

No. 36, 1955.]

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ACT

To provide for the calculation or recalculation of the benefits paid or payable to certain former members or the dependants of certain deceased former members of the several Railways and Harbours pension and superannuation funds, on the basis of amounts in excess of the actual pensionable emoluments of such former members while they were members of the said funds, and for matters incidental thereto.

(Afrikaans Text signed by the Governor-General.)
(Assented to 8th June, 1955.)

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

Definitions.

1. In this Act, unless the context indicates otherwise—

- (i) "actual pensionable emoluments" in relation to any period of pensionable service of a former member or a deceased former member, means the amount on which contributions were payable by the former member or the deceased former member to the fund concerned while he was still a member; (xi)
- (ii) "basic sum" means the actual benefit payable to a dependant of a deceased former member under section *forty-eight* or *forty-nine* of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), or under section *thirty-one* or *thirty-two* or section *fifty quat* or *fifty quin* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), and, in relation to a dependant who is a widow to whom an annuity is payable, includes the capital sum on which such annuity is in terms of any of the said sections required to be based; (ii)
- (iii) "beneficiary" in relation to a former member who has died, means any relative of such former member, referred to in section *fifty* of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), or section *thirty-three* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), whether or not any benefit is actually payable to him under any provision of either of those Acts in respect of the death of the former member concerned; (iii)
- (iv) "deceased former member" means a person who, having been a member of the New Fund or the Fund on or after the twenty-sixth day of July, 1951, or having, as a member of the 1912 pension fund, made the election provided for in sub-section (1) of section *fifty quat* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925)—
 - (a) died prior to the first day of October, 1953, while he was still in the service; or
 - (b) died on or after the first day of October, 1953, but prior to the twenty-third day of April, 1954, while he was still in the Service and without having made the election provided for in sub-section (1) of section *three* of the Railways and Harbours Special Pensions Act, 1953 (Act No. 41 of 1953); or
 - (c) retired or was retired from the Service on an annuity otherwise than under the circumstances mentioned in section *eleven bis* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)—
 - (i) on or before the first day of October, 1953, and thereafter died prior to the date of commencement of this Act; or

- (ii) after the first day of October, 1953, and thereafter died prior to the twenty-third day of April, 1954, without having made the election referred to in paragraph (b) of this definition; (vii)
- (v) "dependant" in relation to a deceased former member, means any person referred to in section *fifty* of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), or section *thirty-three* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), who has been, or becomes entitled to be, awarded a benefit under any provision of either of those Acts in consequence of the death of—
- (a) the deceased former member concerned; or
- (b) any other person referred to in either of the said sections to whom a benefit had been awarded as aforesaid in consequence of the death of the deceased former member concerned; (i)
- (vi) "fixed date" means the first day of April, 1944, or the twenty-sixth day of March, 1944 (whichever was the commencing date of the April, 1944, paymonth in relation to the former member or the deceased former member concerned), or the date upon which the former member's or the deceased former member's membership of the fund concerned commenced, if that date was later than the first day of April, 1944, or the twenty-sixth day of March, 1944, as the case may be; (ix)
- (vii) "former member" means a person who, having been a member on or after the commencement of the April, 1944, paymonth, retired or was retired from the Service on an annuity (otherwise than under the circumstances mentioned in section *eleven bis* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)), on or before the first day of October, 1953, and is alive at the date of commencement of this Act; (x)
- (viii) "fund" means the New Fund, the Fund or the 1912 pension fund, whichever may be applicable; (iv)
- (ix) "member" means a person who was for the time being a servant and a contributor to a fund; (vi)
- (x) "percentage addition" in relation to the pensionable emoluments of a former member or a deceased former member, means a sum equal to twenty-five per cent. of the actual pensionable emoluments of the former member or the deceased former member at any given time while he was still a member; (viii)
- (xi) "principal Act" means the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), or the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), whichever may be applicable; (v)

and any other expression to which a meaning is assigned in section *one* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), shall, when used in this Act, bear the same meaning.

Pensionable emoluments of certain former members of pension funds deemed to have been increased by twenty-five per cent.

2. The pensionable emoluments of every former member and of every deceased former member during the period of his service between the fixed date and the date upon which he ceased to be a member or the thirtieth day of September, 1953 (whichever is the earlier), shall, for the purpose of this Act, but for no other purpose, be deemed to have been an amount equal to his actual pensionable emoluments from time to time over the said period, increased by twenty-five per cent.

How benefits to be calculated or recalculated.

3. (1) Any benefit—

- (a) awarded to a former member, by reason of his retirement, from the fund concerned or in terms of any provision of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925); or
- (b) awarded or to be awarded (whether before or after the commencement of this Act), from the fund concerned to any dependant,

shall, subject to the provisions of sub-section (2), be calculated or recalculated as the case may require, on the basis prescribed in section *two*, and with due regard to the provisions of sub-section (4) of this section.

(2) If notification of the death of any dependant is received by the Administration's Chief Pensions Officer before such dependant's case has been dealt with pursuant to sub-section (1), the calculation or recalculation referred to in that sub-section shall not be made in so far as such deceased dependant is concerned, and if notification of the death of any dependant is so received after his case has been so dealt with but before the posting of the cheque or warrant by means of which payment was to have been made of any additional sum which may have been found to be payable to him by virtue of paragraph (b) of sub-section (5), payment of such additional sum shall lapse and the dependant's estate shall have no claim thereto.

(3) The amount representing the gross increase in the basic sum which results from the calculation or recalculation, in terms of sub-section (1), of any benefit awarded to a dependant, shall not be reduced by reason of the fact that a portion of the gross annuity awarded to the deceased former member concerned was commuted on his retirement.

(4) For the purpose of calculating or recalculating any benefit in accordance with sub-section (1) it shall be assumed that there is due to the fund concerned, in addition to the contributions at the applicable rate on the percentage addition to the pensionable emoluments of the former member or the deceased former member concerned, also interest on such contributions at the rate of four and one-half per cent. per annum, compounded quarterly from the date or dates on which such contributions would have been payable had the percentage addition in fact formed part of his pensionable emoluments during the period mentioned in section *two*, up to and including the thirtieth day of September, 1953.

(5) If the result of the calculation or recalculation of any benefit in accordance with sub-section (1) shows that—

- (a) it would be of no advantage to the former member or the dependant concerned to give effect thereto, this Act shall, in relation to such former member or such dependant, be deemed not to have been passed;
- (b) it would be of advantage to the former member or the dependant concerned to give effect thereto, any additional benefit which results therefrom, shall be paid to the person entitled to receive it, subject to and in accordance with the succeeding provisions of this Act.

How arrear contributions and interest to be recovered.

4. (1) In every case where paragraph (b) of sub-section (5) of section *three* applies, the arrear contributions and interest referred to in sub-section (4) of that section shall be recovered for the benefit of the fund concerned as provided in sub-sections (2) and (3) of this section.

(2) In the case of a former member, the gross additional annuity which results from the recalculation, in accordance with sub-section (1) of section *three*, of the benefit awarded to him upon his retirement shall, notwithstanding anything to the contrary in any law contained, be commuted, in accordance with the Tables set forth in the Schedule to this Act, as to such portion thereof as will yield a lump sum equal to or as little as possible in excess of, the total amount of such contributions and interest, but in any event not in a smaller proportion than that which the portion of the former member's annuity which was commuted upon his retirement, bore to his full annuity, and such lump sum may be applied, so far as need be, towards the payment, to the fund concerned, of such contributions and interest.

(3) In the case of a dependant, the amount representing the gross increase in the basic sum, which results from the calculation or recalculation, in accordance with sub-section (1) of section *three*, of any benefit paid or payable to such dependant, may be applied, so far as need be, towards the payment to the fund concerned, of such contributions and interest.

(4) So much of any lump sum derived from any commutation effected in terms of sub-section (2) as is not applied towards the payment of such contributions and interest shall, subject to the provisions of sub-section (1) of section *six*, be paid to the former member concerned.

(5) The Administration shall contribute to the fund concerned an amount equal to the aggregate of the amounts paid to that fund in terms of sub-sections (2) and (3).

Provision with regard to payment of increased annuities and other benefits.

5. (1) If, by virtue of paragraph (b) of sub-section (5) of section *three*, any additional sum becomes payable by way of annuity—

- (a) to a former member, payment of such additional sum shall be made to him with effect from the first day of October, 1953, subject, however, to the provisions of sub-section (1) of section *six*;
- (b) to the widow of a deceased former member, payment of such additional sum shall be made to her—
 - (i) with effect from the first day of October, 1953, if her husband died prior to that date; or
 - (ii) with effect from the date following that on which his death occurred, if he died on or after the first day of October, 1953.

(2) If under any provision of the principal Act a lump sum was paid to the widow of a deceased former member in lieu of an annuity for the reason that the annuity amounted to less than thirty-six pounds, the net amount by which the basic sum is increased in consequence of the recalculation of the benefit in accordance with sub-section (1) of section *three*, shall be paid to her in a lump sum even if, had the benefit originally been calculated on that basis, an annuity would have been payable.

Disposal of additional benefits accruing to former member who dies, and calculation of benefits to dependants of such former member.

6. (1) (a) If notification of the death of a former member is received by the Administration's Chief Pensions Officer before his case has been dealt with under this Act, and any additional sum is thereafter, upon the recalculation of the benefit awarded to him upon his retirement, found to be payable in terms of sub-section (4) of section *four* or sub-section (1) of section *five*, payment of any sum found to be due in terms of the first-mentioned sub-section, or in terms of the last-mentioned sub-section up to the date of his death, shall not be made to his estate but shall be made to such beneficiary (if any) as is then alive and is entitled to receive any benefit under the principal Act in respect of the death of the former member concerned, or would have been entitled to receive such benefit had it not become exhausted by payments made to the former member during his lifetime: Provided that nothing in this paragraph contained shall be deemed to entitle the estate of any such beneficiary who has died, to claim payment of any such sum that would have been paid to him had he remained alive.

(b) The provisions of paragraph (a) shall also apply where notification of the death of a former member is received as aforesaid after his case has been dealt with under this Act but before the cheque or warrant by means of which payment was to have been made of any sum which may have been found to be payable to him as aforesaid, has been posted.

(2) For the purpose of arriving at the sum payable to a beneficiary in respect of the death of a former member, the gross amount by which his benefit is increased by virtue of the application of this Act shall be reduced—

- (a) in the proportion which the portion of the former member's gross additional annuity which was commuted in terms of sub-section (2) of section *four*, bore to the full gross additional annuity; and
- (b) by any amount referred to in paragraph (a) of sub-section (1) of section *five*, which was disposed of in terms of paragraph (a) or (b) of sub-section (1) of this section.

(3) For the purposes of sub-section (2) the expression "benefit" means the lump sum (whether in the form of a refund of contributions or otherwise) payable to a beneficiary in terms of any provision of the principal Act and, in the case of a beneficiary who is a widow to whom an annuity is payable, means the capital sum on which the calculation of such annuity is in terms of the applicable provision of the principal Act required to be based.

Unclaimed moneys.

7. If any moneys that become payable to any person in terms of paragraph (b) of sub-section (5) of section *three* are not claimed by him within a period of twelve months after the date on which notification of the fact that such moneys have become payable, was despatched to his last known address, such

person's right to claim payment of such moneys shall be extinguished and no further liability with respect thereto shall attach to the Administration or to the fund concerned.

Application of Act to South-West Africa.

8. This Act shall apply to the Territory of South-West Africa.

Short title and date of commencement.

9. This Act shall be called the Railways and Harbours Special Pensions Act, 1955, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

Schedule.

TABLES TO BE APPLIED IN CONNECTION WITH COMMUTATION OF ANNUITIES UNDER SECTION FOUR.

A. Where former member retired on ground of severe bodily injury, permanent ill-health or physical disability, occasioned without own default:

Nearest age at 30th September, 1953.	Number of pounds for each pound of annuity commuted.	
	Male member.	Female member.
Females up to—		
55 years	—	12·96
56 "	—	12·67
57 "	—	12·37
58 "	—	12·07
59 "	—	11·77
60 "	—	11·47
Males up to—		
60 years	10·32	—
Males and females—		
61 years	10·03	11·16
62 "	9·72	10·83
63 "	9·42	10·50
64 "	9·11	10·17
65 "	8·81	9·83
66 "	8·50	9·49
67 "	8·19	9·14
68 "	7·88	8·79
69 "	7·57	8·44
70 "	7·26	8·09

B. Where former member retired on ground of superannuation or retrenchment:

Nearest age at 30th September, 1953.	Number of pounds for each pound of annuity commuted.	
	Male member.	Female member.
Up to—		
30 years	16·39	16·80
31 "	16·26	16·69
32 "	16·13	16·58
33 "	16·00	16·46
34 "	15·86	16·34
35 "	15·72	16·22
36 "	15·57	16·09
37 "	15·42	15·96
38 "	15·26	15·83
39 "	15·10	15·69
40 "	14·93	15·55
41 "	14·75	15·40
42 "	14·57	15·25
43 "	14·38	15·09
44 "	14·18	14·93
45 "	13·97	14·76
46 "	13·76	14·59
47 "	13·54	14·41
48 "	13·31	14·23
49 "	13·07	14·05
50 "	12·82	13·87
51 "	12·57	13·69
52 "	12·32	13·51
53 "	12·07	13·33
54 "	11·82	13·15
55 "	11·57	12·96
56 "	11·32	12·67

Nearest age at 30th September, 1953.	Number of pounds for each pound of annuity commuted.	
	Male member.	Female member.
Up to—		
57 years	11·07	12·37
58 "	10·82	12·07
59 "	10·57	11·77
60 "	10·32	11·47
61 "	10·03	11·16
62 "	9·72	10·83
63 "	9·42	10·50
64 "	9·11	10·17
65 "	8·81	9·83
66 "	8·50	9·49
67 "	8·19	9·14
68 "	7·88	8·79
69 "	7·57	8·44
70 "	7·26	8·09