

No. 28, 1912.]

ACT

TO

Provide for the Organization and Discipline of, and the Payment of Retiring Allowances and Financial Benefits to Persons in the Employment of the Department of Railways and Harbours of the Union and for the confirmation of certain appointments to and removals from that department and for the payment of certain gratuities since the thirty-first day of May, 1910, and for other purposes.

(ASSENTED TO 24TH JUNE, 1912).

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:—

PRELIMINARY.

Repeal of
Laws.

1. The laws mentioned in the First Schedule to this Act shall be and are hereby repealed to the extent set out in the fourth column of that Schedule, together with so much of any other law as may be repugnant to or inconsistent with the provisions of this Act.

Interpreta-
tion of terms.

2. In this Act, unless inconsistent with the context,—

- “actuary” shall mean a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland or any other qualified person recognized as an actuary by the Governor-General;
- “additional contributions” shall mean the amounts paid by a member of the Fund in order to secure a supplementary annuity under Chapter III, but shall not include interest whether paid by the member or the Administration;
- “Administration” or “the Administration” shall mean the authority for the control and management of the railways, ports, and harbours of the Union as established under the South Africa Act, 1909, or any amendment thereof;
- “annuity” shall mean an annual sum payable during the lifetime of a retiring member;
- “Cape contributor” shall mean any officer or employee who, at the date of the establishment of the Union, was a contributor to the Cape Civil Service Pension Fund, or any officer or employee who was on that date a transferred servant as hereinafter defined;
- “Cape fixed establishment servant” shall mean—
 - (a) any officer or employee who, at the date of the establishment of the Union, was a person on the fixed establishment of the Cape Civil Service or who, if the Union had not been established, would subsequent to the thirtieth day of May, 1910, have been entitled to be placed on that fixed establishment;
 - (b) any transferred servant who, before his transfer, was a contributor to the Cape Civil Service Pension Fund and was either on the fixed establishment of the Cape Civil Service or has, since his transfer, completed ten years contributions to pension;
- “continuous employment” shall mean the time spent by a servant in the employment of the Administration, or in any other employment referred to in section *eighty-two*, on actual duty or in transit from one appointment to another, and shall not be regarded as interrupted

by authorized leave of absence, by breaks in service regarded as leave of absence without pay or otherwise condoned for the purpose of membership of a fund, or by periods of suspension followed by reinstatement in the same or another office or post, but periods of absence without contributions shall not be taken into account in calculating the total period of continuous employment ;

“contributions” shall include ordinary contributions and additional contributions (if any) and shall mean the amounts paid in by a member of the Fund or a member of any other fund referred to in this Act, but shall not include interest, whether paid by the member or the Administration ;

“employee” shall mean any person exclusively employed under the Administration who is remunerated by wages (with or without any local, climatic, or other allowance) calculated at a daily rate or in any manner other than annually, and shall include any person whose position, irrespective of the manner in which the remuneration attached thereto is calculated, is prescribed within twelve months after the fixed date to be that of an employee ;

“fixed date” shall mean the date fixed under Chapter III of this Act for the establishment of the Railways and Harbours Superannuation Fund ;

“General Manager” shall, in addition to the officer appointed by the Governor-General to be General Manager of the railways of the Union, or any person lawfully acting in that capacity, include any officer authorized by the Administration to perform any of the duties imposed upon the General Manager under this Act ;

“interest” shall mean, in contradistinction to compound interest, simple interest ;

“medical practitioner” shall mean a medical practitioner duly registered as such under any law, in force in the Union or in any Province, relating to the registration of medical practitioners ;

“member” shall, in Chapter III, mean any servant who is for the time being a contributor to the Railways and Harbours Superannuation Fund, and in Chapter IV shall mean a contributor to the new pension fund or the new widows' pension fund ;

“Minister” shall mean the Minister of Railways and Harbours or any other Minister lawfully acting in that capacity ;

“Natal servant” shall mean any officer or employee who, at the date of the establishment of the Union, was an officer or employee (as the case may be) on the permanent establishment of the Natal Civil Service, or who may subsequently have been granted the same rights as were possessed by an officer or employee (as the case may be) on that permanent establishment ;

“officer” shall mean any person exclusively employed under the Administration who is remunerated by salary calculated annually, in contradistinction to a daily or other rate of pay or to any form of remuneration other than an annual salary, save as is provided in the definition of “employee” ;

“old Administration” shall mean—

(a) the Central South African Railways as existing prior to the thirty-first day of May, 1910, and

shall include the Imperial Military Railways and any Military Administration of the Railways in the Transvaal and Orange River Colony ;

- (b) the department of the Railways, Ports and Harbours of the Cape Colony ;
- (c) the department of the Natal Government Railways ;
- (d) the department of the Ports and Harbours of Natal ;

“ old fixed date ” shall mean, in the case of servants who had the option of becoming members of the fund established under,—

- (a) Act No. 20 of 1908 of the Transvaal or Act No. 37 of 1908 of the Orange River Colony, the first day of January, 1909 ;
- (b) Act No. 41 of 1909 of the Cape Colony, the first day of January, 1910 ;
- (c) Act No. 1 of 1910 of Natal, the first day of March, 1910 ;

“ old pension fund ” shall include the Cape Civil Service Pension Fund, the Cape Widows' Pension Fund, and the Natal Public Employees Superannuation Fund established in terms of Act No. 29 of 1897, including the Railway Superannuation Fund incorporated therewith ;

“ old superannuation fund ” shall mean the superannuation fund established in terms of Act No. 41 of 1909 of the Colony of the Cape of Good Hope, or of Chapter III. of Act No. 20 of 1908 of the Transvaal and Chapter III. of Act No. 37 of 1908 of the Orange River Colony or of Act No. 1 of 1910 of Natal so far as it relates to servants formerly employed in the service of the railways, ports and harbours of Natal ;

“ ordinary contributions ” shall mean the amounts paid by a member of the Fund in order to secure an annuity under Chapter III., as distinguished from a supplementary annuity under the same Chapter, but shall not include interest, whether paid by the member or by the Administration ;

“ pension ” shall mean an annuity or gratuity as the context requires ;

“ pensionable emoluments ” shall mean the emoluments on which contributions shall be paid ;

“ prescribed ” shall mean prescribed by this Act or by regulation ;

“ Railway Board ” shall mean the board established by section *one hundred and twenty-six* of the South Africa Act, 1909 ;

“ regulation ” shall mean a regulation made and in force under this Act ;

“ revenue ” shall mean the revenue paid into the Railway and Harbour Fund established under section *one hundred and seventeen* of the South Africa Act, 1909 ;

“ salary ” shall mean the annual pay of an officer, exclusive of allowances ;

“ servant ” shall include both an officer and an employee ;

“ superannuation ” shall mean the attainment of the age fixed by this Act for retirement from the Service on an annuity ;

“ the Fund ” shall mean the Railways and Harbours Superannuation Fund constituted under Chapter III. of this Act ;

“ the Service ” shall mean the Department of Railways and Harbours ;

“ transferred servant ” shall mean any servant who was a contributor to a pension fund while in employment under the Cape Civil Service, the Cape Government Railways, the Cape Colony Harbour Boards, or the Orange Free State Railways and who was transferred under competent authority to the service of the late Central South African Railways including the Imperial Military Railways Administration and any Military Administration of such Railways in the Transvaal or the Orange River Colony, and whose claim to reckon

as continuous, for purposes of pension and widows' pension, the periods of his employment before and after such transfer has, before the commencement of this Act, been admitted under the provisions of Act No. 20 of 1908 of the Transvaal, or Act No. 37 of 1908 of the Orange River Colony;

"wages" shall mean the pay of an employee exclusive of allowances.

CHAPTER I.

APPOINTMENT AND DISCHARGE OF SERVANTS.

Delegation of certain powers by the Governor-General.

3. The Governor-General-in-Council may from time to time, appoint so many servants as may be required for the Service, increase, or, without prejudice to the rights which a servant may have under section *eighty-three*, diminish the number of servants and their emoluments in such manner as from time to time may be prescribed, and subject to the provisions of this Act, and without prejudice to the same rights, may discharge any servant. The Governor-General may, from time to time, delegate the power of appointment or discharge of servants.

Who are in permanent employment.

4. The following servants shall be deemed to be in permanent employment:—

- (a) Persons who on the thirtieth day of May, 1910, were in the permanent employment of the old Administration and are still in the Service at the fixed date.
- (b) Persons who on the thirty-first day of May, 1910, were in the temporary employment of the Administration but have been appointed to permanent employment before the fixed date.
- (c) Persons who entered the Service on or after the thirty-first day of May, 1910, and have been admitted to permanent employment before the fixed date.
- (d) Persons who on or after the fixed date receive a certificate of permanent employment issued by the General Manager.

All other servants shall be deemed to be in temporary employment.

How temporary servants may become permanent servants.

5. (1) A temporary servant, before he receives a certificate issued by the General Manager entitling him to permanent employment, must have been in continuous employment for the following periods:—

Officers	One year.
Employees (other than those in receipt of wages of less than five shillings per day)	Two years.
Employees in receipt of wages of less than five shillings per day.	Until the wages amount to five shillings per day, but in no case less than two years.

(2) Every servant who has been in continuous employment for the period prescribed in respect of him by sub-section (1) and whose services are permanently required by the Administration may, upon a certificate issued by the General Manager, be appointed to permanent employment if he—

- (a) has attained the age of eighteen years, and, in the case of an apprentice, has completed his apprenticeship; and
- (b) has passed the prescribed medical examination of fitness; and
- (c) possesses such educational qualifications as are prescribed by regulation: Provided that no servant shall be examined in regard to his knowledge of either official language except as provided in section *six*; and
- (d) has received a certificate of efficiency and good character signed by the head of his department.

Language qualifications.

6. (1) An officer entering the Service after the commencement of this Act who is appointed to a clerical post therein and who has not passed a prescribed examination in both official languages shall not be promoted to any higher grade than that to which he has attained in five years from the date of his first appointment to such post, unless and until he pass

such an examination in both official languages as may be prescribed; the standard of the last-mentioned examination shall be equal to the standard of the first-mentioned examination:

Provided that if he has passed in either of the official languages at the first-mentioned examination he shall be exempted from further examination therein:

Provided further that if the Administration be satisfied that the officer has, during the said period of five years, been stationed in places where he had no facilities for acquiring a knowledge of the language in respect of which he has not passed a prescribed examination, the Administration may grant him such extension of the said period as it may deem reasonable.

(2) In appointing any servant to a post in which the knowledge of either or both of the official languages is necessary the Administration shall be satisfied that the servant possesses the language qualifications necessary for the efficient discharge of the duties of the post.

Promotion.

7. Whenever a vacancy occurs in any branch of the Service, regard shall be had in filling the vacancy to the relative efficiency of two or more servants eligible to fill it, or, if their claims as regards efficiency are equal, then to their relative seniority. Any servant who alleges that a vacancy has been filled without regard to the provisions of this section may appeal to the General Manager, and should he be dissatisfied with the decision of the General Manager he may further appeal to the Administration whose decision shall be final.

Dismissal or reduction on the grounds of inefficiency

8. (1) Before any servant in permanent employment is, on the grounds of inefficiency, dismissed from the Service, or reduced in rank or emoluments, a definite written charge shall be prepared and transmitted or delivered to him and an enquiry into the same shall be held. At the enquiry he shall be afforded an opportunity of showing cause against the dismissal or reduction. The officer reporting the inefficiency may not take part in the enquiry except as a witness.

(2) If the enquiry disclose that the servant is inefficient and that his inefficiency is due solely to causes within his own control, he shall be deemed to have been guilty of misconduct and shall be dealt with as provided in this Act.

(3) If the enquiry disclose that the servant is inefficient, but that his inefficiency is not due solely to causes within his own control, he shall be dealt with in the same manner as if his services were dispensed with in accordance with section *nine* or *ten*.

(4) If the enquiry disclose that the servant is in no way inefficient, he shall be reinstated or shall be appointed to another office or post, and in either case without reduction of emoluments.

(5) Pending the result of the enquiry the servant shall be suspended from the duties of his office or post. The order for suspension from duty shall involve the withholding of half the emoluments of office from the servant suspended: Provided that if the enquiry should disclose that the servant is in no way inefficient the half emoluments withheld during the period of suspension shall be paid to him.

(6) Nothing in this section shall apply to a transferred servant, a Cape contributor, a Cape fixed-establishment servant, or a Natal servant.

Retrenchment.

9. If the services of a servant in permanent employment be dispensed with prior to his superannuation, owing to a reduction in or reorganization of staff the following provisions shall apply:—

(1) Save as is provided in section *ten* an officer who had the option of becoming a member of an old superannuation fund but failed to exercise that option and has not exercised the further option of membership given him under sub-section (5) of section *twenty-eight*, shall receive from revenue a gratuity in respect of a period of continuous employment ending at the old fixed date.

- (2) An officer who has been admitted to membership of the Fund by virtue of sub-section (5) of section *twenty-eight* shall receive from revenue a gratuity on a period of employment arrived at by adding together—
- (a) the period of continuous employment ending at the old fixed date; and
 - (b) the period of such continuous employment after the old fixed date as has been covered by contributions to the Fund.
- In addition he shall receive a refund of the whole of the additional contributions (if any) paid by him, and also the amount of any ordinary contributions which he may have paid in respect of any period prior to the old fixed date.
- (3) Save as is provided in sub-section (2) of this section an officer who is a member of the Fund shall receive from revenue a gratuity calculated on the whole period of his continuous employment, and in addition he shall receive from revenue a refund of any amount which he may have contributed by way of additional contributions, and also the amount of any ordinary contributions which he may have paid in respect of any period prior to the old fixed date.
- (4) An officer who is a member of the fund created by Act No. 29 of 1897 of Natal or the railway superannuation fund incorporated therewith, shall receive from revenue a gratuity calculated on the whole period of his continuous employment; and in addition he shall receive a refund of any contributions which he may have paid to the said funds in respect of any period prior to the first day of March, 1910.
- (5) Any officer referred to in sub-sections (2), (3) and (4) of this section, whose continuous employment, due regard being had to the provisions of sub-section (7) of this section, has in the aggregate been fifteen years or more, and any such officer whose age is forty-five years or more and whose continuous employment has in the aggregate been ten years or more, shall receive from revenue at his option, either—
- (a) an annuity equivalent in amount to the annuity (if any) he would be entitled to receive from the fund of which he is a member on his retirement owing to ill-health; or
 - (b) a gratuity and a refund of the contributions referred to in the said sub-sections.
- (6) (a) The gratuity referred to in the preceding sub-sections of this section shall be calculated on the officer's pay at the time of leaving the Service on the following scale due regard being had, in calculating the period of continuous employment, to the provisions of sub-section (7) of this section:—

Period of continuous employment.				Gratuity.
Under one year	...	...	...	Nil.
One year	...	...	...	One half month's pay.
Two years	...	...	...	One month's pay.
Three years	...	...	...	Two months' pay.
Four years	...	...	...	Three months' pay.
Five years	...	...	...	Four months' pay.
Six years	...	...	...	Five months' pay.
Seven years	...	...	...	Six months' pay.
Eight years	...	...	...	Seven and a half months' pay.
Nine years	...	...	...	Nine months' pay.
Ten years and over	...	...	...	One month's pay for each completed year of employment.

- (b) For each completed month over and above the completed years taken into account a proportion of the gratuity shall be paid. Such proportion shall be calculated on the scale which was taken into account in computing the gratuity for the completed years.
- (c) The term "pay" as used in the scale shall mean and include in the case of an officer who is a member of the Fund or any other fund referred to in this Act, pensionable emoluments, and in the case of an officer who is not a member of any such fund, his salary only.

(d) For the purposes of this sub-section, employment before the age of eighteen years shall not be taken into account in calculating the period of continuous employment unless contributions have been made in respect thereof.

(7) If within five years after the seventeenth day of May, 1910, the employment of any officer who was a member of an old superannuation fund or the fund established by Act No. 29 of 1897 of Natal or the Railway Superannuation Fund incorporated therewith, be terminated by reason of the abolition of his own or another office or by reason of a reduction of, or a reorganisation in his Department, there shall be added to his actual period of employment in the service of the Administration and of the old Administration :—

(a) In the case of an officer whose actual period of employment is at the date of his retirement less than ten years a period equal to one-third of that actual period of employment ;

(b) In the case of an officer whose actual period of employment is at the date of his retirement ten years or more, a period of five years ;

and the period of employment for purposes of such an officer's pension shall, in the event aforesaid, be ascertained by making such an addition to his actual period of employment.

No contribution shall be payable by the officer in respect of any period so added.

(8) An employee shall receive such gratuity from revenue as may from time to time be prescribed : Provided that if he be a member of the fund, or of the fund created under Act No. 29 of 1897 of Natal or the Railway Superannuation Fund incorporated therewith, and if his continuous employment has been twenty-five years or more or he has attained the age of fifty, he shall receive from revenue, at his option, either an annuity equivalent in amount to the annuity (if any) which he would have been entitled to receive from any such fund on retirement owing to ill-health, or a gratuity of not less than six months' wages. Any additional contributions made by an employee shall be refunded to him in addition to any gratuity which he may be paid under this section, together with any ordinary contributions made by a member in respect of any period prior to the old fixed date.

(9) The amount paid to a servant in accordance with this section shall in no case be less than twice the amount of his contributions to the fund of which he is a member.

(10) Nothing in this section contained shall apply to a Cape contributor, a Cape fixed establishment servant, a Natal servant, a transferred servant, or the officer referred to in sub-section (1) of section *seventy-six* of this Act.

Retrenchment of certain aged or invalid servants.

10. (1) There shall be granted from revenue a gratuity to a servant who was in permanent employment of the old Administration on the old fixed date and who was ineligible for membership or was refused admission to membership of an old superannuation fund by reason of his age, if his services be dispensed with by the Administration on account of his having reached the age prescribed for superannuation or on account of a reduction in or reorganisation of staff, and if further he be ineligible for an annuity from any superannuation or pension fund. The said gratuity shall be calculated as follows :—

(a) In the case of an officer, on the scale set out in sub-section (6) of section *nine* and calculated in the same manner as if he had been a member of an old superannuation fund.

(b) In the case of an employee, as may be prescribed under sub-section (8) of section *nine* ;

Provided that the gratuity shall in each case be reduced by an amount equal to what would be due from the servant in discharge of arrear ordinary contributions and compound interest thereon in terms of sub-section (1) of section *thirty-three* if he were admitted to membership at the date of his retirement and allowed to antedate his membership to the old fixed date.

(2) If the servant so retiring was notwithstanding his age actually admitted a member of an old superannuation fund but has not paid arrear contributions and interest for a period sufficiently long to entitle him to an annuity, he shall receive a gratuity calculated as follows :—

- (a) In the case of an officer, on the scale set out in sub-section (6) of section *nine*.
- (b) In the case of an employee, as may be prescribed under sub-section (8) of section *nine*.

In addition he shall be refunded the amount of the additional contributions (if any) paid by him, and shall further be refunded the amount of ordinary contributions (if any) paid by him in respect of any period prior to the old fixed date.

(3) The provisions of sub-section (1) of this section shall apply *mutatis mutandis* to a servant refused admission to membership of an old superannuation fund on the ground of his inability to pass the required medical examination.

Payment on retirement in lieu of accumulated leave.

11. A servant whose services are dispensed with, owing to a reduction in or reorganization of staff or on the ground of superannuation, bodily injury, physical disability or ill-health, shall be paid by the Administration for any accumulated leave due to him, provided that in no case shall such payment exceed an amount equal to two months' emoluments of his office.

Servant not to be retrenched while on leave without his consent.

12. No servant in permanent employment who has been granted leave of absence shall, without his written consent during the period of such leave or within two months after the expiration thereof, be discharged from the Service.

CHAPTER II.

DISCIPLINE.

Definition of misconduct in case of servants.

13. Any servant, other than a transferred servant, a Cape contributor, a Cape fixed-establishment servant, and a Natal servant, who—

- (a) absents himself from duty without leave and without reasonable excuse ; or
- (b) is negligent or indolent in the execution of his duty ; or
- (c) wilfully disobeys or disregards any lawful order given by competent authority ; or
- (d) is in a state of intoxication when on duty or when reporting for duty, or habitually uses to excess any intoxicant or drug ; or
- (e) becomes insolvent or assigns his estate for the benefit of or compromises with his creditors, or has a decree of civil imprisonment made against him by any court of law, unless he can show that his insolvency, assignment, composition, or civil imprisonment has been occasioned by unavoidable misfortune ; or
- (f) trades or carries on a business or occupation on his own account without the written sanction of the General Manager ; or
- (g) discloses information acquired in the course of his duties, otherwise than in the discharge thereof ; or
- (h) while on duty or on railway or harbour premises or in railway or harbour uniform conducts himself in a disgraceful or unbecoming manner ; or
- (i) accepts or demands in respect of the performance of his duties any commission, fee, or reward, pecuniary or other (not being the emoluments payable to him by the Administration), or fails to report to the head of his office, or, if he be the head of an office, to the head of his department, the offer of any such commission, fee, or reward ; or

- (j) abuses any travelling privileges or facilities granted to him by the Administration as a servant; or
- (k) misappropriates any railway or harbour property; or
- (l) contravenes or fails to comply with any regulation,

shall on the offence being proved against him be deemed to have been guilty of misconduct and may be dealt with as is hereinafter in this Chapter provided.

Procedure to be followed on charges of misconduct.

14. (1) Any servant who is charged with misconduct shall be afforded an opportunity of being heard, and any admission or denial he may make or explanation he may give shall be considered by the head of his department, system or division or other officer (not being the officer reporting the offence) delegated for that purpose by the head of his department.

(2) A servant who is charged with misconduct of a serious nature may be suspended temporarily from duty. The order of suspension shall as soon as possible be reduced to writing, and a copy thereof signed by the person making the order, together with a copy of the charge on which the order was made, shall forthwith be transmitted or delivered to the servant suspended. The servant suspended shall be required to state in writing whether he admits or denies the charge and to give any explanation he may desire to make. An order for suspension from duty may involve the withholding of the emoluments of office from the servant suspended.

(3) If the servant be found not guilty of the misconduct charged, the order of suspension shall be removed and any emoluments withheld during the period of suspension shall be paid to him.

How misconduct may be dealt with.

15. (1) When a servant is found guilty of misconduct,—

- (a) if the misconduct be not of a serious nature, a fine may be imposed on him recoverable by deductions from salary, or wages (as the case may be), or he may be cautioned or censured; or
- (b) if the misconduct be of a serious nature, one or more of the following penalties may be imposed, that is to say, a fine recoverable by deductions from salary, or wages (as the case may be), stoppage of increments of pay, reduction in salary or wages (as the case may be), reduction in rank, order to resign office, or dismissal.

(2) No servant in permanent employment who is charged with serious misconduct and who denies the charge shall be dismissed from the Service or reduced in rank or emoluments without an enquiry into the charge being held in manner prescribed. The servant shall be entitled to be present during the whole of such enquiry and shall be afforded an opportunity of showing cause against the dismissal or reduction. The officer reporting the misconduct may not take part in the enquiry except as a witness.

(3) Any servant convicted of a criminal offence and sentenced to imprisonment without the option of a fine shall, unless he obtain a free pardon for the offence, *ipso facto* be deemed to have been dismissed from the Service as from the date of his suspension.

(4) No servant who may have been acquitted on a criminal charge shall be thereby exempt from a charge of misconduct under this Chapter in respect of or in connection with the same offence.

(5) No fine levied under this section shall be of an uncertain amount nor shall any reduction in pay apply for an unlimited period except in cases of inefficiency.

(6) Nothing in this Act contained shall deprive a servant against whom a decision of a superior officer has been given by which a fine or other penalty has been imposed upon such servant, of the right to appeal by letter addressed direct to the Assistant General Manager or other head of his department. Thereupon the matter shall be carefully considered by

such head of department and further evidence heard if need be. If the head of his department does not give a final decision upon the appeal within twenty-one days after the documents relating to the appeal have been delivered or posted to him, or in case the servant is not satisfied with his decision, if the same has been given, such servant shall have the right of appeal by letter addressed direct to the General Manager. The General Manager shall then submit the case to a board appointed by him, and consisting of two officers and one servant stationed at or near the headquarters of the Administration and elected in manner prescribed by and from the class of servants to which the appellant belongs. The board shall review the case, hear such further or other relevant evidence as may be tendered, and report as to their finding to the General Manager who shall thereupon give his decision. If the servant be dissatisfied with the decision of the General Manager, he may, within thirty days from the date upon which that decision was given, request the General Manager to forward the records of his case to the Railway Board for its consideration, and the decision of the Railway Board shall be final.

Drunkenness
of servants.

16. Any servant who is intoxicated while in charge of a locomotive or other engine, or while acting as engine-driver or fireman, or a conductor, or guard, or while acting as officer in charge of a station, train foreman, shunter, gatekeeper, or signalman, or as telegraph or telephone operator receiving or transmitting messages in relation to the movement of trains, or as pilot, crane-driver, or person in charge of any Government craft or marine engine, or any other servant who is in a state of intoxication while on duty and whose improper performance of the duty would be likely to endanger the safety of any person travelling or being on railway or harbour property, shall be liable on conviction to imprisonment with hard labour for a period not exceeding one year or to a fine not exceeding fifty pounds, or, in default of payment, to such imprisonment, or to both such fine and imprisonment.

Endangering
the safety of
persons by
servants.

17. Any servant who, when on duty, endangers the safety of any person,—

- (a) by disobeying any regulation; or
- (b) by disobeying any rule or order which is not inconsistent with a regulation and which the servant was bound by the terms of his employment to obey and of which he had notice; or

(c) by any rash or negligent act or omission, shall be liable on conviction to imprisonment with hard labour for a period not exceeding one year or to a fine not exceeding fifty pounds or, in default of payment, to such imprisonment, or to both such fine and imprisonment.

Upon any prosecution for an offence described in paragraph (c) the court shall, in determining whether the act or omission is negligent, have regard to the nature of the work on which the accused was then engaged and the number of hours during which he had been continuously on duty.

Penalty on
servants for
demanding
more than is
due.

18. Any servant who, with intent to defraud, asks or receives a greater sum than is allowed by law and is provided by the tariff then in force for the conveyance of passengers or transport of goods or for any other services rendered or goods supplied shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding three months, or to a fine not exceeding twenty pounds, or, in default of payment, to such imprisonment, or to both such fine and imprisonment.

Desertion by
servants or
refusal to
serve.

19. Any servant who, during the period which he has engaged to serve and not being duly discharged from the same, deserts, or refuses to serve, or absents himself from duty without lawful cause or reasonable excuse, shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months, or to both such fine and imprisonment.

Resignation
without
notice.

20. Any servant who resigns his office or withdraws himself from the duties thereof without giving the notice required by any regulation or contract and before the period of such notice has fully expired, shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding six months.

Disputes
between Ad-
ministration
and servants.

21. (1) Whenever a dispute arises between the Administration and a considerable number of its servants as to any conditions of employment, and the dispute cannot be amicably settled and is, in the opinion of the Administration, causing or likely to cause serious disorganisation in the working of the railways, ports or harbours, the Administration shall report its opinion to the Governor-General.

(2) The Governor-General may, unless the dispute be otherwise previously settled, appoint a Commission of impartial persons to investigate the cause of dispute and to make recommendations in reference thereto.

(3) Failing such report as is referred to in sub-section (1) the Governor-General may, in his discretion, on receipt of a requisition signed by not less than one-fifth of each grade of the servants affected, appoint the Commission referred to in sub-section (2).

(4) The Commission shall consist of not less than three nor more than five persons (not being servants of the Administration), and one of the members of the Commission, who shall be Chairman, shall if possible be a Judge or ex-Judge of the Supreme Court of South Africa.

(5) The report and recommendations of the Commission, and any report or recommendations made by a minority of the members, shall be published in the *Gazette*.

Servants on
leaving ser-
vice to quit
official dwell-
ing and de-
liver up arti-
cles of official
dress and
equipment.

22. (1) Whenever any servant is dismissed or resigns his office or dies, he or his family, as the case may be, shall give up possession of any premises of the Administration in which he or they have previously resided, when required in writing by the Administration, and if he or they fail to give up such possession as is required in the notice, any magistrate of the district, upon proof of service of the notice and of failure to comply therewith, may, by warrant under his hand, direct any police officer or constable or other person named in the warrant to enter (by force if necessary) the premises aforesaid, and to remove therefrom any such servant or any other person wrongfully retaining possession, together with any goods or articles there found not belonging to the Administration. Any property or equipment found there belonging to the Administration shall be handed over to the Administration: Provided that in the case of the death of a servant his family shall not be required to quit the premises aforesaid until one month has expired from the date of the death of that servant.

(2) When any servant has been discharged from the Service, or has resigned his office, he shall forthwith deliver up every article whether of dress, equipment or other article which has been supplied to him for use in the discharge of his duties or has come into his possession by virtue of his office. If any such article be not delivered up or, when delivered up, be found to have been improperly used or damaged, the Administration may deduct from any moneys due to the servant a sum sufficient to make good the damage or, if necessary, to supply another such article.

Disciplinary
provisions
applicable to
Cape and
Natal ser-
vants.

23. A Cape contributor, a Cape fixed establishment servant and a transferred servant shall be subject to the disciplinary provisions of those laws of the Cape of Good Hope and a Natal servant shall be subject to the disciplinary provisions of those laws of Natal, which were in operation at the date of the establishment of the Union, but the provisions of sections *twenty-one* and *twenty-two* shall apply to every such servant.

CHAPTER III.

SUPERANNUATION.

Constitution of the New Superannuation Fund.

Establish-
ment of the
Fund.

24. The old superannuation funds shall be amalgamated and a new fund shall be established from a date to be fixed by the Administration, by notice in the *Gazette*, and at that date the assets and liabilities of the old superannuation funds shall be transferred to the new fund, which shall be styled the Railways and Harbours Superannuation Fund.

How servants on fixed date affected. 25. (1) Notwithstanding anything to the contrary contained in Act No. 32 of 1895, of the Cape of Good Hope,—

- (a) it shall not be competent after the fixed date for any servant, not already a contributor, to become a contributor to the Civil Service Pension Fund or Widows' Pension Fund mentioned in that Act;
- (b) a servant who entered the department of the Cape Government Railways or Harbours on or after the first day of January, 1910, shall not be entitled to claim the rights appertaining to the fixed establishment of the Cape Civil Service.

(2) No servant shall, after the fixed date, be admitted as a contributor to the fund established by Act No. 29 of 1897, of Natal.

(3) Every servant who, before the fixed date was a member of an old superannuation fund, shall become a member of the Fund, and shall for all purposes be subject to this Act and any regulation.

(4) Any servant who was permitted to make arrear contributions to any fund under any law hereby repealed shall complete the payment of those arrear contributions and interest (if any) in manner provided by any such law and notwithstanding the repeal thereof by this Act.

Divisions of the Fund. 26. (1) There shall be two divisions of the Fund according to the class of servants who are members thereof, namely :—

- Division I. ... For Officers.
- Division II. ... For Employees.

(2) Any member transferred from one division to the other shall rank for purposes of pension as if he had originally entered the division to which he is transferred.

Committee of management. 27. A committee of management shall be appointed and regulated in a manner to be prescribed. The committee shall consist of servants half of whom shall be nominated by the Administration and half elected from members by ballot of members in manner prescribed and there shall be in addition a chairman nominated by the Administration. The committee shall appoint a sub-committee with such powers as may be prescribed. The Administration may at its discretion confer by regulation on the committee such powers in connection with the administration of the Fund, as are by this Act vested in the Administration.

Membership of the Fund.

Membership of the Fund. 28. (1) Save as is provided in sub-sections (3) and (4) of this section, membership of the Fund shall be obligatory in the case of a servant admitted to permanent employment on and after the fixed date. No person in temporary employment shall be allowed to become a member while so employed, nor shall a member of an old pension fund or a servant who is otherwise qualifying for pension be admitted to membership of the Fund.

(2) If a servant admitted to membership under sub-section (1) of this section has had previous temporary or other continuous employment, he shall be entitled to date his membership back to the date of the commencement of his continuous employment, but to no earlier date, and the servant shall in that event pay contributions for the period of such employment, together with compound interest thereon at the rate of four per cent. per annum, calculated quarterly: Provided that the right be exercised within three months after the date on which his first contribution is actually collected.

(3) Any servant appointed to permanent employment if his age be over forty years, may within three months after the date of his appointment, elect to become a member of the Fund, but it shall not be obligatory upon him to do so. A member so electing shall contribute from the date of his appointment to permanent employment, but he shall have the same privileges and be subject to the same obligations in regard to dating back contributions to cover his previous period of employment as are set out in sub-section (2).

(4) No servant, whose age on appointment to permanent employment is over fifty years shall be admitted to membership of the Fund without the sanction of the Administration.

(5) Subject to the provisions of sub-section (4) of this section a servant who was in the permanent employment of the old Administration on the old fixed date and was eligible for membership of an old superannuation fund but did not elect to become a member thereof shall, for a period of three

months from the fixed date, be entitled to become a member of the Fund unless—

- (a) he is a member of an old pension fund or is otherwise qualifying for a pension;
- (b) he is medically unfit;
- (c) he is under the age of eighteen years or serving under articles of apprenticeship.

If a servant so elect to become a member his contributions shall commence as from the fixed date, but he shall have the option of electing within three months from the fixed date to make arrear contributions in respect of either

- (a) his continuous employment from the old fixed date, or
- (b) such continuous employment, together with the whole or any portion of the period of his previous continuous employment.

(6) A servant who exercised his option of membership of an old superannuation fund but elected to pay arrear contributions for a portion only and not the whole of his continuous employment prior to the old fixed date may, within three months from the fixed date, elect to make arrear contributions in respect of any portion of the balance of such continuous employment.

(7) In calculating the period for which arrear ordinary contributions may be made by servants to whom the terms of sub-sections (5) and (6) of this section are applicable, employment by the Netherlands South African Railway Company, the Orange Free State Government Railways and the Pretoria-Pietersburg Railway Company, may be included in continuous employment, but in calculating the period in respect of which arrear additional contributions may be made, only employment with the Administration or the old Administration shall be included.

(8) The Administration may prescribe the extent to which breaks in service prior to the old fixed date may be overlooked, and may prescribe the method of estimating arrear pensionable emoluments based, so far as practicable, on the method in force in connection with the old superannuation fund of which the servant, prior to the fixed date had the opportunity of becoming a member, so as to place servants taking advantage of the terms of sub-sections (5) and (6) of this section in the same position, so nearly as may be, as servants who exercised their option of current or arrear membership of an old superannuation fund.

(9) The Administration may, in its discretion, admit to membership of the fund servants (other than medical officers) employed in the conduct of the sick fund or any other similar fund connected with the Administration or its staff, subject to such conditions in regard to contributions and benefits as may be prescribed.

(10) Notwithstanding anything to the contrary in this or any other section of this Act contained, no servant admitted to membership after the fixed date shall be permitted to contribute to the Fund in respect of a period of employment before he attained the age of eighteen years.

Members transferred to other services. 29. Subject to the provisions of section *fifty-six* a member who accepts employment in any other service, whether British or foreign, shall not be allowed to continue his contributions to the Fund.

Contributions to the Fund.

Rate of contribution by members. 30. Every member shall as long as he remains in the service pay to the Fund ordinary contributions at the rate of three per cent. per annum on his pensionable emoluments, but subject always to the provisions of this Act relating to the payment of additional and arrear contributions and interest.

As to members entitled to make contributions to secure additional pensions. 31. A member whose age when he was appointed to permanent employment or other employment in respect of which he has or had the option of contributing was thirty years or over, may within three months after the date of payment of his first contribution to the Fund, elect to make additional contributions at the rate of one-half per cent. or

any multiple thereof of his pensionable emoluments: Provided that the additional contributions shall not exceed two per cent. of his pensionable emoluments.

When contri-
butions com-
mence.

32. (1) Save as is provided in sub-sections (5), (6) and (7) of section *twenty-eight* ordinary contributions shall, in the case of all servants becoming members after the fixed date, commence from the date of appointment to permanent employment: Provided that, temporary or other continuous employment may be reckoned in the period of membership, subject to the provisions of sub-section (2) of section *twenty-eight*.

(2) Any servant electing under section *thirty-one* to make additional contributions may at the same time elect to ante-date such additional contributions so as to cover the whole or any portion of the period of his continuous employment in respect of which he has elected to make arrear ordinary contributions:

Provided that additional contributions shall commence as from a date not later than the date of appointment to permanent employment or, in the case of servants in permanent employment on the fixed date, a date not later than the fixed date.

(3) Periods of admitted previous employment, the computation of arrear contributions in respect thereof and other matters incidental thereto relating to members of the old superannuation funds shall be regarded as confirmed: Provided that no member shall under this sub-section be deemed to be relieved of any charges in respect of interest on arrear contributions for which he was liable under the laws hereby repealed.

Arrears of
contributions
and interest.

33. (1) Whenever membership of the Fund is antedated, the member shall be required to pay arrear ordinary contributions at the rate of three per cent. on the pensionable emoluments drawn by him during the period to be covered, and save as is otherwise provided in sub-section (2) of section *twenty-eight* the Administration shall pay compound interest on any such arrears in respect of a period prior to the old fixed date at the rate of five per cent. per annum from the date to which membership of the Fund has been antedated up to the old fixed date. In respect of any period from the lastmentioned date up to the date or dates when the payments on account of the arrears are actually made, compound interest at the rate of four per cent. per annum calculated quarterly shall be paid by the member.

(2) Whenever membership of the Fund is antedated and the member has elected to make additional contributions under section *thirty-one*, compound interest, calculated as provided in sub-section (1), on the arrears of such additional contributions, whether in respect of the period before or the period after the old fixed date, shall in all cases be paid by the member and not by the Administration.

(3) Arrears of contributions and interest may be paid in one amount, or by such instalments as the Administration may determine, but so that a member's total ordinary contributions do not exceed six per cent. of a member's pensionable emoluments, unless he so desire. Any instalments paid by a member shall be regarded as applying to the period immediately preceding the period in respect of which contributions have been made by him to the Fund. Upon completing the payment of arrear instalments, as aforesaid, in respect of the pensionable emoluments, of the respective years or months as the case may be, preceding his admission to membership, the member shall have a corresponding number of years or months added to his membership, but no such addition shall be made in respect of any period of less than one month. No person shall be entitled to any benefits from the Fund in respect of any period for which there has been no specific contribution by him or on his behalf.

(4) Notwithstanding anything contained in the laws hereby repealed, no member, whether present or past, shall be required to pay more than three per cent. of his pensionable emoluments in current or arrear ordinary contributions in respect of any period of service admitted as pensionable. Repayments of contributions shall be made, to members or annuitants but only in such cases where the excess contributions deducted cannot be allocated to an admitted period of past employment. This sub-section shall apply only in the case of previous employment under a South African railway or harbour administration which has been admitted as pensionable prior to the fixed date or under sub-section (7) of section *twenty-eight*. In the cases in which this sub-section applies the difference between the contributions provided for by the laws hereby repealed and the three per cent. contributions provided for by this sub-section shall be paid into the Fund from revenue.

Contributions to be deducted from salary or wages.

34. All contributions to the Fund (including arrear and additional contributions made under any law hereby repealed) shall be by deductions from the salary or wages (as the case may be) of the member, or in such other manner as may be prescribed: Provided that no contribution to the Fund shall be accepted from—

- (a) a person who has left the Service or has been paid off on resignation or discharge therefrom;
- (b) the legal or other representative of a deceased contributor, or from any person on behalf of such a representative.

Pensionable emoluments on which contributions shall and shall not be made.

35. (1) The pensionable emoluments on which contributions to the Fund shall be paid shall be—

- (a) salary or wages;
- (b) the estimated rental value of quarters, whether belonging to the Administration or not, whenever a member is allowed to occupy quarters free of rent, as a portion of his emoluments, or any allowance granted in lieu of the provision of free quarters, and the said free quarters or allowance shall for the purposes of calculation be assessed at a sum equal to one-sixth of the member's other pensionable emoluments;
- (c) the assessed value of rations which form a portion of a member's emoluments:

Provided that in the case of an employee who by reason of the conditions of his employment draws consolidated wages, the Administration may prescribe that for the purpose of calculating his pensionable emoluments such deduction shall be made from his consolidated wages (including remuneration for piece-work) as may be necessary to secure uniformity of treatment with other classes of employees.

(2) Contributions to the Fund shall not be payable on, nor in determining the pension payable to any member shall any account be taken of,—

- (a) payments for overtime, unless the ordinary time worked and any period of absence on leave or suspension do not together amount to twenty-six days in any one calendar month, in which case overtime payments earned during that month may be taken into account, but only, and not beyond, what is required to secure contributions on twenty-six days pensionable emoluments;
- (b) allowances of whatever character other than those specified in paragraphs (b) and (c) of sub-section (1);
- (c) fees, honoraria, and bonuses of any kind:

Provided that overtime payments to drivers, firemen and guards who are employed on the trip system shall be included in the pensionable emoluments of such servants as were entitled to contribute on overtime earned on the trip system immediately prior to the thirty-first day of May, 1910, and have remained in continuous employment since that date.

(3) Where the salary or wages of a servant in permanent employment is reduced, the Administration may, in its discretion, after taking into consideration all the circumstances

of the case, allow such servant to continue to contribute to the Fund on the pensionable emoluments which he enjoyed prior to the reduction.

Contributions
of members
on leave.

36. (1) A member shall continue to contribute to the Fund while on leave with full or half-pay, or under suspension on half-pay, but such contribution shall be calculated on his full pensionable emoluments and not on the half-pay actually drawn. In respect of a period of suspension without pay no contribution shall be made, and no such period shall be reckoned in calculating his period of pensionable employment.

(2) In respect of a period of authorised leave without pay the member shall on application be permitted to contribute on the basis of his full pensionable emoluments for the calendar month immediately preceding the commencement of his leave without pay, and such contributions shall include compound interest at the rate of four per cent. per annum calculated monthly; but such application must be made and the amount due in respect thereof must be actually paid by the member within one month of his return to duty. Failing such application and such payment by the member, no contributions shall be collected or be payable in respect of any period of leave without pay, and no such period shall be reckoned in calculating the period of his pensionable employment.

(3) A member shall continue to contribute to the Fund in the ordinary manner while absent on sick leave. If sick leave be granted with full or part pay (whether paid by the Administration or out of a sick or insurance fund to which the Administration contributes) contributions shall be payable on the full pensionable emoluments which would have been drawn if the member had not been on sick leave. The provisions of sub-section (2) shall *mutatis mutandis* apply in respect of contributions while on sick leave without pay.

Contributions
by Admini-
stration.

37. As from the fixed date the Administration shall, on the last day of each month, contribute and pay into the Fund a sum equal to the aggregate of the amounts, whether of contributions or interest, or both, which have during the month been paid into the Fund by members, or by the Administration on behalf of members, less such amounts as may have been already paid in advance by the Administration or its predecessors as against arrear contributions then payable.

Administra-
tion to retain
the Fund and
pay interest.

38. (1) The moneys of the Fund shall be vested in the Administration and shall be held by it on behalf of the members subject to the provisions of this Act.

(2) After the fixed date revenue shall be charged with interest at the rate of four per cent. per annum on all moneys standing to the credit of the Fund in the books of the Administration. Such interest shall be credited to the Fund as at the last day of each month.

Annuities.

How annu-
ties calcula-
ted.

39. Any annuity shall be based on the average pensionable emoluments of each member for the whole period of his ordinary contributions and shall vary according to the member's age, calculated as from his birthday nearest to the date from which he has made ordinary contributions. The tables set forth in the Second Schedule to this Act and marked I. and II. shall be deemed to show, in the case of officers and employees respectively, the percentage of the average pensionable emoluments which shall be payable as an annuity in respect of each completed year of ordinary contributions: Provided that no annuity shall be granted to any person unless ordinary contributions have been made by him or on his behalf in respect of a period of ten years or more; and provided further that the member is in other respects qualified for such an annuity.

Supplemen-
tary annuities

40. A supplementary annuity may be obtained by a member making additional contributions. The tables set forth in the Second Schedule to this Act and marked III. and IV. shall be deemed to show in the case of

officers and employees respectively, the supplementary annuity which may be secured by payment of each additional contribution of one per cent. on a member's pensionable emoluments: Provided that no such supplementary annuity shall be paid to any person unless additional contributions have been made by him or on his behalf in respect of a period of ten years or more.

Ages and circumstances giving rise to retirement on pension.

41. (1) A member who has attained the age of sixty years and who has contributed to the Fund in respect of a period of at least ten years, shall have the right to retire on pension, or may be required to retire on pension.

(2) A member who, for at least five years immediately preceding his retirement, has been continuously employed in the position of telegraphist, engine-driver, fireman (except a driver or fireman of a stationary engine), or diver shall, on or after attaining the age of fifty years, and provided that he has contributed to the Fund in respect of a period of at least ten years, have the right to retire on pension, or may be required to retire on pension; but in calculating an annuity in any such case, a member's age at the date in respect of which his first ordinary contribution to the Fund has been paid shall be deemed to be increased by as many years beyond his actual age at that date as his age on retirement falls short of sixty years. In the case of servants employed as aforesaid who become members after the fixed date the age of fifty years mentioned in this section shall be increased and shall read as if fifty-five years were mentioned.

(3) A member who, having contributed to the Fund in respect of a period of ten years or more, is compelled to retire from the Service by reason of severe bodily injury or permanent ill-health or physical disability occasioned in either case without his own default shall be entitled to receive, in respect of his completed years of membership, an annuity calculated as is provided in section *thirty-nine*, or (as the case may be) in sections *thirty-nine* and *forty*: Provided that, in the case of permanent ill-health, or physical disability he shall produce a satisfactory certificate signed or countersigned by a railway or harbour medical officer or such medical practitioner or board as may be prescribed, that the permanent ill-health or physical disability has been occasioned without the member's own default: Provided further that in every such case the Administration shall be satisfied on enquiry that the disablement is permanent, or will become permanent if the member continues to perform the duties of his office or post and is or will be of such a nature as permanently to incapacitate the contributing member from performing the duties of his office or post.

Benefits other than Annuities.

Voluntary retirement.

42. If a member retire from the Service voluntarily before superannuation or if he accept employment in another service as described in section *twenty-nine*, he shall be entitled on application to a return of the whole of his contributions, but without interest, and he shall have no further claim upon the Fund.

Retirement on ill-health, etc., before expiry of ten years after joining the Fund.

43. If a member be compelled, before he has contributed to the Fund in respect of a period of ten years, to retire by reason of severe bodily injury or permanent ill-health or physical disability occasioned in either case without his own default he shall be entitled on application to a return of all his contributions, with compound interest up to the date of his retirement at the rate of four per cent. per annum: Provided that in the case of permanent ill-health or physical disability he shall produce a satisfactory certificate signed or countersigned by a railway or harbour medical officer, or such medical practitioner or board as may be prescribed, that the permanent ill-health or physical disability has been occasioned without his own default: Provided further that in every such case the Administration shall be satisfied on enquiry that the disablement is permanent or will become permanent if the member continues to perform the duties of his office or post and is or will be of such a nature as

permanently to incapacitate the member from performing the duties of his office or post or such other duties as the Administration may assign to him. A member described in this section shall have no further claim upon the Fund, but the Administration shall grant him out of the revenue such sum by way of gratuity as it may think fit but not less than the difference between the amount of contributions and interest hereinbefore referred to and the compensation he would have been entitled to had his services been dispensed with in accordance with sections *nine* and *ten*.

Retirement
due to ineffi-
ciency.

44. If a member be removed from the Service on the ground of inefficiency from causes not solely within his control, there shall be paid over to the Administration from the Fund a sum equal to twice the member's contributions without interest, and thereafter the member shall have no further claim upon the Fund and the member shall be dealt with in accordance with Chapter I.

Retirement
from other
causes.

45. If a member in permanent employment leave the Service before superannuation in consequence of his employment being discontinued owing to a reduction in or re-organisation of staff, or under the provisions of section *ten*, there shall be paid over to the Administration from the Fund a sum equal to twice the amount of the member's contributions without interest, and thereafter the member shall have no further claim on the Fund, and he shall be dealt with in accordance with Chapter I.

Retirement
of servants
entering the
Service when
over fifty.

46. Save as is provided in section *ten*, a servant who has been allowed under sub-section (4) of section *twenty-eight* to become a member of the Fund, shall, if his employment be terminated on superannuation before he has been a member for ten years, be entitled to be repaid his contributions without interest.

Dismissal
from the
Service.

47. If a member be dismissed from the Service for fraud, dishonesty, or misconduct, or retire from the Service in order to avoid dismissal or be ordered to resign on account of misconduct, he shall be refunded the amount of his contributions to the Fund: Provided that, in the case of a member dismissed for fraud or dishonesty, the Administration may deduct from any sums payable to such member under this section the amount of any loss which the Administration may have sustained by reason of such fraud or dishonesty: Provided further that if a number of servants during the period which they have engaged to serve, and not being duly discharged, desert, or refuse to serve, or absent themselves from duty without lawful cause or reasonable excuse, or resign without giving the notice required by any regulation or contract, they shall be deemed to have retired from the Service and no refund of contributions shall be made to such servants.

Death result-
ing from in-
juries or
otherwise be-
fore super-
annuation.

48. (1) Subject to the provisions of section *fifty*, if a member die from the effects of severe bodily injury, occasioned without his own default whilst in the discharge of his duties, there shall be paid to the person named in section *fifty* a sum equal to twice the amount of his contributions with interest at the rate of four per cent. per annum.

(2) Subject to the provisions of section *fifty*, if a member die from any other cause than is described in sub-section (1) there shall be paid to the person named in section *fifty* a sum equal to twice the amount of his contributions without interest.

Death after
superannua-
tion.

49. Subject to the provisions of section *fifty*, when a person in receipt of an annuity dies, there shall be returned to the person named in that section a sum equal to any difference that may remain between twice the amount of his contributions and the aggregate of amounts which he has received by way of annuity.

When
how contri-
butions pay-
able to a de-
ceased mem-
ber's repre-
sentative.

50. The payment provided for in sections *forty-eight* and *forty-nine* shall only be made when the member leaves—

- (a) a widow or widower, or children or step-children; or
- (b) a father, mother, brother or sister dependent upon him for support and maintenance but not any other collateral or more distant relative:

In all cases payment shall be made to, or in the discretion of the Administration to some person on behalf of, the persons aforesaid.

Payments shall be made in the following order of preference, unless that order of preference be varied by the deceased member by notice in his lifetime to the Administration, namely,—

- (1) to the widow, or in the case of a deceased female member if it has been in writing so directed by her during her lifetime, to the widower; or
- (2) to the children and step-children, in equal shares; or
- (3) to the father and mother in equal proportions or to the survivor of them; or
- (4) to the brothers or sisters in equal shares.

When the deceased member leaves no such relatives as aforesaid, payment of his own contributions only shall be made to the person lawfully administering his estate.

For the purposes of this section the mother of an illegitimate child of the deceased member or an illegitimate or adopted child shall, where there is no widow or legitimate child, have respectively the same rights as a widow and a legitimate child.

Payments to relatives are excluded from deceased's estate

51. When the amounts referred to in sections *forty-eight*, *forty-nine* and *fifty* have been paid to any person mentioned therein other than the legal representative, the Administration and the Fund shall be exempt from any further claim in respect of an amount so paid and no such amount shall be deemed to form part of the estate of the deceased.

Continuity of employment for pension purposes.

52. (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 service of another Administration or Government, or if approved by the Administration when seconded to the service of such other Administration or Government for a period not exceeding one year.

(2) Continuous employment shall not be regarded as interrupted by breaks in service due to retirement followed by resumption of duty under section *eighty-one*.

(3) If a servant in permanent employment who has been discharged owing to a reduction in staff or on the ground of illhealth be re-employed within twelve months after the date of his discharge, the Administration may in its discretion authorize the break in employment due to such discharge to be regarded as leave without pay in respect of which no contributions are to be made for the purpose of continuous membership of the Fund: Provided that if such servant has been paid a gratuity or a gratuity and refund of contributions, with or without interest, he shall refund to the Administration the amount of such payments in such instalments as may be determined, and provided the Administration shall pay into the Fund the amount of the contributions refunded therefrom plus interest at the rate of four per cent. per annum compounded monthly.

Pension not granted to members whilst in the service.

53. No pension shall be granted to any member so long as he holds any office or post in the Service, other than an honorary office or post.

Provision in case pensioned member is re-employed.

54. If any member be granted an annuity under this Act and be thereafter employed in the Service or in any other department of the public service of the Union or in the public service of any Provincial Government, the annuity shall cease to be paid for any period subsequent to the commencement of any such employment if the amount of the pensionable emoluments thereby received by the member be equal to or more than the emoluments of his former office or post at the time of his retirement from the Service, or if not, then the annuity shall be reduced until the amount thereof when added to the pensionable emoluments so received, becomes

equivalent to the pensionable emoluments of his former office or post. On the termination of the employment the annuity granted prior thereto shall again become payable.

If the employment be in the Service the member shall be entitled to contribute to the Fund on the pensionable emoluments (including for the purpose the reduced annuity aforesaid) drawn by him during the period he has been so again employed, and on his ultimate retirement shall be entitled to a separate annuity in respect of such further period of employment, calculated in the same manner as if he had first entered the Service at the date when he commenced to be again employed.

Persons re-employed at the age of fifty years or upwards shall in respect of such period of re-employment have their pensions fixed by the actuary in an equitable manner and, so far as practicable, upon the basis of the scale set out in the Second Schedule to this Act.

How pensions calculated.

55. Pensions shall be calculated by the year and by the month as from the first day in respect of which contributions have been paid, but fractional parts of a month shall be disregarded. For the purpose of calculating benefits or interest in connection with any matters relating to the Fund a month shall be taken as one-twelfth part of a year.

Transfers to and from other Departments of the Public Service of the Union.

56. (1) Any member of the Fund who has been transferred to the Public Service of the Union from the Service and is permitted to become a member of a superannuation or pension fund of the Public Service, shall be entitled on his ultimate retirement to have his pension calculated upon the whole of his continuous pensionable employment under the Administration and in the Public Service, provided that the Administration shall, subject to sub-section (3) hereof, pay to the Minister of Finance twice the amount of such person's contributions to the Fund together with compound interest compounded annually at five per cent., and such member shall have no further claim upon the Fund.

(2) When a member of any superannuation or pension fund of the Public Service is transferred from the Public Service of the Union to the Service and is permitted to become a member of the Fund he shall be permitted to reckon his period of pensionable employment in the Public Service as continuous with that of his pensionable employment in the service of the Administration for superannuation purposes, and twice the amount of his contributions to the superannuation or pension fund of the Public Service from which he is transferred, together with compound interest compounded annually at five per cent., shall, subject to sub-section (3) hereof, be paid by the Minister of Finance to the Administration, and such member shall have no further claim upon the superannuation or pension fund of the Public Service.

(3) If there be any amount of the contributions so to be handed over in terms of the two preceding sub-sections in excess of the requirements of the superannuation or pension fund of which such person is to become a member, the difference shall be paid in equal proportions to such person and the authority from whose service such person is transferred, and should there be a deficiency it shall be met in like manner.

Transfer to and from the service of the Provincial Governments.

57. In the case of transfers of persons to or from the Service of a Provincial Government from or to the Service, the provisions of section fifty-six shall *mutatis mutandis* apply.

Females entitled to membership.

58. Female servants of the Administration shall become members of the Fund subject to the same conditions and scales of contributions and pensions as male servants of the Administration, but the Administration shall have the right at any future time, but without prejudice to any rights acquired, to cause special scales of contributions and pensions approved by an actuary to apply to them.

*Financial.*Accounts of
the Fund

59. (1) The chief accountant of the Administration shall cause full and true accounts to be kept showing separately for each division of the Fund—

- (a) all sums of money received or due and disbursed or payable in respect of members and particulars of the matters and things for which those sums of money have been received or disbursed ;
- (b) the time of commencement of membership and amounts and dates of payment of all contributions together with all chronological and other particulars necessary to admit of proper accounts of the divisions of the Fund being kept in accordance with this Act and the regulations, and to admit of an actuarial valuation of the Fund being made at any time ;
- (c) all sums of money due to or from other administrations in respect of pensions partly payable by any other administration or Government ;
- (d) all amounts due to or from the Administration in connection with the Fund ;
- (e) all other matters of account provided for or contemplated in this Act and the regulations.

For the purposes of the said accounts, when a member is transferred from one division of the Fund to the other, twice the amount of his contributions accumulated at five per cent., compound interest and calculated annually as at the thirtieth day of June shall be transferred from the one division to the other and thereafter any contributions shall be paid into the other division.

(2) The chief accountant shall cause the books and accounts of the Fund to be balanced up to the thirtieth day of June in every year and a balance sheet to be made up showing the assets and liabilities of the Fund at the date when the balance sheet is framed.

(3) The balance sheet shall be signed by the chief accountant and audited, and thereafter countersigned by the person auditing the Administration's accounts, and copies shall be distributed among all the members.

Periodical
valuation of
the Fund.

60. (1) The Fund shall be valued as at the thirtieth day of June, 1914, and every five years thereafter, by an actuary appointed by the Minister. The actuary shall report direct to the Minister, and shall in his report state the data and processes used in his investigation and valuation ; a copy of the said report shall be forthwith transmitted to the committee of management. The actuary shall separately value the assets and liabilities of the two divisions of the Fund and shall declare what surplus or deficiency appears on the same respectively, and shall state how such surplus or deficiency respectively appears to have arisen, and shall advise how the same respectively should be dealt with.

(2) If the actuary's valuation disclose a surplus beyond the requirements likely to arise under this Act or any amendment thereof or the regulations, the benefits shall be increased or the contributions shall be reduced in such manner as the Minister and the committee of management aforesaid agree : Provided that if no such agreement be arrived at between the Minister and the committee of management aforesaid, no change shall be made pending the next actuarial valuation. But if the actuary's valuation disclose a deficiency, the deficiency shall be met, if necessary, in such fair and equitable manner as may appear to the Minister to be reasonable, but no person to whom a pension has been granted shall have the same reduced, or be called upon to repay any amount already received.

DETAILED.

(3) The wishes of all the members shall be ascertained by ballot in such manner as the Minister may determine, whenever any question arises in connection with the Fund which is, in the opinion of the Minister, of sufficient importance to justify such action being taken.

(3) De gevoelens van alle leden worden bij ballotage ingewonnen op een door de Minister te bepalen wijze, wanneer in verband met het Fonds een kwestie ontstaat die naar het

How the Fund to be administered and cost thereof paid.

61. The business of the Fund shall be conducted by means of the staff of the Administration and the cost of administering the Fund and of any actuarial investigations and matters incidental thereto shall be borne by the Administration out of revenue.

CHAPTER IV.

NEW PENSION FUND AND NEW WIDOWS' PENSION FUND.

New pension fund and membership thereof and annuities therefrom.

62. (1) As from the thirty-first day of May, 1910, there shall be constituted a new pension fund, to be called the Railways and Harbours Pension Fund, which shall be controlled by the Administration and which is herein referred to as the "new pension fund."

(2) Any Natal servant or any person in the Service who, on the thirty-first day of May, 1910, was a member of an old pension fund, shall, as from that date, be a member of the new pension fund.

A transferred servant who, at the date of his transfer, was a contributor to the Cape Civil Service Pension Fund and has continued to make contributions towards pension shall also be a member of the new pension fund.

(3) The following shall be deemed to be annuitants of the new pension fund as from the thirty-first day of May, 1910, namely, any person who was—

- (a) a member of an old pension fund;
- (b) a transferred servant; and
- (c) a Natal servant,

who is in receipt of an annuity and who at the date of his retirement was in the Railway, Harbour or Port service of a Government whereof the Union Government is the successor.

Assets of new pension fund.

63. (1) There shall be credited to the new pension fund such proportion of the assets of any old pension fund as may be determined by an actuary to be fair and reasonable after an approximate valuation of such old fund.

(2) There shall also be paid to the new pension fund from revenue in annual instalments extending over a period of not more than ten years from the commencement of this Act, such an amount as will, in the opinion of the actuary, make good the estimated deficiency of that fund at the thirtieth day of May, 1910.

(3) The Administration shall, as from the thirty-first day of May, 1910, pay over to the new pension fund all moneys received from members on account of pension fund contributions and shall also make from its revenue to the new pension fund such contributions as would have been paid or be payable from public revenues if this Act had not been passed: Provided that such contributions by the Administration shall in no case be less than one pound for every pound contributed by the members.

(4) There shall further be paid monthly into the new pension fund from revenue interest on the monthly balances of the new pension fund at four per cent. per annum. The revenue derived from any investments of the new pension fund shall be paid over to the Administration.

Transfers to and from other departments of the public service of the Union.

64. If any person who is a member of the new pension fund is transferred from the Service to the public service of the Union or of a Provincial Government, or if a person who has pension rights corresponding to those of any member of the new pension fund is transferred from the said public service to the Service, such person shall be so transferred with continuity of all pension rights and obligations.

If the transfer is from the Service there shall be paid over from the new pension fund to the Minister of Finance a sum equal to twice the amount of the transferred person's contributions in respect of the whole period of his pensionable employment and compound interest thereon at the rate of five per cent. per annum. Like payments shall be made conversely by the Minister of Finance to the new pension fund if the transfer is to the Service.

Any person transferred from the Service who was, on the thirtieth day of May, 1910, a member of an old pension fund, shall from the date of his transfer become a member of the public service section of such old pension fund. Any person so transferred to the Service shall, as from the date of his transfer, become a member of the new pension fund.

65. If, within five years after the seventeenth day of May, 1910, the employment of any officer who is a member of the new pension fund be terminated by reason of the abolition of his own or another office or by reason of a reduction of or reorganization in his department, there shall be added to the actual period covered by his contributions such period as he may be entitled to under the Act or Acts governing the old fund of which he was a member, but in any case there shall be an addition of not less than the period described in sub-section (7) of section *nine*. No contributions shall be payable by the officer in respect of any period so added.

66. (1) As from the thirty-first day of May, 1910, there shall be constituted a new widows' pension fund to be called the Railways and Harbours Widows' Pension Fund, which shall be controlled by the Administration and which is herein referred to as the "new widows' pension fund."

(2) All persons in the Service who, prior to the commencement of this Act, had been admitted to membership of the Cape Widows' Pension Fund or who may hereafter be admitted to the new widows' pension fund, by virtue of rights accrued on the thirtieth day of May, 1910, or accruing thereafter, shall be members of the new widows' pension fund.

(3) Any person in receipt of an annuity from the Cape Widows' Pension Fund by virtue of relationship to a person who at the date of that person's death was in the Service, or in the Railway, Harbour or Port Service of a Government whereof the Union Government is the successor, shall, as from the thirty-first day of May, 1910, be deemed to be an annuitant of the new widows' pension fund.

67. (1) There shall be credited to the new widows' pension fund such proportions of the assets of the Cape Widows' Pension Fund as may be determined by an actuary to be fair and reasonable after an approximate valuation of the Cape Widows' Pension Fund.

(2) The Administration shall, as from the thirty-first day of May, 1910, pay over to the new widows' pension fund all moneys received from members on account of contributions, and shall also make from its revenue such contributions as would have been paid or be payable from public revenues into any other fund if the new widows' pension fund had not been constituted.

(3) As from the thirty-first day of May, 1910, there shall further be paid monthly from revenue interest on the monthly balances of the new widows' pension fund, at the rate of five per cent. per annum. The revenue derived from any investments of the new widows' pension fund shall be paid over to the Administration.

68. If any person who is a member of the new widows' pension fund be transferred from the Service to any other department of the public service of the Union he shall cease to be a member of the new widows' pension fund and become a member of the public service section of the Cape widows' pension fund and there shall be paid over from the new widows' pension fund to such public service section of the Cape widows' pension fund an amount equal to his contributions, in respect of the whole period for which he has contributed, together with compound interest on those contributions at the rate of five per cent. per annum. Like payments shall conversely be made in the case of a contributor to the Cape widows' pension fund transferred from the public service to the Service, and such person shall thereupon become a member of the new widows' pension fund with continuous widows' pension rights in respect of the whole period covered by his contributions.

69. The accounts of the new pension fund and the new widows' pension fund shall be kept by the chief accountant of the Administration. Those accounts shall show separately all the receipts and payments in respect of the following classes of persons, namely,—

- (a) persons who are members or annuitants of either or both of the said funds by virtue of their membership of the Cape Civil Service and Widows' Pension Funds;

- (b) persons who are members or annuitants of either or both of the said funds by virtue of their being or having been transferred servants;
- (c) persons who are members or annuitants of the new pension fund by virtue of their being or having been Natal servants;
- (d) persons who are members or annuitants of the new pension fund by virtue of their membership of the Natal Public Employees Superannuation Fund established in terms of Act No. 29 of 1897, including the Railway Superannuation Fund incorporated therewith.
- (e) persons who are members or annuitants of the new widows' pension fund.

Periodical actuarial valuation of the new funds.

70. (1) The new pension fund and the new widows' pension fund shall be valued by an actuary as on the thirtieth day of June, 1914, and every five years thereafter.

(2) In the event of the actuarial examination of either or both of the said funds disclosing a deficit after account has been taken of the amounts paid or payable under subsection (2) of section *sixty-three* from revenue the Administration shall make such special annual contributions to either or both of the said funds as will, in the opinion of the actuary, be adequate to secure to members all the benefits to which they may be entitled.

Administration may make certain alterations in method of collecting, etc.

71. Notwithstanding anything to the contrary contained in the law constituting any old pension fund or in any other law the Administration may make changes in the direction of assimilating the methods of collecting and computing contributions, paying pensions, method of keeping accounts, treatment of breaks in service, and other like matters to those followed in the case of the Fund constituted under Chapter III., and any regulations applicable thereto: Provided that no change shall prejudicially affect the right of any person who was on the thirtieth day of May, 1910, a member or annuitant of any of the old pension funds or a transferred servant or the rate of contribution payable by him, or the amount of any pension or any other benefit to which he is entitled.

Members contributions to be continued and rights and privileges to be maintained.

72. (1) Members of the new pension fund and of the new widows' pension fund shall be subject to the same obligations in regard to payments of contributions and shall continue to enjoy the same rights and privileges in regard to pensions and other pension benefits as they enjoyed prior to the commencement of this Act.

(2) The new pension fund and the new widows' pension fund shall take over all the liabilities relating to pensions payable to members of the said funds.

Committee of management.

73. The Administration may delegate to the committee of management appointed under section *twenty-seven*, such powers and authority to deal with matters affecting the new pension fund and the new widows' pension fund as it may think fit, and for the better administration thereof shall nominate two additional members to that committee and the members of the new pension fund and the new widows' pension fund shall, from their number, elect an equal number of additional members to that committee to sit thereon when, and only when, any matters relating to the new pension fund or the new widows' pension fund may be under consideration.

CHAPTER V.

PENSIONS PAYABLE FROM REVENUE.

Pensions, etc. to be paid from the Administration's revenue

74. Save as is provided in Chapter IV. and anything to the contrary notwithstanding in the laws constituting the old pension funds or any other law, any contributions towards pension made to the Consolidated Revenue Fund by persons who, on the thirty-first day of May, 1910, were in the Service, shall from that date be paid to revenue and any pensions or proportions of pensions paid from the Consolidated Revenue Fund to persons who, at

the date of their retirement, were in a railway or harbour service under a Government, whereof the Union Government is the successor, shall as from the thirty-first day of May 1910, be paid from revenue.

Contributions on behalf of members transferred to other departments of public service

75. In the case of any person who has pensionable rights in respect of any period for which he did not contribute to any pension fund, and who has, on and after the thirty-first day of May, 1910, been transferred with continuity of pension rights to any other department of the public service of the Union from the Service or *vice versa*, the Government or the Administration according as the Government or the Administration was the transferring body, shall pay over, from its revenue, a sum equal to six per cent. on the pensionable emoluments paid to the said person during each year of such pensionable service, up to the date of his transfer, together with compound interest on that sum at the rate of five per cent. per annum. The Government or the Administration, according as the said person was transferred to another department of the public service of the Union or to the Service, shall thereupon become and remain responsible for any obligations of the transferring body in regard to the pension rights of the person so transferred and shall also be invested with any rights or claims which the Administration or the Government may have against the Imperial or any other Government for any contribution towards the pension of the said person, but only in so far as his service under the Imperial or other Government has been excluded in calculating the said payment.

Reservation of special pension rights of certain officers.

76. (1) There shall be paid out of the revenue of the Administration to the officer who, immediately prior to the second day of June, 1908, was Auditor to the Inter-Colonial Council of the Transvaal and Orange River Colonies which terminated on that day, on the retirement for any cause of such officer from the Service, a pension on the same scale and under the same conditions as would have been paid to him in such several circumstances if he had remained in the Civil Service of the United Kingdom but had been drawing on retirement therefrom annual emoluments equal in amount to those actually drawn by him on retirement from the Service: Provided that he shall be entitled to reckon, for purposes of pension, as portion of his period of employment in the said Service, any continuous period of employment in the said Civil Service together with any continuous period of employment under the said Council or the old Administration or in the public service of the Transvaal.

(2) The Administration shall take all steps (in accordance with law) necessary for the recovery from the Imperial Government and from the Consolidated Revenue Fund of any sums which should be contributed towards the said pension and shall pay such sums, when recovered, into revenue.

CHAPTER VI.

GENERAL.

Members rights to compensation under Workmen's Compensation Acts, etc., not affected.

77. (1) Nothing in this Act contained shall in any way affect the rights which any member or his dependents may have to claim compensation under any law governing compensation or damages to workmen injured or dying from any accident arising out of or in the course of their employment, and the amount payable under any such law shall not be reduced by reason of any payment that may be made under this Act, anything to the contrary in any such law notwithstanding.

(2) The Administration may, in a Province where there is no law governing the payment of compensation for damages to workmen injured or dying from any accident arising out of or in the course of their employment, pay to its workmen or their dependents such amounts as may seem equitable in respect of injuries arising from accident out of and in the course of their

employment; and such payment shall not be in any way affected by any other payment made to such workmen under this Act.

Pensions, etc.,
not assignable
or executable.

78. No pension, or right to a pension, shall be capable of being assigned or transferred, or otherwise ceded, or of being pledged or hypothecated, nor shall the same or any contributions made by a member or on his behalf be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, and in the event of the beneficiary attempting to assign, transfer, or otherwise cede or to pledge or hypothecate a pension or right, payment of the same may be withheld, suspended, or entirely discontinued, if the Administration so determine.

How pensions
affected by
insolvency.

79. (1) If any person in receipt of an annuity be declared insolvent, the annuity shall forthwith determine: Provided that in any such case all or any part of the annuity shall be paid to or for the benefit of all or any of the following persons, namely, the insolvent, his wife or any minor children, or failing a wife or minor children, to the mother of illegitimate children or any children whether legitimate or adopted or illegitimate or other relatives dependent on him for maintenance. If the payment be to the insolvent, it shall be for his own personal use and may not in any way be attached or appropriated by the trustee in insolvency or by his creditors, anything to the contrary notwithstanding in any law relating to insolvency.

(2) Whenever an annuity has determined under this section, it shall be revived on rehabilitation of the insolvent, and he shall receive an annuity at the same rate and under the same conditions as before insolvency, together with any arrears that may be due.

Commutation
of small
annuities.

80. If an annuity not exceeding twenty-five pounds be granted to a member of the Fund, the Administration may at the request of the recipient, and before the first payment thereof has been made, commute the annuity by a single cash payment calculated actuarially according to the period for which the recipient may be expected to draw the annuity.

Recall to the
Service after
pension.

81. Any servant to whom an annuity has been granted before superannuation may be given the option of resuming his duties in his former office or post or an office or post of a rank equal to or higher than that previously held by him and with emoluments not less than those enjoyed by him at the date of leaving the Service.

Certain
periods of
employment
to be deemed
continuous.

82. Any periods of employment of any servant—

- (a) under the Administration;
- (b) under the old Administration;
- (c) in the public service of any South African Government of which the Union Government is the successor;
- (d) in the South African Constabulary;
- (e) in any department administered by or on the advice of the Inter-Colonial Council of the Transvaal and Orange River Colonies;
- (f) in the railway police of the Transvaal and Orange River Colonies;
- (g) in any other service to the extent of any portion of such employment admitted for pension purposes;

shall, if uninterrupted, be deemed to be one period of continuous employment.

Saving as to
existing
rights.

83. Where in any provision of this Act any person being a Cape contributor, a Cape fixed establishment servant, a Natal servant or a transferred servant, is specially excepted from its operation or where under any provision of this Act any such person would be deprived of any rights secured to him by section one hundred and forty-four of the South Africa Act, 1909, the rights of that person in regard to the matters contained in the said provision of this Act shall be deemed to be those accrued or accruing as at the thirtieth day of May, 1910, under the laws then governing the service of which such person was a member.

Saving as to
staff of
Auditor.

84. Nothing in this Act shall apply to the staff engaged in the statutory audit of the accounts of the Administration, who shall, in respect to conditions of service and privileges, be subject, in so far as the same are capable of being applied, to the laws and regulations governing the other departments of the public service of the Union: Provided that a member of such staff shall not be prejudiced by this section in his rights (if any) under this Act so far as it relates to the superannuation of railway and harbour servants.

Special pro-
vision for
certain
Harbour
servants.

85. Notwithstanding anything contained in Act No. 31 of 1909 of the Cape of Good Hope, if any servant admitted to membership of an old pension fund by virtue of section four of the said Act retires on superannuation before he has completed the payment of arrear contributions due by him in respect of his continuous approved service prior to the first day of January, 1909, for which he has elected to contribute, there shall be added to the period of service taken into account in calculating his annuity one half of such period of continuous approved service as is not at the time covered by his contributions and there shall be paid to the new pension fund from revenue an amount equal to the contributions which would have been payable from revenue in respect of such service had the servant completed the payment of arrears in respect of which the addition is made.

Confirmation
of payment
of certain
gratuities
and benefits.

86. All gratuities to persons who on the thirty-first day of May, 1910, were in the permanent employment of the Administration and whose services have been dispensed with prior to the commencement of this Act owing to a reduction in, or re-organization of, staff or for other good cause, are hereby confirmed and approved: Provided that all such gratuities shall have been duly authorised by the Administration before being paid or awarded: Provided further that returns of all payments under this section shall be laid upon the Tables of both Houses of Parliament within fourteen days after the commencement of the next ensuing session.

Confirmation
of certain
appointments
and removals
of servants
since Union.

87. All appointments and removal of servants to or from the Service made by and with the authority of the Administration on or subsequent to the thirty-first day of May, 1910, but before the commencement of this Act, are hereby confirmed and approved, although they may, in some cases, have been effected prior to the consent of the Governor-General being obtained, or even without such consent.

Regulations.

88. (1) The Administration may, subject to the approval of the Governor-General, make regulations, not inconsistent with this Act, with respect to all or any of the following matters:—

- (a) the conditions of employment in the several departments, offices or branches of the Service;
- (b) the security to be given by officers and employees and the form and amount thereof;
- (c) the establishment of a sick fund and the working of the same and the form and manner in which the accounts thereof shall be kept, the scale of contributions and the manner in which contributions shall be made to any such fund by servants;
- (d) the establishment of a medical board to examine and report upon any case in which a medical certificate is under this Act required, the form of medical certificates and the procedure and the conditions to be observed by servants in furnishing the same, in the several circumstances in which they are required;
- (e) the educational qualifications necessary to qualify a temporary servant for becoming a permanent servant;
- (f) the procedure to be followed in investigating and dealing with charges of inefficiency or misconduct, and the officers by whom the prescribed penalties may be imposed;
- (g) the mode of administering any fund and the form and manner in which the accounts thereof shall be kept;

- (h) the manner in which contributions shall be made to any fund by its members ;
- (i) the method of calculating ante-dated, arrear or current contributions to any fund and interest thereon and the arrear instalments thereof ;
- (j) the method of assessing the value of rations, for the purpose of determining pensionable emoluments ;
- (k) the forms and periods of notice to be given by members of any fund who are entitled to or claim pensions ;
- (l) the mode of payment of contributions and pensions ;
- (m) evidence of age or marriage to be required from any person or the evidence that may be required as to a servant's death before any such benefits may be claimed in respect of that servant from any fund ;
- (n) the method of calculating arrear or current pensionable emoluments and interest thereon ;
- (o) what shall be regarded as overtime ;
- (p) the breaks in the continuity of employment which shall be condoned for the purpose of membership of the Fund in terms of sub-section (8) of section *twenty-eight*.
- (q) the circumstances in which and the person to whom an appeal shall lie, and the manner in which such an appeal shall be prosecuted,
- (r) the procedure to be followed in the election by members of the fund of representatives to be members of the committee of management.

and generally for dealing with such matters as are specially to be prescribed, and for the better carrying out of the objects and purposes of this Act.

(2) Copies of all such regulations shall be laid upon the Tables of both Houses of Parliament within fourteen days after the publication thereof in the *Gazette* if Parliament be then in session, or if Parliament be not then in session within fourteen days after the commencement of its next ensuing session.

Short title
and date
of commence-
ment of Act.

89. This Act may be cited for all purposes as the Railways and Harbours Service Act, 1912, and shall commence and come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

FIRST SCHEDULE.

LAWS REPEALED.

Province.	No. and Year of Law.	Title or Subject of Law.	Extent of Repeal.
Cape of Good Hope	Act No. 38 of 1908	The Harbours (Table Bay, Port Elizabeth, East London, and Mossel Bay) Control Act, 1908	Sub-section (1) of section <i>three</i> .
"	Act No. 41 of 1909	The Railway Superannuation Fund Act, 1909	The whole.
Natal ...	Law No. 9 of 1882	Management and Working of the Natal Government Railways	Sections <i>thirty-three</i> and <i>thirty-four</i> , except in so far as they relate to Natal servants.
"	Act No. 1 of 1910	The Public Servants Superannuation Act, 1909	In so far as it affects servants under this Act.
Transvaal...	Act No. 13 of 1908	The Railway Regulation Act, 1908	Sections <i>thirty-five</i> to <i>forty-one</i> inclusive.
"	Act No. 20 of 1908	The Railway Service and Pensions Act, 1908	The whole, except Chapters IV. and V. and any other provision of the Act relating to transferred servants.
Orange Free State	Act No. 29 of 1908	The Railways Regulation Act, 1908	Sections <i>thirty-five</i> to <i>forty-one</i> inclusive.
"	Act No. 37 of 1908	The Railway Service and Pensions Act, 1908	The whole except Chapters IV. and V. and any other provision of the Act relating to transferred servants.

SECOND SCHEDULE.

TABLE I.

Applicable to Officers.

Table showing the percentage of average pensionable emoluments payable as pension to members of the Fund in respect of each completed year of contribution.

Age at birthday nearest to date from which contributions paid.	Percentage.
20 and under	2.00 of average pensionable emoluments.
21	1.97 " "
22	1.92 " "
23	1.87 " "
24	1.82 " "
25	1.77 " "
26	1.72 " "
27	1.67 " "
28	1.62 " "
29	1.57 " "
30	1.53 " "
31	1.49 " "
32	1.45 " "
33	1.41 " "
34	1.38 " "
35	1.34 " "
36	1.31 " "
37	1.28 " "
38	1.25 " "
39	1.23 " "
40	1.20 " "
41	1.18 " "
42	1.15 " "
43	1.13 " "
44	1.11 " "
45 and over	1.09 " "

TABLE II.

Applicable to Employees.

Table showing the percentage of average pensionable emoluments payable as pension to members of the Fund in respect of each completed year of contribution.

Age at birthday nearest to date from which contributions paid.	Percentage.
24 and under	2.00 of average pensionable emoluments.
25	1.94 " "
26	1.87 " "
27	1.80 " "
28	1.74 " "
29	1.68 " "
30	1.62 " "
31	1.56 " "
32	1.51 " "
33	1.46 " "
34	1.42 " "
35	1.38 " "
36	1.34 " "
37	1.30 " "
38	1.27 " "
39	1.24 " "
40	1.21 " "
41	1.19 " "
42	1.16 " "
43	1.14 " "
44	1.11 " "
45 and over	1.09 " "

TABLE III.

Applicable to Officers.

Table showing the percentage of average pensionable emoluments payable as pension to members of the Fund in respect of each completed year of contribution under this Table for each additional contribution of one per cent.

Age at birthday nearest to date from which contributions paid.				Percentage.		
30	...	...	...	51 of average pensionable emoluments.		
31	...	...	...	50	"	"
32	...	...	...	48	"	"
33	...	...	...	48	"	"
34	...	...	...	46	"	"
35	...	...	...	46	"	"
36	...	...	...	44	"	"
37	...	...	...	44	"	"
38	...	...	...	42	"	"
39	...	...	...	41	"	"
40	...	...	...	41	"	"
41	...	...	...	39	"	"
42	...	...	...	39	"	"
43	...	...	...	38	"	"
44	...	...	...	36	"	"
45 and over	...	...	...	36	"	"

TABLE IV.

Applicable to Employees.

Table showing the percentage of average pensionable emoluments payable as pension to members of the Fund in respect of each completed year of contribution under this Table for each additional contribution of one per cent.

Age at birthday nearest to date from which contributions paid.				Percentage.		
30	...	...	...	54 of average pensionable emoluments.		
31	...	...	...	52	"	"
32	...	...	...	50	"	"
33	...	...	...	50	"	"
34	...	...	...	48	"	"
35	...	...	...	46	"	"
36	...	...	...	45	"	"
37	...	...	...	44	"	"
38	...	...	...	43	"	"
39	...	...	...	41	"	"
40	...	...	...	41	"	"
41	...	...	...	39	"	"
42	...	...	...	39	"	"
43	...	...	...	38	"	"
44	...	...	...	36	"	"
45 and over	...	...	...	36	"	"