

No. 19, 1931.]

ACT

To provide for the validation of (a) certain admissions to the New Superannuation Fund established under the Railways and Harbours Superannuation Fund Act, 1925, (b) the admission of certain periods of service for the purposes of the said Fund, and (c) the late exercise of certain options or rights in respect of the said Fund, and to amend in certain respects the Railways and Harbours Service Act, 1912, the Railways and Harbours Superannuation Fund Act, 1925, and the Railways and Harbours Service and Superannuation Fund Acts Amendment Act, 1930.

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:—

Interpretation of terms.

1. In this Act the expression "principal Act" means the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), as amended from time to time. 5

Validation of certain acts of Minister or joint committee of management.

2. (1) All acts of the Minister or of the joint committee of management established under section *four* of the principal Act whereby—

(a) on or before the thirty-first day of December, 1930, 10 any servant was admitted to the New Fund;

(b) any period of service was on or before the thirty-first day of December, 1930, admitted as service for the purposes of the principal Act; or

(c) the exercise of any option or right was permitted later 15 than the date fixed therefor,

are hereby validated.

(2) Any expression to which in the principal Act a meaning has been assigned bears, when used in sub-section (1), the same meaning. 20

Amendment of section 50 of Act No. 28 of 1912.

3. Section *fifty* of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), is hereby amended—

(a) by the insertion of the word "written" before the word "notice"; and

(b) by the insertion of the words "in manner prescribed", 25 after the word "Administration", where it occurs for the second time.

Amendment of section 5 of Act No. 24 of 1925.

4. Sub-section (3) of section *five* of the principal Act is hereby amended by the insertion of the word "temporary" after the word "continuous" in both places where the latter word 30 appears.

Amendment of section 13 of Act No. 24 of 1925.

5. Sub-section (2) of section *thirteen* of the principal Act is hereby deleted, and the following new sub-section (2) substituted:—

(2) A member shall continue to contribute to the New 35 Fund in respect of any period regarded as leave of absence without pay, but in respect of any such period in excess of six days, shall have the option of electing, within ninety days after his return to duty, not to contribute and should he so elect he shall be entitled to a refund of 40 his contributions in respect of the period in excess of six days and such period shall in that case not be reckoned in calculating his period of continuous employment. Contributions for any period regarded as leave of absence without pay shall be calculated and made in accordance 45 with paragraph (a), (b), (c) or (d) of sub-section (2) of section *eleven* and shall be based on the member's pensionable emoluments for the calendar month immediately preceding the commencement of the said leave.

Amendment of section 19 of Act No. 24 of 1925 as amended by section 2 of Act No. 7 of 1928.

6. Section *nineteen* of the principal Act is hereby deleted and the following new section substituted :—

Commutation of annuities from New Fund.

19 (1) Subject to the provisions of sub-section (4) the Administration shall at the request of any person who prior to his retirement was a member of the New Fund and to whom an annuity of thirty-six pounds or under, has been awarded, and before the first payment thereof has been received, commute such annuity by a single cash payment determined by the Administration or by the chief accountant of the Administration on the recommendation of an actuary and a medical practitioner appointed by the Minister, according to the period for which the said person may be expected to draw the annuity and for the purpose of such determination the said person shall in manner prescribed submit himself, for examination and report, to a medical practitioner nominated by the Administration or by the said chief accountant: Provided that any such payment made under this sub-section shall not be less than twice the amount of the said person's contributions to the New Fund.

Such determination shall be final.

(2) Subject to the provisions of sub-section (4) the Administration shall at the request of any person who prior to his retirement was a member of the New Fund and to whom an annuity has been awarded, and before the first payment thereof has been received, commute any portion of the annuity not exceeding one-third thereof, by a single cash payment determined in the same manner as a single cash payment determined under sub-section (1): Provided that any payment made under this sub-section shall not be less than an amount which bears the same proportion to the commuted portion of the annuity as twice the amount of the said person's contribution to the New Fund bears to the full annuity.

Such determination shall be final.

(3) If a member of the New Fund is retired on an annuity before the prescribed age of superannuation, and the whole or part of the annuity is commuted in terms of sub-section (1), (2) or (4), no greater sum shall be paid out of revenue than would in the ordinary course be so paid if the annuity had not been commuted and the said member had lived to attain the age from which the annuity would be paid out of the New Fund. The provisions of this sub-section shall be deemed to have been in operation on and from the first day of April, 1929.

(4) In the case of a member of the New Fund retired otherwise than by reason of severe bodily injury or permanent ill-health or physical disability, and awarded an annuity from the New Fund, the Administration may dispense with the medical examination required under sub-section (1) or (2) and in lieu of a single cash payment determined according to the provisions of either of the said sub-sections, shall make a single cash payment on an average commutation basis dependent upon age only, if such average commutation basis has been calculated by an actuary appointed by the Minister, and has been agreed to by a majority of members of the New Fund voting in manner prescribed and has been approved by the Administration. Such average commutation basis shall

be reviewed annually by the said actuary and should he recommend an alteration of such average commutation basis the Administration shall not give effect to the said recommendation unless it has been agreed to by a majority of the members of the New Fund by a vote taken in manner prescribed. 5

Amendment of section 33 of Act No. 24 of 1925.

7. Sub-section (2) of section *thirty-three* of the principal Act is hereby amended—

- (a) by the insertion of the word "written" before the word "notice"; and 10
 (b) by the insertion of the words "in manner prescribed" after the word "Administration".

Amendment of section 40 of Act No. 24 of 1925.

8. Sub-section (2) of section *forty* of the principal Act is hereby amended by the addition at the end thereof of the following words— 15

"Such member shall not be required to undergo a medical examination as a condition of admission to the New Fund."

Amendment of section 72 of Act No. 24 of 1925 as amended by section 4 of Act No. 7 of 1928.

9. Section *seventy-two* of the principal Act is hereby deleted and the following new section substituted:— 20

Commutation of annuities.

72. (1) Notwithstanding anything in any law contained and subject to the provisions of sub-section (4), the Administration shall, at the request of any person who prior to his retirement was a member of the Fund or the 1912 pension fund and to whom an annuity of thirty six pounds or under has been awarded, and before the first payment thereof has been received, commute such annuity by a single cash payment determined by the Administration or by the chief accountant of the Administration on the recommendation of an actuary and a medical practitioner appointed by the Minister, according to the period for which the said person may be expected to draw the annuity and for the purpose of such determination the said person shall in manner prescribed submit himself, for examination and report, to a medical practitioner nominated by the Administration or by the said chief accountant: Provided that any such payment made under this sub-section shall not be less than twice the amount of all contributions by the said person to the superannuation or pension fund of which he was a member. 25 30 35 40

Such determination shall be final.

(2) Subject to the provisions of sub-section (4) the Administration shall, at the request of any person who prior to his retirement was a member of the Fund or the 1912 pension fund and to whom an annuity has been awarded and before the first payment thereof has been received, commute any portion of the annuity not exceeding one-third thereof, by a single cash payment determined in the same manner as a single cash payment determined under sub-section (1): Provided that any payment made under this sub-section shall not be less than an amount which bears the same proportion to the commuted portion of the annuity as twice the amount of the said person's contributions to the fund or the 1912 pension fund bears to the full annuity. 45 50 55 60

Such determination shall be final.

(3) If a member of the Fund or of the 1912 pension Fund is retired on an annuity before the prescribed age of superannuation, and the whole

or part of the annuity is commuted in terms of sub-section (1), (2) or (4), no greater sum shall be paid out of Revenue than would in the ordinary course be so paid if the annuity had not been commuted and the said member had lived to attain the age from which the annuity would be paid out of the Fund or out of the 1912 pension fund. 5

(4) In the case of a member of the Fund or the 1912 pension fund retired otherwise than by reason of severe bodily injury or permanent ill-health or physical disability, and awarded an annuity, the Administration may dispense with the medical examination required under sub-section (1) or (2) and in lieu of a single cash payment determined according to the provisions of either of the said sub-sections, shall make a single cash payment on an average commutation basis dependent upon age only, if such average commutation basis has been calculated by an actuary appointed by the Minister, and has been agreed to by a majority of members of the fund in question voting in manner prescribed and has been approved by the Administration. Such average commutation basis shall be reviewed annually by the said actuary and should he recommend an alteration of such average commutation basis the Administration shall not give effect to the said recommendation unless it has been agreed to by a majority of the members of the fund in question by a vote taken in manner prescribed. 10 15 20 25

(5) The amount payable on the death of a person who has been awarded an annuity from the Fund or the 1912 pension fund which was commuted under the provisions of this section, shall be an amount equal to any refund of contributions or other benefits which would have been payable had the said person died immediately after the award of such annuity and no portion of the annuity had been commuted, reduced by an amount which bears the same proportion to the commuted portion of the annuity as the amount which would have been payable as a refund of contributions or other benefits as aforesaid, bears to the full annuity and reduced further by the sum of any payments actually made in respect of that portion of the annuity which was not commuted. 30 35 40 45

Amendment of section 4 of Act No. 27 of 1930.

10. Section *four* of the Railways and Harbours Service and Superannuation Fund Acts Amendment Act, 1930 (Act No. 27 of 1930), is hereby amended by the addition of the following sub-section (the existing section becoming sub-section (1)) :—

“(2) The provisions of sub-section (1) shall be deemed to have been in operation on and from the first day of September, 1925.” 50

Short title and commencement of Act.

11. This Act may be cited as the Railways and Harbours Service and Superannuation Fund Acts Amendment Act, 1931, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*. 55