

*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.*

D. L. WHEELER,  
*for Clerk of the Legislative Assembly,*

*Legislative Assembly Chamber,  
Sydney, 31 March, 1977.*

## **New South Wales**



ANNO VICESIMO SEXTO

**ELIZABETHÆ II REGINÆ**

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**Act No.       , 1977.**

An Act to amend the New South Wales Retirement Benefits Act, 1972, so as to provide for the automatic adjustment of pensions payable under that Act, and in certain other respects.

**BE**



*New South Wales Retirement Benefits (Amendment).*

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

1. This Act may be cited as the "New South Wales Retirement Benefits (Amendment) Act, 1977". Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-  
ment.

10 (2) Section 3 and Schedule 1 shall commence or be deemed to have commenced, as the case may require, on 31st March, 1977.

3. The New South Wales Retirement Benefits Act, 1972, is amended in the manner set forth in Schedule 1. Amend-  
ment  
of Act No.  
70, 1972.

15 **SCHEDULE 1.** Sec. 3.

**AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT BENEFITS ACT, 1972.**

(1) (a) Section 1 (2)—

After the matter relating to Part IV, insert :—

20 **PART IVA.—AUTOMATIC ADJUSTMENT OF PENSIONS—ss. 31A–31H.**

(b) Section 1 (2)—

From the matter relating to Part IX, omit "72", insert instead "73".

**SCHEDULE**



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

(2) Section 27 (6)—

5 After section 27 (5), insert :—

(6) Subsection (5) does not authorise the commutation of the amount of any increase of pension payable under Part IVA.

(3) Section 29 (7)—

10 After section 29 (6), insert :—

(7) This section does not authorise the commutation of the amount of any increase of pension payable under Part IVA.

(4) Part IVA—

15 After Part IV, insert :—

PART IVA.

AUTOMATIC ADJUSTMENT OF PENSIONS.

31A. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation: Pt. IVA.

20 “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;

25 “adjustment percentage”, in relation to a year, means (subject to section 31B (2)) the percentage for that year, calculated in accordance with section 31B;

SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5           “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  
10           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;

15           “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;

20           “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;

25           “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;
- 30           (b) the period commencing on and including 1st October in that year and ending on and including 31st December in that year;

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 (c) the period commencing on and including 1st January in that year and ending on and including 31st March in that year; or

10 (d) the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

“year” means—

15 (a) the period commencing on and including 1st July, 1975, and ending on and including 30th June, 1976; or

20 (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—

25 (a) where the adjustment percentage is calculated in accordance with the formula set out in section 31B (1) (a)—increasing the pension; or

30 (b) where the adjustment percentage is calculated in accordance with the formula set out in section 31B (1) (b)—reducing the pension.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 31B. (1) For the purposes of the definition of  
“adjustment percentage” in section 31A (1), the  
percentage for a year shall be calculated— Calculation  
of adjust-  
ment  
percentage.

10 (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 :—

$$P = \frac{100 (C - L)}{L}$$

15 (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 :—

20 
$$P = \frac{100 (L - C)}{L}$$

where—

P is the percentage to be obtained;  
25 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—

30 (a) the percentage calculated for a year in  
accordance with this section is less than 1.0  
per centum; or

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (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.

- 10 (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—

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

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

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

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

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (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.

- 10 (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  
15 had only to Index numbers published in terms of the  
new reference base.

- 20 31c. (1) Subject to this Act, where there is an Adjustment  
adjustment percentage for a year (in this section of pensions:  
referred to as "the particular year"), the pension general  
payable on the adjustment date for that year to a cases.  
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  
25 (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  
30 year.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 (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.

10 31D. (1) Subject to this Act, where there is an Adjustment  
adjustment percentage for a year (in this section of pensions:  
referred to as "the particular year"), the pension partial  
payable on the adjustment date for that year to a adjustment.  
person to whom this section applies is hereby  
adjusted, on and from that adjustment date, by the  
percentage calculated in accordance with the formula  
15 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
- 20 (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  
25 before the adjustment date for that year,

but does not apply to a person to whom section 31C  
applies.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 (3) The formula referred to in subsection  
(1) is—

$$A = P \times \frac{Q}{4}$$

where—

10 A is the percentage by which the pension is to  
be adjusted;

P is the adjustment percentage for the particu-  
lar year; and

15 Q is the number of whole quarters of the par-  
ticular year, being whole quarters after, and  
(if applicable) the whole quarter on the first  
day of which—

20 (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.

25 (4) A reference in subsection (1) to a pen-  
sion payable to a person includes a reference to the  
pension that would have been payable to him had  
section 59A not been enacted.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 31E. (1) In this section, "special pension" means Special  
a pension payable under section 26 (7) (b) or (d), provisions  
section 27 (2) (b) or (d) or section 29 (2) (a) (ii). applicable  
to certain  
classes of  
pensions,

(2) For the purposes of this section—

10 (a) a person in receipt of a special pension shall  
be deemed also to be in receipt of a notional  
pension;

15 (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.

20 (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.

25 (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.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

## 31F. Notwithstanding anything in this Part—

Minimum  
amount to  
which  
pensions  
may be  
reduced.

- 5 (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  
10 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  
15 reference to the pension that would, if this  
Part had not been enacted, have been pay-  
able to the late pensioner.

- 20 31G. (1) Where, by virtue of there being an adjust-  
ment 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 ser-  
vice the pensioner or deceased pensioner was employed  
at the date of his retirement, or in whose service the  
25 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  
30 no adjustment percentage for that year.

Additional  
payment  
by  
employer.



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5           (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.
- 10       31H. Where a percentage that is to be calculated Calculation  
under this Part is or includes a fraction of one-tenth of per-  
of one per centum—centages.
- 15           (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.
- (5) (a) Section 32 (2) (f)—
- 20       After “26 (7)”, insert “, 27 or 29”.
- (b) Section 32 (2) (f)—
- After “26 (8)”, insert “, 27 (4) or 29 (4), as  
the case may be,”.
- (c) Section 32 (6)—
- 25       After section 32 (5), insert :—
- (6) A reference in subsection (2) (f) to a  
pension does not include the amount of any  
increase payable under Part IVA.

## SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

(6) Section 59A—

5 After section 59, insert :—

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.

15 (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.

25 (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.

(7) Section 73—

After section 72, insert :—

73. (1) A person in receipt of a pension under—  
30 (a) section 26 (7) (b) may elect to convert his pension to a pension under section 26 (7) (a);

Election  
to convert  
certain  
pensions  
in 1977.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (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).
- 10 (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—
- 15 (a) commence before 1st May, 1977;  
(b) end before 1st August, 1977; and  
(c) be not less than 2 months in length.
- 20 (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  
25 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.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5

(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.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977  
[16c]

SCHEDULE



No. , 1977.

# A BILL

To amend the New South Wales Retirement Benefits Act, 1972, so as to provide for the automatic adjustment of pensions payable under that Act, and in certain other respects.

[MR MULOCK—29 March, 1977.]

BE



*New South Wales Retirement Benefits (Amendment).*

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  
5 follows:—

1. This Act may be cited as the "New South Wales Retirement Benefits (Amendment) Act, 1977". Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-  
ment.

10 (2) Section 3 and Schedule 1 shall commence or be deemed to have commenced, as the case may require, on 31st March, 1977.

3. The New South Wales Retirement Benefits Act, 1972, is amended in the manner set forth in Schedule 1. Amend-  
ment  
of Act No.  
70, 1972.

15 SCHEDULE 1. Sec. 3.

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972.

(1) (a) Section 1 (2)—

After the matter relating to Part IV, insert :—

20 PART IVA.—AUTOMATIC ADJUSTMENT OF  
PENSIONS—ss. 31A–31H.

(b) Section 1 (2)—

From the matter relating to Part IX, omit "72",  
insert instead "73".

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

(2) Section 27 (6)—

5 After section 27 (5), insert :—

(6) Subsection (5) does not authorise the commutation of the amount of any increase of pension payable under Part IVA.

(3) Section 29 (7)—

10 After section 29 (6), insert :—

(7) This section does not authorise the commutation of the amount of any increase of pension payable under Part IVA.

(4) Part IVA—

15 After Part IV, insert :—

PART IVA.

AUTOMATIC ADJUSTMENT OF PENSIONS.

31A. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation:  
Pt. IVA.

20 “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;

25 “adjustment percentage”, in relation to a year, means (subject to section 31B (2)) the percentage for that year, calculated in accordance with section 31B;



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5       “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  
10       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;

15       “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;

20       “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;

25       “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;  
30       (b) the period commencing on and  
              including 1st October in that year  
              and ending on and including 31st  
              December in that year;

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (c) the period commencing on and including 1st January in that year and ending on and including 31st March in that year; or
- 10 (d) the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

“year” means—

- 15 (a) the period commencing on and including 1st July, 1975, and ending on and including 30th June, 1976; or
- 20 (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—

- 25 (a) where the adjustment percentage is calculated in accordance with the formula set out in section 31B (1) (a)—increasing the pension; or
- 30 (b) where the adjustment percentage is calculated in accordance with the formula set out in section 31B (1) (b)—reducing the pension.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 31B. (1) For the purposes of the definition of Calculation  
“adjustment percentage” in section 31A (1), the of adjust-  
percentage for a year shall be calculated— ment  
percentage.

10 (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 :—

$$P = \frac{100 (C - L)}{L}$$

15 (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 :—

20 
$$P = \frac{100 (L - C)}{L}$$

where—

25 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—

30 (a) the percentage calculated for a year in  
accordance with this section is less than 1.0  
per centum; or

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (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.

- 10 (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—

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

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

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

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

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (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.

- 10 (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  
15 had only to Index numbers published in terms of the  
new reference base.

- 20 31c. (1) Subject to this Act, where there is an adjustment  
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—

- 25 (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  
30 year.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 (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.

10 31D. (1) Subject to this Act, where there is an Adjustment  
adjustment percentage for a year (in this section of pensions:  
referred to as "the particular year"), the pension partial  
payable on the adjustment date for that year to a adjustment.  
person to whom this section applies is hereby  
adjusted, on and from that adjustment date, by the  
percentage calculated in accordance with the formula  
15 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
- 20 (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  
25 before the adjustment date for that year,

but does not apply to a person to whom section 31C  
applies.

SCHEDULE



---

*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (3) The formula referred to in subsection  
(1) is—

$$A = P \times \frac{Q}{4}$$

where—

- 10 A is the percentage by which the pension is to  
be adjusted;
- P is the adjustment percentage for the particu-  
lar year; and
- 15 Q is the number of whole quarters of the par-  
ticular year, being whole quarters after, and  
(if applicable) the whole quarter on the first  
day of which—
- 20 (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.
- 25 (4) A reference in subsection (1) to a pen-  
sion payable to a person includes a reference to the  
pension that would have been payable to him had  
section 59A not been enacted.



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 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). Special provisions applicable to certain classes of pensions.

(2) For the purposes of this section—

10 (a) a person in receipt of a special pension shall be deemed also to be in receipt of a notional pension;

15 (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.

20 (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.

25 (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.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

## SCHEDULE 1—continued.

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—continued.

## 31F. Notwithstanding anything in this Part—

Minimum  
amount to  
which  
pensions  
may be  
reduced.

- 5 (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  
10 this Part had not been enacted, have been  
payable; and

- 15 (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 pay-  
able to the late pensioner.

- 20 31G. (1) Where, by virtue of there being an adjust-  
ment 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 ser-  
vice the pensioner or deceased pensioner was employed  
at the date of his retirement, or in whose service the  
25 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  
30 pension that would have been payable had there been  
no adjustment percentage for that year.

Additional  
payment  
by  
employer.

## SCHEDULE



---

*New South Wales Retirement Benefits (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (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.
- 10 31H. Where a percentage that is to be calculated  
under this Part is or includes a fraction of one-tenth  
of one per centum—  
Calculation  
of per-  
centages.
- 15 (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.
- (5) (a) Section 32 (2) (f)—
- 20 After “26 (7)”, insert “, 27 or 29”.
- (b) Section 32 (2) (f)—  
After “26 (8)”, insert “, 27 (4) or 29 (4), as  
the case may be.”.
- (c) Section 32 (6)—
- 25 After section 32 (5), insert :—  
(6) A reference in subsection (2) (f) to a  
pension does not include the amount of any  
increase payable under Part IVA.

## SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

## (6) Section 59A—

5 After section 59, insert :—

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.

Suspension  
of part of  
pension in  
certain  
circum-  
stances.

15 (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.

20 (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.

## (7) Section 73—

After section 72, insert :—

73. (1) A person in receipt of a pension under—  
30 (a) section 26 (7) (b) may elect to convert his pension to a pension under section 26 (7) (a);

Election  
to convert  
certain  
pensions  
in 1977.

## SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (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).

- 10 (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—

- 15 (a) commence before 1st May, 1977;  
(b) end before 1st August, 1977; and  
(c) be not less than 2 months in length.

- 20 (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  
25 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.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (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.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977  
[16c]



**NEW SOUTH WALES RETIREMENT BENEFITS  
(AMENDMENT) BILL, 1977**

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**EXPLANATORY NOTE**

THE objects of this Bill are—

- (a) to provide for the automatic annual adjustment of certain pensions by reference to the percentage increase or decrease in the Consumer Price Index (All Groups Index) for Sydney during the year 1975-6 and in each subsequent year, unless the percentage is less than 1%;
  - (b) to provide that the full adjustment percentage is applicable to a pension that emerged before the year immediately preceding an adjustment, and on a reducing scale in the case of pensions that emerged later;
  - (c) to treat (for the purposes of paragraph (b)) the pension payable to the spouse of a deceased pensioner as having emerged when the late pensioner's pension emerged;
  - (d) to limit the amount to which a pension may be reduced by the operation of the above provisions, so that the pension is not reduced below the amount at which it emerged;
  - (e) to enact that an increase in a pension (arising as referred to in the Bill) is to be financed by the previous employers;
  - (f) to authorise the suspension of part of a pension where payment of the whole pension would prejudicially affect any benefits otherwise receivable by the pensioner;
  - (g) to enable a person in receipt of a pension that increases by 10% each 3 years to elect to convert his pension to an ordinary pension within a period ending before 1st August, 1977; and
  - (h) to make other provisions of a minor, consequential or ancillary character.
-



NEW SOUTH WALES RETIREMENT BENEFITS  
(AMENDMENT) BILL 1977

EXPLANATORY NOTE

This Bill amends the Retirement Benefits Act 1975 in relation to the payment of benefits to persons who are entitled to them under the Act. The Bill provides that where a person is entitled to a benefit under the Act, the benefit shall be paid to him or her in accordance with the provisions of the Act. The Bill also provides that where a person is entitled to a benefit under the Act, the benefit shall be paid to him or her in accordance with the provisions of the Act.

The Bill also provides that where a person is entitled to a benefit under the Act, the benefit shall be paid to him or her in accordance with the provisions of the Act. The Bill also provides that where a person is entitled to a benefit under the Act, the benefit shall be paid to him or her in accordance with the provisions of the Act.

The Bill also provides that where a person is entitled to a benefit under the Act, the benefit shall be paid to him or her in accordance with the provisions of the Act. The Bill also provides that where a person is entitled to a benefit under the Act, the benefit shall be paid to him or her in accordance with the provisions of the Act.



**PROOF**

Act No. , 1977.

New South Wales Retirement Benefits (Amendment)

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:—

1. This Act may be cited as the "New South Wales Retirement Benefits (Amendment) Act 1977."

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

No. , 1977.

# A BILL

To amend the New South Wales Retirement Benefits Act, 1972, so as to provide for the automatic adjustment of pensions payable under that Act, and in certain other respects.

[Mr MULOCK—29 March, 1977.]

**BE**



*New South Wales Retirement Benefits (Amendment).*

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

1. This Act may be cited as the "New South Wales Retirement Benefits (Amendment) Act, 1977". Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commence-  
ment.

10 (2) Section 3 and Schedule 1 shall commence or be deemed to have commenced, as the case may require, on 31st March, 1977.

3. The New South Wales Retirement Benefits Act, 1972, is amended in the manner set forth in Schedule 1. Amend-  
ment  
of Act No.  
70, 1972.

15 **SCHEDULE 1.** Sec. 3.

**AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972.**

(1) (a) Section 1 (2)—

After the matter relating to Part IV, insert :—

20 **PART IVA.—AUTOMATIC ADJUSTMENT OF  
PENSIONS—ss. 31A–31H.**

(b) Section 1 (2)—

From the matter relating to Part IX, omit "72",  
insert instead "73".

**SCHEDULE**



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

(2) Section 27 (6)—

5 After section 27 (5), insert :—

(6) Subsection (5) does not authorise the commutation of the amount of any increase of pension payable under Part IVA.

(3) Section 29 (7)—

10 After section 29 (6), insert :—

(7) This section does not authorise the commutation of the amount of any increase of pension payable under Part IVA.

(4) Part IVA—

15 After Part IV, insert :—

PART IVA.

AUTOMATIC ADJUSTMENT OF PENSIONS.

31A. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

Interpretation:  
Pt. IVA.

20 “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;

25 “adjustment percentage”, in relation to a year, means (subject to section 31B (2)) the percentage for that year, calculated in accordance with section 31B;

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 “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  
10 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;

15 “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;

20 “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;

25 “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;
- 30 (b) the period commencing on and  
including 1st October in that year  
and ending on and including 31st  
December in that year;

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 (c) the period commencing on and including 1st January in that year and ending on and including 31st March in that year; or

10 (d) the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

“year” means—

15 (a) the period commencing on and including 1st July, 1975, and ending on and including 30th June, 1976; or

20 (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—

25 (a) where the adjustment percentage is calculated in accordance with the formula set out in section 31B (1) (a)—increasing the pension; or

30 (b) where the adjustment percentage is calculated in accordance with the formula set out in section 31B (1) (b)—reducing the pension.

SCHEDULE



---

*New South Wales Retirement Benefits (Amendment).*

---

## SCHEDULE 1—continued.

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—continued.

5 31B. (1) For the purposes of the definition of Calculation  
“adjustment percentage” in section 31A (1), the of adjust-  
percentage for a year shall be calculated— ment  
percentage.

10 (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 :—

$$P = \frac{100 (C - L)}{L}$$

15 (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 :—

20 
$$P = \frac{100 (L - C)}{L}$$

where—

P is the percentage to be obtained;

25 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—

30 (a) the percentage calculated for a year in  
accordance with this section is less than 1.0  
per centum; or

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (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.

- 10 (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—

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

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

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

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

SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5 (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.

- 10 (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  
15 had only to Index numbers published in terms of the  
new reference base.

- 20 31c. (1) Subject to this Act, where there is an Adjustment  
adjustment percentage for a year (in this section of pensions:  
referred to as "the particular year"), the pension general  
payable on the adjustment date for that year to a cases.  
person to whom this section applies is hereby adjusted,  
on and from that adjustment date, by that percentage.

(2) This section applies to—

- 25 (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  
30 and died before the adjustment date for that  
year.

SCHEDULE



---

*New South Wales Retirement Benefits (Amendment).*

---

## SCHEDULE 1—continued.

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—continued.

- 5 (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.

- 10 31D. (1) Subject to this Act, where there is an adjustment of pensions: partial adjustment.  
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).  
15

## (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  
20 (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,  
25

but does not apply to a person to whom section 31c applies.

## SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- 5           (3) The formula referred to in subsection  
          (1) is—

$$A = P \times \frac{Q}{4}$$

where—

- 10           A    is the percentage by which the pension is to  
                  be adjusted;
- P    is the adjustment percentage for the particu-  
                  lar year; and
- 15           Q    is the number of whole quarters of the par-  
                  ticular 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  
20               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.
- 25           (4) A reference in subsection (1) to a pen-  
              sion payable to a person includes a reference to the  
              pension that would have been payable to him had  
              section 59A not been enacted.



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*New South Wales Retirement Benefits (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 31E. (1) In this section, "special pension" means Special provisions applicable to certain classes of pensions.  
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—

10 (a) a person in receipt of a special pension shall  
be deemed also to be in receipt of a notional  
pension;

15 (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.

20 (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.

25 (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.

SCHEDULE



*New South Wales Retirement Benefits (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

## 31F. Notwithstanding anything in this Part—

Minimum  
amount to  
which  
pensions  
may be  
reduced.

- 5 (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
- 10

- (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.
- 15

- 20 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,
- 25 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.
- 30

Additional  
payment  
by  
employer.



*New South Wales Retirement Benefits (Amendment).*

## SCHEDULE 1—continued.

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—continued.

- 5 (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.
- 10 31H. Where a percentage that is to be calculated Calculation  
under this Part is or includes a fraction of one-tenth of per-  
centages.  
of one per centum—
- 15 (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.
- (5) (a) Section 32 (2) (f)—
- 20 After “26 (7)”, insert “, 27 or 29”.
- (b) Section 32 (2) (f)—
- After “26 (8)”, insert “, 27 (4) or 29 (4), as  
the case may be,”.
- (c) Section 32 (6)—
- 25 After section 32 (5), insert :—
- (6) A reference in subsection (2) (f) to a  
pension does not include the amount of any  
increase payable under Part IVA.

## SCHEDULE



*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

(6) Section 59A—

5 After section 59, insert :—

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.

15 (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.

20 (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.

(7) Section 73—

After section 72, insert :—

30 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);

Election  
to convert  
certain  
pensions  
in 1977.

SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

5 (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).

10 (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—

- 15 (a) commence before 1st May, 1977;  
(b) end before 1st August, 1977; and  
(c) be not less than 2 months in length.

20 (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  
25 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.

## SCHEDULE



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

**SCHEDULE 1—continued.**

**AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—continued.**

- 5 (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.

BY AUTHORITY  
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977



*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.*

**R. E. WARD,**  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 7 June, 1977.*

## **New South Wales**



**ANNO VICESIMO SEXTO**

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 56, 1977.**

An Act to amend the New South Wales Retirement Benefits Act, 1972, so as to provide for the automatic adjustment of pensions payable under that Act, and in certain other respects. [Assented to, 24th June, 1977.]

**BE**

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

**T. J. CAHILL,**  
*Chairman of Committees of the Legislative Assembly.*



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*New South Wales Retirement Benefits (Amendment).*

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

Short  
title.

1. This Act may be cited as the "New South Wales Retirement Benefits (Amendment) Act, 1977".

Commence-  
ment.

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

(2) Section 3 and Schedule 1 shall commence or be deemed to have commenced, as the case may require, on 31st March, 1977.

Amend-  
ment  
of Act No.  
70, 1972.

3. The New South Wales Retirement Benefits Act, 1972, is amended in the manner set forth in Schedule 1.

Sec. 3.

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**SCHEDULE 1.**

**AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT BENEFITS ACT, 1972.**

(1) (a) Section 1 (2)—

After the matter relating to Part IV, insert :—

**PART IVA.—AUTOMATIC ADJUSTMENT OF PENSIONS—ss. 31A–31H.**

(b) Section 1 (2)—

From the matter relating to Part IX, omit "72", insert instead "73".

**SCHEDULE**



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

(2) Section 27 (6)—

After section 27 (5), insert :—

(6) Subsection (5) does not authorise the commutation of the amount of any increase of pension payable under Part IVA.

(3) Section 29 (7)—

After section 29 (6), insert :—

(7) This section does not authorise the commutation of the amount of any increase of pension payable under Part IVA.

(4) Part IVA—

After Part IV, insert :—

PART IVA.

AUTOMATIC ADJUSTMENT OF PENSIONS.

31A. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

Interpre-  
tation:  
Pt. IVA.

“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;

SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

“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;

## SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- (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.

SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*


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 SCHEDULE 1—*continued*.
 

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 AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
 BENEFITS ACT, 1972—*continued*.

Calculation  
of adjust-  
ment  
percentage.

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

SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

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

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

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

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

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

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

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

SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- (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.

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.

SCHEDULE

---

*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

(3) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 59A not been enacted.

31D. (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).

Adjustment  
of pensions:  
partial  
adjustment.

(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.

SCHEDULE



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*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

(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.

SCHEDULE

*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

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). Special provisions applicable to certain classes of pensions.

(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.

SCHEDULE



---

*New South Wales Retirement Benefits (Amendment).*


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 SCHEDULE 1—*continued.*


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 AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
 BENEFITS ACT, 1972—*continued.*

Minimum  
amount to  
which  
pensions  
may be  
reduced.

## 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.

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.

## SCHEDULE

*New South Wales Retirement Benefits (Amendment).*

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

(2) The provisions of section 32 (3), (4) and (5) apply to and in respect of any payment required by subsection (1) to be made to the Board in the same way as they apply to and in respect of any payment required by section 32 (2) to be made to the Board.

31H. Where a percentage that is to be calculated under this Part is or includes a fraction of one-tenth of one per centum—

Calculation  
of per-  
centages.

(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.

(5) (a) Section 32 (2) (f)—

After “26 (7)”, insert “, 27 or 29”.

(b) Section 32 (2) (f)—

After “26 (8)”, insert “, 27 (4) or 29 (4), as the case may be,”.

(c) Section 32 (6)—

After section 32 (5), insert :—

(6) A reference in subsection (2) (f) to a pension does not include the amount of any increase payable under Part IVA.

SCHEDULE



---

*New South Wales Retirement Benefits (Amendment).*

---

SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

(6) Section 59A—

After section 59, insert :—

Suspension  
of part of  
pension in  
certain  
circum-  
stances.

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.

(7) Section 73—

After section 72, insert :—

Election  
to convert  
certain  
pensions  
in 1977.

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);

SCHEDULE

---

*New South Wales Retirement Benefits (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- (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.

SCHEDULE



---

*New South Wales Retirement Benefits (Amendment).*

---

SCHEDULE 1—*continued.*AMENDMENTS TO THE NEW SOUTH WALES RETIREMENT  
BENEFITS ACT, 1972—*continued.*

- (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.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
Governor.

Government House,  
Sydney, 24th June, 1977.