

No. 49, 1949.]

# ACT

To amend the Railways and Harbours Service Act, 1912, the Railways and Harbours Regulation, Control and Management Act, 1916, the Railways and Harbours Service Act, 1925, and the Railways and Harbours Superannuation Fund Act, 1925; to authorize the issue of certificates of permanent employment to certain persons; and to provide for other incidental matters.

(English Text signed by the Governor-General.)  
(Assented to 1st July, 1949.)

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:—

Amendment of section 52 of Act 28 of 1912, as amended by section 68 of Act 24 of 1925

1. (1) Section *fifty-two* of the Railways and Harbours Service Act, 1912, is hereby amended by the substitution for sub-section (1) of the following new sub-section:

“(1) When the expression ‘continuous employment’ is used in connection with membership of the Fund it shall, in addition to the meaning assigned to the expression in section *two*, include the time spent by the servant in transit from one appointment to another in the Service or from or to the Service when transferred under competent authority from or to the Public Service of the Union or the service of another Administration or Government or, if approved by the Administration, when seconded to the Public Service of the Union or the service of another Administration or Government.”

(2) Sub-section (1) shall be deemed to have come into operation on the first day of January, 1949.

Amendment of section 4 of Act 22 of 1916, as amended by section 17 of Act 45 of 1925, section 3 of Act 31 of 1927, section 3 of Act 21 of 1931, section 38 of Act 41 of 1934 and section 2 of Act 20 of 1942.

2. Section *four* of the Railways and Harbours Regulation, Control and Management Act, 1916, is hereby amended—

(a) by the substitution, for paragraph (6), of the following new paragraph:

“(6) enforcing the observance of, and making effective, any reservation of railway premises or a portion thereof, or of any train or a portion thereof, effected by the Administration in terms of section *seven bis*, including, but without prejudice to the generality of the foregoing—

(a) the definition or description of the marks or inscriptions which, when applied to the outside of any train or portion thereof, shall be deemed to constitute evidence and notice of the reservation of such train or portion thereof for the exclusive use of persons belonging to a particular race or class;

(b) the restriction of persons belonging to a particular race or class for whose exclusive use any railway premises, train or portion thereof has been so reserved, to the use of the premises, train or portion thereof so reserved;”;

(b) by the substitution, for paragraph (22) thereof, of the following new paragraph:

“(22) the discretionary rights and powers which may be exercised by the Administration in relation to—

(a) the admission of the public to, or their exclusion from, any of the railways, docks, wharves, jetties and landing places;

(b) the imposition of charges for such admission; and

(c) the closing to the public of any stations, docks, wharves, jetties, sheds, roads or landing places under its jurisdiction:

Provided that no regulation under this paragraph shall authorize the Administration to interfere with the use, by the public or by any individual,

of any road or thoroughfare within the Administration's jurisdiction which the public or such individual is entitled to use as of right;";

(c) by the insertion, after paragraph (22), of the following new paragraph:

"(22)*bis*. the control and safety of road traffic at railway level crossings; the provision of warning and other devices for that purpose, and the precautions to be taken by the driver of any road vehicle in approaching or passing over any such crossing, including the duty to bring such vehicle to a stop;"

Amendment of section 7 of Act 22 of 1916.

3. Section *seven* of the Railways and Harbours Regulation Control and Management Act, 1916, is hereby amended by the addition thereto of the following new sub-section, the existing section becoming sub-section (1):

"(2) Where by or under any law restrictions are imposed on the right of any person or any class of persons to travel within or to enter any area, the Administration may refuse to carry any such person or any member of any such class of persons within, or from elsewhere to a destination within, any such area, unless he produces proof to the satisfaction of the Administration that he is entitled, in terms of the conditions prescribed by or under such law, to travel within or, as the case may be, to enter the area in question."

Insertion of new section 7*bis* in Act 22 of 1916.

4. The following new section is hereby inserted after section *seven* of the Railways and Harbours Regulation, Control and Management Act, 1916:

"Reserva-  
tion of  
railway  
premises or  
conveyances  
for ex-  
clusive  
use of  
certain  
persons.  
7*bis*. (1) The Administration may, whenever it deems expedient, and in such manner or by such means as it may consider most convenient to inform any person affected thereby of the fact of such reservation—

- (a) reserve any railway premises (including conveniences) or any portion thereof, or any train or any portion of a train for the exclusive use of males or females or persons of particular races, or different classes of persons or natives;
- (b) reserve all or certain trains travelling over a particular route for the exclusive use of persons of particular races or different classes of persons or natives.

(2) For the purposes of this section and of any regulations made under paragraph (6) of section *four*, the expression "train" as defined in section *two*, shall include an aircraft used by the Administration in connection with its air services."

Amendment of section 29 of Act 22 of 1916, and replacement of Third Schedule thereto.

5. (1) Section *twenty-nine* of the Railways and Harbours Regulation, Control and Management Act, 1916, is hereby amended by the substitution, for sub-section (1), of the following sub-section:

"(1) If the Administration is liable to pay compensation in respect of the loss, destruction or deterioration of live animals or birds delivered to it to be transported on a railway, the amount payable as compensation shall be determined on the following basis:

- (a) In the case of loss or destruction, the compensation shall be the market value of the animal or bird in question at the time of its loss or destruction;
- (b) in the case of permanent deterioration, the current market value of the animal or bird in question shall be taken as the basis upon which the amount due as compensation shall be calculated, and in the case of temporary deterioration, the compensation shall be the reasonable cost of restoring the animal or bird to the condition in which it was immediately prior to the deterioration.

The amount of such compensation shall not, however, in any case exceed the amounts mentioned in the Third Schedule to this Act, unless the person sending or delivering

the animals or birds to the Administration caused them to be declared or declared them at the time of their delivery for transport, to be respectively of higher value than the amounts set out in the said Third Schedule.”

(2) The provisions set out in the Schedule to this Act are hereby substituted for the provisions set out in the Third Schedule to the Railways and Harbours Regulation, Control and Management Act, 1916.

(3) Sub-sections (1) and (2) shall apply in connection with any loss, destruction or deterioration which occurred on or after the first day of April, 1949.

Amendment of section 41 of Act 22 of 1916, as amended by section 9 of Act 36 of 1939.

6. Section *forty-one* of the Railways and Harbours Regulation, Control and Management Act, 1916, is hereby amended by the insertion, in sub-section (1), after the word “persons” where it occurs for the first time, of the words “who are Union nationals”.

Amendment of section 57 of Act 22 of 1916, as substituted by section 11 of Act 36 of 1939.

7. Section *fifty-seven* of the Railways and Harbours Regulation, Control and Management Act, 1916, is hereby amended by the addition thereto of the following new sub-section, the existing section becoming sub-section (1):

“(2) Any person who, not being a person appointed under this section, by words, conduct or demeanour pretends that he is a person so appointed, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, or in default of payment to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine.”

Amendment of section 58 of Act 22 of 1916, as substituted by section 39 of Act 41 of 1934 and amended by section 3 of Act 20 of 1942.

8. Section *fifty-eight* of the Railways and Harbours, Regulation, Control and Management Act, 1916, is hereby amended—

(a) by the addition, at the end of sub-section (1), of the following words: “For the purposes of this Chapter, the expression ‘refreshment car’ includes any aircraft used by the Administration in connection with its air services.”;

(b) by the substitution, in paragraph (b) of sub-section (2), for the words “other than a railway junction” of the words “other than a railway junction or an airport under the control of the Administration”;

(c) by the addition thereto of the following new sub-section:

“(4) The Administration may, at any airport under its control, supply to any operator of a passenger air service, intoxicating liquor for consumption on board any aircraft used on such a service while it is in flight.”

Insertion of section 72ter in Act 22 of 1916.

9. The following section is hereby inserted in the Railways and Harbours Regulation, Control and Management Act, 1916, after section *seventy-two bis*:

“Alienation of immovable property under paragraph (r)*bis* of section 3. Approval by Governor-General. 72ter. If the Governor-General has, in general terms, signified his approval of the disposal to servants of the Administration of immovable property vested in the Administration, pursuant to a deed of purchase and sale entered into between the Administration and any such servant under paragraph (r)*bis* of section *three*, such general approval shall, notwithstanding the provisions of the Crown Land Disposal (Execution of Deeds) Act, 1911 (Act No. 2 of 1911), or of any other law, be deemed to be sufficient authority for the disposal, as aforesaid, of any such immovable property to any particular servant, and for the registration, in the proper deeds registry, of the deed of grant relating thereto.”

Issue of certificates of permanent employment to certain apprentices.

10. (1) Notwithstanding anything to the contrary contained in paragraph (a) of sub-section (3) of section *six* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925), but subject otherwise to the provisions of that sub-section, a certificate of permanent employment may be issued to an apprentice in the employment of the Administration whose apprenticeship was interrupted by reason of his having enlisted for full-time military service during the war (as defined in section *one* of the Public Servants (Military Service) Act, 1944) or who was compelled for that reason to defer the commencement of his apprenticeship and who availed himself of the election mentioned in sub-section (5) of section *seven* of that Act: Provided that no such certificate shall be issued to

an apprentice with effect from a date earlier than that on which he would probably have completed his apprenticeship with the Administration had he not so enlisted for full-time military service.

(2) Sub-section (1) shall be deemed to have come into operation on the first day of January, 1949.

Amendment of section 11 of Act 23 of 1925, as amended by section 2 of Act 27 of 1930 and section 5 of Act 15 of 1940.

11. Section *eleven* of the Railways and Harbours Service Act, 1925, is hereby amended by the addition, at the end of paragraph (g), of the following words:

“ In the application of this paragraph, the expression ‘ contributions ’ shall be deemed to include, in the case of a servant holding any position mentioned in paragraph (c) of sub-section (1) of section *fourteen*, any special contributions paid by the Administration on his behalf in terms of paragraph (a) of sub-section (2) of section *eight* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925).”

Amendment of section 12 of Act 23 of 1925, as amended by section 5 of Act 18 of 1938, section 6 of Act 15 of 1940 and section 2 of Act 16 of 1945.

12. Section *twelve* of the Railways and Harbours Service Act, 1925, is hereby amended by the addition thereto of the following sub-section:

“ (3) A female servant whose period of continuous employment in the Service is not less than five years and who, on account of her having married, is regarded as having resigned from the Service, or who voluntarily resigns from the Service in contemplation of marriage and marries within three months thereafter, shall be entitled to payment by the Administration of her emoluments in respect of any period of vacation leave up to a maximum of three months due to her immediately prior to the termination of her employment: Provided that the said maximum period of three months shall be reduced by any vacation leave taken by her during the last thirty days of her service, and if she has, during the twelve months ending upon the day immediately preceding the termination of her employment, been on vacation leave for any period in excess of the leave with which she is credited annually, or for periods which in the aggregate are in excess of the leave with which she is credited annually, the said maximum period shall be reduced by the extent of such excess.”

Substitution of new section for section 14 of Act 23 of 1925, as amended by section 1 of Act 7 of 1928.

13. Section *fourteen* of the Railways and Harbours Service Act, 1925, is hereby repealed and the following section substituted therefor:

“ Retirement of servants on attaining age limit. 14. (1) Save as is provided in sub-section (5) of this section or in any pre-Union pension or superannuation statute, a servant shall be retired from the Service on attaining the age of—

- (a) sixty years; or
- (b) fifty-five years, if for at least five years immediately preceding the attainment of this age he has continuously held the position of—
  - (i) a telegraphist; or
  - (ii) a driver, passed fireman, passed driver's assistant, fireman or driver's assistant of a steam or electric locomotive, or any two or more of such positions; or
- (c) fifty years, if immediately prior to the attainment of this age he held the position of check pilot, senior commander, commander, junior commander, first officer or navigation officer in the airways department of the Service.

(2) A servant who holds any position referred to in paragraph (b) or (c) of sub-section (1), shall not be deemed to have ceased to hold such position during any particular period or at any particular time, by reason of the fact that during that period or at that time he was employed in an acting capacity in another position.

(3) The provisions of paragraph (c) of sub-section (1) shall apply only to a servant who was appointed to any such position as is mentioned in that paragraph, subsequent to the thirtieth day of June, 1946, or to a servant who on that date occupied the position of captain-in-command, first officer or

navigator in the airways department of the Service and who on or before the first day of July, 1948, agreed in writing to the application, to him, of the age of retirement laid down in the said paragraph.

(4) A servant referred to in sub-section (3) may, on attaining the age of forty-five years or at any time thereafter before he attains the age of fifty years, be retired from the Service by the Minister, notwithstanding the provisions of paragraph (c) of sub-section (1), if immediately prior to the date of his retirement by the Minister he held any such position as is mentioned in the said paragraph. Any annuity granted to a person who has been retired in terms of this sub-section shall be paid from revenue until the annuitant concerned attains the age of fifty years and thereafter from the New Railways and Harbours Superannuation Fund constituted under section *three* of the Railways and Harbours Superannuation Fund Act, 1925.

(5) No servant shall, except with the approval of the Minister or other prescribed authority, be retained in the Service beyond the retiring age prescribed in sub-section (1).

(6) A return of all servants who have been retained, in terms of sub-section (5), beyond the retiring age prescribed in sub-section (1), shall be laid upon the Tables of both Houses of Parliament within fourteen days after the commencement of each ordinary session."

Amendment of section 5 of Act 24 of 1925, as amended by section 4 of Act 19 of 1931 and section 3 of Act 23 of 1944.

14. (1) Section *five* of the Railways and Harbours Superannuation Fund Act, 1925 (hereinafter referred to as the principal Act) is hereby amended by the substitution for sub-section (3) of the following new sub-section:

"(3) A servant who is admitted to the New Fund in terms of sub-section (1) of this section and who has had previous continuous employment shall, notwithstanding the provisions of that sub-section, have the option of electing to contribute to that fund in respect of the period of his continuous employment from the date upon which he attained the age of sixteen years. This option shall be exercised within a period of three months from the date on which there is furnished to the servant an official statement setting out the amount of the arrear contributions and interest that will become payable by him to the New Fund should he decide to exercise the said option."

- (2) (a) A member of the New Fund who was admitted to membership thereof between the first day of July, 1931, and the thirty-first day of December, 1948, and who had previous continuous employment prior to the date of such admission, shall have the option of electing to contribute to that fund in respect of the period of his continuous employment from the date upon which he attained the age of sixteen years: Provided that nothing in this sub-section contained shall be deemed to authorize the making of any fresh election by a member who has, prior to the commencement of this Act, made an election in terms of sub-section (3) of section *five* of the principal Act, or sub-section (2) of section *three* of the Railways and Harbours Acts Amendment Act, 1944 (Act No. 23 of 1944), read in conjunction with War Measure No. 5 of 1945 (Proclamation No. 62 of 1945).
- (b) The option provided for in paragraph (a) of this sub-section shall be exercised within a period of three months from the date on which there is furnished to the servant an official statement setting out the amount of the arrear contributions and interest that will become payable by him to the New Fund should he decide to exercise the said option.
- (c) In this sub-section the expression "New Fund" means the New Railways and Harbours Superannuation Fund constituted by section *three* of the principal Act.
- (d) Sub-section (1) of this section shall be deemed to have come into operation on the first day of January, 1949.

Amendment of section 6 of Act 24 of 1925, as amended by section 9 of Act 7 of 1928.

15. (1) Section *six* of the principal Act is hereby amended by the substitution for sub-section (2) of the following new sub-section:

“(2) When the expression ‘continuous employment’ is used in connection with membership of the New Fund, it shall, in addition to the meaning assigned to the expression in section *one*, include the time spent by the servant in transit from one appointment to another in the Service or from or to the Service when transferred under competent authority from or to the Public Service of the Union, or the service of another Administration or Government or, if approved by the Administration, when seconded to the Public Service of the Union or the service of another Administration or Government.”.

(2) Sub-section (1) shall be deemed to have come into operation on the first day of January, 1949.

Substitution of new section for section 8 of Act 24 of 1925, as amended by section 2 of Act 16 of 1932 and section 3 of Act 16 of 1945.

16. (1) Section *eight* of the principal Act is hereby repealed and the following section substituted therefor:

“Rates of contributions by members to the New Fund. 8. (1) Every member who is an officer shall, so long as he remains in the Service, pay to the New Fund a percentage of his pensionable emoluments in accordance with his age at the date from which contributions are payable by him and the rates specified in the following scale:

<i>Age at date from which contributions payable.</i>	<i>Percentage of pensionable emoluments.</i>
Not exceeding 21 years .. .. .	5½
Over 21 but not exceeding 27 years .. .. .	6
Over 27 but not exceeding 33 years .. .. .	6½
Over 33 but not exceeding 39 years .. .. .	7
Over 39 years .. .. .	7½

(2) (a) A member who holds the position of check pilot, senior commander, commander, junior commander, first officer or navigation officer in the airways department of the Service, shall, in addition to the contributions prescribed in sub-section (1), make further contributions (hereinafter referred to as ‘special contributions’) to the New Fund at the rate of four and three-quarters per cent. of his pensionable emoluments in respect of the whole of his continuous pensionable employment: Provided that the Administration shall, on behalf of a member, who, on the thirtieth day of June, 1946, occupied the position of captain-in-command, first officer or navigator in the said department and who on or before the first day of July, 1948, agreed in writing to the application to him, of the age of retirement laid down in paragraph (c) of sub-section (1) of section *fourteen* of the Railways and Harbours Service Act, 1925, pay in respect of the period of his continuous pensionable employment up to the first-mentioned date, the special contributions prescribed in this paragraph, together with interest thereon at the rate of four and one-half per cent., compounded quarterly, calculated to the date of payment, and shall in addition pay to the New Fund a further amount equal to the aggregate of such special contributions and interest.

(b) A servant who has, subsequent to the thirtieth day of June, 1946, been transferred from the Public Service of the Union or from the service of a Provincial Administration or of the mandated territory of South-West Africa to employment under the Administration in the position of check pilot, senior commander, commander, junior commander, first officer or navigation officer or who is hereafter so transferred, and who has been or is permitted in terms of section *forty* or *forty-one* to become a member of the New Fund, shall, notwithstanding

ing anything contained in sub-section (3) of section *forty*, pay to that Fund the special contributions prescribed in paragraph (a) of this sub-section in respect of any period for which he contributed to a superannuation or pension fund of the Public Service, or of a Provincial Administration or of the mandated territory of South-West Africa, as the case may be.

- (c) There shall be paid by a member, in respect of any outstanding special contributions due by him in terms of this sub-section, interest at the rate of four and one-half per cent., compounded quarterly from the date from which any such contributions are due up to the date or dates when the payments on account thereof are actually made.
- (d) (i) If a member by whom the special contributions prescribed in paragraph (a) of this sub-section are payable, is transferred to a post in the Service, other than one in respect of the occupancy of which special contributions are so payable, there shall, notwithstanding anything in this or in any other Act contained, be refunded to him, without interest, an amount equal to the special contributions paid by him.
- (ii) The provisions of sub-paragraph (i) of this paragraph shall *mutatis mutandis* apply to a member who is transferred from the Service to the Public Service of the Union, or to the service of a Provincial Administration or of the mandated territory of South-West Africa.
- (iii) Whenever a refund in terms of sub-paragraph (i) or (ii) of this paragraph is made to a member, there shall be paid to the Administration from the New Fund a sum equal to the special contributions paid to the New Fund by such member in respect of any period of his pensionable employment, together with a sum equal to twice the amount of the special contributions, if any, paid by the Administration on his behalf in terms of this sub-section.

(3) Every member who is an employee shall, so long as he remains in the Service, pay to the New Fund a percentage of his pensionable emoluments in accordance with his age at the date from which contributions are payable by him and the rates specified in the following scale:

<i>Age at date from which contributions payable.</i>	<i>Percentage of pensionable emoluments.</i>
Not exceeding 21 years .. .. .	5
Over 21 but not exceeding 27 years ..	5½
Over 27 but not exceeding 33 years ..	6
Over 33 but not exceeding 39 years ..	6½
Over 39 but not exceeding 45 years ..	7
Over 45 years .. .. .	7½

(4) If a member of the New Fund who is an officer becomes an employee he shall, as from the date such change takes effect, contribute in accordance with the scale which would have been applicable if he had been an employee at the date from which his membership of the New Fund commenced, but no refund of any amounts paid in excess of such scale while the member was an officer shall be made. Any arrear contributions, together with interest (if any), which may be due at the date of the change shall be paid as if no such change had taken place.

(5) If a member of the New Fund who is an employee becomes an officer he shall, as from the date such change takes effect, contribute in

accordance with the scale which would have been applicable if he had been an officer at the date from which his membership of the New Fund commenced, but he shall not, except for such special contributions as may be required in terms of paragraph (a) of sub-section (2), be called upon to pay any difference between the amounts chargeable under the officers' scale and under the employees' scale in respect of the period of his service as an employee. Any arrear contributions, together with interest (if any), which may be due at the date of the change, shall be paid as if no such change had taken place.

(6) The provisions contained in this section shall in no way affect the provisions relating to the payments of arrear contributions and interest elsewhere contained in this Act."

(2) (a) If a member of—

- (i) the New Fund; or
- (ii) the Public Service of the Union; or
- (iii) the service of a Provincial Administration or of the mandated territory of South-West Africa,

who was a service volunteer during the war, lodged an application for appointment to the position of check pilot, senior commander, commander, junior commander, first officer or navigation officer in the airways department of the Service, or to a position corresponding thereto, within six months after his discharge from military service, and such member was appointed to any such position after the thirtieth day of June, 1946, or is hereafter so appointed, there shall be advanced to the New Fund by the Administration, on behalf of such member, the arrear special contributions payable by him to the New Fund in terms of paragraphs (a), (b) and (c) of sub-section (2) of section *eight* of the principal Act, and in addition, the Administration shall pay to the New Fund the interest due on such arrear special contributions. Any sum so advanced by way of arrear special contributions and interest (other than interest due on such special contributions in respect of the period of his pensionable service during which he was a service volunteer) shall be recovered by deduction from the member's salary in such instalments as the Administration may direct.

- (b) If the employment of any such member is terminated for any reason whatsoever before the amount to be recovered from him in terms of paragraph (a) of this sub-section has been fully recovered, the amount still unpaid in respect of arrear special contributions and interest due on such arrear special contributions in respect of the period of his pensionable service other than that during which he was a service volunteer, shall be deducted from any benefit payable to or in respect of him from the New Fund, or from any other moneys due to him from the Administration.
- (c) Whenever a benefit to or in respect of any such member is payable from the New Fund in terms of sub-section (4) of section *sixteen*, section *twenty-three*, sub-section (3) of section *twenty-four*, section *twenty-eight*, *twenty-nine*, *thirty* or, in relation to a deceased member, in terms of sub-section (4) of section *thirty-three* of the principal Act, then in addition to any amounts that may be deductible in terms of paragraph (b) of this sub-section, there shall be deducted from such benefit, and repaid to the Administration, or from any other moneys due to him from the Administration, the amount of the interest paid to the New Fund by the Administration in terms of paragraph (a) of this sub-section on the arrear special contributions that were payable by such member in respect of the period of his pensionable service during which he was a service volunteer.
- (d) For the purposes of this sub-section the expressions "military service", "service volunteer" and "the



war" have the meanings respectively assigned to them in section *one* of the War Pensions Act, 1942 (Act No. 44 of 1942).

(3) The percentages specified under the heading "*Percentage of pensionable emoluments*" in sub-section (1) of section *eight* of the principal Act, as re-enacted by sub-section (1) of this section shall, with effect from the first day of January, 1946, be deemed to have been substituted for those specified in sub-section (1) of the said section *eight* prior to its re-enactment, and the percentages specified under the same heading in sub-section (3) of the said section *eight*, as so re-enacted, shall be deemed to have been substituted for those specified in sub-section (2) of the said section prior to its re-enactment, with effect from the first day of January, 1946, in the case of employees paid on a calendar-month basis, and from the twenty-sixth day of December, 1945, in the case of all other employees.

(4) Any expression to which a meaning has been assigned in section *one* of the principal Act shall, when used in this section, have the same meaning.

Amendment of section 16 of Act 24 of 1925, as amended by section 11 of Act 15 of 1940.

17. Section *sixteen* of the principal Act is hereby amended by the substitution, for sub-section (2), of the following new sub-section:

"(2) (a) A member who has contributed to the New Fund in respect of a period of at least ten years and who, for at least five years immediately preceding his retirement, has continuously held the position of—

(i) a telegraphist; or

(ii) a driver, passed fireman, passed driver's assistant, fireman or driver's assistant of a steam or electric locomotive,

or any two or more of such positions, shall, on or after attaining the age of fifty-five years, have the right to retire on pension, or may be required to retire on pension.

(b) A member who has contributed to the New Fund in respect of a period of at least ten years and who holds the position of check pilot, senior commander, commander, junior commander, first officer or navigation officer in the airways department of the Service shall have the right to retire on pension, or may be required to retire on pension, on or after attaining the age of fifty years, if he was appointed to any such position after the thirtieth day of June, 1946, or if at that date he occupied the position of captain-in-command, first officer or navigator in the said department and on or before the first day of July, 1948, agreed in writing to be retired at that age; Provided that any such member may be required by the Minister to retire on attaining the age of forty-five years or at any time thereafter before he attains the age of fifty years, even if at that time he has not contributed to the New Fund in respect of a period of ten years.

(c) A servant who holds any position referred to in paragraph (a) or (b) of this sub-section shall not be deemed to have ceased to hold such position during any particular period or at any particular time, by reason of the fact that during that period or at that time he was employed in an acting capacity in another position.

(d) Any annuity granted on retirement in terms of the proviso to paragraph (b) shall be paid from revenue until the annuitant attains the age of fifty years."

Amendment of section 18 of Act 24 of 1925.

18. Section *eighteen* of the principal Act is hereby amended by the insertion, in sub-section (1), after the words "one-sixtieth", of the following words :

"or, in the case of a member by whom the special contributions prescribed in paragraph (a) of sub-section (2) of section *eight* are payable, at the rate of one-fiftieth,".

Substitution of new section for section 19 of Act 24 of 1925, as amended by section 2 of Act 7 of 1928 and section 6 of Act 19 of 1931.

19. (1) Section *nineteen* of the principal Act is hereby repealed and the following section substituted therefor:

“Commutation of annuities.

19. (1) An annuity granted to a servant who immediately prior to his retirement was a member of the New Fund and who has retired or has been retired otherwise than on any ground mentioned in sub-section (3) of section *sixteen* shall, before the first payment thereof has been made, be commuted, as to one-fourth thereof, by a single cash payment, in accordance with the following Table:

*Nearest age at date of retirement.*      *Number of pounds for each pound of annuity commuted.*  
Male member.      Female member.

	£	£
Up to 30	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
57	11.07	12.37
58	10.82	12.07
59	10.57	11.77
60 or over	10.32	11.47

(2) The Table set forth in sub-section (1) shall be applied also in connection with the conversion, in terms of section *seventy-four bis*, of a portion of an annuity granted in terms of section *eleven bis* of the Railways and Harbours Service Act, 1925.

(3) An annuity granted to a servant who immediately prior to his retirement was a member of the New Fund and who has been compelled to retire on any ground mentioned in sub-section (3) of section *sixteen* shall, before the first payment thereof has been made, be commuted, as to one-fourth thereof, by a single cash payment, in accordance with the following Table:

*Nearest age at date of retirement.*

*Number of pounds for each pound of annuity commuted.*

	£
Male member: Any age.	10.32
Female member: Up to 55	12.96
56	12.67
57	12.37
58	12.07
59	11.77
60 or over	11.47

(4) If a member of the New Fund is retired on annuity before he reaches the prescribed age of superannuation, and a portion of the annuity is

converted into a single cash payment in terms of this section, no greater sum shall be paid out of revenue than would in the ordinary course have been so paid had a portion of the annuity not been so converted and had the member concerned lived to attain the age as from which the annuity would be paid out of the New Fund.

(5) The provisions of sub-sections (1) and (3) shall not apply to or in respect of an annuity granted in terms of section *eleven bis* of the Railways and Harbours Service Act, 1925."

(2) (a) A servant who, at the date of the commencement of this Act, is a member of the New Fund may, within six months of the said date or within such further period as the Administration may under special circumstances allow, elect in writing to receive on his retirement an annuity only (if he is then entitled to an annuity) and in that case no portion thereof shall, on such member's retirement, be converted into a cash payment, except as provided in section *seventy-four bis* of the principal Act.

(b) The election provided for in this sub-section shall be made prior to the date of the servant's retirement, but the Administration may, if it is satisfied that by reason of circumstances beyond his control the servant had no reasonable opportunity of making his election prior to that date, allow him to make the election within such period after that date as the Administration may specify.

(3) A servant who, at the date of the commencement of this Act, is a member of the New Fund and is due to retire on superannuation within five years from the said date and who will be entitled on such retirement to an annuity may, within six months of the said date or within such further period as the Administration may under special circumstances allow, elect in writing to commute on his retirement, whether on superannuation or otherwise, one-third of such annuity, in accordance with the provisions of section *nineteen* of the principal Act. The provisions of paragraph (b) of sub-section (2) shall apply in respect of the election provided for in this sub-section.

Substitution of new section for section 27 of Act 24 of 1925, as amended by section 3 of Act 7 of 1928.

20. Section *twenty-seven* of the principal Act is hereby repealed and the following section substituted therefor:

"Retirement of members of the New Fund before their contributions cover a period of ten years.

27. If the employment of a servant who is a member of the New Fund is terminated on superannuation (including superannuation in terms of sub-section (4) of section *fourteen* of the Railways and Harbours Service Act, 1925) before his contributions cover a period of ten years, there shall be paid to him from the New Fund a sum equal to twice the amount of his contributions without interest, and thereafter the servant shall have no further claim on the New Fund or on the Administration. In the application of this section the expression 'contributions' shall be deemed to include, in the case of a member holding a position mentioned in paragraph (a) of sub-section (2) of section *eight*, any special contributions paid by the Administration on his behalf, in terms of that sub-section."

Amendment of section 32 of Act 24 of 1925, as amended by section 6 of Act 27 of 1930.

21. Section *thirty-two* of the principal Act is hereby amended by the deletion of the words "of sub-section (2)".

Insertion of section 34ter in Act 24 of 1925.

22. The following section is hereby inserted in the principal Act after section *thirty-four bis*:

“ Refund to Administration of special contributions paid on behalf of members and inclusion of such special contributions in calculation of payments made in certain circumstances to members or dependants.

34ter. (1) Whenever a payment to or in respect of a member is made from the New Fund in terms of sub-section (4) of section *sixteen*, section *twenty-three*, sub-section (3) of section *twenty-four*, section *twenty-eight*, *twenty-nine*, *thirty* or, in relation to a deceased member, in terms of sub-section (4) of section *thirty-three*, there shall be paid to the Administration from the New Fund an amount equal to the special contributions, if any, paid by the Administration on behalf of such member in terms of sub-section (2) of section *eight*.

(2) In the application of sub-section (1) of section *twenty-four*, and sections *twenty-five*, *twenty-six*, *thirty-one* and *thirty-two* the expression ‘ contributions ’ shall be deemed to include, in the case of a member who holds or held a position mentioned in paragraph (a) of sub-section (2) of section *eight*, any special contributions paid by the Administration on his behalf in terms of that sub-section.”

Amendment of section 57 of Act 24 of 1925, as amended by section 3 of Act 16 of 1932 and section 5 of Act 16 of 1945.

23. (1) Section *fifty-seven* of the principal Act is hereby amended by the substitution for the words “ four and three-quarters ” of the words “ five and one-quarter ”.

(2) Sub-section (1) shall be deemed to have come into operation on the first day of January, 1946, in the case of officers and of employees paid on a calendar-month basis, and on the twenty-sixth day of December, 1945, in the case of all other employees.

Substitution of new section for section 72 of Act 24 of 1925, as amended by section 4 of Act 7 of 1928, section 8 of Act 27 of 1930 and section 9 of Act 19 of 1931.

24. (1) Section *seventy-two* of the principal Act is hereby repealed and the following section substituted therefor:

“ Commutation of annuities.

72. (1) An annuity granted to a servant who immediately prior to his retirement was a member of the Fund or of the 1912 pension fund and who has retired or has been retired otherwise than by reason of severe bodily injury or permanent ill-health or physical disability shall, before the first payment thereof has been made, be commuted as to one-fourth thereof by a single cash payment, in accordance with the following Table:

Nearest age at date of retirement.	Number of pounds for each pound of annuity commuted.	
	Male member.	Female member.
	£	£
Up to 30	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	12·77
57	11·07	12·57
58	10·82	12·37
59	10·57	12·17
60 or over	10·32	11·97

(2) The Table set forth in sub-section (1) shall be applied also in connection with the conversion, in terms of section *seventy-four bis*, of a portion of an annuity granted in terms of section *eleven bis* of the Railways and Harbours Service Act, 1925.

(3) An annuity granted to a servant who immediately prior to his retirement was a member of the Fund or of the 1912 pension fund and who has been compelled to retire by reason of severe bodily injury or permanent ill-health or physical disability shall, before the first payment thereof has been made, be commuted as to one-fourth thereof by a single cash payment, in accordance with the following Table:

<i>Nearest age at date of retire- ment.</i>	<i>Number of pounds for each pound of annuity commuted.</i>	£
Male member: Any age.		10·32
Female member: Up to 55		12·96
	56	12·67
	57	12·37
	58	12·07
	59	11·77
	60 or over	11·47

(4) If a member of the Fund or of the 1912 pension fund is retired on annuity before he reaches the prescribed age of superannuation, and a portion of the annuity is converted into a single cash payment in terms of this section, no greater sum shall be paid out of revenue than would in the ordinary course have been so paid had a portion of the annuity not been so converted and had the member concerned lived to attain the age as from which the annuity would be paid out of the Fund or the 1912 pension fund, as the case may be.

(5) The amount payable on the death of a person who has been awarded from the Fund or the 1912 pension fund an annuity of which a portion was commuted under the provisions of this section, shall be an amount equal to any refund of contributions or other benefits which would have been payable had the said person died immediately after the granting of such annuity and no portion of the annuity had been commuted, reduced by an amount which bears the same ratio to the commuted portion of the annuity as the amount that would have been payable as a refund of contributions or other benefits as aforesaid, bears to the full annuity, and reduced further by the sum of any payments actually made in respect of that portion of the annuity that was not commuted.

(6) The provisions of sub-sections (1) and (3) shall not apply to or in respect of an annuity granted in terms of section *eleven bis* of the Railways and Harbours Service Act, 1925."

- (2) (a) A servant who at the date of the commencement of this Act is a member of the Fund or of the 1912 pension fund may, within six months of the said date or within such further period as the Administration may under special circumstances allow elect in writing to receive on his retirement an annuity only, in which event no portion thereof shall, on such member's retirement, be converted into a cash payment except as provided in section *seventy-four bis* of the principal Act.
- (b) The election provided for in this sub-section shall be made prior to the date of the servant's retirement, but the Administration may, if it is satisfied that by reason of circumstances beyond his control the servant had no reasonable opportunity of making his election prior to that date, allow him to make the election within such period after that date as the Administration may specify.

(3) A servant who, at the date of the commencement of this Act, is a member of the Fund or the 1912 pension fund and is due to retire on superannuation within five years from the said date may, within six months of the said date or within such further period as the Administration may under special circumstances allow, elect in writing to commute on his retirement, whether on superannuation or otherwise, one-third of such annuity, in accordance with the provisions of section *seventy-two* of the principal Act. The provisions of paragraph (b) of sub-section (2) shall apply in respect of the election provided for in this sub-section.

Validation of certain changes in conditions of employment.

25. All changes in conditions of employment prescribed by regulation which were, prior to the commencement of this Act, brought into operation with retrospective effect, or in respect of which amended regulations were not approved by the Governor-General until after the expiration of the period of three months mentioned in sub-section (4) of section *thirty-one* of the Railways and Harbours Service Act, 1925, are hereby validated with effect from the dates as from which such changes were respectively brought into operation.

Application of this Act to South-West Africa and date of commencement.

26. This Act shall apply to the territory of South-West Africa and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

Short title.

27. This Act shall be called the Railways and Harbours Acts Amendment Act, 1949.

#### Schedule.

	£	s.	d.	
Horses, mules and cattle .. .. .	40	0	0	per head
Pigs .. .. .	20	0	0	" "
Ostriches .. .. .	12	0	0	" "
Donkeys .. .. .	8	0	0	" "
Sheep and goats .. .. .	3	0	0	" "
Dogs and cats .. .. .	2	0	0	" "
Turkeys and geese .. .. .	1	10	0	" "
Fowls and other poultry .. .. .	1	0	0	" "
Birds, not otherwise specified .. .. .	10	0	0	" "