

No. 62, 1961.]

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ACT

To amend the Railways and Harbours Service Act, 1912; the Railways and Harbours Special Pensions Act, 1953; the Railways and Harbours Control and Management (Consolidation) Act, 1957; the Railways and Harbours Service Act, 1960; the Railways and Harbours Superannuation Fund Act, 1960, and the Level Crossings Act, 1960; to validate certain changes in conditions of employment; and to provide for certain incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 28th June, 1961.)

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

Definitions.

1. Unless the context indicates otherwise, any expression to which a meaning is assigned in section *one* of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960), shall, when used in this Act, bear the meaning so assigned to it.

Amendment of Section 39 of Act 28 of 1912, as amended by section 2 of Act 44 of 1959.

2. Section *thirty-nine* of the Railways and Harbours Service Act, 1912, is hereby amended—

(a) by the deletion of the words "increased by ten per cent.," and of the words "increased as aforesaid, of";

(b) by the addition thereto of the following new sub-sections, the existing section becoming sub-section (1):

"(2) In assessing the annual average of a member's pensionable emoluments, in terms of sub-section (1), for the purpose of the award to him of an annuity from the Fund or under section *eleven* or *thirteen* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), the member's pensionable emoluments for the period of his service in respect of which contributions have been paid by him or on his behalf—

(i) up to and including the date immediately preceding the fixed date, shall be deemed to be increased by ten per cent.;

(ii) from and after the fixed date, shall be deemed to be not less than the amount obtained by increasing, by ten per cent., the emoluments on which he was contributing immediately prior to the fixed date.

(3) For the purpose of sub-section (2), 'fixed date' means—

(a) the first day of April, 1961, in the case of a member who was, on the immediately preceding date, an officer, or an employee paid on a calendar month basis; or

(b) the sixteenth day of March, 1961, in the case of a member who was, on the immediately preceding date, an employee other than one referred to in paragraph (a)."

Amendment of section 48 of Act 28 of 1912, as substituted by section 2 of Act 15 of 1956, and as amended by section 3 of Act 44 of 1959.

3. (1) Section *forty-eight* of the Railways and Harbours Service Act, 1912, is hereby amended—

(a) by the substitution, for sub-section (3), of the following sub-section:

"(3) (a) There shall be ascertained which of the sums respectively mentioned in sub-paragraph (i) or (ii) is the greater, namely—

(i) an amount arrived at by adding to twice the annual average of the deceased member's pensionable emoluments for the last seven years of his service, an amount equal to ten per cent. of such annual average in respect of each complete year in respect of which he contributed: Provided that for the purpose of ascertaining such annual average, the pensionable emoluments on which the deceased

member contributed in respect of his service up to and including the fixed date shall be deemed to be increased by ten per cent., and that his pensionable emoluments in respect of his service after the fixed date shall be deemed to be not less than the amount obtained by increasing, by ten per cent., the pensionable emoluments on which he was contributing on the fixed date; or

- (ii) an amount arrived at by adding to twice the amount of the deceased member's contributions (or, in the case of a member who died as a result of severe bodily injury sustained without his own default whilst in the discharge of his duties, twice the amount of his contributions plus interest at the rate of four per cent. per annum) an amount equal to ten per cent. of twice the amount of the deceased member's contributions (augmented by interest as aforesaid where the case so requires) in respect of his service up to and including the fixed date: Provided that it shall be assumed for the purpose of this sub-paragraph that the pensionable emoluments on which the deceased member contributed in respect of his service after the fixed date were not less than the amount obtained by increasing, by ten per cent., the pensionable emoluments on which he was contributing on the fixed date.

(b) For the purposes of this sub-section, 'fixed date' means—

- (i) the thirty-first day of March, 1961, in the case of a deceased member who on that date was an officer, or an employee paid on a calendar month basis; or
- (ii) the fifteenth day of March, 1961, in the case of a deceased member who on that date was an employee other than one referred to in sub-paragraph (i).";

(b) by the substitution, in sub-section (4), for the words "The sum which is in terms of sub-section (3) found to be the greater shall be increased by adding thereto an amount equal to ten per cent. of that sum, and of such increased sum" of the words "Of the sum which is in terms of sub-section (3) found to be the greater".

(2) Sub-sections (3) and (4) of section *forty-eight* of the Railways and Harbours Service Act, 1912, as substituted, and as amended, respectively, by sub-section (1) of this section, shall apply—

(a) in respect of every member of the Fund who died or dies on or after—

- (i) the first day of April, 1961, and who on the date of his death was an officer, or an employee paid on a calendar month basis; or
- (ii) the sixteenth day of March, 1961, and who on the date of his death was an employee other than one referred to in sub-paragraph (i);

(b) in relation to the death of every pensioner of the Fund who ceased to be a member on or after—

- (i) the second day of April, 1961, if on the day immediately preceding the date of his retirement he was an officer, or an employee paid on a calendar month basis; or
- (ii) the seventeenth day of March, 1961, if on the day immediately preceding the date of his retirement he was an employee other than one referred to in sub-paragraph (i).

(3) The provisions of sub-sections (3) and (4) of section *forty-eight* of the Railways and Harbours Service Act, 1912, as amended by section *three* of the Railways and Harbours Acts Amendment Act, 1959 (Act No. 44 of 1959), shall continue to apply, for the purposes of sub-section (2) of section *forty-nine*

of the first-mentioned Act, in relation to the death of every pensioner of the Fund who was a member on or after the first day of March, 1956, but ceased to be a member before—

- (a) the first day of April, 1961, if on the day immediately preceding the date of his retirement he was an officer, or an employee paid on a calendar month basis; or
- (b) the sixteenth day of March, 1961, if on the day immediately preceding the date of his retirement he was an employee other than one referred to in paragraph (a),

and whose death occurred or occurs on or after the thirty-first day of March, 1959.

Substitution of new section for section 69 of Act 28 of 1912.

4. (1) The following section is hereby substituted for section *sixty-nine* of the Railways and Harbours Service Act, 1912:

“Keeping of accounts of new funds. 69. The accounts of the new pension fund and the new widows’ pension fund shall be kept by the Chief Accountant of the Administration. These accounts shall show separately all the receipts and payments in respect of—

- (a) annuitants of the first-mentioned fund; and
- (b) members or annuitants of the last-mentioned fund.”

(2) Sub-section (1) shall be deemed to have come into operation on the first day of April, 1961.

Repeal of section 2 of Act 41 of 1953, as substituted by section 1 of Act 22 of 1956.

5. (1) Section *two* of the Railways and Harbours Special Pensions Act, 1953, is hereby repealed with effect from the fixed date, but subject to the provisions of sub-section (2).

(2) Notwithstanding the repeal of the said section *two*, the pensionable emoluments on which a person who was a member immediately prior to the fixed date shall contribute to the fund concerned, shall not be less than those on which he was contributing immediately prior to the fixed date, and for the purpose of the calculation of any benefit payable to such member, or to some other person in respect of his death, from the fund concerned or under section *eleven* or *thirteen* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), his pensionable emoluments in respect of any period of his service prior to the fixed date shall be deemed to include the amount by which they were enhanced by virtue of the said section *two*.

(3) For the purposes of this section—

“fixed date” means—

- (a) in relation to an officer, or an employee paid on a calendar month basis, the first day of April, 1961;
- (b) in relation to any other employee, the sixteenth day of March, 1961;

“member” means a member of the New Fund or of the Fund.

Amendment of section 1 of Act 70 of 1957.

6. Section *one* of the Railways and Harbours Control and Management (Consolidation) Act, 1957, is hereby amended by the substitution for the definition of the expression “Administration”, of the following definition:

“‘Administration’ means the Railway Administration according to the meaning assigned to that expression by section *two* of the Railway Board Act, 1916 (Act No. 17 of 1916);”.

Amendment of section 3 of Act 70 of 1957, as amended by section 43 of Act 30 of 1959, section 37 of Act 44 of 1959 and section 2 of Act 2 of 1960.

7. Section *three* of the Railways and Harbours Control and Management (Consolidation) Act, 1957, is hereby amended—

- (a) by the substitution in paragraph (j) of sub-section (1), for the words “any law relating to merchant shipping” of the words “the Merchant Shipping Act, 1951 (Act No. 57 of 1951);”;
- (b) by the substitution for paragraph (w)*bis* of sub-section (1), of the following paragraph:

“(w)*bis*. The regulation and control of road traffic on railway premises and at the harbours, including but without limiting the generality of the foregoing—

- (i) the prohibition of the driving of any vehicle in a dangerous, reckless or negligent manner, or by any person who is under the influence of intoxicating liquor or narcotic drugs;

- (ii) the restriction of the speed at which vehicles may be driven;
- (iii) the stopping and parking of vehicles; the levying of charges in respect of the parking of vehicles; the installation of parking-meters for the collection of such charges, and the regulation, supervision, maintenance and control of such meters; the demarcation of parking places for use in conjunction with such meters; the creation of a rebuttable presumption that the period of time for which a vehicle may be lawfully parked in any such parking place is the period as measured by the parking-meter for that place, and that where a vehicle has been driven or parked in contravention of the regulations, the owner of such vehicle (who shall, in the case of a motor vehicle, be deemed to be the person in whose name the vehicle is registered) is the person who was driving or had charge of the vehicle at the time when the contravention occurred;”.

Amendment of section 35 of Act 70 of 1957.

8. Section *thirty-five* of the Railways and Harbours Control and Management (Consolidation) Act, 1957, is hereby amended by the substitution for paragraph (c) of the following paragraph: “(c) is in a state of intoxication, or behaves in a violent or offensive manner, to the annoyance of others on the railways;”.

Amendment of section 42 of Act 70 of 1957.

9. Section *forty-two* of the Railways and Harbours Control and Management (Consolidation) Act, 1957, is hereby amended by the substitution for sub-section (1) of the following sub-section:

“(1) All property and rights relating to the Simonstown harbour which were vested in the Governor-General by sub-section (1) of section *forty-two* of the Railways and Harbours Regulation, Control and Management Act, 1916 (Act No. 22 of 1916) shall remain so vested, subject to such liabilities, if any, to which the said property or rights may lawfully be subject.”

Amendment of section 75 of Act 70 of 1957.

10. Section *seventy-five* of the Railways and Harbours Control and Management (Consolidation) Act, 1957, is hereby amended by the insertion, in the proviso to sub-section (1), after the words “shall not” of the words “where the person concerned is still in the Service,” and by the substitution for the words “month in” of the words “date upon”.

Amendment of section 1 of Act 22 of 1960.

11. Section *one* of the Railways and Harbours Service Act, 1960, is hereby amended by the substitution for the definition of the expression “Administration”, of the following definition: “‘Administration’ means the Railway Administration according to the meaning assigned to that expression by section *two* of the Railway Board Act, 1916 (Act No. 17 of 1916);”.

Insertion of new section in Act 22 of 1960.

12. The following new section is hereby inserted in the Railways and Harbours Service Act, 1960, after section *three*:

“Recovery from salary or wages of servants, of increments irregularly granted. 3bis. (1) Whenever any increment within the limits of the scale of salary or wages applicable to his grade has been granted to a servant at a time when or under circumstances whereunder, in terms of the conditions governing his employment, it ought not to have been granted to him, and the officer by whom such increment was authorized acted in good faith and without knowledge that he was exceeding his authority in that regard, the Administration shall, notwithstanding anything in section *three* contained, and notwithstanding that the servant concerned did not know that a mistake had occurred, have the right to adjust the salary or wage of such servant to the correct notch and to recover from him, subject to the provisions of sub-section (2)—

- (a) if he is still in the Service, by deduction from his salary or wages in such instalments as the Administration may determine; or

- (b) if he is no longer in the Service, by deduction from any moneys owing to him by the Administration, or by action in any competent court, or partly in the first-mentioned and partly in the last-mentioned manner,

the whole (or such portion thereof as the Administration may in its discretion determine) of the amount by which the servant has been overpaid in consequence of the irregular granting of such increment, including such portion of any allowance or other remuneration calculated upon his basic salary or wages as would not have been paid to him had such increment not been granted.

(2) Nothing contained in sub-section (1) shall be deemed to—

- (a) entitle the Administration to recover from the servant or former servant concerned any amount which was paid to him more than one year prior to the date upon which the erroneous granting of such increment was officially brought to notice; or
- (b) entitle the Administration to waive, in respect of a person who is still in the Service, its right to recover, in accordance with that sub-section, any amount which was overpaid during the twelve months immediately preceding the aforementioned date; or
- (c) affect any right which the Administration may have at common law or under any statute to recover any amount by which a servant has been overpaid under circumstances other than those referred to in the said sub-section including any case where the servant was aware of the overpayment.

(3) The Administration may delegate to the General Manager and to any other officer or officers the power to determine what portion of any amount overpaid is to be recovered from a servant or former servant in terms of sub-section (1)."

Amendment of
section 13 of
Act 22 of 1960.

13. (1) Section *thirteen* of the Railways and Harbours Service Act, 1960, is hereby amended—

- (a) by the substitution, for paragraph (c) of sub-section (4), of the following paragraph:

"(c) There shall be ascertained which of the sums respectively mentioned in sub-paragraph (i) or (ii) of this paragraph is the greater, namely—

- (i) an amount arrived at by adding to the annual average of the deceased person's pensionable emoluments for the seven years immediately preceding the date of his dismissal or resignation, as the case may be, an amount equal to five per cent. of such annual average in respect of each complete year in respect of which he contributed: Provided that for the purpose of ascertaining such annual average, the pensionable emoluments on which the deceased person contributed in respect of his service up to and including the fixed date shall be deemed to be increased by ten per cent., and that his pensionable emoluments in respect of his service after the fixed date shall be deemed to be not less than the amount obtained by increasing, by ten per cent., the pensionable emoluments on which he was contributing on the fixed date; or
- (ii) the total amount of the contributions paid by or on behalf of the deceased person to either fund mentioned in sub-section (1): Provided that in the case of a deceased person who was a member of either of those funds

on the fixed date, it shall be assumed that the said contributions were enhanced by the addition thereto of an amount equal to ten per cent. of the deceased person's contributions in respect of his service up to and including the fixed date, and that the pensionable emoluments on which such deceased person contributed in respect of his service after the fixed date, were not less than the amount arrived at by increasing, by ten per cent., the pensionable emoluments on which he was contributing on the fixed date.

The sum which is thus found to be the greater (hereinafter in this section referred to as the 'basic sum') shall be utilised to provide the widow with an annuity, which shall be calculated by multiplying each one hundred pounds, or fraction thereof, of the basic sum by the appropriate factor appearing in the Table as set forth in sub-section (4) of section *thirty* of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960), which factor shall be taken to be the one applicable to the widow's age at the date of her deceased husband's dismissal or resignation, as the case may be, or the age of sixteen years, whichever is the higher:

Provided that—

- (1) if any portion of the deceased person's annuity was commuted under section *seventy-four bis* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), or under section *fifty-eight* of the Railways and Harbours Superannuation Fund Act, 1960, the basic sum shall, for the purpose of calculating the widow's annuity, be deemed to be reduced in the proportion which the commuted portion of the annuity bears to the full annuity;
- (2) if the annuity granted to the deceased person was less than one-half of the annuity which he could have claimed upon the date of his dismissal or resignation, if his services had upon that date been dispensed with in consequence of a reduction in or reorganisation of staff (hereinafter referred to as 'the reorganisation annuity') the amount referred to in sub-paragraph (i) of this paragraph shall, for the purpose of determining the basic sum, be deemed to be reduced in the same proportion as the annuity actually awarded bears to one-half of the reorganisation annuity.";

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

"(c)*bis* For the purpose of paragraph (c) 'fixed date' means—

- (i) in relation to an officer, or an employee paid on a calendar month basis, the thirty-first day of March, 1961; or
- (ii) in relation to an employee other than one referred to in sub-paragraph (i), the fifteenth day of March, 1961."

(c) by the substitution, for paragraph (a) of sub-section (6), of the following paragraph:

"(a) Sub-section (4), as originally enacted, shall apply in relation to the death of every person to whom an annuity was granted under sub-section (1) of this section or under sub-section (1) of section *eleven bis* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925), whose dismissal or resignation took effect after the first day of March, 1956, but on or before the thirty-first day of March, 1961 (in the case of an officer or of an employee paid on a calendar month basis)

or on or before the fifteenth day of March, 1961 (in the case of any other employee) and whose death occurred or occurs on or after the thirty-first day of March, 1959."

(2) Sub-section (4) of section *thirteen* of the Railways and Harbours Service Act, 1960, as amended by sub-section (1) of this section, shall apply in relation to the death of every person to whom an annuity was granted in terms of sub-section (1) of that section and whose dismissal or resignation took effect on or after—

- (a) the first day of April, 1961, in the case of an officer, or of an employee paid on a calendar month basis; or
- (b) the sixteenth day of March, 1961, in the case of any other employee.

Amendment of section 23 of Act 22 of 1960.

14. Section *twenty-three* of the Railways and Harbours Service Act, 1960, is hereby amended by the substitution in paragraph (a) for the word "serving" of the words "on duty".

Amendment of section 1 of Act 39 of 1960.

15. Section *one* of the Railways and Harbours Superannuation Fund Act, 1960, is hereby amended by the substitution for the definition of the expression "Administration" of the following definition:

"'Administration' means the Railway Administration according to the meaning assigned to that expression by section *two* of the Railway Board Act, 1916 (Act No. 17 of 1916);".

Amendment of section 8 of Act 39 of 1960.

16. (1) Section *eight* of the Railways and Harbours Superannuation Fund Act, 1960, is hereby amended—

- (a) by the substitution, for the Table set forth in sub-section (1) thereof, of the following Table:

Age at date from which contributions payable.	Percentage of pensionable emoluments.	
	Male members.	Female members.
Not exceeding 21 years	8.00	6.25
Over 21 but not exceeding 27 years	8.50	6.75
Over 27 but not exceeding 33 years	9.00	7.25
Over 33 but not exceeding 39 years	9.50	7.75
Over 39 years	10.00	8.25"

- (b) by the substitution, for paragraph (a) of sub-section (2), of the following paragraph:

"(a) (i) A member employed in the airways department of the Service to whom the provisions of paragraph (d) of sub-section (1) of section *sixteen* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), apply 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 three and one-half per cent. of his pensionable emoluments.

- (ii) If a member is transferred from another position in the Service to a position in the airways department wherein the provisions of paragraph (d) of sub-section (1) of the said section *sixteen* apply to him, he shall pay to the New Fund, over and above the contributions prescribed in sub-section (1), special contributions at the rate of four and three-quarters per cent. of his pensionable emoluments in respect of the period of his continuous pensionable employment up to and including the thirty-first day of March, 1960, and at the rate of three and one-half per cent. of his pensionable emoluments in respect of the period thereafter.";

- (c) by the substitution, in paragraph (b) of sub-section (2), for the words "prescribed in paragraph (a) of this sub-section in respect of any period for which he contributed to a pension or provident fund constituted for the service from which he was transferred" of the words "referred to in paragraph (a) of this sub-section at the rate of four and three-quarters per cent.

of his pensionable emoluments in respect of the period from the commencing date of his membership of any pension or provident fund constituted for the service from which he was transferred, up to and including the thirty-first day of March, 1960, and at the rate of three and one-half per cent. of his pensionable emoluments in respect of the period thereafter.”

- (d) by the substitution for the Table set forth in sub-section (4) thereof, of the following Table:

Age at date from which contributions payable.	Percentage of pensionable emoluments.	
	Male members.	Female members.
Not exceeding 21 years	7.50	5.75
Over 21 but not exceeding 27 years	8.00	6.25
Over 27 but not exceeding 33 years	8.50	6.75
Over 33 but not exceeding 39 years	9.00	7.25
Over 39 but not exceeding 45 years	9.50	7.75
Over 45 years	10.00	8.25”.

(2) Paragraphs (a) and (d) of sub-section (1) shall be deemed to have come into operation on the first day of April, 1961, in the case of officers, and of employees paid on a calendar month basis, and on the sixteenth day of March, 1961, in the case of all other employees, and paragraphs (b) and (c) of sub-section (1) shall be deemed to have come into operation on the first day of April, 1960.

Amendment of section 17 of Act 39 of 1960.

17. (1) Section *seventeen* of the Railways and Harbours Superannuation Fund Act, 1960, is hereby amended—

- (a) by the deletion, in sub-section (1), of the words “increased by ten per cent.,” wherever they occur;
- (b) by the insertion after sub-section (1) of the following new sub-sections:

“(1)*bis* In assessing the annual average of a member’s pensionable emoluments, in terms of sub-section (1), for the purpose of the award to him of an annuity from the New Fund or under section *eleven* or *thirteen* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), the member’s pensionable emoluments for the period of his service in respect of which contributions have been paid by him or on his behalf—

- (i) up to and including the date immediately preceding the fixed date, shall be deemed to be increased by ten per cent;
- (ii) from and after the fixed date, shall be deemed to be not less than the amount obtained by increasing, by ten per cent., the emoluments on which he was contributing immediately prior to the fixed date.

(1)*ter* For the purposes of sub-section (1)*bis*, ‘fixed date’ means—

- (a) the first day of April, 1961, in the case of a member who was, on the immediately preceding date, an officer, or an employee paid on a calendar month basis; or
- (b) the sixteenth day of March, 1961, in the case of a member who was, on the immediately preceding date, an employee other than one referred to in paragraph (a).”

(2) Sub-section (1) shall be deemed to have come into operation on the first day of April, 1961, in the case of officers, and of employees paid on a calendar month basis, and on the sixteenth day of March, 1961, in the case of all other employees.

Substitution of new section for section 27 of Act 39 of 1960.

18. The following section is hereby substituted for section *twenty-seven* of the Railways and Harbours Superannuation Fund Act, 1960:

“Dismissal, or resignation in order to avoid dismissal, of members of New Fund. 27. If a member of the New Fund—

- (a) is dismissed or ordered to resign from the Service on account of a disciplinary infringement, or is deemed to have been dismissed in terms of paragraph (a) of sub-section (4) of section *nineteen* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960); or
- (b) resigns from the Service in order to avoid dismissal or in anticipation of a charge alleging a disciplinary infringement being laid against him,

he shall, subject to the provisions of section *twenty-nine bis*, be refunded the amount of his contributions to the New Fund without any interest thereon, and thereafter such member shall have no further claim upon the New Fund or upon the Administration.”.

Insertion of new section in Act 39 of 1960.

19. The following new section is hereby inserted in the Railways and Harbours Superannuation Fund Act, 1960, after section *twenty-nine*:

“Recovery of certain debts due to Administration, from benefits payable to members on their dismissal or retirement.

29bis. (1) If a member of the New Fund—

(a) is dismissed or ordered to resign from the Service on account of fraud or dishonesty, or is deemed to have been dismissed in terms of paragraph (a) of sub-section (4) of section *nineteen* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), where the offence in respect of which he was convicted involves fraud or dishonesty; or

(b) resigns or absconds from the Service in order to avoid dismissal on account of fraud or dishonesty, or in anticipation of a disciplinary or a criminal charge involving fraud or dishonesty being laid against him; or

(c) leaves the Service for any reason, or dies, before any loan or advance (other than a loan referred to in section *fifty-eight*) which had been made to him at his specific request by the Administration or from the Benevolent Fund referred to in section *thirty-four* of the said Railways and Harbours Service Act, 1960, has been repaid in full,

the Administration shall have the right to recover from any benefit payable from the New Fund to such former member or his estate or to some other person in respect of his death, the amount of any loss, as determined by the Administration, which it may have sustained by reason of such fraud or dishonesty, or the unpaid balance of such loan or advance, as the case may be: Provided that the onus of proving that a member resigned or absconded for any reason mentioned in paragraph (b), shall rest on the Administration.

(2) For the purpose of sub-section (1) the expression ‘benefit’ shall be deemed to include, in relation to a deceased member, the capital sum on which the calculation of any annuity payable to his widow is required to be based.”.

Amendment of section 30 of Act 39 of 1960.

20. (1) Section *thirty* of the Railways and Harbours Superannuation Fund Act, 1960, is hereby amended—

(a) by the substitution, for sub-section (3), of the following sub-section:

“(3) There shall be ascertained which of the sums respectively mentioned in paragraph (a) or (b) of this sub-section is the greater, namely—

(a) (i) in the case of a deceased member who had contributed to the New Fund in respect of a period of one year or longer: an amount arrived at by adding to twice the annual average of such member’s pensionable emoluments for the last seven years of his service, or for the actual period in respect of which he contributed if that period was less than seven years, an amount equal to ten per cent. of such annual average in respect of each complete year in respect of which he contributed; or

(ii) in the case of a deceased member who had contributed to the New Fund in respect of a period of less than one year: an amount equal to twice such member’s pensionable emoluments during the whole of the period of his membership and on which he contributed in respect of that period:

Provided that for the purposes of this paragraph it shall be assumed that the pensionable emoluments on which the deceased member con-

tributed in respect of his service up to and including the fixed date were increased by ten per cent., and that his pensionable emoluments in respect of his service after the fixed date were not less than the amount obtained by increasing, by ten per cent., the pensionable emoluments on which he was contributing on the fixed date; or

- (b) twice the amount of the deceased member's contributions or, in the case of a deceased member who died as a result of severe bodily injury sustained without his own default whilst in the discharge of his duties, twice the amount of his contributions plus two and one-half per cent. of twice the amount of his contributions, in respect of each complete year in respect of which he contributed: Provided that in the case of a deceased member who was a member on the fixed date, it shall be assumed that the applicable sum hereinbefore in this paragraph mentioned, were enhanced by the addition thereto of an amount equal to ten per cent. of twice the amount of the deceased member's contributions (augmented by two and one-half per cent., as aforementioned, where the case so requires) in respect of his service up to and including the fixed date, and that the pensionable emoluments on which such deceased member contributed in respect of his service after the fixed date, were not less than the amount arrived at by increasing, by ten per cent., the pensionable emoluments on which he was contributing on the fixed date.

- (c) For the purposes of this sub-section 'fixed date' means—

- (i) the thirty-first day of March, 1961, in the case of a deceased member who on that date was an officer, or an employee paid on a calendar month basis; or
- (ii) the fifteenth day of March, 1961, in the case of a deceased member who on that date was an employee other than one referred to in sub-paragraph (i).";

- (b) by the substitution, in sub-section (4), for the words "The sum which is in terms of sub-section (3) found to be the greater shall be increased by adding thereto an amount equal to ten per cent. of such sum, and of such increased sum" of the words "Of the sum which is in terms of sub-section (3) found to be the greater".

(2) Sub-sections (3) and (4) of section *thirty* of the Railways and Harbours Superannuation Fund Act, 1960, as substituted, and as amended, respectively, by sub-section (1) of this section, shall apply—

- (a) in respect of every member of the New Fund who died or dies on or after—
- (i) the first day of April, 1961, and who on the date of his death was an officer, or an employee paid on a calendar month basis; or
- (ii) the sixteenth day of March, 1961, and who on the date of his death was an employee other than one referred to in sub-paragraph (i);

or, for the purpose of sub-section (2) of section *thirty-one* of the said Act—

- (b) in relation to the death of every annuitant of the New Fund who ceased to be a member on or after—
- (i) the second day of April, 1961, if on the day immediately preceding the date of his retirement he was an officer, or an employee paid on a calendar month basis; or
- (ii) the seventeenth day of March, 1961, if on the day immediately preceding the date of his retirement he was an employee other than one referred to in sub-paragraph (i).

(3) The provisions of sub-sections (3) and (4) of section *thirty* of the Railways and Harbours Superannuation Fund Act, 1960, as originally enacted, shall for the purpose of sub-section (2) of section *thirty-one* of that Act continue to apply in relation to the death of every annuitant who was a member of the New Fund on or after the first day of March, 1956, but ceased to be a member on or before—

- (a) the first day of April, 1961, if on the day immediately preceding the date of his retirement he was an officer, or an employee paid on a calendar month basis; or
- (b) the sixteenth day of March, 1961, if on the day immediately preceding the date of his retirement he was an employee other than one referred to in paragraph (a),

and whose death occurred or occurs on or after the thirty-first day of March, 1959.

Amendment of section 55 of Act 39 of 1960.

21. (1) Section *fifty-five* of the Railways and Harbours Superannuation Fund Act, 1960, is hereby amended by the substitution for the words "eight and one-half" of the words "seven and three-quarters".

(2) Sub-section (1) shall be deemed to have come into operation on the first day of April, 1961, in the case of officers, and of employees paid on a calendar month basis, and on the sixteenth day of March, 1961, in the case of all other employees.

Amendment of section 6 of Act 41 of 1960.

22. Section *six* of the Level Crossings Act, 1960, is hereby amended—

- (a) by the substitution, for the expression "local authority" wherever it occurs in that part of sub-section (1) preceding paragraph (a), of the expression "divisional council";
- (b) by the substitution, in sub-section (2), for the words "for the elimination of a level crossing situated within the area of such local authority but not on a public road for the cost of maintenance whereof the provincial administration is wholly or partly responsible by law, or to which it contributes," of the words "other than a divisional council for the elimination of a level crossing situated on a public road within the area of such local authority,".

Amendment of section 7 of Act 41 of 1960.

23. Section *seven* of the Level Crossings Act, 1960, is hereby amended—

- (a) by the substitution, for sub-section (2), of the following sub-section:

„(2) Whenever in terms of any agreement between the Administration and a provincial administration or a local authority with respect to the elimination of a level crossing, the parties have agreed to add to the length or the width of any structure to be built in connection with such elimination, in order to provide for anticipated future rail or road traffic requirements not falling within the reasonable area of normal engineering planning, the parties shall state in such agreement what portion of the total cost of the work of elimination is attributable to such addition in length or width, as the case may be, and the amount so stated shall be excluded from the total cost of such work for the purpose of determining whether the percentage of the cost which the Administration has, in terms of such agreement, undertaken to bear, does or does not exceed the amount which may be defrayed from the Fund in accordance with the applicable provision of section *six*.”;

- (b) by the insertion, in sub-section (3), after the words "addition to" of the words "the length or" and by the deletion of the words "paragraph (b) of".

Validation of certain changes in conditions of employment.

24. All changes in conditions of employment for which provision is made in any regulation published under any Government Notice mentioned in the Schedule to this Act, and which were brought into operation with retrospective effect or in respect whereof the amending 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 (Act No. 23 of 1925) or in sub-section (3) of section *thirty-two* of the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960), are hereby validated with effect from the dates as from which such changes were respectively brought into operation.

Application of Act to South-West Africa. 25. This Act, other than sections *twenty-two* and *twenty-three*, shall apply to the Territory of South-West Africa.

Short Title. 26. This Act shall be called the Railways and Harbours Acts Amendment Act, 1961.

Schedule.

<i>No. of Government Notice.</i>			<i>Date of Publication.</i>
538	..	..	17.4.1959.
1705	..	..	23.10.1959.
1706	..	..	23.10.1959.
1707	..	..	23.10.1959.
1708	..	..	23.10.1959.
1709	..	..	23.10.1959.
1722	..	..	23.10.1959.
1723	..	..	23.10.1959.
1726	..	..	23.10.1959.
163	..	..	5.2.1960.
1328	..	..	2.9.1960.
1703	..	..	21.10.1960.
R.1849	..	..	18.11.1960.
R. 188	..	..	3.2.1961.