

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

Act No. , 1977.

An Act to amend the Transport Employees Retirement Benefits Act, 1967, so as to provide for the automatic adjustment of pensions payable under that Act, and in certain other respects.

BE

Transport Employees 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 "Transport Employees Retirement Benefits (Amendment) Act, 1977". Short title.

2. The Transport Employees Retirement Benefits Act, 1967, is amended in the manner set forth in Schedule 1. Amendment of Act No. 96, 1967.

10

SCHEDULE 1.

Sec. 2.

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967.

(1) Section 2—

After the matter relating to Part III, insert :—

15

PART IIIA—AUTOMATIC ADJUSTMENT OF
PENSIONS.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Part IIIA—

5 After Part III, insert :—

PART IIIA.

AUTOMATIC ADJUSTMENT OF PENSIONS.

10 31A. (1) In this Part, except in so far as the Interpretation:
context or subject-matter otherwise indicates or Pt. IIIA.
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;

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

20 “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;

25 “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;

30

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 “pension” means a pension payable under section
 23;

 “pensioner” means a person in receipt of a pension;

 “quarter”, in relation to a year, means—

10 (a) the period commencing on and
 including 1st July in that year and
 ending on and including 30th
 September in that year;

15 (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 in-
 cluding 1st January in that year and
 ending on and including 31st March
 in that year; or

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

 “year” means—

25 (a) the period commencing on and
 including 1st July, 1976, and ending
 on and including 30th June, 1977; or

30 (b) a subsequent period commencing on
 and including 1st July and ending on
 and including the next following 30th
 June.

SCHEDULE

*Transport Employees Retirement Benefits (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (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—

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

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

31B. (1) For the purposes of the definition of Calculation
“adjustment percentage” in section 31A (1), the ^{of} adjustment
percentage for a year shall be calculated— _{percentage.}

20 (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 :—

25
$$P = \frac{100 (C - L)}{L}$$

30 (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 :—

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

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

where—

- 5 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.

- 10 (2) Where—
 (a) the percentage calculated for a year in
 accordance with this section is less than 1.0
 per centum; or
15 (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.

- 20 (3) Where there is deemed to be no adjust-
 ment 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
25 (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.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (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—

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

15 (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.

20 (5) Notwithstanding subsection (4), if at any
time after the commencement of this Part the Aus-
tralian 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.

25 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,
30 on and from that adjustment date, by that percentage.

Adjustment
of pensions:
general
cases.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) This section applies to—

- 5 (a) a person who last became a pensioner on or
before 1st July in the particular year; and
- (b) a person who is the widow of a pensioner,
where that pensioner last became a
10 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
15 section 60A not been enacted.

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.
20 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—

- 25 (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

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

- 5 (b) a person who is the widow of a pensioner,
where that 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,
10 but does not apply to a person to whom section 31c
applies.

(3) The formula referred to in subsection

(1) is—

15
$$A = P \times \frac{Q}{4}$$

where—

- A is the percentage by which the pension is to be
adjusted;
20 P is the adjustment percentage for the particular
year; and
Q is the number of whole quarters of the particu-
lar year, being whole quarters after, and (if
applicable) the whole quarter on the first day
25 of which—
(a) in the case of a person referred to in sub-
section (2) (a)—the person last became a
pensioner; or
(b) in the case of a person referred to in sub-
30 section (2) (b)—her late pensioner
husband last became a pensioner.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (4) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

31E. Notwithstanding anything in this Part—

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

Minimum amount to which pensions may be reduced.

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

25 31F. (1) Where, by virtue of there being an adjustment percentage for a year, an increased pension is payable to a pensioner or to the widow of a deceased pensioner, the employer in whose service the pensioner or deceased pensioner was employed at the date of his retirement shall pay to the Board at such intervals as may be determined by the Board and on the requisition of the Board, an amount equal to the difference between the amount of the increased pension and the amount of pension that would have been payable had there been no adjustment percentage for that year.

Additional payment by employer.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (2) The provisions of section 29 (3), (4)
and (5) apply to and in respect of any payment
required by subsection (1) to be made to the Board
in the same way as they apply to and in respect of
any payment required by section 29 (2) or (2A) to be
made to the Board.

10 31G. 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
percentages.

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.

(3) Section 60A—

20 After section 60, insert:—

25 60A. (1) Notwithstanding anything in this Act,
where a person entitled to receive a pension under
section 23 (including any increase payable under Part
IIIA) would, in the opinion of the Board, thereby be
prejudicially affected in respect of any benefits other-
wise 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.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (2) Where the Board, under subsection (1),
reduces the amount of an increase payable under Part
IIIA, 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.

10 (3) A part of a pension that is not paid
because of the Board's determination under subsection
(1) shall, in calculating a pension payable to a person
by virtue of her being a widow of a pensioner, be
taken into account as if it had been payable.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977
[165]

No. , 1977.

A BILL

To amend the Transport Employees Retirement Benefits Act, 1967, 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

Transport Employees 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 "Transport Employees Retirement Benefits (Amendment) Act, 1977". Short title.

2. The Transport Employees Retirement Benefits Act, 1967, is amended in the manner set forth in Schedule 1. Amendment of Act No. 96, 1967.

10

SCHEDULE 1.

Sec. 2.

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967.

(1) Section 2—

After the matter relating to Part III, insert :—

15

PART IIIA—AUTOMATIC ADJUSTMENT OF
PENSIONS.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Part IIIA—

5 After Part III, insert :—

PART IIIA.

AUTOMATIC ADJUSTMENT OF PENSIONS.

10 31A. (1) In this Part, except in so far as the Interpretation:
context or subject-matter otherwise indicates or Pt. IIIA.
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;

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

20 “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;

25 “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;

30

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 “pension” means a pension payable under section
 23;

 “pensioner” means a person in receipt of a pension;

 “quarter”, in relation to a year, means—

10 (a) the period commencing on and
 including 1st July in that year and
 ending on and including 30th
 September in that year;

15 (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 in-
 cluding 1st January in that year and
 ending on and including 31st March
 in that year; or

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

 “year” means—

25 (a) the period commencing on and
 including 1st July, 1976, and ending
 on and including 30th June, 1977; or

30 (b) a subsequent period commencing on
 and including 1st July and ending on
 and including the next following 30th
 June.

*Transport Employees Retirement Benefits (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (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—

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

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

31B. (1) For the purposes of the definition of Calculation
“adjustment percentage” in section 31A (1), the ^{of} adjustment
percentage for a year shall be calculated— _{percentage.}

20 (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 :—

25
$$P = \frac{100 (C - L)}{L}$$

30 (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 :—

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

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

where—

- 5 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.

10 (2) Where—

- (a) the percentage calculated for a year in
 accordance with this section is less than 1.0
 per centum; or
15 (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.

20 (3) Where there is deemed to be no adjust-
ment 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
25 (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.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (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—

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

15 (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.

20 (5) Notwithstanding subsection (4), if at any
time after the commencement of this Part the Aus-
tralian 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.

25 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 cases.
30 a person to whom this section applies is hereby adjusted,
on and from that adjustment date, by that percentage.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) This section applies to—

- 5 (a) a person who last became a pensioner on or
before 1st July in the particular year; and
- (b) a person who is the widow of a pensioner,
where that pensioner last became a
10 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
15 section 60A not been enacted.

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
20 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 set out in
subsection (3).

(2) This section applies to—

- 25 (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

SCHEDULE

*Transport Employees Retirement Benefits (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (b) a person who is the widow of a pensioner,
where that 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,

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

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

15
$$A = P \times \frac{Q}{4}$$

where—

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

20 P is the adjustment percentage for the particular
year; and

Q is the number of whole quarters of the particu-
lar year, being whole quarters after, and (if
applicable) the whole quarter on the first day
25 of which—

(a) in the case of a person referred to in sub-
section (2) (a)—the person last became a
pensioner; or

30 (b) in the case of a person referred to in sub-
section (2) (b)—her late pensioner
husband last became a pensioner.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (4) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

31E. Notwithstanding anything in this Part—

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

Minimum amount to which pensions may be reduced.

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

25 31F. (1) Where, by virtue of there being an adjustment percentage for a year, an increased pension is payable to a pensioner or to the widow of a deceased pensioner, the employer in whose service the pensioner or deceased pensioner was employed at the date of his retirement shall pay to the Board at such intervals as may be determined by the Board and on the requisition of the Board, an amount equal to the difference between the amount of the increased pension and the amount of pension that would have been payable had there been no adjustment percentage for that year.

Additional payment by employer.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (2) The provisions of section 29 (3), (4)
and (5) apply to and in respect of any payment
required by subsection (1) to be made to the Board
in the same way as they apply to and in respect of
any payment required by section 29 (2) or (2A) to be
made to the Board.

10 31G. 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 percentages.

- 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.

(3) Section 60A—

20 After section 60, insert:—

25 60A. (1) Notwithstanding anything in this Act,
where a person entitled to receive a pension under
section 23 (including any increase payable under Part
IIIA) would, in the opinion of the Board, thereby be
prejudicially affected in respect of any benefits other-
wise 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 circumstances.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (2) Where the Board, under subsection (1),
reduces the amount of an increase payable under Part
IIIA, 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.

10 (3) A part of a pension that is not paid
because of the Board's determination under subsection
(1) shall, in calculating a pension payable to a person
by virtue of her being a widow of a pensioner, be
taken into account as if it had been payable.

BY AUTHORITY

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

[16c]

PROOF

**TRANSPORT EMPLOYEES RETIREMENT BENEFITS
(AMENDMENT) BILL, 1977**

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 1976-7 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 widow 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 former employer;
 - (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; and
 - (g) to make other provisions of a minor, consequential or ancillary character.
-

ANNUAL REPORT OF THE BOARD OF DIRECTORS
(CONTINUED)

FINANCIAL STATEMENTS

The accompanying financial statements are prepared in accordance with the accounting principles generally accepted in the United States of America. The financial statements are prepared on the basis of the accounting records maintained by the Company and are subject to the usual auditing procedures. The financial statements are prepared on the basis of the accounting records maintained by the Company and are subject to the usual auditing procedures. The financial statements are prepared on the basis of the accounting records maintained by the Company and are subject to the usual auditing procedures.

PROOF

No. , 1977.

A BILL

To amend the Transport Employees Retirement Benefits Act, 1967, 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

Transport Employees 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 "Transport Employees Retirement Benefits (Amendment) Act, 1977".

Short title.

2. The Transport Employees Retirement Benefits Act, 1967, is amended in the manner set forth in Schedule 1.

Amendment of Act No. 96, 1967.

10

SCHEDULE 1.

Sec. 2.

AMENDMENTS TO THE TRANSPORT EMPLOYEES RETIREMENT BENEFITS ACT, 1967.

(1) Section 2—

After the matter relating to Part III, insert :—

15

PART IIIA—AUTOMATIC ADJUSTMENT OF PENSIONS.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Part IIIA—

5 After Part III, insert :—

PART IIIA.

AUTOMATIC ADJUSTMENT OF PENSIONS.

10 31A. (1) In this Part, except in so far as the Interpretation:
context or subject-matter otherwise indicates or Pt. IIIA.
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;

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

20 “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
25 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;

30 “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;

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 “pension” means a pension payable under section
23;

“pensioner” means a person in receipt of a pension;

“quarter”, in relation to a year, means—

10 (a) the period commencing on and
including 1st July in that year and
ending on and including 30th
September in that year;

15 (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 in-
cluding 1st January in that year and
ending on and including 31st March
in that year; or

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

“year” means—

25 (a) the period commencing on and
including 1st July, 1976, and ending
on and including 30th June, 1977; or

30 (b) a subsequent period commencing on
and including 1st July and ending on
and including the next following 30th
June.

*Transport Employees Retirement Benefits (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (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—

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

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

31B. (1) For the purposes of the definition of Calculation of “adjustment percentage” in section 31A (1), the ^{of} adjustment percentage for a year shall be calculated—

20 (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 :—

25
$$P = \frac{100 (C - L)}{L}$$

30 (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 :—

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

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

where—

- 5 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.

- 10 (2) Where—
 (a) the percentage calculated for a year in
 accordance with this section is less than 1.0
 per centum; or
15 (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.

- 20 (3) Where there is deemed to be no adjust-
 ment 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
25 (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.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (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—

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

15 (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.

20 (5) Notwithstanding subsection (4), if at any
time after the commencement of this Part the Aus-
tralian 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.

25 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.
30 person to whom this section applies is hereby adjusted,
on and from that adjustment date, by that percentage.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) This section applies to—

- 5 (a) a person who last became a pensioner on or
before 1st July in the particular year; and
- (b) a person who is the widow of a pensioner,
where that pensioner last became a
10 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
15 section 60A not been enacted.

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
20 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 set out in
subsection (3).

(2) This section applies to—

- 25 (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

SCHEDULE

*Transport Employees Retirement Benefits (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

- 5 (b) a person who is the widow of a pensioner,
where that 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,
10 but does not apply to a person to whom section 31c
applies.

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

15
$$A = P \times \frac{Q}{4}$$

where—

- A is the percentage by which the pension is to be
adjusted;
20 P is the adjustment percentage for the particular
year; and
Q is the number of whole quarters of the particu-
lar year, being whole quarters after, and (if
applicable) the whole quarter on the first day
25 of which—
(a) in the case of a person referred to in sub-
section (2) (a)—the person last became a
pensioner; or
(b) in the case of a person referred to in sub-
30 section (2) (b)—her late pensioner
husband last became a pensioner.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (4) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

31E. Notwithstanding anything in this Part—

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

Minimum amount to which pensions may be reduced.

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

25 31F. (1) Where, by virtue of there being an adjustment percentage for a year, an increased pension is payable to a pensioner or to the widow of a deceased pensioner, the employer in whose service the pensioner or deceased pensioner was employed at the date of his retirement shall pay to the Board at such intervals as may be determined by the Board and on the requisition of the Board, an amount equal to the difference between the amount of the increased pension and the amount of pension that would have been payable had there been no adjustment percentage for that year.

Additional payment by employer.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (2) The provisions of section 29 (3), (4)
and (5) apply to and in respect of any payment
required by subsection (1) to be made to the Board
in the same way as they apply to and in respect of
any payment required by section 29 (2) or (2A) to be
made to the Board.

10 31G. 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
percentages.

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.

(3) Section 60A—

20 After section 60, insert:—

25 60A. (1) Notwithstanding anything in this Act,
where a person entitled to receive a pension under
section 23 (including any increase payable under Part
IIIA) would, in the opinion of the Board, thereby be
prejudicially affected in respect of any benefits other-
wise 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.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

5 (2) Where the Board, under subsection (1),
reduces the amount of an increase payable under Part
IIIA, 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.

10 (3) A part of a pension that is not paid
because of the Board's determination under subsection
(1) shall, in calculating a pension payable to a person
by virtue of her being a widow of a pensioner, be
taken into account as if it had been payable.

BY AUTHORITY

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

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 51, 1977.

An Act to amend the Transport Employees Retirement Benefits Act, 1967, so as to provide for the automatic adjustment of pensions payable under that Act, and in certain other respects. [Assented to, 21st June, 1977.]

BE

Transport Employees 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:—

Short
title.

1. This Act may be cited as the "Transport Employees Retirement Benefits (Amendment) Act, 1977".

Amend-
ment of
Act No. 96,
1967.

2. The Transport Employees Retirement Benefits Act, 1967, is amended in the manner set forth in Schedule 1.

Sec. 2.

SCHEDULE 1.

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967.

(1) Section 2—

After the matter relating to Part III, insert :—

PART IIIA—AUTOMATIC ADJUSTMENT OF
PENSIONS.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Part IIIA—

After Part III, insert :—

PART IIIA.

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. IIIA.

“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;

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

“pension” means a pension payable under section 23;

“pensioner” means a person in receipt of a pension;

“quarter”, in relation to a year, means—

- (a) the period commencing on and including 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, 1976, and ending on and including 30th June, 1977; or
- (b) a subsequent period commencing on and including 1st July and ending on and including the next following 30th June.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Where a pension is to be adjusted under this Part by reference to the adjustment percentage for a year, a reference (however expressed) in this Part to adjusting the pension is a reference to—

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

31B. (1) For the purposes of the definition of Calculation of “adjustment percentage” in section 31A (1), the ^{of} adjustment 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 :—

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

Transport Employees Retirement Benefits (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE TRANSPORT EMPLOYEES
 RETIREMENT BENEFITS ACT, 1967—*continued.*

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 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.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

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

- (a) except as provided in paragraph (b)—the publication of the later Index number shall be disregarded; or
- (b) if the Minister so directs—regard shall, after the direction is given, be had to the later and not to the earlier Index number,

for the purposes of this Part.

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

31c. (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.

Adjustment
of pensions:
general
cases.

Transport Employees Retirement Benefits (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE TRANSPORT EMPLOYEES
 RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) This section applies to—

- (a) a person who last became a pensioner on or before 1st July in the particular year; and
- (b) a person who is the widow of a pensioner, where that pensioner last became a pensioner on or before 1st July in the particular year and died before the adjustment date for that year.

(3) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

Adjustment
of pensions:
partial
adjustment.

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

SCHEDULE

*Transport Employees Retirement Benefits (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

- (b) a person who is the widow of a pensioner, where that 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)—her late pensioner husband last became a pensioner.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(4) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

Minimum amount to which pensions may be reduced.

31E. Notwithstanding anything in this Part—

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

Additional payment by employer.

31F. (1) Where, by virtue of there being an adjustment percentage for a year, an increased pension is payable to a pensioner or to the widow of a deceased pensioner, the employer in whose service the pensioner or deceased pensioner was employed at the date of his retirement shall pay to the Board at such intervals as may be determined by the Board and on the requisition of the Board, an amount equal to the difference between the amount of the increased pension and the amount of pension that would have been payable had there been no adjustment percentage for that year.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) The provisions of section 29 (3), (4) and (5) apply to and in respect of any payment required by subsection (1) to be made to the Board in the same way as they apply to and in respect of any payment required by section 29 (2) or (2A) to be made to the Board.

31G. 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
percentages.

- (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.

(3) Section 60A—

After section 60, insert:—

60A. (1) Notwithstanding anything in this Act, where a person entitled to receive a pension under section 23 (including any increase payable under Part IIIA) 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.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Where the Board, under subsection (1), reduces the amount of an increase payable under Part IIIA, the amount of the increase as determined by the Board shall be payable in respect of such periods or at such times by way of lump sum or otherwise as the Board from time to time determines.

(3) A part of a pension that is not paid because of the Board's determination under subsection (1) shall, in calculating a pension payable to a person by virtue of her being a widow of a pensioner, be taken into account as if it had been payable.

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. 51, 1977.

An Act to amend the Transport Employees Retirement Benefits Act, 1967, so as to provide for the automatic adjustment of pensions payable under that Act, and in certain other respects. [Assented to, 21st 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.

Transport Employees 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:—

Short
title.

1. This Act may be cited as the "Transport Employees Retirement Benefits (Amendment) Act, 1977".

Amend-
ment of
Act No. 96,
1967.

2. The Transport Employees Retirement Benefits Act, 1967, is amended in the manner set forth in Schedule 1.

Sec. 2.

SCHEDULE 1.

**AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967.**

(1) Section 2—

After the matter relating to Part III, insert :—

**PART IIIA—AUTOMATIC ADJUSTMENT OF
PENSIONS.**

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Part IIIA—

After Part III, insert :—

PART IIIA.

AUTOMATIC ADJUSTMENT OF PENSIONS.

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

Interpreta-
tion:
Pt. IIIA.

“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;

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

“pension” means a pension payable under section 23;

“pensioner” means a person in receipt of a pension;

“quarter”, in relation to a year, means—

- (a) the period commencing on and including 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, 1976, and ending on and including 30th June, 1977; or
- (b) a subsequent period commencing on and including 1st July and ending on and including the next following 30th June.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Where a pension is to be adjusted under this Part by reference to the adjustment percentage for a year, a reference (however expressed) in this Part to adjusting the pension is a reference to—

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

31B. (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 :—

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

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

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 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.

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

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

- (a) except as provided in paragraph (b)—the publication of the later Index number shall be disregarded; or
- (b) if the Minister so directs—regard shall, after the direction is given, be had to the later and not to the earlier Index number,

for the purposes of this Part.

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

31c. (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.

Adjustment
of pensions:
general
cases.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) This section applies to—

- (a) a person who last became a pensioner on or before 1st July in the particular year; and
- (b) a person who is the widow of a pensioner, where that pensioner last became a pensioner on or before 1st July in the particular year and died before the adjustment date for that year.

(3) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

Adjustment
of pensions:
partial
adjustment.

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

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

- (b) a person who is the widow of a pensioner, where that 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)—her late pensioner husband last became a pensioner.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(4) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

Minimum
amount
to which
pensions
may be
reduced.

31E. Notwithstanding anything in this Part—

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

Additional
payment
by
employer.

31F. (1) Where, by virtue of there being an adjustment percentage for a year, an increased pension is payable to a pensioner or to the widow of a deceased pensioner, the employer in whose service the pensioner or deceased pensioner was employed at the date of his retirement shall pay to the Board at such intervals as may be determined by the Board and on the requisition of the Board, an amount equal to the difference between the amount of the increased pension and the amount of pension that would have been payable had there been no adjustment percentage for that year.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) The provisions of section 29 (3), (4) and (5) apply to and in respect of any payment required by subsection (1) to be made to the Board in the same way as they apply to and in respect of any payment required by section 29 (2) or (2A) to be made to the Board.

31G. 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 percentages.

- (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.

(3) Section 60A—

After section 60, insert:—

60A. (1) Notwithstanding anything in this Act, where a person entitled to receive a pension under section 23 (including any increase payable under Part IIIA) 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 circumstances.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Where the Board, under subsection (1), reduces the amount of an increase payable under Part IIIA, the amount of the increase as determined by the Board shall be payable in respect of such periods or at such times by way of lump sum or otherwise as the Board from time to time determines.

(3) A part of a pension that is not paid because of the Board's determination under subsection (1) shall, in calculating a pension payable to a person by virtue of her being a widow of a pensioner, be taken into account as if it had been payable.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 21st June, 1977.*