

No. 63, 1951.]

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

## ACT

To amend the Railways and Harbours Service Act, 1912, the Railways and Harbours Regulation, Control and Management Act, 1916, the South-West Africa Railways and Harbours Act, 1922, the Railways and Harbours Service Act, 1925, the Railways and Harbours Superannuation Fund Act, 1925, the Railways and Harbours Construction Act, 1931, and the Railways and Harbours Acts Amendment Act, 1949; to repeal the South Western Railway Company, Limited, Act, 1904 (Cape of Good Hope); and to provide for other incidental matters.

(Afrikaans text signed by the Governor-General.)  
(Assented to 27th June, 1951.)

**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:—

Repeal of Act 16 of 1904 (Cape of Good Hope).

1. The South Western Railway Company, Limited, Act, 1904, is hereby repealed.

Amendment of section 2 of Act 28 of 1912, as amended by section 1 of Act 15 of 1940.

2. Section *two* of the Railways and Harbours Service Act, 1912, is hereby amended by the addition, at the end of the definition of the expression "annuity", of the words "or of the widow of a deceased member or annuitant;"

Substitution of new section for section 48 of Act 28 of 1912.

3. (1) Section *forty-eight* of the Railways and Harbours Service Act, 1912, is hereby repealed and the following new section substituted therefor:

"Death resulting from injuries or otherwise before superannuation. 48. (1) Upon the death of a member there shall be paid to the beneficiary (if any) specified in or under section *fifty*, and subject to the provisions of that section, such benefit as is hereinafter in this section provided for in relation to the particular class of beneficiary concerned.

(2) (a) If such beneficiary is the deceased member's widow there shall, subject to the provisions of paragraph (c) of this sub-section, be paid to her an annuity calculated in accordance with the provisions of paragraph (b) of this sub-section.

(b) The said annuity shall be based on a sum equal to either—

(i) twice the annual average of the deceased member's pensionable emoluments for the last seven years of his service, plus five per cent. of such annual average in respect of each complete year in respect of which he contributed; or

(ii) twice the amount of the deceased member's contributions, or, in the case of a member who has 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,

whichever is the greater. The said sum is hereinafter in this section and in section *forty-nine* referred to as the 'basic sum', and the annuity shall be calculated by multiplying each one hundred pounds or fraction thereof, of the basic sum by the appropriate factor set forth in the following Table:

TABLE OF FACTORS BY WHICH EACH £100, OR FRACTION THEREOF, OF THE BASIC SUM SHALL BE MULTIPLIED TO ASCERTAIN THE AMOUNT OF THE ANNUITY PAYABLE.

<i>Widow's age (last birthday) at date of husband's death.</i>		<i>Factor.</i>	<i>Widow's age (last birthday) at date of husband's death.</i>		<i>Factor.</i>
		£			£
16	..	4.97	50	..	6.20
17	..	4.99	51	..	6.28
18	..	5.01	52	..	6.36
19	..	5.03	53	..	6.44
			54	..	6.53
20	..	5.06			
21	..	5.08	55	..	6.62
22	..	5.10	56	..	6.72
23	..	5.12	57	..	6.82
24	..	5.15	58	..	6.92
			59	..	7.03
25	..	5.18			
26	..	5.20	60	..	7.15
27	..	5.22	61	..	7.27
28	..	5.24	62	..	7.40
29	..	5.27	63	..	7.53
			64	..	7.67
30	..	5.30			
31	..	5.33	65	..	7.82
32	..	5.36	66	..	7.97
33	..	5.39	67	..	8.13
34	..	5.42	68	..	8.29
			69	..	8.46
35	..	5.45			
36	..	5.48	70	..	8.64
37	..	5.52	71	..	8.82
38	..	5.56	72	..	9.01
39	..	5.60	73	..	9.20
			74	..	9.40
40	..	5.64			
41	..	5.68	75	..	9.60
42	..	5.72	76	..	9.80
43	..	5.77	77	..	10.01
44	..	5.82	78	..	10.22
			79	..	10.43
45	..	5.88			
46	..	5.94	80	..	10.64
47	..	6.00			
48	..	6.06			
49	..	6.13			

(c) If an annuity calculated in accordance with paragraph (b) of this sub-section amounts to less than thirty-six pounds, the basic sum shall be paid to the widow in lieu of an annuity.

(d) Upon the death of a widow to whom an annuity is payable in accordance with this sub-section, there shall be paid to such other relative of the deceased member as may in terms of section *fifty* be entitled to receive it, the balance (if any) remaining after deducting from the basic sum the aggregate of the amounts received by the widow by way of annuity, and if there is no such other relative, there shall be paid to the person lawfully administering the estate of the deceased widow the balance (if any) remaining after deducting from the total amount of the deceased member's contributions the aggregate of the amounts received by the widow by way of annuity.

(3) If the beneficiary referred to in sub-section (1) is a person other than the deceased member's widow, there shall be paid to him a sum equal to the basic sum."

(2) Section *forty-eight* of the Railways and Harbours Service Act, 1912, as substituted by sub-section (1), shall apply in respect of every member of the Fund whose death occurs on or after the date of commencement of this Act.

Substitution of new section for section 49 of Act 28 of 1912, as amended by section 66 of Act 24 of 1925 and section 10 of Act 27 of 1930.

4. (1) Section *forty-nine* of the Railways and Harbours Service Act, 1912, is, subject to sub-section (2), hereby repealed and the following new section substituted therefor:

“Death of members after retirement on annuity.

49. (1) Upon the death of a person who is in receipt of an annuity (other than an annuity granted under section *eleven bis* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)), in respect of his contributions to the Fund, there shall be paid to the beneficiary (if any) specified in or under section *fifty*, and subject to the provisions of that section, such benefit as is hereinafter in this section provided for in relation to the particular class of beneficiary concerned.

(2) (a) If such beneficiary is the deceased annuitant's widow there shall, subject to the provisions of paragraph (b) of this sub-section, be paid to her an annuity calculated in accordance with the provisions of paragraph (b) of sub-section (2) of section *forty-eight*: Provided that if any part of the deceased annuitant's annuity was commuted under the provisions of section *seventy-two* or *seventy-four bis* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), the basic sum shall, for the purpose of calculating the annuity to the widow, be deemed to be reduced in the proportion which the commuted portion of his annuity bears to the full annuity: Provided further that for the purpose aforesaid the basic sum shall be deemed to be further reduced by the aggregate of the amounts received by the deceased annuitant by way of annuity.

(b) If an annuity calculated in accordance with paragraph (a) of this sub-section amounts to less than thirty-six pounds, the capital sum which in terms of that paragraph is required to be taken as the basis for such calculation, shall be paid to the widow in lieu of an annuity.

(c) Upon the death of a widow to whom an annuity is payable in accordance with this sub-section, there shall be paid to such other relative of the deceased annuitant as may in terms of section *fifty* be entitled to receive it, the balance (if any) remaining after deducting from the capital sum mentioned in paragraph (b) of this sub-section, the aggregate of the amounts received by the widow by way of annuity, and if there is no such other relative, there shall be paid to the person lawfully administering the estate of the deceased widow, the balance (if any) remaining after deducting from the total amount of the contributions paid by the deceased annuitant while he was a member, the aggregate of the amounts received by the deceased annuitant and the deceased widow, respectively, by way of annuity: Provided that if any part of the annuity of the deceased annuitant was commuted, such contributions shall be deemed to be reduced in the proportion which the commuted portion of the annuity bears to the full annuity.

(3) If the beneficiary referred to in sub-section (1) is a person other than the deceased annuitant's widow, there shall be paid to him a sum equal to the capital sum referred to in paragraph (b) of sub-section (2).”

(2) Section *forty-nine* of the Railways and Harbours Service Act, 1912, as substituted by sub-section (1), shall apply in relation to the death of every such annuitant as is referred to

in sub-section (1) of that section, who was a member of the Fund on the date of commencement of this Act, and the said section *forty-nine*, as it existed prior to the said date, shall continue to apply in relation to the death of any other annuitant of the Fund as if this Act had not been passed.

Amendment of section 3 of Act 22 of 1916, as amended by section 1 of Act 32 of 1920, section 2 of Act 31 of 1927, section 1 of Act 40 of 1930, section 2 of Act 21 of 1931, section 2 of Act 18 of 1938, section 2 of Act 36 of 1939, section 1 of Act 20 of 1942 and section 1 of Act 16 of 1944.

5. (1) Section *three* of the Railways and Harbours Regulation, Control and Management Act, 1916, is hereby amended—

- (i) by the deletion, in paragraph (a), of the word "lease", and by the insertion, after the word "engage", of the words "and to lease any such property for any purposes,";
- (ii) by the deletion, in paragraph (j), of the words "or for road traffic conducted by the Administration" and the substitution therefor of the words "and airports under the control of the Administration or for road, air or marine traffic conducted by the Administration,".

Insertion of new section 73 in Act 22 of 1916.

6. The following new section is hereby inserted in the Railways and Harbours Regulation, Control and Management Act, 1916, after section *seventy-two ter*, the existing section *seventy-three* being designated section *seventy-four*:

"Adminis-  
tration may  
waive its  
right to  
recover  
certain  
debts.

73. (1) Whenever any servant or former servant of the Administration has, in the ordinary course of, or arising out of, his employment with the Administration—

- (a) received payment, whether in money or in kind, from the Administration in excess of what was legally due to him in terms of any law or any agreement, express or implied, governing his employment; or
- (b) become indebted to the Administration (otherwise than under the circumstances mentioned in paragraph (a)) by virtue of any agreement, express or implied, with regard to any matter affecting or incidental to his employment, and through some error or omission on the part of the Administration or its servants, was not required to discharge or satisfy such indebtedness at the time when it arose,

the Administration may, if it is satisfied that—

- (i) the servant or former servant concerned acted in good faith and without knowledge that he was not entitled to receive such payment, or that he was indebted to the Administration as aforesaid; and
- (ii) the case is one where the servant or former servant concerned should on equitable grounds be granted some relief,

waive its right to recover the whole or any portion of the amount overpaid or outstanding, as the case may be, notwithstanding that such amount may be legally recoverable from the person concerned: Provided that the Administration shall not waive its rights under this sub-section in respect of any amount which was overpaid during, or which became due in respect of, the twelve months immediately preceding the month in which the overpayment or the omission to discharge or satisfy the indebtedness, as the case may be, is officially brought to notice.

(2) Any reference to the Administration in paragraphs (a) and (b) of sub-section (1), shall be deemed to include a reference to any Superannuation or Sick Fund controlled by the Administration.

(3) The Administration may, on such conditions as it may deem fit, delegate to the General Manager

and to one or more other officers of the Administration, authority to exercise on its behalf the powers conferred upon it by this section.”.

Amendment of section 5 of Act 20 of 1922.

7. (1) Section *five* of the South-West Africa Railways and Harbours Act, 1922, is hereby amended by the insertion after the word “railways” where it occurs for the first time, of the words “(including road motor services)”.

(2) Sub-section (1) shall be deemed to have come into operation on the first day of April, 1928.

Amendment of section 1 of Act 23 of 1925, as amended by section 4 of Act 15 of 1940.

8. Section *one* of the Railways and Harbours Service Act, 1925, is hereby amended by the addition, at the end of the definition of the expression “annuity”, of the words “or of the widow of a deceased servant or annuitant;”.

Amendment of section 4 of Act 23 of 1925.

9. (1) Section *four* of the Railways and Harbours Service Act, 1925, is hereby amended by the substitution, for sub-section (2), of the following new sub-section:

“(2) A person may be employed in a casual capacity, or for a fixed period, without medical examination or other formality, and notwithstanding the generality of any other provision of this Act, the employment of any such person shall be regulated exclusively by such conditions as may be agreed upon at the time of his employment or, to the extent to which such conditions have not been expressly agreed upon, by such conditions as may from time to time be laid down or made by the Administration in respect of the particular class of servant, engaged under the provisions of this sub-section, to which such person belongs.”.

(2) All servants engaged under the provisions of sub-section (2) of section *four* of the Railways and Harbours Service Act, 1925, prior to the commencement of this Act, shall be deemed to have been engaged under the provisions of the said sub-section, as substituted by sub-section (1) of this section.

Amendment of section 11*bis* of Act 23 of 1925, as inserted by section 4 of Act 18 of 1938.

10. (1) Section *eleven bis* of the Railways and Harbours Service Act, 1925, is, subject to sub-section (2), hereby amended by the substitution, for sub-section (4), of the following sub-section:

“(4) (a) Upon the death of a person to whom an annuity has been granted under sub-section (1), there shall be paid to the beneficiary (if any) specified in or under section *thirty-three* of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), and subject to the provisions of that section, such benefit as is hereinafter in this sub-section provided for in relation to the particular class of beneficiary concerned.

(b) If such beneficiary is the deceased annuitant’s widow there shall, subject to the provisions of paragraph (d) of this sub-section, be paid to her an annuity calculated in accordance with the provisions of paragraph (c) of this sub-section.

(c) The said annuity shall be based on a sum equal to either—

(i) 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, plus two and one-half per cent. of such annual average in respect of each complete year in respect of which he contributed; or

(ii) the total amount of the contributions paid by the deceased person to any fund mentioned in sub-section (1),

whichever is the greater, reduced in the proportion which any portion of his annuity which may have been commuted under section *seventy-four bis* of the Railways and Harbours Superannuation Fund Act, 1925, bears to the full annuity awarded, and reduced further by the aggregate of the amounts received by the deceased annuitant by way of annuity. The sum on which the annuity to the widow is in terms of the foregoing provisions of this paragraph required to be

based, is hereinafter in this sub-section referred to as the 'basic sum', and the said annuity shall be calculated by multiplying each one hundred pounds, or fraction thereof, of the basic sum by the appropriate factor appearing in the Table set forth in sub-section (3) of section *thirty-one* of the Railways and Harbours Superannuation Fund Act, 1925: Provided that 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 reorganization of staff (hereinafter referred to as 'the reorganization 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 reorganization annuity.

- (d) If an annuity calculated in accordance with paragraph (c) of this sub-section amounts to less than thirty-six pounds, the basic sum shall be paid to the widow in lieu of an annuity.
- (e) Upon the death of a widow to whom an annuity is payable in accordance with this sub-section, there shall be paid to such other relative of the deceased annuitant as may in terms of section *thirty-three* of the Railways and Harbours Superannuation Fund Act, 1925, be entitled to receive it, the balance (if any) remaining after deducting from the basic sum, the aggregate of the amounts received by the widow by way of annuity, and if there is no such other relative, there shall be paid to the person lawfully administering the estate of the deceased widow, the balance (if any) remaining after deducting from the total amount of the contributions paid by the deceased annuitant to any fund mentioned in sub-section (1), the aggregate of the amounts received by the deceased annuitant and the deceased widow, respectively, by way of annuity: Provided that if any part of the annuity of the deceased annuitant was commuted, such contributions shall be deemed to be reduced in the proportion which the commuted portion of the annuity bears to the full annuity.
- (f) If the beneficiary referred to in paragraph (a) of this sub-section is a person other than the deceased annuitant's widow, there shall be paid to him a sum equal to the basic sum."

(2) Sub-section (4) of section *eleven bis* of the Railways and Harbours Service Act, 1925, as substituted by sub-section (1) of this section, shall apply in relation to the death of every person to whom an annuity has been granted under sub-section (1) of that section and whose dismissal or resignation took effect on or after the date of commencement of this Act, and the said sub-section (4), as it existed prior to the said date, shall continue to apply, as if this Act had not been passed, in relation to the death of every other person to whom an annuity has been granted as aforesaid.

Amendment of section 1 of Act 24 of 1925, as amended by section 10 of Act 15 of 1940.

11. Section *one* of the Railways and Harbours Superannuation Fund Act, 1925 (hereinafter referred to as the principal Act) is hereby amended by the addition, at the end of the definition of the expression "annuity", of the words "or of the widow of a deceased member or annuitant;"

Amendment of section 8 of Act 24 of 1925, as amended by section 2 of Act 16 of 1932, section 3 of Act 16 of 1945 and section 16 of Act 49 of 1949.

12. Section *eight* of the principal Act is hereby amended—

- (a) by the substitution, in sub-section (1), for the figures "5½, 6, 6½, 7, 7½" appearing under the heading "Percentage of pensionable emoluments", of the figures "6½, 6¾, 7¼, 7¾, 8¼" respectively;
- (b) by the substitution, in sub-section (3), for the figures "5, 5½, 6, 6½, 7, 7½" appearing under the heading "Percentage of pensionable emoluments", of the figures "5¾, 6¼, 6¾, 7¼, 7¾, 8¼" respectively.

Amendment of section 30 of Act 24 of 1925.

13. Section *thirty* of the principal Act is hereby amended by the addition thereto of the following new sub-section, the existing section being designated sub-section (1):

“(2) If a servant who is a member of the 1912 pension fund, the Fund or the New Fund deserts from the Service or leaves the Service on resignation without having complied with the requirements of any law or contract regarding the giving of notice, and the Administration has not waived its right to receive such notice, there shall, notwithstanding anything in any law contained, be refunded to him the amount of his contributions to the 1912 pension fund, the Fund or the New Fund, as the case may be, without any interest thereon, and thereafter such servant shall have no further claim upon the fund in question or upon the Administration.”

Substitution of new section for section 31 of Act 24 of 1925.

14. (1) Section *thirty-one* of the principal Act is hereby repealed and the following new section substituted therefor:

“Death resulting from injuries or otherwise before super-annuation of members of New Fund.

31. (1) Upon the death of a member of the New Fund there shall be paid to the beneficiary (if any) specified in or under section *thirty-three*, and subject to the provisions of that section, such benefit as is hereinafter in this section provided for in relation to the particular class of beneficiary concerned.

(2) If such beneficiary is the deceased member's widow there shall, subject to the provisions of sub-section (4), be paid to her an annuity calculated in accordance with the provisions of sub-section (3).

(3) The said annuity shall be based on a sum equal to whichever 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: 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 such period was less than seven years, plus five per cent. of such annual average in respect of each complete year in respect of which he contributed;

(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: twice the actual pensionable emoluments received by such member during the whole of the period of his membership and on which he contributed in respect of that period; or

(b) twice the amount of the deceased member's contributions, or, in the case of a member who has 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 two and one-half per cent. per annum.

The sum on which such annuity is in terms of this sub-section required to be based, is hereinafter in this section and in section *thirty-two* referred to as the 'basic sum', and the annuity shall be calculated by multiplying each one hundred pounds, or fraction thereof, of the basic sum by the appropriate factor set forth in the following Table:

TABLE OF FACTORS BY WHICH EACH £100, OR FRACTION THEREOF, OF THE BASIC SUM SHALL BE MULTIPLIED TO ASCERTAIN THE AMOUNT OF THE ANNUITY PAYABLE.

<i>Widow's age (last birthday) at date of husband's death.</i>			<i>Factor.</i>	<i>Widow's age (last birthday) at date of husband's death.</i>			<i>Factor.</i>
			£				£
16	..	..	4.97	50	..	..	6.20
17	..	..	4.99	51	..	..	6.28
18	..	..	5.01	52	..	..	6.36
19	..	..	5.03	53	..	..	6.44
				54	..	..	6.53
20	..	..	5.06				
21	..	..	5.08	55	..	..	6.62
22	..	..	5.10	56	..	..	6.72
23	..	..	5.12	57	..	..	6.82
24	..	..	5.15	58	..	..	6.92
				59	..	..	7.03
25	..	..	5.18				
26	..	..	5.20	60	..	..	7.15
27	..	..	5.22	61	..	..	7.27
28	..	..	5.24	62	..	..	7.40
29	..	..	5.27	63	..	..	7.53
				64	..	..	7.67
30	..	..	5.30				
31	..	..	5.33	65	..	..	7.82
32	..	..	5.36	66	..	..	7.97
33	..	..	5.39	67	..	..	8.13
34	..	..	5.42	68	..	..	8.29
				69	..	..	8.46
35	..	..	5.45				
36	..	..	5.48	70	..	..	8.64
37	..	..	5.52	71	..	..	8.82
38	..	..	5.56	72	..	..	9.01
39	..	..	5.60	73	..	..	9.20
				74	..	..	9.40
40	..	..	5.64				
41	..	..	5.68	75	..	..	9.60
42	..	..	5.72	76	..	..	9.80
43	..	..	5.77	77	..	..	10.01
44	..	..	5.82	78	..	..	10.22
				79	..	..	10.43
45	..	..	5.88				
46	..	..	5.94	80	..	..	10.64
47	..	..	6.00				
48	..	..	6.06				
49	..	..	6.13				

(4) If an annuity calculated in accordance with sub-section (3) amounts to less than thirty-six pounds, the basic sum shall be paid to the widow in lieu of an annuity.

(5) Upon the death of a widow to whom an annuity is payable in terms of sub-section (2), there shall be paid to such other relative of the deceased member as may in terms of section *thirty-three* be entitled to receive it, the balance (if any) remaining after deducting from the basic sum the aggregate of the amounts received by the widow by way of annuity, and if there is no such other relative, there shall be paid to the person lawfully administering the estate of the deceased widow the balance (if any) remaining after deducting from the total amount of the deceased member's contributions the aggregate of the amounts received by the widow by way of annuity.

(6) If the beneficiary referred to in sub-section (1) is a person other than the deceased member's widow, there shall be paid to him a sum equal to the basic sum."

(2) Section *thirty-one* of the principal Act, as substituted by sub-section (1), shall apply in respect of every member of the New Fund whose death occurs on or after the date of commencement of this Act.



Substitution of new section for section 32 of Act 24 of 1925, as amended by section 6 of Act 27 of 1930 and section 21 of Act 49 of 1949.

15. (1) Section *thirty-two* of the principal Act is, subject to sub-section (2), hereby repealed and the following new section substituted therefor:

"Death of members of the New Fund after retirement on annuity.

32. (1) Upon the death of a person who is in receipt of an annuity (other than an annuity granted under the provisions of section *eleven bis* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)) in respect of his contributions to the New Fund, there shall be paid to the beneficiary (if any) specified in or under section *thirty-three*, and subject to the provisions of that section, such benefit as is hereinafter in this section provided for in relation to the particular class of beneficiary concerned.

(2) (a) If such beneficiary is the deceased annuitant's widow there shall, subject to the provisions of paragraph (b) of this sub-section, be paid to her an annuity calculated in accordance with the provisions of sub-section (3) of section *thirty-one*: Provided that if any part of the deceased annuitant's annuity was commuted under any provision of this Act, the basic sum shall, for the purpose of calculating the annuity to the widow, be deemed to be reduced in the proportion which the commuted portion of his annuity bears to the full annuity: Provided further that for the purpose aforesaid the basic sum shall be deemed to be further reduced by the aggregate of the amounts received by the deceased annuitant by way of annuity.

(b) If an annuity calculated in accordance with paragraph (a) of this sub-section amounts to less than thirty-six pounds, the capital sum which in terms of that paragraph is required to be taken as the basis for such calculation, shall be paid to the widow in lieu of an annuity.

(c) Upon the death of a widow to whom an annuity is payable in accordance with this sub-section, there shall be paid to such other relative of the deceased annuitant as may in terms of section *thirty-three* be entitled to receive it, the balance (if any) remaining after deducting from the capital sum mentioned in paragraph (b) of this sub-section, the aggregate of the amounts received by the widow by way of annuity, and if there is no such other relative, there shall be paid to the person lawfully administering the estate of the deceased widow, the balance (if any) remaining after deducting from the total amount of the contributions paid by the deceased annuitant while he was a member, the aggregate of the amounts received by the deceased annuitant and the deceased widow, respectively, by way of annuity: Provided that if any part of the annuity of the deceased annuitant was commuted, such contributions shall be deemed to be reduced in the proportion which the commuted portion of the annuity bears to the full annuity.

(3) If the beneficiary referred to in sub-section (1) is a person other than the deceased annuitant's widow, there shall be paid to him a sum equal to the capital sum referred to in paragraph (b) of sub-section (2)."

(2) Section *thirty-two* of the principal Act, as substituted by sub-section (1), shall apply in relation to the death of every such annuitant as is referred to in sub-section (1) of that section, who was a member of the New Fund on or after the date of commencement of this Act, and the said section *thirty-two*, as it existed prior to the said date, shall continue to apply in relation to the death of any other annuitant of that Fund as if this Act had not been passed.

Insertion of section 50*quat*er in Act 24 of 1925.

16. (1) The following section is hereby inserted in the principal Act after section *fifty ter*:

"Alternative benefits to dependants on death of member of the 1912 pension fund.

*50quat.* (1) A member of the 1912 pension fund may elect to pay additional contributions at the rate of three-quarters per cent. with effect from the date of commencement of the Railways and Harbours Acts Amendment Act, 1951, and if he has so elected, there shall, upon his death while he is still a member, be paid to the beneficiary (if any) specified in or under section *thirty-three*, and subject to the provisions of that section, such benefit as is hereinafter in this section provided for in relation to the particular class of beneficiary concerned, and such benefit shall be paid in lieu of those provided for in section *fifty ter* of this Act, section *thirty-three* of the Civil Service and Pensions Funds Act, 1895 (Act No. 32 of 1895), of the Cape of Good Hope, or section *thirteen* of Act No. 29 of 1897 of Natal, as the case may be.

(2) If the beneficiary referred to in sub-section (1) is the deceased member's widow, there shall, subject to the provisions of sub-section (4), be paid to her an annuity calculated in accordance with the provisions of sub-section (3).

(3) The said annuity shall be based on a sum equal to whichever of the sums respectively mentioned in paragraph (a) or (b) of this sub-section is the greater, namely—

(a) twice the annual average of the deceased member's pensionable emoluments for the last seven years of his service, plus five per cent. of such annual average in respect of each complete year in respect of which he contributed; or

(b) (i) in the case of a deceased member other than a member referred to in sub-paragraph (ii) or (iii) of this paragraph: twice the amount of such deceased member's contributions;

(ii) in the case of a deceased member in respect of whom the provisions of section *thirty-three* of the Civil Service and Pensions Funds Act, 1895 (Act No. 32 of 1895), of the Cape of Good Hope would, but for the provisions of this section, have applied: a sum equal to one month's pay of the deceased member, multiplied by the number of years in respect of which he contributed;

(iii) in the case of a deceased member in respect of whom the provisions of section *thirteen* of Act No. 29 of 1897 of Natal would, but for the provisions of this section, have applied: twice the amount of such deceased member's contributions with interest at the rate of four per cent. per annum.

The sum on which such annuity is in terms of this sub-section required to be based, is hereinafter in this section and in section *fifty quinquies* referred to as the 'basic sum', and the annuity shall be calculated by multiplying each one hundred pounds, or fraction thereof, of the basic sum by the appropriate factor set forth in the following Table:

TABLE OF FACTORS BY WHICH EACH £100, OR FRACTION THEREOF, OF THE BASIC SUM SHALL BE MULTIPLIED TO ASCERTAIN THE AMOUNT OF THE ANNUITY PAYABLE.

Widow's age (last birthday) at date of husband's death.			Factor.	Widow's age (last birthday) at date of husband's death.			Factor.
			£				£
16	..	..	4.97	50	..	..	6.20
17	..	..	4.99	51	..	..	6.28
18	..	..	5.01	52	..	..	6.36
19	..	..	5.03	53	..	..	6.44
				54	..	..	6.53
20	..	..	5.06				
21	..	..	5.08	55	..	..	6.62
22	..	..	5.10	56	..	..	6.72
23	..	..	5.12	57	..	..	6.82
24	..	..	5.15	58	..	..	6.92
				59	..	..	7.03
25	..	..	5.18				
26	..	..	5.20	60	..	..	7.15
27	..	..	5.22	61	..	..	7.27
28	..	..	5.24	62	..	..	7.40
29	..	..	5.27	63	..	..	7.53
				64	..	..	7.67
30	..	..	5.30				
31	..	..	5.33	65	..	..	7.82
32	..	..	5.36	66	..	..	7.97
33	..	..	5.39	67	..	..	8.13
34	..	..	5.42	68	..	..	8.29
				69	..	..	8.46
35	..	..	5.45				
36	..	..	5.48	70	..	..	8.64
37	..	..	5.52	71	..	..	8.82
38	..	..	5.56	72	..	..	9.01
39	..	..	5.60	73	..	..	9.20
				74	..	..	9.40
40	..	..	5.64				
41	..	..	5.68	75	..	..	9.60
42	..	..	5.72	76	..	..	9.80
43	..	..	5.77	77	..	..	10.01
44	..	..	5.82	78	..	..	10.22
				79	..	..	10.43
45	..	..	5.88				
46	..	..	5.94	80	..	..	10.64
47	..	..	6.00				
48	..	..	6.06				
49	..	..	6.13				

(4) If an annuity calculated in accordance with sub-section (3) amounts to less than thirty-six pounds, the basic sum shall be paid to the widow in lieu of an annuity.

(5) Upon the death of a widow to whom an annuity is payable in terms of sub-section (2), there shall be paid to such other relative of the deceased member as may in terms of section *thirty-three* be entitled to receive it, the balance (if any) remaining after deducting from the basic sum the aggregate of the amounts received by the widow by way of annuity, and if there is no such other relative, there shall be paid to the person lawfully administering the estate of the deceased widow the balance (if any) remaining after deducting from the total amount of the deceased member's contributions the aggregate of the amounts received by the widow by way of annuity.

(6) If the beneficiary referred to in sub-section (1) is a person other than the deceased member's widow, there shall be paid to him a sum equal to the basic sum."

(2) (a) A servant who at the date of commencement of this Act is a member of the 1912 pension fund and who desires to make the election provided for in sub-section (1) of section *fifty quater* of the principal Act, shall do

so in writing within six months of the said date or within such further period as the Administration may under special circumstances allow.

- (b) The said election 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, for the purposes of the application of section *fifty quinquies* of the principal Act, within such period after that date as the Administration may specify.
- (c) Any additional contributions that may become payable by any person in respect of any period of his membership of the 1912 pension fund, by virtue of the making by him of the election provided for in sub-section (1) of section *fifty quater* of the principal Act, read in conjunction with this sub-section, may, if they cannot be recovered from any moneys due to him by the Administration, or if no other method of payment thereof has been agreed upon, be recovered by deduction from any benefit that may be payable from the said fund to him or to any other person in respect of his death.

Insertion of section 50 *quinquies* in Act 24 of 1925.

17. The following section is hereby inserted in the principal Act after section *fifty quater*:

"Alternative benefit to dependants on death of annuitant of the 1912 pension fund.

**50quin.** (1) Upon the death of a person who is in receipt of an annuity (other than an annuity granted under the provisions of section *eleven bis* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925)) in respect of his contributions to the 1912 pension fund, and who has made the election provided for in sub-section (1) of section *fifty quater*, there shall be paid to the beneficiary (if any) specified in or under section *thirty-three*, and subject to the provisions of that section, such benefit as is hereinafter in this section provided for in relation to the particular class of beneficiary concerned, and such benefit shall be paid in lieu of that provided for in section *fifty ter*.

- (2) (a) If such beneficiary is the deceased annuitant's widow there shall, subject to the provisions of paragraph (b) of this sub-section, be paid to her an annuity calculated in accordance with the provisions of sub-section (3) of section *fifty quater*: Provided that if any part of the deceased annuitant's annuity was commuted under any provision of this Act, the basic sum shall, for the purpose of calculating the annuity to the widow, be deemed to be reduced in the proportion which the commuted portion of his annuity bears to the full annuity: Provided further that for the purpose aforesaid the basic sum shall be deemed to be further reduced by the aggregate of the amounts received by the deceased annuitant by way of annuity.
- (b) If an annuity calculated in accordance with paragraph (a) of this sub-section amounts to less than thirty-six pounds, the capital sum which in terms of that paragraph is required to be taken as the basis for such calculation, shall be paid to the widow in lieu of an annuity.
- (c) Upon the death of a widow to whom an annuity is payable in accordance with this sub-section, there shall be paid to such other relative of the deceased annuitant as may in terms of section *thirty-three* be entitled to receive it, the balance (if any) remaining after deducting from the capital sum referred to in paragraph (b) of this sub-section, the aggregate of the amounts received by the widow by way of annuity, and if there is no such other relative, there shall be

paid to the person lawfully administering the estate of the deceased widow, the balance (if any) remaining after deducting from the total amount of the contributions paid by the deceased annuitant while he was a member, the aggregate of the amounts received by the deceased annuitant and the deceased widow, respectively, by way of annuity: Provided that if any part of the annuity of the deceased annuitant was commuted, such contributions shall be deemed to be reduced in the proportion which the commuted portion of the annuity bears to the full annuity.

(3) If the beneficiary referred to in sub-section (1) is a person other than the deceased annuitant's widow, there shall be paid to him a sum equal to the capital sum referred to in paragraph (b) of sub-section (2)."

Amendment of section 57 of Act 24 of 1925, as amended by section 3 of Act 16 of 1932, section 5 of Act 16 of 1945 and section 23 of Act 49 of 1949.

18. Section *fifty-seven* of the principal Act is hereby amended by the substitution, for the words "five and one-quarter", of the word "six".

Amendment of section 72 of Act 24 of 1925, as substituted by section 24 of Act 49 of 1949.

19. Section *seventy-two* of the principal Act is hereby amended by the deletion, in sub-section (5), of the words "the Fund or" and the insertion after the word "section" of the words "and who did not make the election provided for in sub-section (1) of section *fifty quater*."

Amendment of section 9 of Act 43 of 1931.

20. Section *nine* of the Railways and Harbours Construction Act, 1931, is hereby amended by the substitution, for the words "twenty years", of the words "twenty-five years reckoned from the fifth day of August, 1931,".

Amendment of section 19 of Act 49 of 1949.

21. (1) Section *nineteen* of the Railways and Harbours Acts Amendment Act, 1949, is hereby amended by the substitution, for sub-section (3), of the following new sub-section:

"(3) A person who, immediately prior to the date of commencement of this Act, was a member of the New Fund and who is due to retire on superannuation on or 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 (or, in the case of such a person who is due to retire on superannuation on the said date, either one-quarter or 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."

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

Validation of certain changes in conditions of employment.

22. 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 section *thirty-one* of the Railways and Harbours Service Act, 1925 (Act No. 23 of 1925), are hereby validated with effect from the dates as from which such changes were respectively brought into operation.

Definitions.

23. Any expression to which a meaning is assigned in section *one* of the principal Act shall, when used in this Act, have the meaning so assigned to it.

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

24. 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.

25. This Act shall be called the Railways and Harbours Acts Amendment Act, 1951.