

No. 26, 1941.]

ACT

To provide for annuities and gratuities for certain servants of the Railway Administration on their retirement as such servants, and for gratuities for the dependants of certain deceased former servants of the said Administration.

(Signed by the Governor-General in Afrikaans.)
(Assented to 30th April, 1941.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Interpretation
of terms.

1. (1) Any expression to which a meaning has been assigned in section one of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), bears the same meaning when used in this Act, unless it is clear from the context that a different meaning is intended.

- (2) In this Act the word—
- “emoluments”, in relation to a person who was in the service of the Administration, means—
 - (a) his salary or wages paid by the Administration; and
 - (b) the value of rations supplied to him by the Administration free of charge, if he was entitled thereto under his contract of service; and
 - (c) one-sixth of the sum total of his emoluments under paragraphs (a) and (b), if he was entitled, under his contract of service, to quarters free of rent or to any allowance in lieu of the provision of free quarters;
 - “year” means a period of three hundred and sixty-five days.

Annuity or
gratuity for
certain former
servants of the
Railway
Administration.

2. (1) Any person who—
- (a) was in the service of the Administration at any time after the commencement of this Act; and
 - (b) was in the service of the Administration during a continuous period of five years or longer or intermittently during periods which amount in the aggregate to a period of five years or longer, or was in the service of the Administration and in the service of an old Administration (whether intermittently or continuously) during periods which amount in the aggregate to a period of five years or longer; and
 - (c) was, after the commencement of this Act, retired from the service of the Administration because of his age or because of a reduction or reorganisation of the staff of the Administration or because of bodily injury occasioned without his own default or because of permanent ill health or physical disability in respect of which a railway medical officer has not certified that it was occasioned by the said person's own default; and
 - (d) on the date of such retirement is not a member of, or participant in, any pension or superannuation fund or scheme under any law and is not otherwise qualified for a pension under any law; and
 - (e) has never been eligible for membership of, or participation in, any such fund or scheme (except the pension scheme provided for in the Railways and Harbours Gratuity Act, 1928), or was refused admission to, or participation in, any such fund or scheme, although he was eligible for membership or participation,
- shall be entitled to an annuity or to a gratuity, to be paid from revenue, in accordance with the following provisions of this Act.

(2) Any person who was intermittently in the service of the Administration shall, for the purposes of paragraphs (b) and (c) of sub-section (1) be deemed to have been retired from that service because of a fact mentioned in the said paragraph (c) if, after the termination of his last period of such service, he was not re-employed by the Administration because of any fact mentioned in that paragraph.

Scale of
annuities or
gratuities.

3. If a person mentioned in section *two* has served as aforesaid during a period of—

(a) five years or longer, but less than fifteen years, he shall be entitled to a gratuity equal to the aggregate of his emoluments for the last thirteen weekdays of his service for which he earned full emoluments, in respect of each year of his service ;

(b) fifteen years or longer, but less than twenty-five years, he shall be entitled to an annuity, not exceeding one-half of his average annual emoluments during the last ten years of his service, calculated upon the following scale :

Emoluments on the date immediately preceding the date of retirement :	Amount of annuity :
at a rate of—	

(i) 7s. 6d. or more per day thirty shillings per annum in respect of each year of his service ;

(ii) less than 7s. 6d. per day twenty shillings per annum in respect of each year of his service ;

or, at his request and with the concurrence of the General Manager, to a gratuity equal to one-eighteenth of the said average emoluments in respect of each year of his service ;

(c) twenty-five years or longer, he shall be entitled to an annuity calculated upon the following scale :

Emoluments on the date immediately preceding the date of retirement :	Amount of annuity :
at a rate of—	

(i) 7s. 6d. or more per day forty-five shillings per annum in respect of each year of his service, not exceeding forty years ;

(ii) less than 7s. 6d. per day thirty shillings per annum in respect of each year of his service, not exceeding forty years ;

or to an annuity equal to two-thirds of his average annual emoluments during the last ten years of his service, whichever is the less ; or, at his request and with the concurrence of the General Manager, to a gratuity equal to one-twelfth of such average emoluments in respect of each year of his service, not exceeding forty years,

but subject to the provisions of sub-section (3) of section *four*.

Gratuities for
dependants of
certain deceased
former servants
of the
Administration.

4. (1) If a person has died while he was in the service of the Administration and he would, if he had, on the date of his death, been retired from that service because of any fact mentioned in paragraph (c) of sub-section (1) of section *two* have been entitled to a pension under this Act, the General Manager may, in his discretion, pay such a gratuity as he deems desirable to pay (but not exceeding a sum equal to one quarter of the emoluments which the deceased earned during the last twenty-six weekdays of his service, for which he earned full emoluments in respect of each year of that service), to or for the benefit of any dependant or dependants of the deceased whom the General Manager may indicate, and the General Manager may apportion the gratuity among two or more such dependants in such a manner as he deems equitable and he may pay out the gratuity in such instalments as he deems desirable.

(2) If any person who was intermittently in the service of the Administration died while he was not in such service, he shall, for the purposes of sub-section (1) be deemed to have been in such service at the time of his death, if he would, but for his death or any fact mentioned in paragraph (c) of sub-section (1) of section *two*, probably have been re-employed by the Administration.

(3) If a person who is entitled to a pension under this Act, dies, his right to the pension or any part of the pension which has not yet been paid to him, shall lapse ; but the General Manager may, in his discretion, deal with any dependants of the deceased *mutatis mutandis* in accordance with the provisions of sub-section (1) : Provided that the maximum sum which

the General Manager may pay out to such dependants under sub-section (1) shall be reduced by any part of a gratuity or by the aggregate of all payments of an annuity which the deceased received under this Act prior to his death.

Method of calculating periods of service.

5. (1) In calculating the period of service of any person as a basis for a pension under this Act (whether for himself or for his dependants), all separate periods, reckoned in days, during which that person was in the service of the Administration or of an old Administration shall, subject to the provisions of sub-section (2), be added together, and if the total period of his service amounts to a number of full years and a number of days less than a year, that number of days shall be taken into account as a corresponding fraction of a year.

(2) For the purpose of calculating a pension under this Act any period of service which terminated because of any fact other than a fact mentioned in paragraph (c) of sub-section (1) of section *two*, or any period of service in respect whereof the person concerned received any pension shall not be taken into account.

Application for a pension.

6. (1) An applicant for a pension under this Act shall submit his application in a form and to an officer prescribed by regulations made under section *seven*.

(2) The officer who received the application shall refer it to a local committee established in accordance with regulations made under section *seven*, and the local committee shall examine the application and report thereon to the said officer, who shall transmit the application and report to the General Manager for his decision.

Regulations.

7. The Administration may, subject to the approval of the Governor-General, make regulations not inconsistent with this Act—

- (a) prescribing the form of an application for a pension under this Act and the officer to whom such an application shall be submitted;
- (b) providing for the establishment of local committees to examine and report upon applications for pensions under this Act;
- (c) prescribing the functions of such local committees and the procedure which they shall follow in the performance of those functions.

Pensions cannot be ceded or attached in execution.

8. The provisions of section *twenty-one* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), shall, in so far as they are applicable, apply *mutatis mutandis* in connection with a pension or a right to a pension under this Act.

Repeal of laws.

9. The Railways and Harbours Gratuity Act, 1928 (Act No. 8 of 1928), and the Railways and Harbours Gratuity Amendment Act, 1935 (Act No. 25 of 1935), are hereby repealed: Provided that, if a person who was, before the commencement of this Act, eligible for the grant of a gratuity under the said Act No. 8 of 1928 (as amended by the said Act No. 25 of 1935), but was not granted such a gratuity before the said commencement, has applied, whether before or after the said commencement, for such a gratuity, the said Act No. 8 of 1928 shall continue to apply in connection with him until his application has been disposed of.

Short title.

10. This Act shall be called the Railways and Harbours Pensions Amendment Act, 1941.