention to prove it, or notice of intention to take out letters of administration of the estate of that person, is given to the Board within three months of the death of that person,

pay the amount, or after paying the funeral expenses of the deceased or reimbursing any person who paid those expenses pay the balance of the amount, to the widow or to such other person as the Board in the circumstances thinks fit.

(2) Proceedings may not be instituted against the Board in respect of anything done in pursuance of this section, but nothing in this section relieves a person receiving payment in pursuance of this section from any liability to account for or apply the amount paid to him in accordance with law.

Disputes and appeals.

59. (1) Subject to this section, a dispute under this Act shall be determined by the Board.

(2) A person aggrieved by a decision of the Board under subsection (1) may, within a period of six months from the date of the decision, appeal to the Minister, who shall thereupon refer the matter for opinion to a Judge of the Supreme Court, and shall decide the point in accordance with that opinion.

(3) A decision of the Minister under subsection (2) is final and conclusive and not subject to appeal.

Payment where beneficiary incapable.

60. (1) Where a person to whom a benefit is payable under this Act is, in the opinion of the Board, incapable of administering his own affairs by reason of his illness, imprisonment or any other cause the Board may pay the benefit to some other person to be applied wholly for the care, maintenance, benefit and support of the person to whom, but for the provisions of this section, the benefit would be payable, or of any person dependent on him.

(2)

(2) Any payment made under subsection (1) shall be deemed to have been made to the person entitled to the benefit.

Medical examination.

61. (1) The Board may require an employee to undergo a medical examination in order to determine his eligibility to receive a benefit under section 31.

(2) The Board may, in respect of an employee who does not undergo or fails to pass a medical examination referred to in subsection (1), determine his benefit under section 31 as less than the amount provided by that section but not less than the sum of one-sixth of the amount of the annual wages being paid to the contributor at the time the benefit becomes payable together with one-thirtieth of the amount of those annual wages for each completed year of his service.

Eligibility to contribute to superannuation scheme.

62. (1) This section has effect notwithstanding anything in this or any other Act.

(2) Where a contributor would, but for this subsection, be entitled or required to participate in a superannuation scheme by reason of a change in his employment classification within the service of his employer, he may not participate in the superannuation scheme unless, not later than three months after the change in his employment classification, he elects not to contribute to the Fund.

(3) Where a contributor ceases to be employed by an employer and, not more than three months later, being under the age of sixty years, he takes up employment with another person (whether an employer or not) by virtue of

which

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).

Introduction of new superannuation schemes prohibited in certain circumstances.

63. Where an employee who is within a class of persons specified in the Second Column of Schedule 1 or 2 is a contributor, or is eligible to elect to become a contributor or will, with the effluxion of time, be eligible to elect to become a contributor, his employer shall not, without the approval of the Minister, introduce a superannuation scheme in which the employee would be eligible to participate.

Amendment of Schedule 2.

64. (1) On the recommendation of the Minister, the Governor may, by order published in the Gazette, amend Schedule 2 by inserting matter therein or by omitting matter therefrom and may, by the same or a different order so published, make a declaration for the purposes of subsection (3).

(2) An order under subsection (1) takes effect on the day of its publication in the Gazette or, where the order specifies that it takes effect on a specified later day, on that later day.

(3) Where the Governor, by an order under subsection (1), so declares in relation to the employer of a person who becomes an employee within the meaning of this Act by virtue of the order, the total contributor liability of that employer under this Act in respect of that employee shall be met by the employer by his making to the Fund, while the employee is employed by him, periodic payments at a rate to be notified by the Board to the employer as the rate determined by the Board to be necessary to meet the maximum possible liability of the employer, having regard to the contribution rate of the employee and the possibility of his being employed by that or any other employer until he attains the age of sixty-five years.

(4) The name of an association of employees may, by an order under subsection (1) be added to the First Column of Schedule 2 if a substantial number of the members of the association are contributors.

Elections and applications.

65. An election or application under this Act—

(a) shall be in writing;

(b) shall, subject to this Act, be deemed not to have been validly made unless it is received in the office of the Board before the time on or before which it is required to be made;

(c) may, with the approval of the Board, be amended or revoked; and

(d) except where otherwise provided, takes effect on a day determined by the Board in respect thereof.

66.

Restoration of lost right, etc., under Act.

66. (1) Where a person is entitled to exercise a right or enjoy a privilege or benefit under this Act and, without having exercised the right or enjoyed the privilege or benefit, he ceases to be entitled so to do, he may exercise the right or enjoy the privilege or benefit if—

(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.

Amendment of Act No. 96, 1967.

67. (1) The Transport Employees Retirement Benefits Act, 1967, is amended—

Sec. 2. (Division of Act.)

(a) by omitting from section 2 the matter relating to Part IV;

Sec. 3. (Interpretation.)

(b) (i) by omitting from section 3 (1) the definition of "Board" and by inserting instead the following definition:—

"Board" means the New South Wales Retirement Board constituted by the New South Wales Retirement Benefits Act, 1972;

(ii) by omitting from paragraph (e) of the definition of "employee" in section 3 (1) the word "or" where thirdly occurring;

(iii) by inserting at the end of paragraph (f) of the definition of "employee" in section 3 (1) the following word and new paragraph :—

; or

(g) a person eligible to make an election under section 10 of the New South Wales Retirement Benefits Act, 1972, or a person who, pursuant to section 11 of that Act, becomes a contributor within the meaning of that Act, or a person who ceases, pursuant to section 12 (8) of that Act, to contribute to the Transport Retirement Fund;

(iv) by omitting from section 3 (6) (b) the words "Transport Retirement Board" wherever occurring and by inserting instead the words "New South Wales Retirement Board";

(c) by inserting at the end of section 4 the following new subsection :— Sec. 4. (The Fund.)

(4) The cost of management of the Fund is a charge against, and shall be paid out of, the Fund.

(d) by omitting from section 8 (3) the word "application" and by inserting instead the word "appreciation"; Sec. 8. (Guaranteed minimum interest yield.)

(e) (i) by omitting from section 9 (1) the word "seventy" and by inserting instead the word "seventy-seven"; Sec. 9. (Triennial investigation of Fund.)

(ii) by inserting at the end of section 9 the following new subsection :—

(4) The Board shall, not later than two months after it receives a report under subsection (3), forward the report to the Minister together with such comments thereon as it deems appropriate.

(f)

(f) by omitting Part IV; Part IV. (The Transport Retirement Board.)

(g) by omitting from section 65 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board"; Sec. 65. (References to Railways Retirement Fund Board in Acts, ordinances, etc.)

(h) by omitting from Schedule 1 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board". Sch. 1.

(2) A person who, immediately before the appointed day, was a member of the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, is not entitled to any compensation by reason of his ceasing to hold office as such a member.

(3) On and from the day appointed pursuant to section 2 (3)—

(a) all real and personal property, including all investments, cash on deposit or in hand and all books, accounts, records, certificates and deeds and all right and interest therein and all management and control thereof that, immediately before that day, were vested in the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, are vested in the Board;

(b) all moneys and liquidated and unliquidated claims that, immediately before that day were payable to, or recoverable by, the Transport Retirement Board so constituted are payable to, and recoverable by, the Board;

(c) all suits, actions and proceedings pending immediately before that day at the suit of or against the Transport Retirement Board so constituted are suits, actions and proceedings pending at the suit of or, as the case may be, against the Board;

(d) all contracts, agreements and undertakings entered into with, and all securities given to or by, the Transport Retirement Board so constituted and in force immediately before that day shall be deemed to be contracts, agreements and undertakings, entered into with, and securities given to or by, the Board;

(e) the Board may pursue the same remedies for the recovery of moneys and the enforcement of claims, and may prosecute and defend the same actions, suits and proceedings as might, but for this section, have been pursued, prosecuted or defended by the Transport Retirement Board so constituted;

(f) the Board may enforce and realise any security or charge in favour of the Transport Retirement Board so constituted that was in force immediately before that day as if it were a security or charge in favour of the Board;

(g) all debts and moneys that, immediately before that day, were due or payable to, and all liquidated and unliquidated claims that, immediately before that day, were recoverable against the Transport Retirement Board so constituted are debts due by, moneys payable by, and claims recoverable against the Board; and

(h) a reference, whether express or implied, in any Act (other than this Act) ordinance, order, regulation or by-law or in any other instrument or document (other than an instrument or document appointing a member of the Transport Retirement Board) to the Transport Retirement Board shall be read and construed as a reference to the Board.

(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 V of the Industrial Arbitration Act, 1940; and

(c) where a condition of employment of a person referred to in paragraph (a) was, immediately before that day, regulated by an award or industrial agreement, the condition shall continue so to be regulated until an award or industrial agreement that is binding on the Board is made to regulate the condition.

(5) The Minister shall appoint a Review Committee consisting of—

(a) a member of the Board, who shall be chairman of, and convene meetings of, the Review Committee;

(b) a nominee of the Auditor-General; and

(c) the Government Actuary.

(6) The Board shall, as between the Transport Retirement Fund and the New South Wales Retirement Fund make such adjustments of the assets and liabilities of those Funds as the Review Committee considers to be a necessary consequence of the operation of this Act.

68. The Transport Employees Retirement Benefits Act, 1967, is further amended by omitting section 14 and by inserting instead the following section :— Further amendment of Act No. 96, 1967. Subst. sec. 14.

Variation of benefits.

14. (1) In this section—

"contributor" includes an employee who ceased to be a contributor on his attainment of the age of sixty-five years;

"review date" means, in relation to a contributor, a date determined by the Board for the purpose of calculating the lump sum benefit applicable in relation to the annual wages of the contributor at that date.

(2) Except as provided by this section and by sections 15 and 16, the lump sum benefit for which a contributor is contributing shall not be varied.

(3) Subject to subsection (4), where the annual wages of a contributor are increased so that the amount thereof falls within a wage group that is higher than the wage group within which the amount thereof fell immediately before the increase he shall, not earlier than the review date that next follows the increase, contribute as provided by subsection (6)—

(a) in the case of a contributor who is contributing for his ordinary minimum benefit—for the ordinary minimum benefit appropriate for his higher wage group;

(b) in the case of a contributor who is contributing for his maximum benefit—for the maximum benefit appropriate for his higher wage group; or

(c) in the case of a contributor who had nominated a benefit wage factor—for the lesser of—

(i) the maximum benefit appropriate for his higher wage group; and

(ii)

(ii) a lump sum benefit calculated by applying to the upper level of the wage group in which his increased salary falls the benefit wage factor last nominated by him before that review date and by deducting from the resulting amount so much of his initial credit benefit, if any, as is a multiple of one hundred dollars.

(4) Where a lump sum benefit becomes payable in respect of a contributor, subsection (3) applies as if the date on which the lump sum benefit became payable were a review date for the contributor.

(5) For the purposes of subsection (4), a reference in subsection (3) to an increase of annual wages includes a reference to such an increase paid after a lump sum benefit became payable under this Act if the increase took effect on and from a day that is earlier than, and is in respect of, a period that includes the date on which the lump sum benefit became payable.

(6) The increased contributions to be paid to the Fund by a contributor contributing for an increased lump sum benefit pursuant to this section shall be payable—

(a) where the review date for the contributor is not determined as provided by subsection (4)—on and from the first day of the pay period next following a date determined by the Board in relation to the contributor for the purposes of this section; or

(b) where the review date for the contributor is determined as provided by subsection (4)—on and from the first day of the pay period next following the date with effect from which the annual wages of the contributor were increased.

69. The Government Railways Act, 1912, is amended by omitting section 109A and by inserting instead the following section :— Amendment of Act No. 30, 1912. Subst. sec. 109A.

109A. This Part does not apply to or in respect of a person who became an officer after the commencement of the Railways Retirement Fund Act, 1964, and before the day appointed pursuant to subsection (3) of section 2 of the New South Wales Retirement Benefits Act, 1972, or who becomes an officer on or after that day. This part not to apply to certain persons.

70. The Transport Act, 1930, is amended by omitting section 132B and by inserting instead the following section :— Amendment of Act No. 18, 1930. Subst. sec. 132B.

132B. This Part does not apply to or in respect of a person who is an officer whose appointment was confirmed after the commencement of the Transport Employees Retirement Benefits Act, 1967, and before the day appointed pursuant to subsection (3) of section 2 of the New South Wales Retirement Benefits Act, 1972, or whose appointment is confirmed on or after that day. This Part not to apply to certain persons.

71. The Superannuation Act, 1916, is amended by inserting in the definition of "Employee" in section 3 (1) after the figures "1967," the words "or the New South Wales Retirement Benefits Act, 1972,". Amendment of Act No. 28, 1916. Sec. 3. (Interpretation).

72. The Securities Industry Act, 1970, is amended by omitting from paragraph (e) of the definition of "exempt dealer" in section 4 (1) the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board". Amendment of Act No. 35, 1970. Sec. 4. (Interpretation.)

SCHEDULES.

SCHEDULES.

SCHEDULE 1

Sec. 3 (1).

First Column	Second Column
Employers	Employees
The Commissioner for Railways ..	Persons employed by the Commissioner (other than persons so employed temporarily as workmen on construction, deviation or duplication works, in the trading or catering services or in connection with a sawmill that is not associated with a workshop).
The Commissioner for Government Transport.	Persons employed by the Commissioner.
The Commissioner for Motor Transport.	Persons employed by the Commissioner.
The Crown or a Minister of the Crown	Persons employed in the Police Department otherwise than— (a) as police cadets; (b) under the Police Regulation Act, 1899; or (c) under the Public Service Act, 1902.
New South Wales Retirement Board	Persons employed by the Board.

SCHEDULE 2

Sec. 3 (1).
Sec. 64.

First Column	Second Column
Employers	Employees

SCHEDULE

SCHEDULE 3

Sec. 18 (1).

TABLE OF CONTRIBUTIONS

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Age next birthday	Fortnightly rate of contribution for $1,000 of the amount of the lump sum benefit	Age next birthday	Fortnightly rate of contribution for $1,000 of the amount of the lump sum benefit
	$		$
16	0.22	41	1.20
17	0.24	42	1.30
18	0.25	43	1.42
19	0.27	44	1.56
20	0.28	45	1.72
21	0.30	46	1.90
22	0.32	47	2.10
23	0.34	48	2.35
24	0.36	49	2.64
25	0.38	50	2.99
26	0.41	51	3.42
27	0.44	52	3.96
28	0.47	53	4.65
29	0.50	54	5.58
30	0.53	55	895.90 ÷ *n**
31	0.57	56	921.20 ÷ *n**
32	0.61		
33	0.65	57	947.00 ÷ *n**
34	0.70	58	973.20 ÷ *n**
35	0.75	59, 60	1,000.00 ÷ *n**
36	0.81		
37	0.87		
38	0.94		
39	1.02		
40	1.10		

**n* denotes the number of complete fortnightly contributions payable before contributions would be due to cease on attainment of age 60 years.

SCHEDULE 4

Sec. 18 (2).

TABLE OF CONTRIBUTIONS

First Column	Second Column
Age next birthday	Fortnightly contribution payable for 10 Years for nominal benefit of $1,000*
	$
51	3.15
52	3.32
53	3.51
54	3.70
55	3.90
56	4.12
57	4.35
58	4.58
59	4.84
60	5.10

* The amount of the benefit at the end of the 10 year period is $1,000 together with interest thereon as provided by section 53 from age 60 years to the end of the 10 year period.

SCHEDULE 5

Sec. 26.

First Column	Second Column
Completed years of service	Employer subsidy—amount of percentage
Under 10	Nil
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20	100
21	105
22	110
23	115
24	120
25	125
26	130
27	135
28	140
29	145
30	150
31	155
32	160
33	165
34	170
35	175
36	180
37	185
38	190
39	195
40 or more	200

SCHEDULE 6

Sec. 3 (2).

TABLE OF ALLOWANCES

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account	Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account
45 years and over	100·0 per centum	23 years	41·1 per centum
44 years	96·0 „ „	22 „	39·2 „ „
43 „	92·0 „ „	21 „	37·3 „ „
42 „	88·0 „ „	20 „	35·4 „ „
41 „	84·0 „ „	19 „	33·5 „ „
40 „	80·0 „ „	18 „	31·6 „ „
39 „	76·0 „ „	17 „	29·8 „ „
38 „	73·0 „ „	16 „	28·0 „ „
37 „	70·0 „ „	15 „	26·2 „ „
36 „	67·0 „ „	14 „	24·4 „ „
35 „	65·0 „ „	13 „	22·6 „ „
34 „	63·0 „ „	12 „	20·8 „ „
33 „	61·0 „ „	11 „	19·0 „ „
32 „	59·0 „ „	10 „	17·3 „ „
31 „	57·0 „ „	9 „	15·6 „ „
30 „	55·0 „ „	8 „	13·9 „ „
29 „	53·0 „ „	7 „	12·2 „ „
28 „	51·0 „ „	6 „	10·5 „ „
27 „	49·0 „ „	5 „	8·8 „ „
26 „	47·0 „ „	4 „	7·1 „ „
25 „	45·0 „ „	3 „	5·4 „ „
24 „	43·0 „ „	2 „	3·7 „ „
		1 year	2·0 „ „

BY AUTHORITY
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

UPDATE SHEET NO. 4
(Issued as at 26th May, 1983)

NEW SOUTH WALES RETIREMENT BENEFITS ACT, 1972, NO. 70

Reprinted under the Reprints Act, 1972, as at 24th June, 1981.

Amendments made by the following Act(s) are not included in the reprint:-

New South Wales Retirement Benefits (Amendment) Act, 1982, No. 26

New South Wales Retirement Benefits (Amendment) Act, 1983, No. 24

New South Wales Retirement Benefits (Further Amendment) Act, 1983, No. 63

Amendments have also been made by certain instruments (see the references opposite Sch. 2 below).

Details of Amendments

s. 3	Am.	1982	No. 26,	Schs.	1(1),2(1)
	"	1983	" 63,	Sch.	1(1)
s. 4	"	"	" "	"	1(2)
s. 6A	Ins.	"	" 24,	"	1(1)
s. 8	Subst.	"	" 63,	"	1(3)
s. 9	Am.	"	" 24,	"	1(2)
s. 15	"	"	" 63,	"	1(4)
s. 18	"	"	" "	"	1(5)
s. 20	"	"	" "	"	1(6)
s. 21	Subst.	"	" "	"	1(7)
s. 22	Am.	"	" "	"	1(8)
s. 26	"	"	" "	"	1(9)
s. 27	"	"	" "	"	1(10)
s. 28	"	"	" "	"	1(11)

Continued over page

UPDATE SHEET NO. 4 - continued

NEW SOUTH WALES RETIREMENT BENEFITS ACT, 1972, NO. 70 - continued

Details of Amendments - continued

s. 30	Am.	1983	No.	63,	Sch.	1(12)
s. 31	"	"	"	"	"	1(13)
s. 32	"	"	"	"	"	1(14)
s. 41	"	"	"	24,	"	1(3)
s. 41A	Ins.	"	"	"	"	1(4)
s. 49	Am.	"	"	"	"	1(5)
s. 53	"	"	"	63,	"	1(15)
s. 54	"	"	"	"	"	1(16)
s. 63	"	1982	"	26,	"	2(2)
Sch.1	Rep.	"	"	"	"	2(3)
Sch.2	Am.	Gazette No.158 of 23.10.81, p.5452				
	"	1982	No. 26,		Sch.	2(4)
	"	Gazette No. 63 of 22.4.83, p.1853				
Sch. 2A	"	1982	No.	26,	Schs.	1(2),2(5)
Sch. 3	"	1983	"	63,	Sch.	1(17)
Sch. 3A	Ins.	"	"	"	"	1(18)
Sch. 4	Rep.	"	"	"	"	1(19)
Sch. 4A	Ins.	"	"	"	"	1(20)
Sch. 5	Subst.	"	"	"	"	1(21)

Note. Amendments are listed above irrespective of whether they are in force at the date of issue of this sheet.

NEW SOUTH WALES RETIREMENT BENEFITS ACT, 1972, No. 70

Reprinted under the Reprints Act, 1972

[Reprinted as at 24th June, 1981]

New South Wales

ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

* *

Act No. 70, 1972 (1), as amended by Act No. 24, 1973 (2); Act No. 43, 1973 (as amended by Act No. 28, 1976) (3); Act No. 3, 1976 (4); Act No. 4, 1976 (5); Act No. 28, 1976 (6); Act No. 56, 1977 (7); Act No. 124, 1979 (8) and Act No. 187, 1980 (9); and by orders under sec. 64 of Act No. 70, 1972.

Note.—This Act is reprinted with the omission of all amending provisions authorised to be omitted under sec. 6 of the Reprints Act, 1972.

P 86521H—A

(1) New South Wales Retirement Benefits Act, 1972, No. 70. Assented to, 30th November, 1972. Date of commencement of secs. 1 and 2, 30th November, 1972, sec. 2 (1); date of commencement of secs. 3, 7, 10, 11, 12 (subsecs. (3) and (4) excepted), 35–49, 56, 61, 64, 65, 67 (5) and 67 (6), 1st January, 1973, sec. 2 (2) and Gazette No. 143 of 29th December, 1972, p. 5329; generally except as provided in sec. 2 (1) (2) (4), 1st July, 1973, sec. 2 (3) and Gazette No. 28 of 2nd March, 1973, p. 728.

(2) Electricity Commission (Superannuation) Amendment Act, 1973, No. 24. Assented to, 2nd May, 1973.

(3) New South Wales Retirement Benefits (Amendment) Act, 1973, No. 43. Assented to, 8th May, 1973.

(4) Securities Industry Act, 1975 (1976 No. 3). Assented to, 7th January, 1976. Date of commencement of Sch. 1, 1st March, 1976, sec. 1 (3) and Gazette No. 23 of 20th February, 1976, p. 663.

(5) Statutory and Other Offices Remuneration Act, 1975 (1976 No. 4). Assented to, 7th January, 1976. Date of commencement of Sch. 5, 2nd February, 1976, sec. 2 (2) and Gazette No. 15 of 30th January, 1976, p. 398.

(Reference notes continued on page 2.)

New South Wales Retirement Benefits.

An Act to make provision for a scheme providing retirement and other benefits for certain employees of the Crown and of certain public authorities; to establish a New South Wales Retirement Fund; to constitute a New South Wales Retirement Board to manage that Fund and the Transport Retirement Fund; to amend the Government Railways Act, 1912, the Superannuation Act, 1916, the Transport Act, 1930, the Transport Employees Retirement Benefits Act, 1967, and the Securities Industry Act, 1970; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title and division of Act.

1. (1) This Act may be cited as the "New South Wales Retirement Benefits Act, 1972".

Amended, Act No. 56, 1977, Sch. 1 (1).

(2) This Act is divided as follows :—

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—THE NEW SOUTH WALES RETIREMENT FUND—*ss.* 4–9.

PART III.—EMPLOYEE CONTRIBUTIONS—*ss.* 10–24.

PART IV.—BENEFITS—*ss.* 25–31.

PART IVA.—AUTOMATIC ADJUSTMENT OF PENSIONS—*ss.* 31A–31H.

---

(6) New South Wales Retirement Benefits (Amendment) Act, 1976, No. 28. Assented to, 1st April, 1976. Date of commencement of secs. 2 (3) (4), 5, 8 and 9, 1st May, 1976, sec. 2 (2) and Gazette No. 59 of 30th April, 1976, p. 1836; date of commencement of secs. 4 and 7, 1st July, 1973, sec. 2 (2) (3) and Gazette No. 59 of 30th April, 1976, p. 1836; date of commencement of sec. 6, 8th May, 1973, sec. 2 (2) (4) and Gazette No. 59 of 30th April, 1976, p. 1836.

(7) New South Wales Retirement Benefits (Amendment) Act, 1977, No. 56. Assented to, 24th June, 1977. Date of commencement of Sch. 1, 31st March, 1977, sec. 2 (2).

(8) New South Wales Retirement Benefits (Amendment) Act, 1979, No. 124. Assented to, 1st November, 1979.

(9) Miscellaneous Acts (Retirement of Statutory Officers) Amendment Act, 1980, No. 187. Assented to, 17th December, 1980.

PART V.—EMPLOYER CONTRIBUTIONS—*ss.* 32–34.

PART VI.—THE NEW SOUTH WALES RETIREMENT BOARD—*ss.* 35–49.

PART VII.—LOANS TO CONTRIBUTORS—*s.* 50.

PART VIII.—ASSURANCE POLICIES—*ss.* 51 and 52.

PART IX.—GENERAL PROVISIONS—*ss.* 53–73.

SCHEDULES.

2. (1) Section 1 and this section shall commence on the date of assent to this Act. Commencement.

(2) Part VI and sections 3, 7, 10, 11, 12 (subsections (3) and (4) excepted), 56, 61, 64, 65, 67 (5) and 67 (6) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) 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 VII shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that is later than the day appointed pursuant to subsection (3).

(5) Notwithstanding that a day has not been appointed pursuant to subsection (3), or that a day so appointed has not arrived, when the Board has been constituted it may exercise and perform such powers, authorities, duties and functions as the Board thinks necessary for the purpose of preparing for the coming into operation of the provisions of this Act that commence on the day so appointed, being powers, authorities, duties and functions that could be exercised or performed by it on or after that day.

Interpretation.

3. (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);

"average earning rate on the Fund" means, in relation to a financial year—

(a) where that financial year commences on or after the appointed day, the percentage rate per annum calculated by the formula—

$$\frac{200 \times I}{A + B - I}$$

where I, A and B have, in relation to a financial year, the same meanings as they have in section 8 in relation to that financial year; and

(b) where that financial year is the financial year current on the day next preceding the appointed day—the rate of five and one-half per centum per annum;

"Board" means the New South Wales Retirement Board constituted by this Act;

"contributor" means—

(a) a person who is contributing, or is liable to contribute, to the Fund;

(b) a person who was so contributing, or was liable so to contribute, but ceased, pursuant to section 20 (1) so to contribute; and

(c) a person eligible for a benefit under this Act calculated by reference only to his initial credit;

"contributor to the Account" means a person who is contributing to the Account;

"contributor to the Transport Retirement Fund" means a person who is a contributor under the Transport Employees Retirement Benefits Act, 1967;

"employee" means a person employed by an employer but— Amended, Act No. 28, 1976, Sch. 1 (1); Act No. 124, 1979, Sch. 1 (1) (a).

(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 1 or 2;

(c) does not, except in the case of—

(i) a person referred to in section 11 or 12 (3); or

(ii) a person who is within a class of persons 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 1 or Schedule 2 and an association of persons so described;

"financial year" means any period of twelve months ending on the thirtieth day of June;

"Fund" means the New South Wales Retirement Fund established by this Act;

Amended, Act No. 124, 1979, Sch. 1 (1) (b).

"initial credit" means—

(a) in relation to a contributor who, before he became a contributor, was a contributor to the Account—an amount equal to the sum of—

(i) the total amount of his contributions to the Account before he ceased to contribute thereto pursuant to section 12 (9) reduced, where any amounts have been paid to him pursuant to Part IX of the Government Railways Act, 1912, by an amount determined by the Board; and

(ii) an allowance of an amount calculated as provided by subsection (2);

(b) in relation to a contributor who, before he became a contributor, was a contributor to the Transport Retirement Fund—an amount equal to the sum of—

(i) the amount of his initial credit, if any, within the meaning of the Transport Employees Retirement Benefits Act, 1967, immediately before he became a contributor;

(ii) 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), 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), to be paid into the Fund on behalf of his employer or otherwise disbursed to or on behalf of his employer;

"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— **Amended, Act No. 124, 1979, Sch. 1 (1) (c).**

(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— New subsection added, Act No. 28, 1976, Sch. 1 (2).

(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— New subsection added, Act No. 28, 1976, Sch. 1 (2).

(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— New subsection added, Act No. 28, 1976, Sch. 1 (2).

(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.

New subsection added, Act No. 28, 1976, Sch. 1 (2).

(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.

New subsection added, Act No. 28, 1976, Sch. 1 (2).

(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 defintion 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 his behalf to the Transport Retirement Fund before he became a contributor under this Act, reduced by the sum of—

(a) the difference betwen that total amount and the total amount of contributions that would have been paid by him or on his behalf to the Transport Retirement Fund had they been made in accordance with Scale 2 of Schedule 2 to the Transport Employees Retirement Benefits Act, 1967; and

(b) where any amounts have been paid to him from the Transport Retirement Fund—such amount as the Board may determine.

(4) The amount referred to in paragraph (b) (iii) of the definition of "initial credit" in subsection (1) is, in respect of a contributor so referred to, an amount equal to the sum of—

(a) an amount of interest on his initial credit, if any, for the period for which he contributed to the Transport Retirement Fund; and

(b) an amount of interest on the amount calculated in accordance with paragraph (b) (ii) of that definition, calculated in a manner determined by the Board in respect of that person (regard being had to the respective dates of payment of each of the contributions so referred to),

the interest in each case being calculated at a rate or rates determined by the Board having regard to the average earning rate on the Transport Retirement Fund for each financial year that ended during the period referred to in paragraph (a), that average earning rate being calculated in accordance with the formula

$$\frac{200 \times I}{C + D - I}$$

where, in the application of the formula in respect of a financial year—

"I" represents the total amount of interest, dividends and rents credited to the Transport Retirement Fund during that financial year, together with any profit derived from the realisation or appreciation of assets, reduced by—

(a) the amount of any interest charges against the Transport Retirement Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Transport Retirement Fund;

"C" represents the amount of the Transport Retirement Fund at the beginning of that financial year;

"D" represents the amount of the Transport Retirement Fund at the end of that financial year,

and, in determining the values to be assigned to the symbols "I", "C" and "D", accrued income and expenditure, including costs of management accrued and not paid, shall be taken into account.

(5) For the purposes of this Act, the time at which a person becomes a contributor is, in the case of a person who becomes a contributor on more than one occasion, the later or latest of those occasions.

(6) Where a period of service is referred to in this Act in relation to an employee, the period so referred to is a period of continuous employment as an employee, being a period that is continuous with, and includes, the period of employment by virtue of which he is an employee and, for the purposes of calculating the duration of the period of service of an employee—

(a) he shall be deemed to have been an employee at a time before the coming into force of the provisions of this Act whereby he is an employee if, had those provisions been in force at that time, he would have been an employee at that time;

(b) any period during which, by the operation of paragraph (c) or (d) of the definition of "employee" in subsection (1) he was not an employee shall, if he became an employee by reason of his being within a class of persons referred to in section 12 (1) (a) (ii) or pursuant to an election under subsection (10), be reckoned as if he had been an employee during that period; Amended, Act No. 124, 1979, Sch. 1 (1) (d).

(c) he shall, if he becomes a contributor pursuant to an election under section 16, be deemed, notwithstanding paragraphs (a) and (b), not to have been an employee during any period before the day that was twelve months earlier than the day on which he becomes a contributor.

(7) A reference in this Act to the first day of a pay period for or applicable to a person that next follows a specified day or event includes a reference to a pay period for or applicable to that person the first day of which is that specified day or the day on which the specified event occurred.

(8) A reference in this Act to a description of a person, or to a class of persons, includes a reference to the name of a person and, where the reference is to a class of persons, the class may be described by reference to—

(a) all persons within a specified class of persons; or

(b) all persons within a specified class of persons other than—

(i) a specified person or specified persons; or

(ii) a specified class, or specified classes, of persons.

(9) Where this Act provides for the making of an election on a specified day, the Board may arrange for the election to be made in anticipation of that day but—

(a) an election so made does not take effect before that day; and

(b) takes effect only to the extent that, had it not been made, it could be made on that day.

Amended, Act No. 124, 1979, Sch. 1 (1) (e).

(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.

New subsection added, Act No. 43, 1973, Sch. 1.

(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 II.

The New South Wales Retirement Fund.

Establishment of New South Wales Retirement Fund.

4. (1) The Board shall establish a New South Wales Retirement Fund into which shall be paid the contributions and any other payments made by employers, contributors and other persons under this Act, and from which shall be paid the benefits and other amounts payable under this Act including the cost of administering this Act and managing the Fund.

(2) Moneys derived from the investment of the Fund or borrowed pursuant to section 7 shall form part of the Fund.

(3) Where, in respect of an instrument relating to a transaction, the Board, or a broker, dealer or other person acting on behalf of the Board in respect of that transaction, would, but for this subsection, be liable to pay stamp duty under the Stamp Duties Act, 1920, in respect of the instrument, the Board, broker, dealer or other person, as the case may be, shall not be so liable.

Power to invest Fund.

5. The provisions of the Superannuation Act, 1916, with respect to the investment of the State Superannuation Fund apply to and in respect of the Board and investment of the Fund as if the Board and the Fund referred to in those provisions were the Board and the Fund within the meaning of this Act.

Audit of accounts relating to Fund.

6. (1) The accounts relating to the Fund shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by any law relating to the audit of public accounts.

(2) The Audit Act, 1902, applies to members and employees of the Board in the same manner as it applies to accounting officers in public departments.

Borrowing powers of Board.

7. (1) The Treasurer may, on the application of the Board and on such terms and conditions as the Treasurer thinks fit, lend money to the Board.

(2) The Board may, for the purpose of obtaining temporary financial accommodation, borrow not more than $2,000,000 by way of overdraft from any bank.

Guaranteed minimum interest yield.

8. (1) In this section—

"formula X" means, in relation to a financial year, the amount ascertained in accordance with the formula—

$$1.0275\ I$$

where "I" represents the total amount of interest, dividends and rents credited to the Fund during that financial year, together with any profit derived from the realisation or appreciation of assets, reduced by—

(a) the amount of any interest charges against the Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Fund as referred to in section 48;

"formula Y" means, in relation to a financial year, the amount ascertained in accordance with the formula—

$$0.0275\ (A + B)$$

where—

"A" represents the amount of the Fund at the beginning of that financial year;

"B" represents the amount of the Fund at the end of that financial year;

"prescribed amount "X"" means, in relation to a financial year, the sum of—

(a) the amount ascertained in accordance with formula X in respect of that financial year;

(b) the sum of the amounts ascertained in accordance with formula X in respect of each preceding financial year; and

(c) the total amount, if any, paid by employers under subsection (3) before the end of that financial year;

"prescribed amount Y" means, in relation to a financial year, the sum of—

(a) the amount ascertained in accordance with formula Y in respect of that financial year; and

(b) the sum of the amounts ascertained in accordance with formula Y in respect of each preceding financial year.

(2) In determining the values to be assigned to the symbols "I", "A" and "B" for the purposes of formula X and formula Y, accrued income and expenditure, including costs of management accrued and not paid, shall be taken into account including, in the case of the symbol "A", any payment under subsection (3).

(3) Where the Board certifies—

(a) that, in respect of the financial year that ended on the thirtieth day of June that next succeeded the appointed day, the amount ascertained in accordance with formula Y exceeded the amount ascertained in accordance with formula X; or

(b) that in respect of a financial year succeeding the financial year referred to in paragraph (a), prescribed amount Y exceeded prescribed amount X,

each employer shall, on the requisition of the Board, pay to the Fund in respect of the financial year to which the certificate relates an amount that bears to the amount of that excess the same proportion as the total contributions to the Fund paid by his employees during that financial year bears to the total contributions paid to the Fund by all employees of all employers during that financial year.

Actuarial investigation of Fund.

9. (1) An investigation of the Fund shall be made as at 30th June, 1977, and as at the expiration of each period of three years thereafter.

(2) Each investigation under subsection (1) shall be made by an actuary or actuaries appointed by the Board for the purpose.

(3) An actuary who makes, or actuaries who make, an investigation referred to in subsection (1) shall report to the Board the result of the investigation and shall state whether or not in his or their opinion any reduction or increase should be made in the rates of contributions payable to the Fund.

(4) The Board shall, not later than two months after it receives a report under subsection (3), forward the report to the Minister together with such comments thereon as it deems appropriate.

PART III.

EMPLOYEE CONTRIBUTIONS.

Certain employees may elect to contribute to the Fund.

10. (1) Subject to section 3 (9), on the day on which an employee completes twelve months' service on or after the appointed day he may, if he has not attained the age of sixty years, elect to contribute to the Fund unless he is a person who will become a contributor pursuant to section 11 or a person referred to in section 12 (2) or 12 (3).

(2) Where an employee was, immediately before he became an employee, a participant in a superannuation scheme by virtue of his employment he shall, for the purposes of subsection (1), be deemed to have completed twelve months' service—

(a) on the day on which he became an employee; or

(b) on the day that is twelve months later than the day on which he took up the employment by virtue of which he became a participant in the superannuation scheme,

whichever is the later day.

(3) Where a person who becomes an employee by virtue of an election under section 3 (10) had completed more than nine months' service at the time he first became entitled to make that election, subsection (1) applies to him as if he had completed nine months' service at that time.

(4) An employee who makes an election under this section shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day on which, pursuant to subsection (1), he is entitled to make the election.

Certain persons required to contribute to Fund.

11. (1) On and from the first day of the pay period applicable to him that next succeeds the appointed day, a person who, immediately before the appointed day, is a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, and has not attained the age of thirty years—

(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.

Amended, Act No. 43, 1973, Sch. 1.

(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.

Certain classes of persons may elect to contribute to the Fund.

12. (1) The Minister—

Substituted subsection, Act No. 124, 1979, Sch. 1 (2) (a).

(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 folowing 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.

New subsection added, Act No. 124, 1979, Sch. 1 (2) (a).

(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.

New subsection added, Act No. 124, 1979, Sch. 1 (2) (a).

(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.

Substituted subsection, Act No. 28, 1976, Sch. 3. Amended, Act No. 124, 1979, Sch. 1 (2) (b).

(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.

New subsection added, Act No. 124, 1979, Sch. 1 (2) (c).

(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.

New subsection added, Act No. 124, 1979, Sch. 1 (2) (c).

(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.

New subsection added, Act No. 124, 1979, Sch. 1 (2) (c).

(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.

Substituted subsection, Act No. 124, 1979, Sch. 1 (2)(d).

(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.

New subsection added, Act No. 124, 1979, Sch. 1 (2) (d).

(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.

Contributions by certain persons aged sixty years or more at time of making election.

13. Where a person aged sixty years or more makes an election under section 12—

Amended, Act No. 43, 1973, s. 2 (a).

(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;

Amended, Act No. 43, 1973, Sch. 1.

(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

Amended, Act No. 43, 1973, Sch. 1.

(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. 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— Amount of benefit for which contributor must contribute. **Amended, Act No. 43, 1973, Sch. 1.**

(a) at the time he made the election; or

(b) where, at the time of making the election, he had attained the age of sixty years—on the day on which he attained that age.

15. (1) In this section— Variation of benefits and contributions.

"contributor" means a contributor who has not attained the age of sixty years at his election date;

"election date" means, in relation to a contributor, a date determined by the Board for the purposes of subsection (2);

"review date" means, in relation to a contributor, a date determined by the Board for the purpose of calculating the benefit applicable in relation to the annual wages of the contributor at that date. **Amended, Act No. 43, 1973, S. 4. 1.**

(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— **Amended, Act No. 43, 1973, Sch. 1.**

(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.

(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.

Amended, Act No. 43, 1973, Sch. 1.

(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;

Amended, Act No. 43, 1973, Sch. 1.

(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 detemined by the Board that is not earlier than the election date nor more than three months after that date.

Amended, Act No. 43, 1973, Sch. 1.

(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—

$$\frac{a}{4} + \frac{a \times b}{c}$$

where—

"a" represents the contributor's annual wages at his next preceding review date within the meaning of this section;

"b" represents the sum of the amount 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".

Periodic opportunities to elect to become a contributor.

16. (1) This section applies to—

(a) an employee who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under section 10 (1), or under this section, to become a contributor has failed to do so;

(b) an employee referred to in section 12 (1) (a) (i) or 12 (3) (d) who— **Amended, Act No. 124, 1979, Sch. 1 (3).**

(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.

Certain moneys to be paid to Employees Reserve Account. **Amended, Act No. 43, 1973, Sch. 1.**

17. Where a contributor attains the age of sixty years and the Board is of the opinion that the contributions made or to be made by him would, but for this section, entitle him, 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).

Rates of contribution.

Amended, Act No. 43, 1973, Sch. 1.

Substituted subsection, Act No. 28, 1976, Sch. 1 (3).

18. (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—

$$c = \frac{b \times r}{1000} + z$$

where—

"c" represents the amount of the fortnightly contribution or, as the case may be, the additional fortnightly contribution, to be paid by the contributor to the Fund;

"b" represents the amount 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) where the contributor is a person who has made an election under subsection (2)—in the Second Column of Schedule 4,

opposite the age specified in the First Column of that Schedule that is the age next birthday of the contributor;

"z" is 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.

Amended, Act No. 43, 1973, Sch. 1.

(2) Where a person aged fifty years or more—

(a) becomes a contributor;

(b) elects under section 15 (2) (a) to contribute for an increased amount; or

(c) is required under section 15 (4) to increase his contributions to the Fund,

he may, in the case referred to in paragraph (a), elect to have his rate of contribution based on Schedule 4 or, in the cases referred to in paragraphs (b) and (c), elect to have the rate of increase in contributions so based.

Amended, Act No. 43, 1973, Sch. 1.

(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.

Payment of contributions.

19. (1) Subject to subsection (2), contributions required to be paid to the Fund shall be deducted by employers from the salaries or wages of contributors at each payment thereof and shall be paid by employers to the Board within a period of fourteen days from the date of deduction.

(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).

Amended, Act No. 43, 1973, Sch. 1.

(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.

Cessation of payment of contributions.

20. (1) Subject to this section and section 62, a contributor who pays contributions to the Fund in accordance with Schedule 3 or Schedule 4 shall cease to pay those contributions on the first day of the pay period applicable to him during which he ceases to be employed by an employer, dies, retires or attains the age of sixty years, whichever first occurs.

(2) Notwithstanding subsection (1), a contributor who attains the age of sixty years shall continue to make any contributions to which an election under section 18 (2) relates.

(3) Where a contributor who has made an election under section 18 (2) is aged sixty years or more and a benefit for which he is contributing emerges before he has completed payment in accordance with that election of the total contributions that are necessary to provide the benefit, the Board may deduct from the benefit such contributions additional to those already paid as are actuarially determined by the Board to be necessary to provide the benefit, unless those additional contributions are sooner paid.

Exemption from payment of contributions.

21. (1) Notwithstanding any other provision of this Act, a contributor is not required to continue to contribute to the Fund if the Board, on the application of the contributor, is satisfied that adequate provision has been made for the contributor and his family or that there are other special circumstances justifying exemption from, or cessation of, payment of the contributions.

(2) Section 30 continues to apply to a person who, pursuant to subsection (1), is not a contributor.

Election following increase in wages between review date and age of sixty years.

22. (1) In this section "contributor" includes a person who ceased to be a contributor on his retirement.

Amended, Act No. 43, 1973, Sch. 1.

(2) Notwithstanding section 14, where a contributor is aged sixty years or more and, between his review date (within the meaning of section 15) that next preceded his attainment of that age and the day on which he attained that age, the amount of his annual wages was increased to an amount greater than the multiple of one hundred dollars next higher than the amount of his wages immediately before the increase he may, subject to this section, elect to contribute in respect of an additional amount not exceeding the amount referred to in subsection (3).

Amended, Act No. 43, 1973, Sch. 1.

(3) The additional amount in respect of which a contributor may elect to contribute under subsection (2) 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 an election is made under this section, the necessary variation in the rate of contribution to the Fund shall be made from a date determined by the Board.

Effect of lapse of period between employment by successive employers.

23. (1) Where an employee ceases to be employed by an employer and, not having attained the age of sixty years he is, on or before the expiration of the next succeeding period of three months, employed by the same or a different employer, he shall, for the purposes of this Act, be deemed not to have ceased to be an employee if he complies with subsection (2).

(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.

New subsection added, Act No. 28, 1976, Sch. 1 (4).

(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. (1) A contributor may— Contributor may make additional contributions.

(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 Amended, Act No. 43, 1973, Sch. 1.

(c) where section 28 applies in respect of the contributor, may be paid as an addition to a benefit payable under that section in respect of the contributor.

PART IV.

BENEFITS.

Interpretation.

25. (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.

New subsection added, Act No. 28, 1976, Sch. 2 (1).

(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.

Benefits.

Amended, Act No. 43, 1973, Sch. 1.

26. (1) In this section "prescribed amount" in relation to a contributor to whom subsection (2) or (4) applies is the lesser of—

Amended, Act No. 43, 1973, Sch. 1.

(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 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;

(iii) interest, as provided by section 53, on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on his attainment of the age of sixty years or his earlier retirement or retrenchment; and

(iv) in the case of a contributor aged sixty years or more, the amount determined by the Board to be the actuarial equivalent of contributions (if any) remaining to be paid by him pursuant to an election under section 18 (2).

(2) Where a contributor who has completed not less than ten years' service ceases to be employed by an employer by reason of— Amended, Act No. 43, 1973, s. 2 (b) (i).

(a) his retirement on attaining the age of sixty years at the end of a period of not less than five years' continuous service as a contributor;

(b) his retirement through infirmity of body or mind, where the Board is satisfied that the infirmity—

(i) incapacitates the contributor from performing his duties; and

(ii) is likely to be permanent; or

(c) his retrenchment,

there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (3).

(3) The amount payable under subsection (2) to a contributor referred to therein is an amount equal to the sum of—

(a) the prescribed amount for the contributor; and

(b) an allowance of an amount that is a percentage of the prescribed amount, being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is

the number of years of service that had been completed by that person on or before his retirement or retrenchment.

Amended, Act No. 43, 1973, s. 2 (b) (ii) (iii) (as amended by Act No. 28, 1976, Sch. 4 (1)).

(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 not less than ten years' service of which not less than the last five years comprised a period of 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) the prescribed amount for the contributor;

(b) interest as provided by section 53 on the amounts referred to in paragraph (a) in respect of the period that commenced on the date on which he attained the age of sixty years and ended on the date on which he retired; and

(c) an allowance of an amount that is a percentage of the total of the amounts calculated under paragraphs (a) and (b), being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by the contributor before his retirement.

New subsection added, Act No. 43, 1973, s. 2 (b) (iv).

(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) or (4).

(7) There shall be paid from the Fund to a contributor referred to in subsection (6) and in accordance with his election— New subsection added, Act No. 43, 1973, s. 2 (b) (iv).

(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-eights of the pension payable to him immediately before his death; or Amended, Act No. 124, 1979, Sch. 1 (4).

(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. New subsection added, Act No. 43, 1973, s. 2 (b) (iv).

27. (1) This section does not apply to a contributor entitled to make an election under section 26 (6) but applies to any other contributor who has completed not less than ten years' service and ceases to be employed by an employer— Alternative benefits. Amended, Act No. 43, 1973, Sch.

(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 IVA. **New subsection added, Act No. 56, 1977, Sch. 1 (2).**

28. (1) Subject to this section, where the employment of a contributor ceases because of his death, there shall be paid from the Fund to— Benefit for certain dependants. **Amended, Act No. 28, 1976, Sch. 1 (5).**

(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—

Substituted paragraph, Act No. 43, 1973, Sch. 1.

(a) in the case of a contributor who, before he died, had completed not less than ten years' service—

(i) if the contributor would, had he 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 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.

Amended. Act No. 43, 1973, Sch. 1.

(3) Where a contributor with not less than ten years' service dies aged sixty years or more and does not leave a widow or any dependant, there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such other person or persons as the Board may determine, an amount equal to the 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.

Alternative benefits for widow.

29. (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.

New subsection added, Act No. 56, 1977, Sch. 1 (3).

(7) This section does not authorise the commutation of the amount of any increase of pension payable under Part IVA.

Withdrawal benefit.

30. Subject to section 62, where a person who is a contributor ceases to be employed by an employer and, but for this section, there would not be payable under this Act to or in respect of that

person any lump sum benefit or pension or annuity, there shall be paid to him from the Fund as a lump sum benefit or, where he is deceased, to his personal representatives or, where he is deceased and has no personal representatives, to such person as the Board may determine—

(a) in the case of a person who had been a contributor to the Transport Retirement Fund and, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund under this Act; and

(ii) the total of the amounts of his contributions to the Transport Retirement Fund,

reduced by the difference between the amount referred to in subparagraph (ii) and the total amount of the contributions that would have been paid by him to the Transport Retirement Fund had all his contributions thereto been made in accordance with Scale 2 of Schedule 2 of the Transport Employees Retirement Benefits Act, 1967;

(b) in the case of any other person who, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the total of the amounts of his contributions to the Fund;

(c) in the case of a person who, at the time he ceased to be employed by an employer, had completed not less than five, but less than ten years' service, an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund;

(ii) the amount of his initial credit, if any; and

(iii) interest as provided by section 53 on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date

on which he became a contributor and ended on the date on which he ceased to be employed by an employer;

(d) in the case of a person who, at the time he ceased to be employed by an employer, had completed not less than ten years' service, an amount equal to the sum of—

(i) the amount to which he would be entitled if paragraph (c) were applicable to him; and

(ii) an allowance of an amount that is a percentage of the amount referred to in subparagraph (i), being one-half of the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before the cessation of his employment.

Certain benefit must be not less than certain amount.

31. (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—

$$\frac{a}{30} \times (10 + n)$$

where—

"a" represents the annual wages of the contributor immediately before his retirement or death, as the case may be;

"n" represents the number of years of service completed by him at that time;

and

(b) the amount that—

(i) where the contributor is retired or dies before he attains the age of sixty years—would have been payable to him under this Act had he retired on attaining the age of sixty years or 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 **Amended, Act No. 43, 1973, Sch. 1.**

(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. **Amended, Act No. 43, 1973, Sch. 1.**

(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.

New Part added, Act No. 56, 1977, Sch. 1 (4).

PART IVA.

AUTOMATIC ADJUSTMENT OF PENSIONS.

Interpretation: Pt. IVA.

New section added, Act No. 56, 1977, Sch. 1 (4).

31A. (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 1st April in that year and ending on and including 30th 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 1st July in that year and ending on and including 30th September in that year;

(b) the period commencing on and including 1st October in that year and ending on and including 31st December in that year;

(c) the period commencing on and including 1st January in that year and ending on and including 31st March in that year; or

(d) the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

"year" means—

(a) the period commencing on and including 1st July, 1975, and ending on and including 30th June, 1976; or

(b) a subsequent period commencing on and including 1st July and ending on and including the next following 30th 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.

Calculation of adjustment percentage. **New section added, Act No. 56, 1977, Sch. 1 (4).**

31B. (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 :—

$$P = \frac{100\ (C-L)}{L}$$

(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 :—

$$P = \frac{100\ (L-C)}{L}$$

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 this section is less than 1.0 per centum; 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 first-mentioned 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 sub-

stitution 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.

Adjustment of pensions: general cases. **New section added, Act No. 56, 1977, Sch. 1 (4).**

31C. (1) Subject to this Act, where there is an adjustment percentage for a year (in this section referred to as "the particular year"), the pension payable on the adjustment date for that year to a person to whom this section applies is hereby adjusted, on and from that adjustment date, by that percentage.

(2) This section applies to—

(a) a person who last became a pensioner on or before 1st July in the particular year; and

(b) a person who was the spouse of a pensioner immediately before the pensioner's death, where the pensioner last became a pensioner on or before 1st July in the particular year and died before the adjustment date for that year.

(3) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 59A not been enacted.

Adjustment of pensions: partial adjustment. **New section added, Act No. 56, 1977, Sch. 1 (4).**

31D. (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 1st 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 1st July in the particular year but on or before 1st 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—

$$A = P \times \frac{Q}{4}$$

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.

Special provisions applicable to certain classes of pensions.

New section added, Act No. 56, 1977, Sch. 1 (4).

31E. (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.

Minimum amount to which pensions may be reduced.

New section added, Act No. 56, 1977, Sch. 1 (4).

31F. 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.

Additional payment by employer. **New section added, Act No. 56, 1977, Sch. 1 (4).**

31G. (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.

Calculation of percentages. **New section added, Act No. 56, 1977, Sch. 1 (4).**

31H. 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 V.

EMPLOYER CONTRIBUTIONS.

Payment of contributions by, and apportionment of contributions among, employers. **Amended, Act No. 43, 1973, Sch. 1.**

32. (1) In this section, a reference to a contributor in respect of whom this section applies is a reference to a contributor to or in respect of whom a benefit has become payable from the Fund and—

Amended, Act No. 43, 1973, Sch. 1.

"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. Amended, Act No. 43, 1973, Sch. 1.

(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— Amended, Act No. 43, 1973, Sch. 1.

(a) where the benefit is a lump sum payable under section 26 (2)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (3) (b); Amended, Act No. 43, 1973, Sch. 1.

(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); Amended, Act No. 43, 1973, Sch. 1.

(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); Amended, Act No. 43, 1973, Sch. 1.

(e) where the benefit is a lump sum payable in accordance with section 31—an amount equal to the sum of— Amended, Act No. 43, 1973, s. 2 (c) (i), Sch. 1.

(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 (d), or as the case may require;

New paragraph added, Act No. 43, 1973, s. 2 (c) (ii). Amended, Act No. 56, 1977, Sch. 1 (5) (a) (b).

(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 (3) (b) or section 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—

Amended, Act No. 43, 1973, Sch. 1.

(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 IVA. **New subsection added, Act No. 56, 1977, Sch. 1 (5) (c).**

33. The initial credit of a contributor who was a contributor to the Account is a liability due to the Fund by the person who was the employer of the contributor at the date on which the contributor last contributed to the Account. Liability for initial credit.

34. (1) Where, on the appointed day, any amount stands to the credit of an employer under section 31 of the Transport Employees Retirement Benefits Act, 1967, the Board shall, without any further authority than this Act, transfer that amount to the Fund and shall credit the same amount to the employer in the books of the Board. Payments by employer to reserve.

(2) The Board shall pay to the Fund, and shall credit to an employer in the books of the Board, such proportion of any amount (including interest) repaid to the Board pursuant to section 23 (2) (b) as the Board determines to be that employer's proportion of that amount.

(3) An employer may, with the approval of the Governor given on the recommendation of the Treasurer and the Board, pay to the Fund as part of his operating expenses for the financial year in which the payment is made, such amounts as the employer may determine.

(3A) The Board shall credit to an employer, in the books of the Board— **New subsection added, Act No. 124, 1979, Sch. 1 (5).**

(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).

(4) Where an employer is required to make a payment under this Act or under section 29 of the Transport Employees Retirement Benefits Act, 1967, the payment may be made from the amount credited to the employer under this section.

(5) An amount standing to the credit of an employer pursuant to this section shall bear interest as provided by section 53.

PART VI.

THE NEW SOUTH WALES RETIREMENT BOARD.

Constitution of New South Wales Retirement Board.

35. (1) There is hereby constituted a body corporate with the corporate name "New South Wales Retirement Board".

(2) The Board shall consist of four persons, each appointed by the Governor on the recommendation of the Minister—

(a) for a period not exceeding five years; and

(b) on such terms and conditions as the Governor thinks fit, including terms and conditions for or with respect to preserving rights accrued or accruing under any Act.

(3) Of the persons referred to in subsection (2)—

(a) one shall, in and by the instrument of his appointment or by a subsequent instrument, be appointed as Chairman;

(b) one may, in like manner, be appointed as executive member;

(c) one shall, in like manner, be appointed as contributor member;

(d) one shall, in like manner, be appointed as employer member.

(4) A person who is appointed Chairman or executive member of the Board may, by the terms of his appointment as such, be required to devote the whole of his time to the duties of his office.

(5) Before making a recommendation to the Governor with respect to the appointment of the contributor member and the employer member, the Minister may consult such persons, including associations of employees, as he thinks fit.

Deputies for members.

36. The Governor may appoint—

(a) subject to section 37, a deputy to act for the Chairman—

(i) during the illness or absence of the Chairman; or

(ii) where there is an executive member, during the illness or absence of both the Chairman and the executive member;

(b) where there is an executive member, a deputy to act (otherwise than pursuant to section 37) for the executive member during his illness or absence; and

(c) deputies to act respectively for the contributor member or the employer member during the illness or absence of the member for whom he is the deputy,

and a person so appointed shall have and may exercise and perform, while acting for the person for whom he is the deputy, the powers, authorities, duties and functions conferred or imposed upon that person as a member of the Board and, where he acts for the Chairman or the executive member, of the Chairman or executive member, as the case may be.

Executive member to act as Chairman in certain circumstances.

37. Where there is an executive member of the Board, he shall have and may exercise, during the illness or absence of the Chairman, the powers, authorities, duties and functions of the Chairman.

Casual vacancies.

38. Where a vacancy occurs in the office of a member the Governor may appoint a person to fill the vacancy and the person so appointed shall hold office instead of, and for the unexpired term of office of, his predecessor.

Certain acts, etc., not invalidated.

39. No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of any member of the Board and a deputy was not available to act in his place under section 36 or 37.

Public Service Act, 1902, not to apply to member of Board.

40. Subject to section 35 (2) (b), the provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment by the Governor of any member of the Board, and such a member is not, in his capacity as a member, subject to the provisions of that Act during his term of office.

Vacation of office.

41. (1) A member of the Board vacates his office if he—

(a) dies;

(b) becomes bankrupt or compounds with his creditors;

(c) absents himself from three consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Governor;

(d) becomes a mentally ill person, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958;

Amended, Act No. 187, 1980, Sch. 1.

(e) resigns his office by writing under his hand addressed to the Minister and the resignation is accepted by the Governor;

Amended, Act No. 187, 1980, Sch. 1.

(f) attains the age of 65 years; or

New paragraph added, Act No. 187, 1980, Sch. 1.

(g) is retired from office by the Governor under subsection (3).

(2) A person who is of or above the age of sixty-five years is not eligible for appointment as a member of the Board.

(3) If the Chairman or executive member of the Board is, pursuant to section 35 (4), required by the terms of his appointment to devote the whole of his time to the duties of his office, he may be retired from office by the Governor after he attains the age of 60 years and before he attains the age of 65 years and, if he is so retired, he is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines. **New subsection added, Act No. 187, 1980, Sch. 1.**

42. (1) Subject to the Statutory and Other Offices Remuneration Act, 1975, the members of the Board and their deputies are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of each of them. Remuneration payable to members. **Substituted subsection, Act No. 4, 1976, Sch. 5.**

(2) Subject to subsection (3) where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of the office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member or of a deputy member of the Board or from accepting and retaining any remuneration payable to a member or to a deputy member under this section.

(3) Subsection (2) does not apply to or in respect of a member of the Board who pursuant to section 35 (4), is required to devote the whole of his time to the duties of his office.

43. Two members of the Board, one of whom is the Chairman or, where there is an executive member, the executive member, shall constitute a quorum of the Board and any business transacted at a meeting of the Board at which a quorum is present is valid. Quorum.

44. Where the voting at any meeting of the Board is equal the Chairman or person acting in his place shall, in addition to having a deliberative vote, have a casting vote. Chairman to have casting vote.

Powers, etc., of Board.

45. The Board shall manage the Fund and, on and from the appointed day, shall manage the Transport Retirement Fund and shall have and may exercise and perform such other powers, authorities, duties and functions as are conferred or imposed on it by or under this or any other Act.

Delegation by Board.

46. (1) The Board may delegate any of its powers, authorities, duties or functions under this Act or under the regulations, except this power of delegation, to any member or employee of the Board.

(2) The decision of any member or employee of the Board made when he is acting in pursuance of a delegaton under this section shall be deemed to be the decision of the Board.

(3) A delegation under this section may be revoked by the Board at any time and does not prevent the exercise of any power, authority, duty or function by the Board.

Staff of Board.

47. (1) The Board may appoint and employ such staff as may be necessary for the proper exercise and performance of its powers, authorities, duties and functions.

(2) The Board may, with the approval of the Minister administering a Government Department or with the approval of a statutory body or an employer, make use of the services of any person employed in the service of that Government Department, statutory body or employer.

Cost of management of Fund.

48. (1) Subject to this section, the cost of management of the Fund and any expenditure incurred by the Board pursuant to section 2 (5) are charges against, and shall be paid out of, the Fund.

(2) In so far as the cost of managing the Fund is attributable to the operation of section 12 in respect of an employee who, being eligible to elect under that section to become a contributor, fails so to elect, the amount thereof, as determined by the Board, shall be paid to the Board by the person who, at the time of that failure, is the employer of that employee.

Report by Board.

49. The Board shall, as soon as practicable after the end of a financial year, submit a report to the Minister giving information as to its operations and as to any general decisions adopted by it in the course thereof during that financial year.

PART VII.

LOANS TO CONTRIBUTORS.

Board may lend certain amount to contributor.

50. (1) The Board may lend to a contributor, on such terms and conditions as the Board determines, an amount not exceeding the total of—

(a) the amount of the benefit that would be payable under section 30 if the contributor were to resign from the service of his employer on the day on which he applies for the loan; and

(b) any amount standing to his credit pursuant to section 24.

(2) Where a loan is made to a contributor pursuant to subsection (1) and the Board, by notice in writing, requires the employer of the contributor to deduct from the salary or wages of the contributor at each payment thereof, in addition to the normal contributions of the contributor, such instalments as the Board may require in repayment of the loan and interest thereon, the employer shall comply with the terms of the notice.

(3) The provisions of section 19 relating to the deduction of contributions from the salary or wages of contributors and their remittance to the Board apply in respect of the deduction and remittance of the instalments referred to in subsection (2).

Amended, Act No. 43, 1973, Sch. 1.

(4) Where a benefit becomes payable under section 26, 28, 30 or 31 in respect of a contributor to whom a loan has been made under subsection (1) before the loan has been fully repaid with interest thereon, the amount of the benefit or, where the benefit is a pension under section 26 (7), the amount by reference to which his pension is calculated shall be reduced by the amount of the loan and interest thereon unpaid at the date the benefit became payable.

PART VIII.

ASSURANCE POLICIES.

Board may accept assignment of certain policies of assurance.

Amended, Act No. 43, 1973, Sch. 1.

51. (1) In this section "pensioner" means—

(a) a person who receives a lump sum benefit under this Act by reason of his having been a contributor;

(b) a person who receives a lump sum benefit under this Act as the widow or child of a person who was a contributor;

(c) a person who is in receipt of a pension pursuant to an election under section 26, 27 or 29; or

(d) a person who commutes a pension under section 27 (5) or 29 (3).

(2) This section applies to and in respect of an unencumbered policy of endowment assurance (not being an industrial policy as defined in the Life Insurance Act 1945 of the Parliament of the Commonwealth or any Act of that Parliament amending or replacing that Act) that has been in force for a period of at least six years and in respect of which no premiums that have fallen due remain unpaid.

(3) Where the life of a contributor or pensioner, or the life of his spouse, is insured under a policy to which this section applies, the Board may, on the application of the contributor or pensioner, accept an assignment to it of the policy.

(4) The Board shall, where it has accepted assignment of a policy to which this section applies, cause the premiums to be duly paid and, on receipt by the Board of the maturity value of the policy, pay to the assignor or, where he is dead, to his personal representatives, the amount so received reduced by the sum of—

(a) the total amount of the premiums paid by the Board; and

(b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date on which the Board receives the maturity value of the policy.

Re-assignment by Board of policy of assurance.

52. Where the Board has accepted assignment of a policy to which section 51 applies it may, at any time before maturity of the policy, re-assign it to the assignor upon repayment to the Board of the sum of—

(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 IX.

General Provisions.

Moneys payable to and by the Board and interest thereon.

53. (1) Where, pursuant to this Act, any moneys are payable to the Board, payment of the moneys becomes overdue—

(a) if it is not made within the period prescribed for payment of the moneys;

(b) if a time for payment of the moneys is prescribed otherwise than by reference to a specified period—if it is not made within fourteen days after that time; or

(c) in any other case—if it is not made within fourteen days after service by the Board on the person obliged to pay the moneys of a requisition for payment of the moneys.

(2) Interest is payable to the Board on moneys overdue for payment and is so payable on and from the day on which payment of the moneys becomes overdue to the day on which payment of the moneys is made, but the Board may, in special circumstances and in a particular case, waive payment of any such interest or part thereof.

(3) Moneys payable to the Board that are overdue for payment, and interest thereon as provided by this section, are recoverable by the Board in a court of competent jurisdiction as a debt.

(4) Where interest is payable to the Board pursuant to this section or payable to or by the Board or from the Fund under any other provision of this Act, the interest shall be compounded at the end of each financial year during the period for which it is so payable, and at the end of that period, and shall be calculated at the prescribed rate.

(5) Where interest is payable from the Fund on amounts paid to the Fund at different times during a financial year, the interest on those amounts shall, subject to this section, be calculated in a manner determined by the Board.

(6) 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)—

five and one-half per centum per annum or, where a higher rate of interest is prescribed for such a case, that higher rate; or

(b) in any other case (section 50 excepted)—

(i) the rate prescribed for that case; or

(ii) where no rate is prescribed for that case—a rate specified by the Minister by order published in the Gazette on the recommendation of the Board made after having regard to earning rates, and estimated earning rates, on the Fund.

(7) An order under subsection (6) (b) (ii) may be made to vary according to time or circumstance.

Regulations.

54. 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.

Provision of certain evidence.

55. (1) For the purposes of this Act, the Board may require to be produced such evidence of the age, marriage, dependency or death of any person as it deems necessary and in default of the production of any such evidence the Board may itself obtain the evidence and deduct the expense incurred in obtaining it from any moneys payable from the Fund to the person required to produce the evidence.

(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.

Board may require certain information.

56. The Board may at any time require an employer to furnish such returns with respect to persons employed by him who are or were contributors or who may become eligible to become contributors as the Board may decide and may at any time require any contributor or employee or person who was a contributor to furnish such information as the Board may decide is necessary for the purpose of any investigation in connection with the Fund.

Benefits are not assignable, etc.

Amended, Act No. 43, 1973, Sch. 1.

57. 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.

Estates not exceeding $2,000.

Amended, Act No. 28, 1976, Sch. 2 (2).

58. (1) Where a person dies and there is due from the Fund to or in respect of him an amount not exceeding $2,000, the Board may, unless—

(a) probate of the will or letters of administration of the estate of that person have been produced to the Board; or

(b) notice in writing of the existence of the will of that person and of intention to prove it, or notice of intention to take out letters of administration of the estate of that person, is given to the Board within three months of the death of that person,

pay the amount, or after paying the funeral expenses of the deceased or reimbursing any person who paid those expenses pay the balance of the amount, to the widow or to such other person as the Board in the circumstances thinks fit.

(2) Proceedings may not be instituted against the Board in respect of anything done in pursuance of this section, but nothing in this section relieves a person receiving payment in pursuance of this section from any liability to account for or apply the amount paid to him in accordance with law.

Disputes and appeals.

59. (1) Subject to this section, a dispute under this Act shall be determined by the Board.

(2) A person aggrieved by a decision of the Board under subsection (1) may, within a period of six months from the date of the decision, appeal to the Minister, who shall thereupon refer the matter for opinion to a Judge of the Supreme Court, and shall decide the point in accordance with that opinion.

(3) A decision of the Minister under subsection (2) is final and conclusive and not subject to appeal.

Suspension of part of pension in certain circumstances. **New section added, Act No. 56, 1977, Sch. 1 (6).**

59A. (1) Notwithstanding anything in this Act, where a person entitled to receive a pension payable under this Act (including any increase payable under Part IVA) 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 IVA, 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.

Payment where beneficiary incapable.

60. (1) Where a person to whom a benefit is payable under this Act is, in the opinion of the Board, incapable of administering his own affairs by reason of his illness, imprisonment or any other cause the Board may pay the benefit to some other person to be applied wholly for the care, maintenance, benefit and support of the person to whom, but for the provisions of this section, the benefit would be payable, or of any person dependent on him.

(2) Any payment made under subsection (1) shall be deemed to have been made to the person entitled to the benefit.

Medical examination.

61. (1) The Board may require an employee to undergo a medical examination in order to determine his eligibility to receive a benefit under section 31.

(2) The Board may, in respect of an employee who does not undergo or fails to pass a medical examination referred to in subsection (1), determine his benefit under section 31 as less than the amount provided by that section but not less than the sum of one-sixth of the amount of the annual wages being paid to the contributor at the time the benefit becomes payable together with one-thirtieth of the amount of those annual wages for each completed year of his service.

Eligibility to contribute to superannuation scheme.

62. (1) This section has effect notwithstanding anything in this or any other Act.

(2) Where a contributor would, but for this subsection, be entitled or required to participate in a superannuation scheme by reason of a change in his employment classification within the service of his employer, he may not participate in the superannuation scheme unless, not later than three months after the change in his employment classification, he elects not to contribute to the Fund.

(3) Where a contributor ceases to be employed by an employer and, not more than three months later, being under the age of sixty years, he takes up employment with another person (whether an employer or not) by virtue of which 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).

New subsection added, Act No. 24, 1973, s. 4.

(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.

New subsection added, Act No. 24, 1973, s. 4.

(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.

New subsection added, Act No. 24, 1973, s. 4.

(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 he 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.

Introduction of new superannuation schemes prohibited in certain circumstances.

63. Where an employee who is within a class of persons specified in the Second Column of Schedule 1 or 2 is a contributor, or is eligible to elect to become a contributor or will, with the effluxion of time, be eligible to elect to become a contributor, his employer shall not, without the approval of the Minister, introduce a superannuation scheme in which the employee would be eligible to participate.

Amendment of Schedule 2.

64. (1) On the recommendation of the Minister, the Governor may, by order published in the Gazette, amend Schedule 2 by inserting matter therein or by omitting matter therefrom and may, by the same or a different order so published, make a declaration for the purposes of subsection (3).

New subsection added, Act No. 28, 1976, Sch. 1 (6).

(1A) On the recommendation of the Minister, the Governor may, by order published in the Gazette, amend Schedule 2A by inserting matter therein or by omitting matter therefrom.

(2) An order under subsection (1) takes effect on the day of its publication in the Gazette or, where the order specifies that it takes effect on a specified later day, on that later day.

(3) Where the Governor, by an order under subsection (1), so declares in relation to the employer of a person who becomes an employee within the meaning of this Act by virtue of the order, the total contributor liability of that employer under this Act in respect of that employee shall be met by the employer by his making to the Fund, while the employee is employed by him, periodic payments at a rate to be notified by the Board to the employer as the rate determined by the Board to be necessary to meet the maximum possible liability of the employer, having regard to the contribution rate of the employee and the possibility of his being employed by that or any other employer until he attains the age of sixty-five years.

(4) The name of an association of employees may, by an order under subsection (1) be added to the First Column of Schedule 2 if a substantial number of the members of the association are contributors.

(5) An order may not be made under subsection (1) if it would operate to deprive a person of any right conferred upon him by this Act before the making of the order.

Elections and applications.

65. An election or application under this Act—

(a) shall be in writing;

(b) shall, subject to this Act, be deemed not to have been validly made unless it is received in the office of the Board before the time on or before which it is required to be made;

(c) may, with the approval of the Board, be amended or revoked; and

(d) except where otherwise provided, takes effect on a day determined by the Board in respect thereof.

Restoration of lost right, etc., under Act.

66. (1) Where a person is entitled to exercise a right or enjoy a privilege or benefit under this Act and, without having exercised the right or enjoyed the privilege or benefit, he ceases to be entitled so to do, he may exercise the right or enjoy the privilege or benefit if—

(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.

New subsection added, Act No. 124, 1979, Sch. 1 (6).

(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. (1) (*The amending provisions relating to the Transport Employees Retirement Benefits Act,* 1967, *are not reprinted*: *Reprints Act,* 1972, *s.* 6.) Amendment of Act No. 96, 1967.

(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 pro-

ceedings as might, but for this section, have been pursued, prosecuted or defended by the Transport Retirement Board so constituted;

(f) the Board may enforce and realise any security or charge in favour of the Transport Retirement Board so constituted that was in force immediately before that day as if it were a security or charge in favour of the Board;

(g) all debts and moneys that, immediately before that day, were due or payable to, and all liquidated and unliquidated claims that, immediately before that day, were recoverable against the Transport Retirement Board so constituted are debts due by, moneys payable by, and claims recoverable against the Board; and

(h) a reference, whether express or implied, in any Act (other than this Act) ordinance, order, regulation or by-law or in any other instrument or document (other than an instrument or document appointing a member of the Transport Retirement Board) to the Transport Retirement Board shall be read and construed as a reference to the Board.

(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 V of the Industrial Arbitration Act, 1940; and

(c) where a condition of employment of a person referred to in paragraph (a) was, immediately before that day, regulated by an award or industrial agreement, the condition shall continue so to be regulated until an award or industrial agreement that is binding on the Board is made to regulate the condition.

(5) The Minister shall appoint a Review Committee consisting of—

(a) a member of the Board, who shall be chairman of, and convene meetings of, the Review Committee;

(b) a nominee of the Auditor-General; and

(c) the Government Actuary.

(6) The Board shall, as between the Transport Retirement Fund and the New South Wales Retirement Fund make such adjustments of the assets and liabilities of those Funds as the Review Committee considers to be a necessary consequence of the operation of this Act.

68. (*The amending provision relating to the Transport Employees Retirement Benefits Act,* 1967, *is not reprinted*: *Reprints Act,* 1972, *s.* 6.) Further amendment of Act No. 96, 1967.

69. (*The amending provision relating to the Government Railways Act,* 1912, *is not reprinted*: *Reprints Act,* 1972, *s.* 6.) Amendment of Act No. 30, 1912.

70. (*The amending provision relating to the Transport Act,* 1930, *is not reprinted*: *Reprints Act,* 1972, *s.* 6.) Amendment of Act No. 18, 1930.

71. (*The amending provision relating to the Superannuation Act,* 1916, *is not reprinted*: *Reprints Act,* 1972, *s.* 6.) Amendment of Act No. 28, 1916.

Repealed, Act No. 3, 1976, Sch. 1.

72. * * * * *

Election to convert certain pensions in 1977.
New section added, Act No. 56, 1977, Sch. 1 (7).

73. (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 1st May, 1977;

(b) end before 1st 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.

SCHEDULES.

SCHEDULE 1

Sec. 3 (1).
Amended, Act No. 43, 1973, Sch. 1.

First Column	Second Column
Employers	Employees
Public Transport Commission of New South Wales.	Persons employed by the Commission pursuant to— (a) the Government Railways Act, 1912 (other than persons so employed temporarily as workmen on construction, deviation or duplication works, in the trading or catering services or in connection with a sawmill that is not associated with a workshop); (b) the Transport Act, 1930; and (c) sections 16 and 18 of the Public Transport Commission Act, 1972.
The Commissioner for Motor Transport	Persons employed by the Commissioner.
The Crown or a Minister of the Crown.	Persons employed in the Police Department otherwise than— (a) as police cadets; (b) under the Police Regulation Act, 1899; or (c) under the Public Service Act, 1902.
New South Wales Retirement Board.	Persons employed by the Board.

Sec. 3 (1).
Sec. 64.
Substituted Schedule, Act No. 28, 1976, Sch. 1 (7).
Amended, G.G. No. 38 of 15th April, 1977, p. 1443†; G.G. No. 24 of 24th February, 1978, p. 644; G.G. No. 43 of 21st April, 1978, p. 1356; G.G. No. 7 of 12th January, 1979, p. 128; Act No. 124, 1979, Sch. 1 (7); G.G. No. 10 of 25th January, 1980, p. 395; G.G. No. 23 of 8th February, 1980, p. 616; G.G. No. 115 of 15th August, 1980, p. 4219.

*SCHEDULE 2

First Column	Second Column
Employers	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 Authority of New South Wales.	All persons employed by the Authority.
Fish Marketing Authority	All persons employed by the Authority.
General Manager, Government Insurance Office.	All persons employed by the General Manager, Government Insurance Office, pursuant to the Government Insurance (Enabling and Validating) Act, 1927.
Greyhound Racing Control Board ..	All persons employed by the Board.
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.
Public Transport Commission of New South Wales.	All persons employed by the Commission pursuant to— (a) the Government Railways Act, 1912; (b) the Transport Act, 1930; and (c) sections 16 and 18 of the Public Transport Commission Act, 1972.
Rural Bank of New South Wales ..	All persons employed by the Bank.
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 Electricity Commission of New South Wales.	All persons employed by the Commission.
The Grain Elevators Board of New South Wales.	All persons employed by the Board.
The Hunter Valley Conservation Trust	All persons employed by the Trust.
The Maritime Services Board of New South Wales.	All persons employed by the Board.
The Metropolitan Water Sewerage and Drainage Board.	All persons employed by the Board.
The State Planning Authority of New South Wales.	All persons employed by the Authority.
The Water Conservation and Irrigation Commission.	All persons employed by the Commission.
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.

* See New South Wales Retirement Benefits (Amendment) Act, 1973, s. 4 (2) and Sch. 2, and New South Wales Retirement Benefits (Amendment) Act, 1976, s. 8.

† See also Gazette No. 45 of 6th May, 1977, p. 1762.

SCHEDULE 2—*continued.*

First Column	Second Column
Employers	Employees
Homebush Abattoir Corporation ..	All persons employed by the Corporation.
Sydney Cove Redevelopment Authority.	All persons employed by the Authority.
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.
Trotting Authority of New South Wales	All persons employed by the Authority.

Sec. 3 (1A) (a).

New Schedule added, Act No. 28, 1976, Sch. 1 (8).

SCHEDULE 2A

PERSONS EMPLOYED ON A PART-TIME BASIS

1. A person 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 $31\frac{1}{4}$.

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 the Public Transport Commission of New South Wales 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 the Public Transport Commission of New South Wales as a Rest House Attendant and has ordinary weekly working hours totalling less than 40 or ordinary fortnightly working hours totalling less than 80.

Sec. 18 (1).
Amended, Act No. 43, 1973, Sch. 1.

SCHEDULE 3

TABLE OF CONTRIBUTIONS

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Age next birthday	Fortnightly rate of contribution for $1,000 of the amount in respect of which contributions will be made	Age next birthday	Fortnightly rate of contribution for $1,000 of the amount in respect of which contributions will be made
	$		$
16	0.22	41	1.20
17	0.24	42	1.30
18	0.25	43	1.42
19	0.27	44	1.56
20	0.28	45	1.72
21	0.30	46	1.90
22	0.32	47	2.10
23	0.34	48	2.35
24	0.36	49	2.64
25	0.38	50	2.99
26	0.41	51	3.42
27	0.44	52	3.96
28	0.47	53	4.65
29	0.50	54	5.58
30	0.53	55	895.90 ÷ *n**
31	0.57	56	921.20 ÷ *n**
32	0.61		
33	0.65	57	947.00 ÷ *n**
34	0.70	58	973.20 ÷ *n**
35	0.75	59, 60	1,000.00 ÷ *n**
36	0.81		
37	0.87		
38	0.94		
39	1.02		
40	1.10		

**n* denotes the number of complete fortnightly contributions payable before contributions would be due to cease on attainment of age 60 years.

SCHEDULE 4

Sec. 18 (2).

TABLE OF CONTRIBUTIONS

First Column	Second Column
Age next birthday	Fortnightly contribution payable for 10 Years for nominal benefit of $1,000*
	$
51	3.15
52	3.32
53	3.51
54	3.70
55	3.90
56	4.12
57	4.35
58	4.58
59	4.84
60	5.10

* The amount of the benefit at the end of the 10 year period is $1,000 together with interest thereon as provided by section 53 from age 60 years to the end of the 10 year period.

Sec. 26.

SCHEDULE 5

First Column	Second Column
Completed years of service	Employer subsidy—amount of percentage
Under 10	Nil
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20	100
21	105
22	110
23	115
24	120
25	125
26	130
27	135
28	140
29	145
30	150
31	155
32	160
33	165
34	170
35	175
36	180
37	185
38	190
39	195
40 or more	200

SCHEDULE 6

Sec. 3 (2).

TABLE OF ALLOWANCES

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account	Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account
45 years and over	100·0 per centum	23 years	41·1 per centum
44 years	96·0 ,, ,,	22 ,,	39·2 ,, ,,
43 ,,	92·0 ,, ,,	21 ,,	37·3 ,, ,,
42 ,,	88·0 ,, ,,	20 ,,	35·4 ,, ,,
41 ,,	84·0 ,, ,,	19 ,,	33·5 ,, ,,
40 ,,	80·0 ,, ,,	18 ,,	31·6 ,, ,,
39 ,,	76·0 ,, ,,	17 ,,	29·8 ,, ,,
38 ,,	73·0 ,, ,,	16 ,,	28·0 ,, ,,
37 ,,	70·0 ,, ,,	15 ,,	26·2 ,, ,,
36 ,,	67·0 ,, ,,	14 ,,	24·4 ,, ,,
35 ,,	65·0 ,, ,,	13 ,,	22·6 ,, ,,
34 ,,	63·0 ,, ,,	12 ,,	20·8 ,, ,,
33 ,,	61·0 ,, ,,	11 ,,	19·0 ,, ,,
32 ,,	59·0 ,, ,,	10 ,,	17·3 ,, ,,
31 ,,	57·0 ,, ,,	9 ,,	15·6 ,, ,,
30 ,,	55·0 ,, ,,	8 ,,	13·9 ,, ,,
29 ,,	53·0 ,, ,,	7 ,,	12·2 ,, ,,
28 ,,	51·0 ,, ,,	6 ,,	10·5 ,, ,,
27 ,,	49·0 ,, ,,	5 ,,	8·8 ,, ,,
26 ,,	47·0 ,, ,,	4 ,,	7·1 ,, ,,
25 ,,	45·0 ,, ,,	3 ,,	5·4 ,, ,,
24 ,,	43·0 ,, ,,	2 ,,	3·7 ,, ,,
		1 year	2·0 ,, ,,

INDEX.

	Section.	Page.
Acounts and audit	6	15
Act—		
commencement	2	3
division	1 (2)	2
short title	1 (1)	2
Amendments	67–71	75–77
Appeals	59	69
Assurance policies—		
assignment to Board	51	64
re-assignment	52	65
Benefits	25–31	36–46
allowance	26, Sch. 5	36, 86
alternative benefits, election for	27	39
beneficiary incapable	60	70
contributors, basic benefits to	26	36
dependants	28	41
interpretation	25	36
minimum, in certain cases	31	46
non-assignability	57	68
pension—		
automatic adjustment of	31A–31H	48–54
calculation of adjustment percentage	31B	49
percentages	31H	54
employers to cover cost of	31G	54
full adjustment	31C	51
in certain cases	31E	53
partial adjustment	31D	51
reduction limited	31F	53
election to convert certain, in 1977	73	78
suspension of part of by Board	59A	69
widows	29	43
withdrawal benefit	30	44
Board	35	58
acting chairman	37	59
annual report	49	63
appeal from	59	69
assignment of life policies to	51	64
re-assignment	52	65
borrowing powers	7	15

INDEX—*continued.*

	Section.	Page.
Board—*continued.*		
casual vacancies on	38	60
not to invalidate acts	39	60
constitution	35	58
delegation by	46	62
deputies for members	36	59
evidence to be produced to Board	55	67
information to	56	68
interest on money payable to or by	53	65
investments by	5	15
meetings—		
casting vote	44	61
quorum	43	61
member—		
remuneration and fees	42	61
vacation of office	41	60
powers, etc.	45	62
Public Service Act not to apply to	40	60
Retirement Fund to be established by	4	14
settlement of disputes	59	69
small estates, payments in respect of	58	68
staff	47	62
Transport Retirement Board, assets and liabilities of	67	75
Borrowing	7	15
Children—		
benefits to	28	41
incapacity of	60	70
Contributions to Fund—		
employees—		
broken service	23	33
certain employees to contribute	11	19
election to contribute	10, 12	18, 20
employee aged 60	13	24
increase in wages after 60	22	32
periodic opportunities to elect	16	27
excess contributions in certain cases	17	28
payment	19	30
additional	24	35
cessation of payments	20	31
exemption	21	32

INDEX—*continued.*

	Section.	Page.
Contributions to Fund—*continued.*		
employees—*continued.*		
rates of contribution	18, Schs. 3, 4	29, 84, 85
to contribute for lump sum benefit	14	25
variation of contributions and benefits	15	25
employers	32	54
liability for initial credit	33	57
payments to reserve	34	57
Definitions	3	4
Delegation by Board	46	62
Disputes	59	69
Employee—		
applications by	65	74
broken service	23	33
contributions to Fund—		
amount	14	25
compulsory	11	19
exemption	21	32
payments	19	30
additional	24	35
cessation of	20	31
rates	18	29
variation	15	25
definition of	3 (1)-(1E), Schs 1, 2, 2A	4-10, 79, 80, 82
amendment of	64	73
election by	65	74
to contribute to Fund	10, 12	18, 20
employee aged 60	13	24
increase in wages after 60	22	32
periodic opportunities	16	27
eligibility to contribute to a superannuation scheme	62	70
evidence of age, marriage, etc.	55	67
loan to	50	63
restoration of lost rights, etc.	66	74
Employees Reserve Account—		
transfer of moneys to	17	28
Employer—		
additional payment from, to cover pension increase	31G	54

INDEX—*continued.*

	Section.	Page
Employer—*continued.*		
contributions by	32	54
information to Board	56	68
introduction of new superannuation scheme prohibited	63	73
liability for initial credit	33	57
payments to reserve	34	57
payments to, where contributor elects not to contribute to fund	62	70
Evidence of age, marriage, etc.	55	67
Fund	4	14
actuarial investigation	9	17
audit	6	15
benefits payable from	25-31	36-46
Board to manage	45	62
contributions—		
employees	10-24	18-35
employers	8, 32-34	16, 54–57
cost of management	48	62
interest payable from	53 (5)	66
investment	5	15
loans to contributors	50	63
transfer of certain funds to	34	57
Initial credit—		
definition of	3 (1), 3 (2)–(4), Sch. 6	4, 11, 87
employer liable for	33	57
interest on	53 (6)	66
[AND SEE Benefits.]		
Interpretation—		
general	3	4
Part IVA (adjustment of pensions)	31A	48
Loans to contributors	50	63
Medical examination	61	70

INDEX—*continued.*

	Section.	Page.
New South Wales Retirement Board. [*See* Board.]		
New South Wales Retirement Fund. [*See* Fund.]		
Pension. [*See* Benefits.]		
Regulations	54	67
Retirement Board. [*See* Board.]		
Retirement Fund. [*See* Fund.]		
Savings	67	75
Staff	47	62
Widow—		
benefit to	28, 29	41, 43
elections and applications	65	74
small estates	58	68
widow incapable	60	70
Withdrawal benefit	30	44

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1981

I certify that this PUBLIC BILL, *which originated in the* LEGISLATIVE ASSEMBLY, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 22 November, 1972.

New South Wales

ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

* *

Act No. 70, 1972.

An Act to make provision for a scheme providing retirement and other benefits for certain employees of the Crown and of certain public authorities; to establish a New South Wales Retirement Fund; to constitute a New South Wales Retirement Board to manage that Fund and the Transport Retirement Fund; to amend the Government Railways Act, 1912, the Superannuation Act, 1916, the Transport Act, 1930, the Transport Employees Retirement Benefits Act, 1967, and the Securities Industry Act, 1970; and for purposes connected therewith. [Assented to, 30th November, 1972.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title and division of Act.

1. (1) This Act may be cited as the "New South Wales Retirement Benefits Act, 1972".

(2) This Act is divided as follows: —

PART I.—PRELIMINARY—*ss.* 1–3.

PART II.—THE NEW SOUTH WALES RETIREMENT FUND—*ss.* 4–9.

PART III.—EMPLOYEE CONTRIBUTIONS—*ss.* 10–24.

PART IV.—BENEFITS—*ss.* 25–31.

PART V.—EMPLOYER CONTRIBUTIONS—*ss.* 32–34.

PART VI.—THE NEW SOUTH WALES RETIREMENT BOARD—*ss.* 35–49.

PART VII.—LOANS TO CONTRIBUTORS—*s.* 50.

PART VIII.—ASSURANCE POLICIES—*ss.* 51 and 52.

PART IX.—GENERAL PROVISIONS—*ss.* 53–72.

SCHEDULES.

Commencement.

2. (1) Section 1 and this section shall commence on the date of assent to this Act.

(2) Part VI and sections 3, 7, 10, 11, 12 (subsections (3) and (4) excepted), 56, 61, 64, 65, 67 (5) and 67 (6) shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3)

(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 VII shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, being a day that is later than the day appointed pursuant to subsection (3).

(5) Notwithstanding that a day has not been appointed pursuant to subsection (3), or that a day so appointed has not arrived, when the Board has been constituted it may exercise and perform such powers, authorities, duties and functions as the Board thinks necessary for the purpose of preparing for the coming into operation of the provisions of this Act that commence on the day so appointed, being powers, authorities, duties and functions that could be exercised or performed by it on or after that day.

Interpretation.

3. (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);

"average

"average earning rate on the Fund" means, in relation to a financial year—

(a) where that financial year commences on or after the appointed day, the percentage rate per annum calculated by the formula—

$$\frac{200 \times I}{A + B - I}$$

where I, A and B have, in relation to a financial year, the same meanings as they have in section 8 in relation to that financial year; and

(b) where that financial year is the financial year current on the day next preceding the appointed day—the rate of five and one-half per centum per annum;

"Board" means the New South Wales Retirement Board constituted by this Act;

"contributor" means—

(a) a person who is contributing, or is liable to contribute, to the Fund;

(b) a person who was so contributing, or was liable so to contribute, but ceased, pursuant to section 20 (1) so to contribute; and

(c) a person eligible for a benefit under this Act calculated by reference only to his initial credit;

"contributor to the Account" means a person who is contributing to the Account;

"contributor to the Transport Retirement Fund" means a person who is a contributor under the Transport Employees Retirement Benefits Act, 1967;

"employee"

"employee" means a person employed by an employer but—

(a) does not include a person who is not, by the terms of his employment with that employer, precluded from engaging in other paid employment;

(b) does not include a person who is not within a class of persons specified in the Second Column of Schedule 1 or 2;

(c) does not, except in the case of—

(i) a person referred to in section 11 or 12 (3); or

(ii) a person who is within a class of persons to which regulations under section 12 (6) relate,

include a person who, by virtue of his employment, participates in or, in the opinion of the Board, would with the effluxion of time participate in, a superannuation scheme;

(d) subject to subsection (10), does not include a person who, for any reason based on non-compliance with a requirement as to medical fitness, is ineligible to participate in a superannuation scheme in which, but for that reason, he would be eligible to participate;

(e) does not include a person who, being eligible to contribute to the Fund established under the Superannuation Act, 1916, has been granted exemption from contributing thereto;

(f) does not include a person who, by an act or omission not involving a requirement as to medical fitness, renders himself ineligible to participate in a superannuation scheme in which, but for the act or omission, he would be eligible to participate; and

(g) does not include a person engaged as a contractor, or on a contract basis, otherwise than under a contract of employment;

"employer" means—

(a) the Crown or a Minister of the Crown;

(b) a person described in the First Column of Schedule 1 or Schedule 2 and an association of persons so described;

"financial year" means any period of twelve months ending on the thirtieth day of June;

"Fund" means the New South Wales Retirement Fund established by this Act;

"initial credit" means—

(a) in relation to a contributor who, before he became a contributor, was a contributor to the Account—an amount equal to the sum of—

(i) the total amount of his contributions to the Account before he ceased to contribute thereto pursuant to section 12 (9) reduced, where any amounts have been paid to him pursuant to Part IX of the Government Railways Act, 1912, by an amount determined by the Board; and

(ii) an allowance of an amount calculated as provided by subsection (2);

(b) in relation to a contributor who, before he became a contributor, was a contributor to the Transport Retirement Fund—an amount equal to the sum of—

(i) the amount of his initial credit, if any, within the meaning of the Transport Employees Retirement Benefits Act, 1967, immediately before he became a contributor;

(ii)

(ii) an amount calculated as provided by subsection (3);

(iii) an amount calculated as provided by subsection (4);

"initial credit benefit" means, in relation to a contributor who, immediately before he became a contributor, was a contributor to the Account or the Transport Retirement Fund—an amount equal to the sum of—

(a) his initial credit; and

(b) interest on that initial credit, as provided by section 53, for the period from the date on which he became a contributor to the date on which he attains the age of sixty years;

"maximum benefit" means, in relation to a person at a particular time, an amount equivalent to twice his annual wages at that time, reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars;

"minimum benefit" means, in relation to a person at a particular time, an amount equivalent to one-half of his annual wages at that time reduced by so much of his initial credit benefit, if any, as is a multiple of one hundred dollars;

"regulations" means regulations made under this Act;

"retrenchment" means compulsory termination by an employer of the services of an employee on the ground that the employee's office has been abolished, no other office in the service of that

employer or another employer having been found for him at not less than two-thirds of his annual wages at the date of that termination, but does not include termination of employment—

(a) by reason of the expiration of the term of service for which the employee was engaged; or

(b) where the employee was engaged until certain work ceased to be available—by reason of that work ceasing to be available;

"superannuation scheme" means a retirement scheme, fund or arrangement to or in respect of which an employer or a public or local authority constituted by an Act makes, or is liable to make, a payment in respect of a person employed by the employer or authority but does not include the scheme established by this Act;

"Transport Retirement Fund" means the Transport Retirement Fund established by the Transport Employees Retirement Benefits Act, 1967;

"widow" includes widower and words in the feminine gender relating to a widow include the corresponding words in the masculine gender that relate to a widower.

(2) For the purposes of paragraph (a) (ii) of the definition of "initial credit" in subsection (1), the amount of allowance for a contributor is an amount equal to such percentage of the amount referred to in paragraph (a) (i) of that definition as is specified in the Second Column of Schedule 6 opposite the number of years specified in the First Column of that Schedule that is equal to the number of complete years for which the contributor contributed to the Account.

(3)

(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 his behalf to the Transport Retirement Fund before he became a contributor under this Act, reduced by the sum of—

(a) the difference between that total amount and the total amount of contributions that would have been paid by him or on his behalf to the Transport Retirement Fund had they been made in accordance with Scale 2 of Schedule 2 to the Transport Employees Retirement Benefits Act, 1967; and

(b) where any amounts have been paid to him from the Transport Retirement Fund—such amount as the Board may determine.

(4) The amount referred to in paragraph (b) (iii) of the definition of "initial credit" in subsection (1) is, in respect of a contributor so referred to, an amount equal to the sum of—

(a) an amount of interest on his initial credit, if any, for the period for which he contributed to the Transport Retirement Fund; and

(b) an amount of interest on the amount calculated in accordance with paragraph (b) (ii) of that definition, calculated in a manner determined by the Board in respect of that person (regard being had to the respective dates of payment of each of the contributions so referred to),

the interest in each case being calculated at a rate or rates determined by the Board having regard to the average earning rate on the Transport Retirement Fund for each financial year that ended during the period referred to in paragraph (a), that average earning rate being calculated in accordance with the formula

$$\frac{200 \times I}{C + D - I}$$

where,

where, in the application of the formula in respect of a financial year—

"I" represents the total amount of interest, dividends and rents credited to the Transport Retirement Fund during that financial year, together with any profit derived from the realisation or appreciation of assets, reduced by—

(a) the amount of any interest charges against the Transport Retirement Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Transport Retirement Fund;

"C" represents the amount of the Transport Retirement Fund at the beginning of that financial year;

"D" represents the amount of the Transport Retirement Fund at the end of that financial year,

and, in determining the values to be assigned to the symbols "I", "C" and "D", accrued income and expenditure, including costs of management accrued and not paid, shall be taken into account.

(5) For the purposes of this Act, the time at which a person becomes a contributor is, in the case of a person who becomes a contributor on more than one occasion, the later or latest of those occasions.

(6) Where a period of service is referred to in this Act in relation to an employee, the period so referred to is a period of continuous employment as an employee, being a period that is continuous with, and includes, the period of employment by virtue of which he is an employee and, for the purposes of calculating the duration of the period of service of an employee—

(a) he shall be deemed to have been an employee at a time before the coming into force of the provisions of this Act whereby he is an employee if, had those provisions been in force at that time, he would have been an employee at that time;

(b) any period during which, by the operation of paragraph (c) or (d) of the definition of "employee" in subsection (1) he was not an employee shall, if he became an employee pursuant to regulations referred to in section 12 (6) or pursuant to an election under subsection (10), be reckoned as if he had been an employee during that period;

(c) he shall, if he becomes a contributor pursuant to an election under section 16, be deemed, notwithstanding paragraphs (a) and (b), not to have been an employee during any period before the day that was twelve months earlier than the day on which he becomes a contributor.

(7) A reference in this Act to the first day of a pay period for or applicable to a person that next follows a specified day or event includes a reference to a pay period for or applicable to that person the first day of which is that specified day or the day on which the specified event occurred.

(8) A reference in this Act to a description of a person, or to a class of persons, includes a reference to the name of a person and, where the reference is to a class of persons, the class may be described by reference to—

(a) all persons within a specified class of persons; or

(b) all persons within a specified class of persons other than—

(i) a specified person or specified persons; or

(ii) a specified class, or specified classes, of persons.

(9) Where this Act provides for the making of an election on a specified day, the Board may arrange for the election to be made in anticipation of that day but—

(a) an election so made does not take effect before that day; and

(b) takes effect only to the extent that, had it not been made, it could be made on that day.

(10)

(10) Where a person is not an employee by reason only of his being a person described in paragraph (d) of the definition of "employee" in subsection (1), he becomes an employee if, within the period three months after being notified by the Board that he may do so, and while in the employment of an employer, he elects to be subject to the provisions of this Act.

PART II.

THE NEW SOUTH WALES RETIREMENT FUND.

Establishment of New South Wales Retirement Fund.

4. (1) The Board shall establish a New South Wales Retirement Fund into which shall be paid the contributions and any other payments made by employers, contributors and other persons under this Act, and from which shall be paid the benefits and other amounts payable under this Act including the cost of administering this Act and managing the Fund.

(2) Moneys derived from the investment of the Fund or borrowed pursuant to section 7 shall form part of the Fund.

(3) Where, in respect of an instrument relating to a transaction, the Board, or a broker, dealer or other person acting on behalf of the Board in respect of that transaction, would, but for this subsection, be liable to pay stamp duty under the Stamp Duties Act, 1920, in respect of the instrument, the Board, broker, dealer or other person, as the case may be, shall not be so liable.

Power to invest Fund.

5. The provisions of the Superannuation Act, 1916, with respect to the investment of the State Superannuation Fund apply to and in respect of the Board and investment of the Fund as if the Board and the Fund referred to in those provisions were the Board and the Fund within the meaning of this Act.

Audit of accounts relating to Fund.

6. (1) The accounts relating to the Fund shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by any law relating to the audit of public accounts.

(2) The Audit Act, 1902, applies to members and employees of the Board in the same manner as it applies to accounting officers in public departments.

Borrowing powers of Board.

7. (1) The Treasurer may, on the application of the Board and on such terms and conditions as the Treasurer thinks fit, lend money to the Board.

(2) The Board may, for the purpose of obtaining temporary financial accommodation, borrow not more than $2,000,000 by way of overdraft from any bank.

Guaranteed minimum interest yield.

8. (1) In this section—

"formula X" means, in relation to a financial year, the amount ascertained in accordance with the formula—

$$1.0275\ I$$

where "I" represents the total amount of interest, dividends and rents credited to the Fund during that financial year, together with any profit derived from the realisation or appreciation of assets, reduced by—

(a) the amount of any interest charges against the Fund;

(b) the amount of any depreciation of assets and the amount of any loss on the realisation of assets; and

(c) costs of management of the Fund as referred to in section 48;

"formula

"formula Y" means, in relation to a financial year, the amount ascertained in accordance with the formula—

$$0.0275 (A + B)$$

where—

"A" represents the amount of the Fund at the beginning of that financial year;

"B" represents the amount of the Fund at the end of that financial year;

"prescribed amount "X" " means, in relation to a financial year, the sum of—

(a) the amount ascertained in accordance with formula X in respect of that financial year;

(b) the sum of the amounts ascertained in accordance with formula X in respect of each preceding financial year; and

(c) the total amount, if any, paid by employers under subsection (3) before the end of that financial year;

"prescribed amount Y" means, in relation to a financial year, the sum of—

(a) the amount ascertained in accordance with formula Y in respect of that financial year; and

(b) the sum of the amounts ascertained in accordance with formula Y in respect of each preceding financial year.

(2) In determining the values to be assigned to the symbols "I", "A" and "B" for the purposes of formula X and formula Y, accrued income and expenditure, including costs of management accrued and not paid, shall be taken into account including, in the case of the symbol "A", any payment under subsection (3).

(3) Where the Board certifies—

(a) that, in respect of the financial year that ended on the thirtieth day of June that next succeeded the appointed day, the amount ascertained in accordance with formula Y exceeded the amount ascertained in accordance with formula X; or

(b) that in respect of a financial year succeeding the financial year referred to in paragraph (a), prescribed amount Y exceeded prescribed amount X,

each employer shall, on the requisition of the Board, pay to the Fund in respect of the financial year to which the certificate relates an amount that bears to the amount of that excess the same proportion as the total contributions to the Fund paid by his employees during that financial year bears to the total contributions paid to the Fund by all employees of all employers during that financial year.

Actuarial investigation of Fund.

9. (1) An investigation of the Fund shall be made as at 30th June, 1977, and as at the expiration of each period of three years thereafter.

(2) Each investigation under subsection (1) shall be made by an actuary or actuaries appointed by the Board for the purpose.

(3) An actuary who makes, or actuaries who make, an investigation referred to in subsection (1) shall report to the Board the result of the investigation and shall state whether or not in his or their opinion any reduction or increase should be made in the rates of contributions payable to the Fund.

(4) The Board shall, not later than two months after it receives a report under subsection (3), forward the report to the Minister together with such comments thereon as it deems appropriate.

PART

PART III.

EMPLOYEE CONTRIBUTIONS.

Certain employees may elect to contribute to the Fund.

10. (1) Subject to section 3 (9), on the day on which an employee completes twelve months' service on or after the appointed day he may, if he has not attained the age of sixty years, elect to contribute to the Fund unless he is a person who will become a contributor pursuant to section 11 or a person referred to in section 12 (2) or 12 (3).

(2) Where an employee was, immediately before he became an employee, a participant in a superannuation scheme by virtue of his employment he shall, for the purposes of subsection (1), be deemed to have completed twelve months' service—

(a) on the day on which he became an employee; or

(b) on the day that is twelve months later than the day on which he took up the employment by virtue of which he became a participant in the superannuation scheme,

whichever is the later day.

(3) Where a person who becomes an employee by virtue of an election under section 3 (10) had completed more than nine months' service at the time he first became entitled to make that election, subsection (1) applies to him as if he had completed nine months' service at that time.

(4) An employee who makes an election under this section shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day on which, pursuant to subsection (1), he is entitled to make the election.

11.

11. (1) On and from the first day of the pay period applicable to him that next succeeds the appointed day, a person who, immediately before the appointed day, is a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, and has not attained the age of thirty years— Certain persons required to contribute to Fund.

(a) shall cease to contribute to the Transport Retirement Fund;

(b) shall, except to the extent provided by this Act, cease to be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967; and

(c) shall contribute to the Fund at the same rate as the rate at which he was contributing to the Transport Retirement Fund immediately before ceasing to contribute to the Transport Retirement Fund or, if the rate necessary to provide for his minimum benefit immediately before that day is a higher rate, at that higher rate.

(2) Subject to section 3 (9), a person who will become a contributor pursuant to subsection (1) may, on the appointed day, elect to vary the lump sum benefit to which his rate of contribution pursuant to subsection (1) (c) would entitle him, subject to the varied lump sum benefit being not less than the minimum benefit, and not more than the maximum benefit, for him at a date determined by the Board.

(3) Where a person makes an election under subsection (2), the necessary variation in his rate of contribution to the Fund shall take effect on and from a day determined by the Board, being a day that is not earlier than the day on which that person becomes a contributor.

Certain classes of persons may elect to contribute to the Fund.

12. (1) The Minister may, by order published in the Gazette, declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section for an employee within the meaning of this Act who is within a class of persons specified in the order.

(2) Subject to this section and the regulations, an employee who—

(a) is an employee to whom an election date specified in an order under subsection (1) relates; and

(b) if he were to remain in the employment of an employer until immediately before that election date, would complete not less than twelve months' service, may, subject to section 3 (9), elect on that election date, to contribute to the Fund.

(3) The Minister may, by order published in the Gazette after the appointed day declare that a specified date that is not earlier than three months later than the publication of the order is the election date for the purposes of this section in respect of—

(a) a contributor within the meaning of the Transport Employees Retirement Benefits Act, 1967, who attained the age of thirty years on or before the appointed day or an employee within the meaning of that Act who ceased to be such a contributor by reason of his having attained the age of sixty-five years on or before the publication of the order;

(b) a contributor to the Account;

(c) an officer within the meaning of the Transport Act, 1930, who was not, immediately before the appointed day, a contributor to a superannuation fund or account established under the Transport

Act,

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) Regulations may be made for the purposes of subsection (2) with respect to the terms and conditions upon and subject to which a person who is within a class of persons described in the regulations and is a participant in a superannuation scheme may elect to become a contributor to the Fund and any such regulation may be made to vary in its application according to time or circumstance.

(7) Where an election by an employee under this section takes effect, the employee shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day after the last day on which he could have made the election.

(8) A person referred to in subsection (3) (a) who makes an election under this section shall, upon becoming a contributor, cease to contribute to the Transport Retirement Fund and, except to the extent provided by this Act, shall not be entitled to receive any benefit under the Transport Employees Retirement Benefits Act, 1967.

(9) A person referred to in subsection (3) (b) who makes an election under this section shall, upon becoming a contributor, cease to contribute to the Account and, except to the extent provided by this Act shall not be entitled to receive any benefit from the Account.

(10) A person referred to in subsection (3) (c) shall, upon becoming a contributor, cease to be eligible for any benefit under section 132A of the Transport Act, 1930.

Contributions by certain persons aged sixty years or more at time of making election.

13. Where a person aged sixty years or more makes an election under section 12—

(a) he shall, notwithstanding section 18, contribute to the Fund at such rate and over such period as is determined by the Board;

(b) he shall, if he becomes entitled to a benefit from the Fund before he has paid the total amount of contributions that, in the opinion of the Board is the total amount of contributions necessary to provide the lump sum benefit for which he is contributing when he becomes so entitled, pay such contributions to the Fund, additional to those already paid by him, as are actuarially determined by the Board as being necessary to provide that lump sum benefit or make arrangements satisfactory to the Board for their payment; and

(c) subject to compliance with paragraph (b), he is entitled to have added to that lump sum benefit an allowance of an amount equal to an amount of interest on that lump sum benefit as provided by section 53 for the period that commenced on the

day

day on which he attained the age of sixty years and ended on the day on which he retired or sooner died.

Amount of lump sum benefit for which contributor must contribute.

14. A person who elects to become a contributor shall, upon his election taking effect, contribute to the Fund for a lump sum benefit of an amount that is not less than the minimum benefit for that person nor more than the maximum benefit for that person—

(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.

Variation of benefits and contributions.

15. (1) In this section—

"contributor" means a contributor who has not attained the age of sixty years at his election date;

"election date" means, in relation to a contributor, a date determined by the Board for the purposes of subsection (2);

"review date" means, in relation to a contributor, a date determined by the Board for the purpose of calculating the lump sum benefit applicable in relation to the annual wages of the contributor at that date.

(2) Subject to subsection (7), a contributor may, on a date determined by the Board for the purposes of this subsection in relation to the contributor or within three months thereafter, elect—

(a) to contribute for an increased lump sum benefit not exceeding the maximum benefit for the contributor at the review date; or

(b) to reduce his rate of contribution to the Fund, but not so that he is contributing for a benefit that is less than his minimum benefit at the review date,

and, except as provided in subsections (3) and (4), the lump sum benefit for which a contributor is contributing shall not be varied unless it is varied pursuant to such an election.

(3) Except pursuant to an election under subsection (2) (b), where the annual wages of a contributor are reduced, his rate of contribution to the Fund shall not be reduced unless the Board, on the application of the contributor, so approves and, where such an application is approved, the reduced contributions shall be paid on and from a day determined by the Board.

(4) Where, at a review date for a contributor, the lump sum benefit for which he is contributing is less than the minimum benefit for the contributor at that date, he shall pay to the Fund such increased contributions as are required to provide for that minimum benefit.

(5) Where, as a result of an election under subsection (2) (b) or an application under subsection (3), a contributor's rate of contribution to the Fund is reduced—

(a) a refund of any amount by which a past contribution to the Fund exceeded the reduced rate shall not be made; and

(b) the amounts by which any of his past contributions to the Fund exceeded the reduced rate shall, subject to section 17, form part of his lump sum benefit.

(6) Where a contributor makes an election under subsection (2) or his rate of contribution to the Fund is increased under subsection (4), his contributions to the Fund at the varied rate shall be paid on and from a day determined by the Board that is not earlier than the election date nor more than three months after that date.

(7) A contributor who is aged fifty years or more at his election date may not elect under subsection (2) (a) to increase the lump sum benefit for which he is contributing to the Fund to an amount greater than the amount ascertained in accordance with the formula—

$$\frac{a}{4} + \frac{a \times b}{c}$$

where—

"a" represents the contributor's annual wages at his next preceding review date within the meaning of this section;

"b" represents the sum of the amount of the lump sum benefit for which the contributor was contributing immediately before the election and the amount of his initial credit benefit if any;

"c" represents the contributor's annual wages at his review date that next preceded the review date referred to in the definition of the symbol "a".

Periodic opportunities to elect to become a contributor.

16. (1) This section applies to—

(a) an employee who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under section 10 (1), or under this section, to become a contributor has failed to do so;

(b) an employee referred to in section 12 (2) or 12 (3) (d) who—

(i) has not attained the age of sixty years; and

(ii) having been entitled to elect under that section, or under this section, to become a contributor has failed to do so; and

(c)

(c) an employee who—

(i) has not attained the age of sixty years; and

(ii) pursuant to section 21 (1) is not a contributor and has not been a contributor during the period of twelve months that next preceded the later or latest of the days appointed pursuant to subsection (2).

(2) The Board shall, by notification published in the Gazette before the expiration of the period of three years that next succeeds the appointed day, and by a notification so published once during every third year that succeeds the expiration of that period, appoint a day for the purpose of making an election under this section, being a day that is not earlier than three months after the publication of the notification.

(3) An employee to whom this section applies may, on or before the day appointed by a notification published under subsection (2) or, where more than one such notification has been published, on or before the day appointed by the later or latest such notification, elect to contribute to the Fund.

(4) An employee who becomes a contributor pursuant to an election under this section shall contribute to the Fund on and from a day determined by the Board, being a day that is not earlier than the day appointed under subsection (2) for making the election.

Certain moneys to be paid to Employees Reserve Account.

17. Where a contributor attains the age of sixty years and the Board is of the opinion that the contributions made or to be made by him would, but for this section, entitle him to receive amounts referred to in section 26 (1) (b) that would exceed the amount of the maximum benefit for the contributor at that age, an amount equal to the excess shall be paid to the credit of the contributor as if the contributor had paid it pursuant to section 24 (1) (b).

18.

Rates of contribution.

18. (1) Where a person is liable initially to contribute to the Fund for a lump sum benefit or becomes liable to contribute to the Fund for an increased lump sum benefit, the amount of his initial fortnightly contributions or, as the case may be, the amount of his additional fortnightly contributions in respect of the amount by which the lump sum benefit is increased, is the amount determined in accordance with the formula—

$$c = \frac{b \times r}{1000} + z$$

where—

"c" represents the amount of the fortnightly contribution or, as the case may be, the additional fortnightly contribution, to be paid by the contributor to the Fund;

"b" represents the amount of the lump sum benefit or, as the case may be, the amount of the increase in lump sum benefit, for which the contributor is liable to contribute;

"r" represents the amount specified—

(a) in the Second Column of Schedule 3; or

(b) where the contributor is a person who has made an election under subsection (2)—in the Second Column of Schedule 4,

opposite the age specified in the First Column of that Schedule that is the age next birthday of the contributor;

"z" is disregarded where the calculation to be made is a calculation relating to an increase in lump sum benefit but otherwise represents—

(a) the amount of twelve cents; or

(b) in the case of a contributor referred to in section 11 or in section 12 (3) (a) who, in either case—

(i) became, by the operation of section 10 of the Transport Employees Retirement Benefits Act, 1967, a contributor within the meaning of that Act;

(ii) became, by the operation of section 12 of the Railways Retirement Fund Act, 1964, a contributor within the meaning of that Act; or

(iii) being a person referred to in section 12 (1) (b) or 12 (1) (c) of the Transport Employees Retirement Benefits Act, 1967, elected to contribute to the Transport Retirement Fund under section 12 (1) of that Act and is contributing under Scale 1 and Scale 2 of Schedule 2 to that Act—

the amount of seven cents.

(2) Where a person aged fifty years or more—

(a) becomes a contributor;

(b) elects under section 15 (2) (a) to contribute for an increased lump sum benefit; or

(c) is required under section 15 (4) to increase his contributions to the Fund,

he may, in the case referred to in paragraph (a), elect to have his rate of contribution based on Schedule 4 or, in the cases referred to in paragraphs (b) and (c), elect to have the rate of increase in contributions so based.

(3) Where the rate at which a contributor is contributing to the Fund is reduced before he attains the age of sixty years, the lump sum benefit for which he is contributing at the reduced rate is the amount determined by the Board on an actuarial basis as the reduced amount of lump sum benefit for which he is contributing.

(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.

Payment of contributions.

19. (1) Subject to subsection (2), contributions required to be paid to the Fund shall be deducted by employers from the salaries or wages of contributors at each payment thereof and shall be paid by employers to the Board within a period of fourteen days from the date of deduction.

(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 of the lump sum benefit for which the contributor would, but for that reduction, be eligible;

(b) allow an amount to be transferred from the balance at the contributor's credit under section 24, if any, in payment or part payment of the unpaid amount and interest thereon as provided by section 53; or

(c) deduct from the amount of the lump sum benefit that would otherwise be payable the unpaid amount and interest thereon as provided by section 53,

and any amount transferred or deducted under paragraph (b) or (c) (interest as provided by section 53 excepted) shall be deemed to be a contribution to the Fund made by the contributor.

Cessation of payment of contributions.

20. (1) Subject to this section and section 62, a contributor who pays contributions to the Fund in accordance with Schedule 3 or Schedule 4 shall cease to pay those contributions on the first day of the pay period applicable to him during which he ceases to be employed by an employer, dies, retires or attains the age of sixty years, whichever first occurs.

(2) Notwithstanding subsection (1), a contributor who attains the age of sixty years shall continue to make any contributions to which an election under section 18 (2) relates.

(3) Where a contributor who has made an election under section 18 (2) is aged sixty years or more and a benefit for which he is contributing emerges before he has completed payment in accordance with that election of the total contributions that are necessary to provide the benefit, the Board may deduct from the benefit such contributions additional to those already paid as are actuarially determined by the Board to be necessary to provide the benefit, unless those additional contributions are sooner paid.

Exemption from payment of contributions.

21. (1) Notwithstanding any other provision of this Act, a contributor is not required to continue to contribute to the Fund if the Board, on the application of the contributor, is satisfied that adequate provision has been made for the contributor and his family or that there are other special circumstances justifying exemption from, or cessation of, payment of the contributions.

(2) Section 30 continues to apply to a person who, pursuant to subsection (1), is not a contributor.

Election following increase in wages between review date and age of sixty years.

22. (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 may, subject to this section, elect to contribute for an additional lump sum benefit not exceeding the amount referred to in subsection (3).

(3) The additional amount for which a contributor may elect to contribute under subsection (2) is such an amount that—

(a) the fraction obtained by dividing the amount of his total lump sum benefit after the election by his annual wages on his attainment of the age of sixty years—

does not exceed—

(b) the fraction obtained by dividing the amount of the lump sum benefit for which he was contributing immediately before his attainment of the age of sixty years by his annual wages at the review date referred to in that subsection.

(4) For the purposes of this section, the annual wages of a contributor on his attainment of the age of sixty years include any increase in his annual wages paid after he attains that age if—

(a) the increase is effective from a day that was earlier than the day on which he attained that age; and

(b) was payable in respect of a period that included the day on which he attained that age.

(5) An election under this section shall be made—

(a) where the increase in annual wages is paid on or before the attainment by the contributor of the age of sixty years—within three months after his attainment of that age; or

(b) where the increase in annual wages is paid after the attainment by the contributor of that age—within three months after the day on which the increase is paid.

(6) Where an election is made under this section, the necessary variation in the rate of contribution to the Fund shall be made from a date determined by the Board.

Effect of lapse of period between employment by successive employers.

23. (1) Where an employee ceases to be employed by an employer and, not having attained the age of sixty years he is, on or before the expiration of the next succeeding period of three months, employed by the same or a different employer, he shall, for the purposes of this Act, be deemed not to have ceased to be an employee if he complies with subsection (2).

(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.

Contributor may make additional contributions.

24. (1) A contributor may—

(a) authorise his employer to deduct from his salary or wages and pay to the Fund any amount in excess of the contributions payable by him under this Act and may at any time cancel the authorisation;

(b) pay directly to the Fund any amount additional to those contributions.

(2) Payments made under subsection (1)—

(a) form part of the Fund;

(b) shall bear interest as provided by section 53;

(c) shall not be withdrawn prior to a benefit becoming payable to or in respect of the contributor under this Act;

(d) may, on application by the contributor and subject to the approval of the Board, be employed in payment of any arrears of contributions payable by the contributor under this Act.

(3) Where a contributor ceases for any reason to be employed by an employer, any amount standing to his credit in accordance with this section—

(a) may be withdrawn by the contributor on a benefit becoming payable to him under this Act;

(b) where section 27 applies to the contributor, may be the subject of an election under that section as if it were an addition to the lump sum benefit that, but for the election, would be payable under section 26; or

(c) where section 28 applies in respect of the contributor, may be paid as an addition to a benefit payable under that section in respect of the contributor.

PART IV.

BENEFITS.

Interpretation.

25. For the purpose of calculating the amount of a benefit under this Act, a reference to the amount of a contribution is a reference to the amount paid to the Fund as that contribution, reduced by—

(a) the value, if any, ascribed to the symbol "z" when calculating the amount of the contribution in accordance with the formula referred to in section 18 (1); and

(b) where any part of the contribution was refunded—an amount equal to the amount of the refund.

Benefits.

26. (1) In this section "prescribed amount" in relation to a contributor who retires or is retired as provided in subsection (2) or (4) or is retrenched is the lesser of—

(a) the amount of the maximum benefit for the contributor—

(i) where he retires, or is retired, as provided in subsection (2) or is retrenched—at the date of his retirement or retrenchment; or

(ii)

(ii) where he retires as provided in subsection (4)—on the day on which he attains the age of sixty years; and

(b) an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund;

(ii) the amount of his initial credit, if any;

(iii) interest, as provided by section 53, on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on his attainment of the age of sixty years or his earlier retirement or retrenchment; and

(iv) in the case of a contributor aged sixty years or more, the amount determined by the Board to be the actuarial equivalent of contributions (if any) remaining to be paid by him pursuant to an election under section 18 (2).

(2) Where a contributor who has completed not less than ten years' service ceases to be employed by an employer by reason of—

(a) his retirement on attaining the age of sixty years;

(b) his retirement through infirmity of body or mind, where the Board is satisfied that the infirmity—

(i) incapacitates the contributor from performing his duties; and

(ii) is likely to be permanent; or

(c) his retrenchment,

there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (3).

(3) The amount payable under subsection (2) to a contributor referred to therein is an amount equal to the sum of—

(a) the prescribed amount for the contributor; and

(b) an allowance of an amount that is a percentage of the prescribed amount, being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before his retirement or retrenchment.

(4) Where a contributor continues in the service of an employer after he attains the age of sixty years and then retires after completing not less than ten years' service, there shall be paid to him from the Fund as a lump sum benefit the amount referred to in subsection (5).

(5) The amount payable under subsection (4) to a contributor referred to therein is an amount equal to the sum of—

(a) the prescribed amount for the contributor;

(b) interest as provided by section 53 on the amounts referred to in paragraph (a) in respect of the period that commenced on the date on which he attained the age of sixty years and ended on the date on which he retired; and

(c) an allowance of an amount that is a percentage of the total of the amounts calculated under paragraphs (a) and (b), being the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by the contributor before his retirement.

Alternative benefits.

27. (1) This section applies to a contributor who has completed not less than ten years' service and ceases to be employed by an employer—

(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.

Benefit for certain dependants.

28. (1) Subject to this section, where a contributor dies before he is paid any benefit under this Act, there shall be paid from the Fund to—

(a) his widow;

(b) if he died without leaving a widow—any child of his or his spouse who was, in the opinion of the Board, dependent on him immediately before his death; or

(c) if he died without leaving a widow and there is no such child—any other person who was, in the opinion of the Board, dependent on him immediately before his death,

a lump sum benefit of an amount specified in subsection (2).

(2) The amount payable under subsection (1) to a person referred to therein is—

(a) in the case of a contributor who, before he died, had completed not less than ten years' service—an amount equal to the amount that would have been paid to the contributor under section 26 had he retired immediately before he died; or

(b) in any other case—an amount equal to the amount that would have been payable under section 30 had it applied to and in respect of the contributor immediately before he died.

(3) Where a contributor with not less than ten years' service dies aged sixty years or more and does not leave a widow or any dependant, there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such other person or persons as the Board may determine, an amount equal to the lump sum benefit to which he would have been entitled under section 26 had he retired immediately before he died.

(4) Where a contributor dies and a benefit is not payable pursuant to subsection (1) or (3), there shall be paid from the Fund to his personal representatives or, where he has no personal representatives, to such person or persons

as

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.

Alternative benefits for widow.

29. (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

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.

Withdrawal benefit.

30. Subject to section 62, where a person who is a contributor ceases to be employed by an employer and, but for this section, there would not be payable under this Act to or in respect of that person any lump sum benefit or pension or annuity, there shall be paid to him from the Fund as a lump sum benefit or, where he is deceased, to his personal representatives or, where he is deceased and has no personal representatives, to such person as the Board may determine—

(a) in the case of a person who had been a contributor to the Transport Retirement Fund and, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund under this Act; and

(ii) the total of the amounts of his contributions to the Transport Retirement Fund,

reduced by the difference between the amount referred to in subparagraph (ii) and the total amount of the contributions that would have been paid by him to the Transport Retirement Fund had all his contributions thereto been made in accordance with Scale 2 of Schedule 2 of the Transport Employees Retirement Benefits Act, 1967;

(b) in the case of any other person who, at the time he ceased to be employed by an employer, had not completed five years' service—an amount equal to the total of the amounts of his contributions to the Fund;

(c) in the case of a person who, at the time he ceased to be employed by an employer, had completed not less than five, but less than ten years' service, an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund;

(ii) the amount of his initial credit, if any; and

(iii) interest as provided by section 53 on the amounts referred to in subparagraphs (i) and (ii) in respect of the period that commenced on the date on which he became a contributor and ended on the date on which he ceased to be employed by an employer;

(d) in the case of a person who, at the time he ceased to be employed by an employer, had completed not less than ten years' service, an amount equal to the sum of—

(i) the amount to which he would be entitled if paragraph (c) were applicable to him; and

(ii) an allowance of an amount that is a percentage of the amount referred to in subparagraph (i), being one-half of the percentage specified in the Second Column of Schedule 5 opposite the number specified in the First Column of that Schedule that is the number of years of service that had been completed by that person on or before the cessation of his employment.

Certain benefit must be not less than certain amount.

31. (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—

$$\frac{a}{30} \times (10 + n)$$

where—

"a" represents the annual wages of the contributor immediately before his retirement or death, as the case may be;

"n" represents the number of years of service completed by him at that time;

and

(b) the amount that—

(i) where the contributor is retired or dies before he attains the age of sixty years—would have been payable to him under this Act had he retired on attaining the age of sixty years after having continued until that retirement to pay to the Fund contributions at the same rate as the rate at which he was paying them immediately before he was retired or died, as the case may be; or

(ii) where the contributor is retired or dies on or after attaining the age of sixty years—

would have been paid to him under this Act if, on the day on which he is retired or dies, he had retired otherwise than as referred to in subsection (1) (a).

(3) Where the benefit payable to or in respect of a contributor to or in respect of whom this section applies would, but for this subsection, be less than the minimum benefit for the contributor, the amount of the benefit payable to or in respect of the contributor shall, subject to subsection (4), be the amount of that minimum benefit.

(4) Nothing in this section operates to prejudice or affect the operation of section 61.

PART V.

Employer Contributions.

Payment of contributions by, and apportionment of contributions among, employers.

32. (1) In this section, a reference to a contributor in respect of whom this section applies is a reference to a contributor to or in respect of whom a lump sum benefit has become payable from the Fund and—

"primary employer" in relation to such a contributor means the person who was the employer of the contributor immediately before that lump sum benefit became payable;

"secondary employer" in relation to such a contributor means any person (other than the primary employer of the contributor) who employed the contributor during the period of service in respect of which the lump sum benefit became payable.

(2)

(2) Where a lump sum 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 lump sum benefit is payable under section 26 (2)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (3) (b);

(b) where the lump sum benefit is payable under section 26 (4)—an amount equal to the amount of the allowance in relation to the contributor under section 26 (5) (c);

(c) where, pursuant to section 28, an amount is payable that is equal to the amount that would have been payable in specified circumstances under another provision of this Act—an amount equal to the amount that would have been payable under this subsection if a lump sum benefit had been paid under that other provision in those circumstances;

(d) where the lump sum benefit is payable under section 30 (d)—an amount equal to the amount of the allowance in relation to the contributor under section 30 (d) (ii);

(e) where the lump sum benefit is payable in accordance with section 31—an amount equal to the sum of—

(i) one-half of the amount, if any, by which the lump sum payable under that section exceeds the lump sum benefit that would be payable if that section had not been enacted; and

(ii) the payments, if any, which the primary employer of the contributor would be required to make if that section had not

been

been enacted and if the liability of the employer were determined under paragraph (a) or (d), or as the case may require.

(3) Where, pursuant to subsection (2), the primary employer of a contributor in respect of whom this section applies is required to make a payment, the Board shall serve the notice prescribed by subsection (4) on any secondary employer of the contributor and shall furnish the primary employer of the contributor with a copy thereof.

(4) For the purposes of subsection (3), the notice for service on a secondary employer of a contributor in respect of whom this section applies is a notice to the effect that the secondary employer is liable to pay to the primary employer of the contributor a specified amount within a specified time, that amount being an amount determined by the Board on an actuarial basis having regard to—

(a) the amount of the contributions to the Fund by the contributor, and the amount of the lump sum benefit for which he was contributing, while he was employed by that secondary employer; and

(b) such other matters as the Board thinks fit.

(5) Where a notice is, pursuant to subsection (3) served on a secondary employer and the secondary employer fails, within the time specified in the notice, to pay to the primary employer so specified the amount so specified, that primary employer may, in a court of competent jurisdiction, recover from that secondary employer as a debt the amount so specified.

Liability for initial credit.

33. The initial credit of a contributor who was a contributor to the Account is a liability due to the Fund by the person who was the employer of the contributor at the date on which the contributor last contributed to the Account.

Payments by employer to reserve.

34. (1) Where, on the appointed day, any amount stands to the credit of an employer under section 31 of the Transport Employees Retirement Benefits Act, 1967, the Board shall, without any further authority than this Act, transfer that amount to the Fund and shall credit the same amount to the employer in the books of the Board.

(2) The Board shall pay to the Fund, and shall credit to an employer in the books of the Board, such proportion of any amount (including interest) repaid to the Board pursuant to section 23 (2) (b) as the Board determines to be that employer's proportion of that amount.

(3) An employer may, with the approval of the Governor given on the recommendation of the Treasurer and the Board, pay to the Fund as part of his operating expenses for the financial year in which the payment is made, such amounts as the employer may determine.

(4) Where an employer is required to make a payment under this Act or under section 29 of the Transport Employees Retirement Benefits Act, 1967, the payment may be made from the amount credited to the employer under this section.

(5) An amount standing to the credit of an employer pursuant to this section shall bear interest as provided by section 53.

PART

PART VI.

THE NEW SOUTH WALES RETIREMENT BOARD.

Constitution of New South Wales Retirement Board.

35. (1) There is hereby constituted a body corporate with the corporate name "New South Wales Retirement Board".

(2) The Board shall consist of four persons, each appointed by the Governor on the recommendation of the Minister—

(a) for a period not exceeding five years; and

(b) on such terms and conditions as the Governor thinks fit, including terms and conditions for or with respect to preserving rights accrued or accruing under any Act.

(3) Of the persons referred to in subsection (2)—

(a) one shall, in and by the instrument of his appointment or by a subsequent instrument, be appointed as Chairman;

(b) one may, in like manner, be appointed as executive member;

(c) one shall, in like manner, be appointed as contributor member;

(d) one shall, in like manner, be appointed as employer member.

(4) A person who is appointed Chairman or executive member of the Board may, by the terms of his appointment as such, be required to devote the whole of his time to the duties of his office.

(5) Before making a recommendation to the Governor with respect to the appointment of the contributor member and the employer member, the Minister may consult such persons, including associations of employees, as he thinks fit.

Deputies for members.

36. The Governor may appoint—

(a) subject to section 37, a deputy to act for the Chairman—

(i) during the illness or absence of the Chairman; or

(ii) where there is an executive member, during the illness or absence of both the Chairman and the executive member;

(b) where there is an executive member, a deputy to act (otherwise than pursuant to section 37) for the executive member during his illness or absence; and

(c) deputies to act respectively for the contributor member or the employer member during the illness or absence of the member for whom he is the deputy,

and a person so appointed shall have and may exercise and perform, while acting for the person for whom he is the deputy, the powers, authorities, duties and functions conferred or imposed upon that person as a member of the Board and, where he acts for the Chairman or the executive member, of the Chairman or executive member, as the case may be.

Executive member to act as Chairman in certain circumstances.

37. Where there is an executive member of the Board, he shall have and may exercise, during the illness or absence of the Chairman, the powers, authorities, duties and functions of the Chairman.

Casual vacancies.

38. Where a vacancy occurs in the office of a member the Governor may appoint a person to fill the vacancy and the person so appointed shall hold office instead of, and for the unexpired term of office of, his predecessor.

Certain acts, etc., not invalidated.

39. No act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when the act or proceeding was done, taken or commenced there was a vacancy in the office of any member of the Board and a deputy was not available to act in his place under section 36 or 37.

Public Service Act, 1902, not to apply to member of Board.

40. Subject to section 35 (2) (b), the provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment by the Governor of any member of the Board, and such a member is not, in his capacity as a member, subject to the provisions of that Act during his term of office.

Vacation of office.

41. (1) A member of the Board vacates his office if he—

(a) dies;

(b) becomes bankrupt or compounds with his creditors;

(c) absents himself from three consecutive meetings of the Board of which reasonable notice has been given to him personally or in the ordinary course of post, except on leave granted by the Governor;

(d) becomes a mentally ill person, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958;

(e) resigns his office by writing under his hand addressed to the Minister and the resignation is accepted by the Governor; or

(f) attains the age of sixty-five years.

(2) A person who is of or above the age of sixty-five years is not eligible for appointment as a member of the Board.

Remuneration and fees payable to members.

42. (1) The members of the Board and their deputies shall be paid such remuneration and fees as the Governor may from time to time determine in respect of each of them.

(2) Subject to subsection (3) where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of the office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member or of a deputy member of the Board or from accepting and retaining any remuneration payable to a member or to a deputy member under this section.

(3) Subsection (2) does not apply to or in respect of a member of the Board who pursuant to section 35 (4), is required to devote the whole of his time to the duties of his office.

Quorum.

43. Two members of the Board, one of whom is the Chairman or, where there is an executive member, the executive member, shall constitute a quorum of the Board and any business transacted at a meeting of the Board at which a quorum is present is valid.

Chairman to have casting vote.

44. Where the voting at any meeting of the Board is equal the Chairman or person acting in his place shall, in addition to having a deliberative vote, have a casting vote.

Powers, etc., of Board.

45. The Board shall manage the Fund and, on and from the appointed day, shall manage the Transport Retirement Fund and shall have and may exercise and perform such other powers, authorities, duties and functions as are conferred or imposed on it by or under this or any other Act.

46.

Delegation by Board.

46. (1) The Board may delegate any of its powers, authorities, duties or functions under this Act or under the regulations, except this power of delegation, to any member or employee of the Board.

(2) The decision of any member or employee of the Board made when he is acting in pursuance of a delegation under this section shall be deemed to be the decision of the Board.

(3) A delegation under this section may be revoked by the Board at any time and does not prevent the exercise of any power, authority, duty or function by the Board.

Staff of Board.

47. (1) The Board may appoint and employ such staff as may be necessary for the proper exercise and performance of its powers, authorities, duties and functions.

(2) The Board may, with the approval of the Minister administering a Government Department or with the approval of a statutory body or an employer, make use of the services of any person employed in the service of that Government Department, statutory body or employer.

Cost of management of Fund.

48. (1) Subject to this section, the cost of management of the Fund and any expenditure incurred by the Board pursuant to section 2 (5) are charges against, and shall be paid out of, the Fund.

(2) In so far as the cost of managing the Fund is attributable to the operation of section 12 in respect of an employee who, being eligible to elect under that section to become a contributor, fails so to elect, the amount thereof, as determined by the Board, shall be paid to the Board by the person who, at the time of that failure, is the employer of that employee.

49. The Board shall, as soon as practicable after the end of a financial year, submit a report to the Minister giving information as to its operations and as to any general decisions adopted by it in the course thereof during that financial year. Report by Board.

PART VII.

Loans to Contributors.

50. (1) The Board may lend to a contributor, on such terms and conditions as the Board determines, an amount not exceeding the total of— Board may lend certain amount to contributor.

(a) the amount of the benefit that would be payable under section 30 if the contributor were to resign from the service of his employer on the day on which he applies for the loan; and

(b) any amount standing to his credit pursuant to section 24.

(2) Where a loan is made to a contributor pursuant to subsection (1) and the Board, by notice in writing, requires the employer of the contributor to deduct from the salary or wages of the contributor at each payment thereof, in addition to the normal contributions of the contributor, such instalments as the Board may require in repayment of the loan and interest thereon, the employer shall comply with the terms of the notice.

(3) The provisions of section 19 relating to the deduction of contributions from the salary or wages of contributors and their remittance to the Board apply in respect of the deduction and remittance of the instalments referred to in subsection (2).

(4) Where a benefit becomes payable under section 26, 28, 30 or 31 in respect of a contributor to whom a loan has been made under subsection (1) before the loan has been fully repaid with interest thereon, the amount of the benefit shall be reduced by the amount of the loan and interest thereon unpaid at the date the benefit became payable.

PART VIII.

Assurance Policies.

Board may accept assignment of certain policies of assurance.

51. (1) In this section "pensioner" means—

(a) a person who receives a lump sum benefit under this Act by reason of his having been a contributor;

(b) a person who receives a lump sum benefit under this Act as the widow or child of a person who was a contributor;

(c) a person who is in receipt of a pension pursuant to an election under section 27 or 29; or

(d) a person who commutes a pension under section 27 (5) or 29 (3).

(2) This section applies to and in respect of an unencumbered policy of endowment assurance (not being an industrial policy as defined in the Life Insurance Act 1945 of the Parliament of the Commonwealth or any Act of that Parliament amending or replacing that Act) that has been in force for a period of at least six years and in respect of which no premiums that have fallen due remain unpaid.

(3) Where the life of a contributor or pensioner, or the life of his spouse, is insured under a policy to which this section applies, the Board may, on the application of the contributor or pensioner, accept an assignment to it of the policy.

(4) The Board shall, where it has accepted assignment of a policy to which this section applies, cause the premiums to be duly paid and, on receipt by the Board of the maturity value of the policy, pay to the assignor or, where he is dead, to his personal representatives, the amount so received reduced by the sum of—

(a) the total amount of the premiums paid by the Board; and

(b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date on which the Board receives the maturity value of the policy.

Re-assignment by Board of policy of assurance.

52. Where the Board has accepted assignment of a policy to which section 51 applies it may, at any time before maturity of the policy, re-assign it to the assignor upon repayment to the Board of the sum of—

(a) the total amount of the premiums paid by the Board; and

(b) interest as provided by section 53 on the premiums paid by the Board from their respective dates of payment to the date of the re-assignment.

PART

PART IX.

General Provisions.

Moneys payable to and by the Board and interest thereon.

53. (1) Where, pursuant to this Act, any moneys are payable to the Board, payment of the moneys becomes overdue—

(a) if it is not made within the period prescribed for payment of the moneys;

(b) if a time for payment of the moneys is prescribed otherwise than by reference to a specified period—if it is not made within fourteen days after that time; or

(c) in any other case—if it is not made within fourteen days after service by the Board on the person obliged to pay the moneys of a requisition for payment of the moneys.

(2) Interest is payable to the Board on moneys overdue for payment and is so payable on and from the day on which payment of the moneys becomes overdue to the day on which payment of the moneys is made, but the Board may, in special circumstances and in a particular case, waive payment of any such interest or part thereof.

(3) Moneys payable to the Board that are overdue for payment, and interest thereon as provided by this section, are recoverable by the Board in a court of competent jurisdiction as a debt.

(4) Where interest is payable to the Board pursuant to this section or payable to or by the Board or from the Fund under any other provision of this Act, the interest shall be compounded at the end of each financial year during the period for which it is so payable, and at the end of that period, and shall be calculated at the prescribed rate.

(5) Where interest is payable from the Fund on amounts paid to the Fund at different times during a financial year, the interest on those amounts shall, subject to this section, be calculated in a manner determined by the Board.

(6) 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)—

five and one-half per centum per annum or, where a higher rate of interest is prescribed for such a case, that higher rate; or

(b) in any other case (section 50 excepted)—

(i) the rate prescribed for that case; or

(ii) where no rate is prescribed for that case—a rate specified by the Minister by order published in the Gazette on the recommendation of the Board made after having regard to earning rates, and estimated earning rates, on the Fund.

(7) An order under subsection (6) (b) (ii) may be made to vary according to time or circumstance.

Regulations.

54. 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.

Provision of certain evidence.

55. (1) For the purposes of this Act, the Board may require to be produced such evidence of the age, marriage, dependency or death of any person as it deems necessary and in default of the production of any such evidence the Board may itself obtain the evidence and deduct the expense incurred in obtaining it from any moneys payable from the Fund to the person required to produce the evidence.

(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.

Board may require certain information.

56. The Board may at any time require an employer to furnish such returns with respect to persons employed by him who are or were contributors or who may become eligible to become contributors as the Board may decide and may at any time require any contributor or employee or person who was a contributor to furnish such information as the Board may decide is necessary for the purpose of any investigation in connection with the Fund.

Benefits are not assignable, etc.

57. Lump sum benefits under this Act and other payments from the Fund shall not be in any way assigned or charged or passed by operation of law to any person other than the person who is entitled thereto under this Act.

Estates not exceeding $1,000.

58. (1) Where a person dies and there is due from the Fund to or in respect of him an amount not exceeding $1,000, the Board may, unless—

(a) probate of the will or letters of administration of the estate of that person have been produced to the Board; or

(b)

(b) notice in writing of the existence of the will of that person and of intention to prove it, or notice of intention to take out letters of administration of the estate of that person, is given to the Board within three months of the death of that person,

pay the amount, or after paying the funeral expenses of the deceased or reimbursing any person who paid those expenses pay the balance of the amount, to the widow or to such other person as the Board in the circumstances thinks fit.

(2) Proceedings may not be instituted against the Board in respect of anything done in pursuance of this section, but nothing in this section relieves a person receiving payment in pursuance of this section from any liability to account for or apply the amount paid to him in accordance with law.

Disputes and appeals.

59. (1) Subject to this section, a dispute under this Act shall be determined by the Board.

(2) A person aggrieved by a decision of the Board under subsection (1) may, within a period of six months from the date of the decision, appeal to the Minister, who shall thereupon refer the matter for opinion to a Judge of the Supreme Court, and shall decide the point in accordance with that opinion.

(3) A decision of the Minister under subsection (2) is final and conclusive and not subject to appeal.

Payment where beneficiary incapable.

60. (1) Where a person to whom a benefit is payable under this Act is, in the opinion of the Board, incapable of administering his own affairs by reason of his illness, imprisonment or any other cause the Board may pay the benefit to some other person to be applied wholly for the care, maintenance, benefit and support of the person to whom, but for the provisions of this section, the benefit would be payable, or of any person dependent on him.

(2)

(2) Any payment made under subsection (1) shall be deemed to have been made to the person entitled to the benefit.

Medical examination.

61. (1) The Board may require an employee to undergo a medical examination in order to determine his eligibility to receive a benefit under section 31.

(2) The Board may, in respect of an employee who does not undergo or fails to pass a medical examination referred to in subsection (1), determine his benefit under section 31 as less than the amount provided by that section but not less than the sum of one-sixth of the amount of the annual wages being paid to the contributor at the time the benefit becomes payable together with one-thirtieth of the amount of those annual wages for each completed year of his service.

Eligibility to contribute to superannuation scheme.

62. (1) This section has effect notwithstanding anything in this or any other Act.

(2) Where a contributor would, but for this subsection, be entitled or required to participate in a superannuation scheme by reason of a change in his employment classification within the service of his employer, he may not participate in the superannuation scheme unless, not later than three months after the change in his employment classification, he elects not to contribute to the Fund.

(3) Where a contributor ceases to be employed by an employer and, not more than three months later, being under the age of sixty years, he takes up employment with another person (whether an employer or not) by virtue of

which

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).

Introduction of new superannuation schemes prohibited in certain circumstances.

63. Where an employee who is within a class of persons specified in the Second Column of Schedule 1 or 2 is a contributor, or is eligible to elect to become a contributor or will, with the effluxion of time, be eligible to elect to become a contributor, his employer shall not, without the approval of the Minister, introduce a superannuation scheme in which the employee would be eligible to participate.

64.

Amendment of Schedule 2.

64. (1) On the recommendation of the Minister, the Governor may, by order published in the Gazette, amend Schedule 2 by inserting matter therein or by omitting matter therefrom and may, by the same or a different order so published, make a declaration for the purposes of subsection (3).

(2) An order under subsection (1) takes effect on the day of its publication in the Gazette or, where the order specifies that it takes effect on a specified later day, on that later day.

(3) Where the Governor, by an order under subsection (1), so declares in relation to the employer of a person who becomes an employee within the meaning of this Act by virtue of the order, the total contributor liability of that employer under this Act in respect of that employee shall be met by the employer by his making to the Fund, while the employee is employed by him, periodic payments at a rate to be notified by the Board to the employer as the rate determined by the Board to be necessary to meet the maximum possible liability of the employer, having regard to the contribution rate of the employee and the possibility of his being employed by that or any other employer until he attains the age of sixty-five years.

(4) The name of an association of employees may, by an order under subsection (1) be added to the First Column of Schedule 2 if a substantial number of the members of the association are contributors.

(5) An order may not be made under subsection (1) if it would operate to deprive a person of any right conferred upon him by this Act before the making of the order.

Elections and applications.

65. An election or application under this Act—

(a) shall be in writing;

(b) shall, subject to this Act, be deemed not to have been validly made unless it is received in the office of the Board before the time on or before which it is required to be made;

(c) may, with the approval of the Board, be amended or revoked; and

(d)

(d) except where otherwise provided, takes effect on a day determined by the Board in respect thereof.

Restoration of lost right, etc., under Act.

66. (1) Where a person is entitled to exercise a right or enjoy a privilege or benefit under this Act and, without having exercised the right or enjoyed the privilege or benefit, he ceases to be entitled so to do, he may exercise the right or enjoy the privilege or benefit if—

(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.

Amendment of Act No. 96, 1967.

67. (1) The Transport Employees Retirement Benefits Act, 1967, is amended—

Sec. 2. (Division of Act.)

(a) by omitting from section 2 the matter relating to Part IV;

Sec. 3. (Interpretation.)

(b) (i) by omitting from section 3 (1) the definition of "Board" and by inserting instead the following definition:—

"Board" means the New South Wales Retirement Board constituted by the New South Wales Retirement Benefits Act, 1972;

(ii) by omitting from paragraph (e) of the definition of "employee" in section 3 (1) the word "or" where thirdly occurring;

(iii)

(iii) by inserting at the end of paragraph (f) of the definition of "employee" in section 3 (1) the following word and new paragraph :—

; or

(g) a person eligible to make an election under section 10 of the New South Wales Retirement Benefits Act, 1972, or a person who, pursuant to section 11 of that Act, becomes a contributor within the meaning of that Act, or a person who ceases, pursuant to section 12 (8) of that Act, to contribute to the Transport Retirement Fund;

(iv) by omitting from section 3 (6) (b) the words "Transport Retirement Board" wherever occurring and by inserting instead the words "New South Wales Retirement Board";

Sec. 4. (The Fund.)

(c) by inserting at the end of section 4 the following new subsection :—

(4) The cost of management of the Fund is a charge against, and shall be paid out of, the Fund.

Sec. 8. (Guaranteed minimum interest yield.)

(d) by omitting from section 8 (3) the word "application" and by inserting instead the word "appreciation";

Sec. 9. (Triennial investigation of Fund.)

(e) (i) by omitting from section 9 (1) the word "seventy" and by inserting instead the word "seventy-seven";

(ii) by inserting at the end of section 9 the following new subsection :—

(4) The Board shall, not later than two months after it receives a report under subsection (3), forward the report to the Minister together with such comments thereon as it deems appropriate.

(f)

(f) by omitting Part IV; Part IV. (The Transport Retirement Board.)

(g) by omitting from section 65 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board"; Sec. 65. (References to Railways Retirement Fund Board in Acts, ordinances, etc.)

(h) by omitting from Schedule 1 the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board". Sch. 1.

(2) A person who, immediately before the appointed day, was a member of the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, is not entitled to any compensation by reason of his ceasing to hold office as such a member.

(3) On and from the day appointed pursuant to section 2 (3)—

(a) all real and personal property, including all investments, cash on deposit or in hand and all books, accounts, records, certificates and deeds and all right and interest therein and all management and control thereof that, immediately before that day, were vested in the Transport Retirement Board constituted under the Transport Employees Retirement Benefits Act, 1967, are vested in the Board;

(b) all moneys and liquidated and unliquidated claims that, immediately before that day were payable to, or recoverable by, the Transport Retirement Board so constituted are payable to, and recoverable by, the Board;

(c) all suits, actions and proceedings pending immediately before that day at the suit of or against the Transport Retirement Board so constituted are suits, actions and proceedings pending at the suit of or, as the case may be, against the Board;

(d) all contracts, agreements and undertakings entered into with, and all securities given to or by, the Transport Retirement Board so constituted and in force immediately before that day shall be deemed to be contracts, agreements and undertakings, entered into with, and securities given to or by, the Board;

(e) the Board may pursue the same remedies for the recovery of moneys and the enforcement of claims, and may prosecute and defend the same actions, suits and proceedings as might, but for this section, have been pursued, prosecuted or defended by the Transport Retirement Board so constituted;

(f) the Board may enforce and realise any security or charge in favour of the Transport Retirement Board so constituted that was in force immediately before that day as if it were a security or charge in favour of the Board;

(g) all debts and moneys that, immediately before that day, were due or payable to, and all liquidated and unliquidated claims that, immediately before that day, were recoverable against the Transport Retirement Board so constituted are debts due by, moneys payable by, and claims recoverable against the Board; and

(h) a reference, whether express or implied, in any Act (other than this Act) ordinance, order, regulation or by-law or in any other instrument or document (other than an instrument or document appointing a member of the Transport Retirement Board) to the Transport Retirement Board shall be read and construed as a reference to the Board.

(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 V of the Industrial Arbitration Act, 1940; and

(c) where a condition of employment of a person referred to in paragraph (a) was, immediately before that day, regulated by an award or industrial agreement, the condition shall continue so to be regulated until an award or industrial agreement that is binding on the Board is made to regulate the condition.

(5) The Minister shall appoint a Review Committee consisting of—

(a) a member of the Board, who shall be chairman of, and convene meetings of, the Review Committee;

(b) a nominee of the Auditor-General; and

(c) the Government Actuary.

(6) The Board shall, as between the Transport Retirement Fund and the New South Wales Retirement Fund make such adjustments of the assets and liabilities of those Funds as the Review Committee considers to be a necessary consequence of the operation of this Act.

Further amendment of Act No. 96, 1967.

Subst. sec. 14.

68. The Transport Employees Retirement Benefits Act, 1967, is further amended by omitting section 14 and by inserting instead the following section : —

Variation of benefits.

14. (1) In this section—

"contributor" includes an employee who ceased to be a contributor on his attainment of the age of sixty-five years;

"review date" means, in relation to a contributor, a date determined by the Board for the purpose of calculating the lump sum benefit applicable in relation to the annual wages of the contributor at that date.

(2) Except as provided by this section and by sections 15 and 16, the lump sum benefit for which a contributor is contributing shall not be varied.

(3) Subject to subsection (4), where the annual wages of a contributor are increased so that the amount thereof falls within a wage group that is higher than the wage group within which the amount thereof fell immediately before the increase he shall, not earlier than the review date that next follows the increase, contribute as provided by subsection (6)—

(a) in the case of a contributor who is contributing for his ordinary minimum benefit—for the ordinary minimum benefit appropriate for his higher wage group;

(b) in the case of a contributor who is contributing for his maximum benefit—for the maximum benefit appropriate for his higher wage group; or

(c) in the case of a contributor who had nominated a benefit wage factor—for the lesser of—

(i) the maximum benefit appropriate for his higher wage group; and

(ii)

(ii) a lump sum benefit calculated by applying to the upper level of the wage group in which his increased salary falls the benefit wage factor last nominated by him before that review date and by deducting from the resulting amount so much of his initial credit benefit, if any, as is a multiple of one hundred dollars.

(4) Where a lump sum benefit becomes payable in respect of a contributor, subsection (3) applies as if the date on which the lump sum benefit became payable were a review date for the contributor.

(5) For the purposes of subsection (4), a reference in subsection (3) to an increase of annual wages includes a reference to such an increase paid after a lump sum benefit became payable under this Act if the increase took effect on and from a day that is earlier than, and is in respect of, a period that includes the date on which the lump sum benefit became payable.

(6) The increased contributions to be paid to the Fund by a contributor contributing for an increased lump sum benefit pursuant to this section shall be payable—

(a) where the review date for the contributor is not determined as provided by subsection (4)—on and from the first day of the pay period next following a date determined by the Board in relation to the contributor for the purposes of this section; or

(b) where the review date for the contributor is determined as provided by subsection (4)—on and from the first day of the pay period next following the date with effect from which the annual wages of the contributor were increased.

Amendment of Act No. 30, 1912.

Subst. sec. 109A.

69. The Government Railways Act, 1912, is amended by omitting section 109A and by inserting instead the following section :—

This part not to apply to certain persons.

109A. This Part does not apply to or in respect of a person who became an officer after the commencement of the Railways Retirement Fund Act, 1964, and before the day appointed pursuant to subsection (3) of section 2 of the New South Wales Retirement Benefits Act, 1972, or who becomes an officer on or after that day.

Amendment of Act No. 18, 1930.

Subst. sec. 132B.

70. The Transport Act, 1930, is amended by omitting section 132B and by inserting instead the following section :—

This Part not to apply to certain persons.

132B. This Part does not apply to or in respect of a person who is an officer whose appointment was confirmed after the commencement of the Transport Employees Retirement Benefits Act, 1967, and before the day appointed pursuant to subsection (3) of section 2 of the New South Wales Retirement Benefits Act, 1972, or whose appointment is confirmed on or after that day.

Amendment of Act No. 28, 1916.

Sec. 3. (Interpretation).

71. The Superannuation Act, 1916, is amended by inserting in the definition of "Employee" in section 3 (1) after the figures "1967," the words "or the New South Wales Retirement Benefits Act, 1972,".

Amendment of Act No. 35, 1970.

Sec. 4. (Interpretation.)

72. The Securities Industry Act, 1970, is amended by omitting from paragraph (e) of the definition of "exempt dealer" in section 4 (1) the words "Transport Retirement Board" and by inserting instead the words "New South Wales Retirement Board".

SCHEDULES.

SCHEDULES.

SCHEDULE 1

Sec. 3 (1).

First Column	Second Column
Employers	Employees
Public Transport Commission of New South Wales.	Persons employed by the Commission pursuant to— (a) the Government Railways Act, 1930 (other than persons so employed temporarily as workmen on construction, deviation or duplication works, in the trading or catering services or in connection with a sawmill that is not associated with a workshop); (b) the Transport Act, 1930; and (c) sections 16 and 18 of the Public Transport Commission Act, 1972.
The Commissioner for Motor Transport.	Persons employed by the Commissioner.
The Crown or a Minister of the Crown	Persons employed in the Police Department otherwise than— (a) as police cadets; (b) under the Police Regulation Act, 1899; or (c) under the Public Service Act, 1902.
New South Wales Retirement Board	Persons employed by the Board.

Sec. 3 (1).
Sec. 64.

SCHEDULE 2

First Column	Second Column
Employers	Employees

SCHEDULE

SCHEDULE 3

Sec. 18 (1).

TABLE OF CONTRIBUTIONS

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Age next birthday	Fortnightly rate of contribution for $1,000 of the amount of the lump sum benefit	Age next birthday	Fortnightly rate of contribution for $1,000 of the amount of the lump sum benefit
	$		$
16	0.22	41	1.20
17	0.24	42	1.30
18	0.25	43	1.42
19	0.27	44	1.56
20	0.28	45	1.72
21	0.30	46	1.90
22	0.32	47	2.10
23	0.34	48	2.35
24	0.36	49	2.64
25	0.38	50	2.99
26	0.41	51	3.42
27	0.44	52	3.96
28	0.47	53	4.65
29	0.50	54	5.58
30	0.53	55	895.90 ÷ *n**
31	0.57	56	921.20 ÷ *n**
32	0.61		
33	0.65	57	947.00 ÷ *n**
34	0.70	58	973.20 ÷ *n**
35	0.75	59, 60	1,000.00 ÷ *n**
36	0.81		
37	0.87		
38	0.94		
39	1.02		
40	1.10		

**n* denotes the number of complete fortnightly contributions payable before contributions would be due to cease on attainment of age 60 years.

Sec. 18 (2).

SCHEDULE 4

TABLE OF CONTRIBUTIONS

First Column	Second Column
Age next birthday	Fortnightly contribution payable for 10 Years for nominal benefit of $1,000*
	$
51	3.15
52	3.32
53	3.51
54	3.70
55	3.90
56	4.12
57	4.35
58	4.58
59	4.84
60	5.10

* The amount of the benefit at the end of the 10 year period is $1,000 together with interest thereon as provided by section 53 from age 60 years to the end of the 10 year period.

SCHEDULE 5

Sec. 26.

First Column	Second Column
Completed years of service	Employer subsidy—amount of percentage
Under 10	Nil
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20	100
21	105
22	110
23	115
24	120
25	125
26	130
27	135
28	140
29	145
30	150
31	155
32	160
33	165
34	170
35	175
36	180
37	185
38	190
39	195
40 or more	200

Sec. 3 (2).

SCHEDULE 6

TABLE OF ALLOWANCES

First Column	Second Column	First Column (*continued*)	Second Column (*continued*)
Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account	Number of complete years of contributing to the Account	Allowance as a percentage of contributions to the Account
45 years and over	100·0 per centum	23 years	41·1 per centum
44 years	96·0 " "	22 "	39·2 " "
43 "	92·0 " "	21 "	37·3 " "
42 "	88·0 " "	20 "	35·4 " "
41 "	84·0 " "	19 "	33·5 " "
40 "	80·0 " "	18 "	31·6 " "
39 "	76·0 " "	17 "	29·8 " "
38 "	73·0 " "	16 "	28·0 " "
37 "	70·0 " "	15 "	26·2 " "
36 "	67·0 " "	14 "	24·4 " "
35 "	65·0 " "	13 "	22·6 " "
34 "	63·0 " "	12 "	20·8 " "
33 "	61·0 " "	11 "	19·0 " "
32 "	59·0 " "	10 "	17·3 " "
31 "	57·0 " "	9 "	15·6 " "
30 "	55·0 " "	8 "	13·9 " "
29 "	53·0 " "	7 "	12·2 " "
28 "	51·0 " "	6 "	10·5 " "
27 "	49·0 " "	5 "	8·8 " "
26 "	47·0 " "	4 "	7·1 " "
25 "	45·0 " "	3 "	5·4 " "
24 "	43·0 " "	2 "	3·7 " "
		1 year	2·0 " "

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 30th November, 1972.