

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1816.

28 Augustus 1981.

No. 1816.

28 August 1981.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 60 van 1981: Tweede Wysigingswet op Spoorweg- en Hawewette, 1981.

No. 60 of 1981: Second Railways and Harbours Acts Amendment Act, 1981.

Act No. 60, 1981

SECOND RAILWAYS AND HARBOURS ACTS
AMENDMENT ACT, 1981

GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend section 1 of the Railways and Harbours Pensions Amendment Act, 1941, so as to amend the definition of "emoluments" and to delete the definition of "wages"; to amend section 16 of the Railways and Harbours Service Act, 1960, so as to amend certain provisions regarding the period of notice on attaining the age limit to or by certain employees; to amend section 23 of the said Act so as to change the designations of the grades "station foreman" and "signalman" to "train control officer"; to amend section 2 of the Railway Board Act, 1962, so as to provide for a contributory pension scheme for Railway Commissioners; to amend section 5 of the said Act so as to provide for certain functions of the Railways and Harbours Board; to amend section 4 of the Railways and Harbours Pensions Act, 1971, so as to authorize the Administration to increase annuities from time to time; to amend section 17 of the said Act so as to provide for an improvement in pension benefits; to amend section 19 of the said Act so as to provide for the rate of interest on loans for housing purposes from the Pension Fund to be calculated on the current rate of interest on the general investment market; to amend section 1 of the Railways and Harbours Pensions for Non-Whites Act, 1974, so as to amend the definition of "paymonth" and to delete the definition of "wages"; to amend section 29 of the Railways and Harbours Acts Amendment Act, 1981, so as to bring the provisions thereof into line with sections 4 and 12 of the said Act; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 18 August 1981.)

BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 26 of 1941, as amended by section 2 of Act 6 of 1965, section 2 of Act 85 of 1971, section 1 of Act 45 of 1974, section 1 of Act 89 of 1976, section 1 of Act 67 of 1980 and section 1 of Act 29 of 1981.

1. Section 1 of the Railways and Harbours Pensions Amendment Act, 1941, is hereby amended—
- (a) by the substitution for the definition of "emoluments" 5
of the following definition:
“(iii) 'emoluments' means, in relation to a person in the service of the Administration, his salary [or wages] paid by the Administration; (ii)”; and
- (b) by the deletion of the definition of "wages". 10

Amendment of section 16 of Act 22 of 1960, as amended by

2. Section 16 of the Railways and Harbours Service Act, 1960 (hereinafter called "the Service Act"), is hereby amended by the substitution for subsection (7) of the following subsection:

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section 3 of
Act 54 of 1964,
section 50 of
Act 6 of 1965,
section 3 of
Act 18 of 1966,
section 2 of
Act 23 of 1967,
section 3 of
Act 41 of 1969,
section 7 of
Act 85 of 1971,
section 2 of
Act 33 of 1972,
section 9 of
Act 47 of 1973,
section 12 of
Act 46 of 1975,
section 12 of
Act 8 of 1976,
section 14 of
Act 64 of 1978
and section 4 of
Act 29 of 1981.

“(7) (a) An employee who has been in continuous employment in a temporary or a permanent capacity from a date prior to the twenty-ninth day of June, 1955, and a transferred employee, shall **[,whether or not he has exercised the election provided for in paragraph (c) of this subsection as it existed immediately prior to the date of commencement of section 3 of the Railways and Harbours Acts Amendment Act, 1964 (Act No. 54 of 1964),]** have the right at any time before or after attaining the age of—

(i) sixty years if, but for the provisions of this subsection, the age of retirement specified in paragraph (a) of subsection (1) would have applied in his case; or

(ii) fifty-five years if, but for the provisions of this subsection, the age of retirement specified in paragraph (c) of subsection (1) would have applied in his case,

to give written notification to the head of his department of his wish to be retired on pension from the Service.

(b) An employee to whom the provisions of paragraph (d) or (e) of subsection (1) apply shall **[,whether or not he has exercised the election provided for in paragraph (c) of this subsection as it existed immediately prior to the date of commencement of section 3 of the Railways and Harbours Acts Amendment Act, 1964,]** have the right at any time before or after attaining the age of fifty years, to give written notification to the head of his department of his wish to be retired on pension from the Service.

(c) If an employee referred to in paragraph (a) or (b) of this subsection gives such notification as aforesaid he shall, subject to the provisions of paragraph (d)—

(i) if such notification is given at least **[six] three** months prior to the date on which he attains the age which, in accordance with either of the said paragraphs, is applicable in his case, regard being had to the position held by him immediately prior to that date (hereinafter referred to as ‘his normal age of retirement’), be retired on pension from the Service on attaining that age: Provided that **[—**

(aa)] if such employee attains his normal age of retirement on any day other than the first day of a month, his retirement shall become effective as from the first day of the following month;

[(bb) in the case of an employee who is due to retire within a period of six months after the first day of April 1969, he shall be retired on the day he attains the particular age applicable in his case;] or

(ii) if such notification is not given at least **[six] three** months prior to the date on which he attains his normal age of retirement, be retired on pension from the Service on the first day of the **[seventh] fourth** month following the month in which such notification is received.

[(d) If an employee referred to in paragraph (a) or (b) of this subsection, who will attain his normal age of retirement within six months from the date of com-

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mencement of section 3 of the Railways and Harbours Acts Amendment Act, 1964, has notified the head of his department in writing, at least one month before he attains that age, of his wish to be retired on pension from the Service, he shall be retired on pension from the Service on attaining that age, and such notification shall not be deemed to be invalid merely because it was given prior to the said date of commencement.]

- (d) If an employee referred to in paragraph (a) or (b) of this subsection has within six months prior to 1 August 1981 given notification in writing of his wish to be retired on pension from the Service after six months, such employee shall be given the option, which he shall exercise in writing on or after 1 August 1981, of either being retired as envisaged in paragraph (c), or being retired after expiration of a shorter period as mutually agreed with the Administration.
- (e) The Administration may, at any time before or after an employee referred to in paragraph (a) or (b) of this subsection has attained his normal age of retirement, give written notification to such employee of its wish that he retire on pension from the Service, and in that event the employee shall—
- (i) if such notification is given at least **[six] three** months prior to the date on which he attains his normal age of retirement, be retired on pension from the Service on attaining that age: Provided that [—
- (aa) if such employee attains his normal age of retirement on any day other than the first day of a month, his retirement shall become effective as from the first day of the following month;
- [(bb) in the case of an employee who is due to retire within a period of six months after the first day of April, 1969, he shall be retired on the day he attains the particular age applicable in his case;] or
- (ii) if such notification is not given at least **[six] three** months prior to the date on which he attains his normal age of retirement, be retired on pension on the first day of the **[seventh] fourth** month following the month in which such notification is given.
- (eA) If six months written notification has been given to an employee referred to in paragraph (a) or (b) of this subsection by the Administration within six months prior to 1 August 1981, the Administration is authorized to reduce the period of notice to a period of less than six months.
- (f) (i) The Administration may delegate to the General Manager and to any other officer or officers of the Administration, subject to such conditions and limitations as may be specified, authority to give on its behalf any such notification as is referred to in **[paragraph] paragraphs (e) and (eA)** of this subsection.
- (ii) A notification given by an employee in terms of paragraph (a) or (b) of this subsection may not be withdrawn except with the consent of the Administration or of an officer referred to in subparagraph (i).
- (g) For the purposes of this subsection, the expression 'transferred employee' means an employee who immediately prior to the twenty-ninth day of June, 1955, was a member of any pension or provident fund

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referred to in section 13 (2) of the Railways and Harbours Pensions Act, 1971 (Act No. 35 of 1971), and who was thereafter, without having ceased to be such a member, transferred to the service of the Administration under circumstances which entitled him, in terms of the said subsection, for pension purposes to reckon the whole period of his pensionable employment in the Service from which he was transferred, as continuous with that of his pensionable employment under the Administration.” 10

Amendment of section 23 of Act 22 of 1960, as amended by section 14 of Act 62 of 1961, section 13 of Act 7 of 1963 and section 54 of Act 6 of 1965, substituted by section 11 of Act 47 of 1973 and section 10 of Act 44 of 1974 and amended by section 13 of Act 46 of 1975 and section 4 of Act 29 of 1981.

3. Section 23 of the Service Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) while in charge of or on duty as a driver or other member of the crew of a locomotive or other engine, or as a conductor or guard, or as station master, [station foreman,] shunter, crossing attendant or [signalman] train control officer, or as a telegraphist or telephonist transmitting or receiving messages in relation to the movement of trains, or as a pilot, crane driver or person in charge of any Government craft or marine engine; or” 15 20

Amendment of section 2 of Act 73 of 1962, as substituted by section 14 of Act 67 of 1980.

4. Section 2 of the Railway Board Act, 1962, is hereby amended by the insertion after subsection (6) of the following subsection:

“(6A) Pension benefits shall be paid to a commissioner at the expiration of his period of appointment or after his removal as contemplated in subsection (4), and such payment shall be calculated in terms of and effected subject to the provisions of the regulations made by the Minister. Such regulations may be amended by the Minister and such amendment shall come into operation from a date to be specified by the Minister.” 25 30

Amendment of section 5 of Act 73 of 1962.

5. Section 5 of the Railway Board Act, 1962, is hereby amended—

(a) by the insertion after subsection (3) of the following subsection: 35

“(3A) The Minister shall nominate one of the members of the board as deputy-chairman of the board.”; 40

and (b) by the substitution for subsection (4) of the following subsection: 40

“(4) The Minister shall preside at every meeting at which he is present. If the Minister is absent from a meeting, the deputy-chairman shall preside at that meeting. If the Minister and the deputy-chairman are absent from a meeting, the members of the board present shall choose one of their number to preside thereat.” 45

Amendment of section 4 of Act 35 of 1971, as amended by section 10 of Act 33 of 1972, section 14 of Act 47 of 1973 and section 16 of Act 29 of 1981.

6. Section 4 of the Railways and Harbours Pensions Act, 1971 (hereinafter called “the Pensions Act”), is hereby amended by the insertion after subsection (6) of the following subsection: 50

“(7) The annuities payable to all annuitants, including widow annuitants, payable from a fund or from revenue or partly from a fund and partly from revenue, but excluding annuities granted under the Railways and Harbours Pensions Amendment Act, 1941 (Act No. 26 of 1941), or under any law relating to workmen's compensation, may be increased by the Administration from time to time. Where 55

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such annuity is payable from a fund the increases shall be paid from such fund. Where such annuity is payable from revenue the increases shall be paid from revenue. Where such annuity is payable partly from a fund and partly from revenue the increases shall be paid proportionately from the fund concerned and from revenue. Where such annuity is being paid from revenue and subsequently becomes payable from a fund, liability for the payment of the increases shall, as from the date the annuity becomes a charge against the fund in question, pass from revenue to such fund. The expression 'a fund' used in this subsection shall mean either the Fund, the New Fund or the 1912 pension fund. Any decision made by the Administration in the exercise of the power vested in it in terms of the provisions of this subsection shall be published by means of a notice addressed by the General Manager to the staff of the Administration generally and by the Secretary by means of notices addressed to each annuitant entitled to an increase in terms of such decision."

Amendment of section 17 of Act 35 of 1971, as substituted by section 14 of Act 33 of 1972 and amended by section 15 of Act 44 of 1974, section 35 of Act 8 of 1976, section 19 of Act 64 of 1978, section 12 of Act 80 of 1979 and section 18 of Act 29 of 1981.

7. Section 17 of the Pensions Act is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

"(4) (a) Whenever membership of the New Fund is dated back, the member shall be required to pay arrear contributions to the New Fund on the following basis:

- (i) For the period of continuous service prior to the first day of the April 1971 paymonth, at the rate prescribed in section 8 of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960), according to his age at the date from which contributions are to be paid, calculated on the pensionable emoluments drawn by him during the period to be covered up to the last day of the March 1971 paymonth;
- (ii) for the period of continuous service from the first day of the April 1971 paymonth up to and including 30 November 1973, at the rate of four per cent of the pensionable emoluments drawn by him during the period to be covered;
- (iii) for the period of continuous service from 1 December 1973 up to and including 30 November 1979, at the rate of six per cent of the pensionable emoluments drawn by him during the period to be covered;
- (iv) for the period of continuous service from 1 December 1979 up to and including 31 March 1981, at the rate of six and three quarters per cent of the pensionable emoluments drawn by him during the period to be covered;
- (v) for the period of continuous service from 1 April 1981, at the rate of seven and a half per cent of the pensionable emoluments drawn by him during the period to be covered;

[(v)] (vi) in addition to the arrear contributions prescribed in subparagraphs (i), (ii), (iii), [and] (iv) and (v), the member shall pay compound interest thereon in respect of any period up to the date or dates when the payments are actually made at the rates applicable to the antedating of pensionable service as determined in the regulations."

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Amendment of section 19 of Act 35 of 1971, as substituted by section 17 of Act 47 of 1973 and section 16 of Act 46 of 1975 and amended by section 36 of Act 8 of 1976.

8. Section 19 of the Pensions Act is hereby amended by the substitution for subsection (3) of the following subsection:
“(3) The Administration may utilize the moneys vested in it in terms of subsection (1) to grant loans to members for any of the purposes contemplated by section 2 (22) of the Railways and Harbours Control and Management (Consolidation) Act, 1957 (Act No. 70 of 1957), under such conditions as to repayment as may be agreed upon by the Administration and the Joint Committee: Provided, however, that interest on money so loaned to a member shall be paid on the last day of every month for the duration of the contract at [a rate that shall not be less than the average rate of interest earned on the funds’ new permanent investments with the Public Debt Commissioners during the financial year preceding the date of conclusion of the contract; and provided further that in the event of no permanent investment having been made with the Public Debt Commissioners in such financial year] the rate of interest [shall be] determined by the Administration and the Joint Committee with due regard to the current rate of interest on the general investment market.”.

Amendment of section 1 of Act 43 of 1974, as amended by section 2 of Act 89 of 1976, section 18 of Act 67 of 1980 and section 19 of Act 29 of 1981.

9. Section 1 of the Railways and Harbours Pensions for Non-Whites Act, 1974, is hereby amended—
(a) by the substitution for the definition of “paymonth” of the following definition:
“(xiii) ‘paymonth’ means the period from the first to the last day of a month or the period from the sixteenth day of a month to the fifteenth day of the next month, as the case may be; (iii)”; and
(b) by the deletion of the definition of “wages”.

Amendment of section 29 of Act 29 of 1981.

10. Section 29 of the Railways and Harbours Acts Amendment Act, 1981, is hereby amended by the substitution for paragraphs (c) and (d) of the following paragraphs:
“(c) sections [4 (1)] 4 (a), 5, 7, 8, 9, 10, 11, [12 (3)] 12 (c), 13, 14, 17 and 20 shall be deemed to have come into operation on 1 August 1980; and
(d) section [12 (1) and (2)] 12 (a) and (b) shall be deemed to have come into operation on 1 February 1981.”.

Application of Act to South West Africa.

11. This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.

Short title and date of commencement.

12. This Act shall be called the Second Railways and Harbours Acts Amendment Act, 1981, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*, except that the provisions of—
(a) section 3 shall be deemed to have come into operation from the February 1981 paymonth;
(b) section 10 shall be deemed to have come into operation on 11 March 1981;
(c) section 1 shall be deemed to have come into operation on 16 March 1981;
(d) section 7 shall be deemed to have come into operation on 1 April 1981;
(e) section 9 shall be deemed to have come into operation from the April 1981 paymonth;
(f) section 2 shall be deemed to have come into operation on 1 August 1981;
(g) sections 4 and 5 shall come into operation on 1 September 1981; and
(h) section 8 shall come into operation on 1 April 1982.