

G-686
S.539



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Price 10c Prys
Overseas 15c Oorsee
POST FREE—POSVRY

VOL. 71.]

CAPE TOWN, 14TH MAY, 1971.

[No. 3104.]

KAAPSTAD, 14 MEI 1971.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 810.

14th May, 1971.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 35 of 1971: Railways and Harbours Pensions Act, 1971.

No. 810.

14 Mei 1971.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 35 van 1971: Spoorweg- en Hawepensioenwet, 1971.

Act No. 35, 1971

RAILWAYS AND HARBOURS PENSIONS ACT, 1971.

ACT

To provide for the payment of pensions and other retirement benefits to servants in the Administration of Railways and Harbours and for matters incidental thereto.

(Afrikaans text signed by the State President.)
(Assented to 11th May, 1971.)

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

Definitions.

1. In this Act, unless the context otherwise indicates—

- (i) “actuary” means a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland or any other person recognized as an actuary by the State President; (ii)
- (ii) “Administration” means the authority which, under the Railway Board Act, 1962 (Act No. 73 of 1962), administers and works the railways, ports and harbours of the Republic; (i)
- (iii) “annuity” means an annual sum payable up to the end of the month in which a retired servant or the widow of a deceased servant or annuitant dies; (xiv)
- (iv) “contributions” means the amounts paid in by a member of the New Fund, or a member of any other fund referred to in this Act or the regulations, as the context requires, but does not include interest, whether paid by the member or by the Administration; (iv)
- (v) “employee” means any person exclusively employed by the Administration who is remunerated by wages (with or without any local, climatic, or other allowance) calculated at a monthly rate or in any manner other than per annum; (xxvi)
- (vi) “Joint Committee” means the committee constituted under section 3; (xii)
- (vii) “medical practitioner” means a medical practitioner duly registered as such under any law in force in the Republic or in South-West Africa, relating to the registration of medical practitioners, or a medical practitioner duly qualified to practise under the law in force in any other country in which it is necessary to utilize the services of such a practitioner; (xi)
- (viii) “member” means any servant who is for the time being a contributor to the New Fund; (xv)
- (ix) “Minister” means the Minister of Transport; (xvii)
- (x) “officer” means any person exclusively employed by the Administration who is remunerated by salary calculated annually, in contradistinction to a monthly or other rate of pay or to any form of remuneration other than an annual salary; (iii)
- (xi) “Pensions Authority” means the Minister of Social Welfare and Pensions or any officer in the Department of Social Welfare and Pensions authorized by the said Minister to perform any of the functions assigned to him or to the Treasury by or under any law relating to pensions; (xviii)

SPOORWEG- EN HAWEPENSIOENWET, 1971.

Wet No. 35, 1971

WET

Om voorsiening te maak vir die betaling van pensioene en ander uitdiensredingsvoordele aan dienare in die Administrasie van Spoorweë en Hawens en vir ander aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)

(Goedgekeur op 11 Mei 1971.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken— Woordomskrywings.

- (i) „Administrasie” die gesag wat ingevolge die Spoorwegraadwet, 1962 (Wet No. 73 van 1962), die spoorweë en hawens van die Republiek administreer en eksploiteer; (ii)
- (ii) „aktuaris” ’n lid van die „Institute of Actuaries” van Londen of van die „Faculty of Actuaries” van Skotland of enigiemand anders wat deur die Staatspresident as ’n aktuaris erken word; (i)
- (iii) „amptenaar” iemand uitsluitend in die diens van die Administrasie, wat besoldig word by wyse van ’n jaarliks berekende salaris, in teenstelling met ’n maandelikse of ander skaal van betaling of met ’n ander vorm van besoldiging as ’n jaarlikse salaris; (x)
- (iv) „bydraes” die bedrae inbetaal deur ’n lid van die Nuwe Fonds, of ’n lid van enige ander fonds in hierdie Wet of die regulasies bedoel, na gelang van die samehang, maar nie ook rente nie, hetsy deur die lid of deur die Administrasie betaal; (iv)
- (v) „die Diens” die Administrasie van Spoorweë en Hawens; (xxv)
- (vi) „die Fonds” die „Spoorwegen en Havens Superannuatiefonds” ingestel kragtens Hoofstuk III van die „Spoorweg- en Havendienst Wet, 1912” (Wet No. 28 van 1912); (xxii)
- (vii) „die Nuwe Fonds” die Nuwe Spoorweg- en Hawesuperannuasiefonds in artikel 2 bedoel; (xxiii)
- (viii) „die 1912-pensioenfonds” die nuwe pensioenfonds ingestel ingevolge artikel 62 (1) van die „Spoorweg- en Havendienst Wet, 1912”; (xxiv)
- (ix) „dienaar” ook sowel ’n amptenaar as ’n werksman; (xviii)
- (x) „Dienswet” die Wet op Spoorweg- en Hawediens, 1960 (Wet No. 22 van 1960); (xix)
- (xi) „geneesheer” ’n geneeskundige praktisyn wat behoorlik as sodanig geregistreer is kragtens ’n wet van krag in die Republiek of in Suidwes-Afrika, met betrekking tot die registrasie van geneeskundige praktisyns, of ’n geneeskundige praktisyn wat behoorlik gekwalifiseer is om te praktiseer ingevolge die wetsbepalings van krag in enige ander land waarin daar van die dienste van so ’n praktisyn gebruik gemaak moet word; (vii)

Act No. 35, 1971

RAILWAYS AND HARBOURS PENSIONS ACT, 1971.

- (xii) "pension benefit" means any sum payable in terms of the provisions of this Act or the regulations; (xix)
- (xiii) "prescribed" means prescribed by this Act or by regulation; (xxv)
- (xiv) "Railway Board" means the Railways and Harbours Board constituted under section 102 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (xxiii)
- (xv) "regulation" means a regulation made and in force under this Act or any other Act conferring power to make regulations applicable to servants; (xxi)
- (xvi) "revenue" means the revenue paid into the Railway and Harbour Fund established under section 99 of the Republic of South Africa Constitution Act, 1961; (xiii)
- (xvii) "salary" means the annual pay of an officer exclusive of allowances; (xxii)
- (xviii) "servant" includes both an officer and an employee; (ix)
- (xix) "Service Act" means the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960); (x)
- (xx) "staff association" means an organization representative of servants which in terms of the regulations is officially recognized by the Administration as a staff association; (xx)
- (xxi) "superannuation" means the attainment of the age fixed for retirement from the Service on an annuity; (xxiv)
- (xxii) "the Fund" means the Railways and Harbours Superannuation Fund constituted under Chapter III of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912); (vi)
- (xxiii) "the New Fund" means the New Railways and Harbours Superannuation Fund referred to in section 2; (vii)
- (xxiv) "the 1912 pension fund" means the new pension fund established in terms of section 62 (1) of the Railways and Harbours Service Act, 1912; (viii)
- (xxv) "the Service" means the Administration of Railways and Harbours; (v)
- (xxvi) "wages" means the pay of an employee exclusive of allowances. (xvi)

Continuation of the New Fund.

2. The New Railways and Harbours Superannuation Fund constituted under section 3 of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), is hereby continued under the same name.

Joint Committee on Pension Matters.

3. A Joint Committee on Pension Matters representative of the Administration and the staff associations shall be appointed and regulated in manner prescribed.

Regulations.

4. (1) Notwithstanding anything to the contrary contained in any other law, the Minister, in consultation with the Railway Board, may make regulations not inconsistent with this Act in respect of all or any of the following matters—

- (a) the mode of administering the New Fund and the form and manner in which the accounts thereof shall be kept;
- (b) the classes of persons who shall be or may become members of the New Fund;

SPOORWEG- EN HAWEPENSIOENWET, 1971.

Wet No. 35, 1971

- (xii) „Gesamentlike Komitee” die komitee saamgestel ingevolge artikel 3; (vi)
- (xiii) „inkomste” die inkomste gestort in die Spoorweg- en Hawefonds ingestel kragtens artikel 99 van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet No. 32 van 1961); (xvi)
- (xiv) „jaargeld” ’n jaarlikse som betaalbaar tot aan die einde van die maand waarin ’n afgetrede dienaar of die weduwee van ’n oorlede dienaar of jaargeldtrekker te sterwe kom; (iii)
- (xv) „lid” ’n dienaar wat op die oomblik ’n bydraer is tot die Nuwe Fonds; (viii)
- (xvi) „loon” die besoldiging van ’n werksman, uitgesonderd toelaes; (xxvi)
- (xvii) „Minister” die Minister van Vervoer; (ix)
- (xviii) „Pensioen-outeit” die Minister van Volkswelsyn en Pensioene of ’n amptenaar in die Departement van Volkswelsyn en Pensioene wat deur bedoelde Minister gemagtig is om enigeen van die funksies wat deur of ingevolge ’n wet op pensioene aan hom of aan die Tesourie opgedra is, te verrig; (xi)
- (xix) „pensioenvoordeel” enige bedrag betaalbaar kragtens die bepalinge van hierdie Wet of die regulasies; (xii)
- (xx) „personeelvereniging” ’n organisasie wat verteenwoordigend van dienare is en wat ingevolge die regulasies amptelik deur die Administrasie as ’n personeelvereniging erken word; (xx)
- (xxi) „regulasie” ’n regulasie uitgevaardig en van krag ingevolge hierdie Wet of ’n ander Wet wat die bevoegdheid verleen om regulasies uit te vaardig wat op dienare van toepassing is; (xv)
- (xxii) „salaris” die jaarlikse besoldiging van ’n amptenaar, uitgesonderd toelaes; (xvii)
- (xxiii) „Spoorwegraad” die Spoorweg- en Haweraad ingestel kragtens artikel 102 van die Grondwet van die Republiek van Suid-Afrika, 1961; (xiv)
- (xxiv) „superannuasie” die bereiking van die leeftyd wat vir aftrede uit die Diens met ’n jaargeld vasgestel is; (xxi)
- (xxv) „voorgeskryf” deur hierdie Wet of ’n regulasie voorgeskryf; (xiii)
- (xxvi) „werksman” iemand in die uitsluitende diens van die Administrasie, wat besoldig word by wyse van loon (met of sonder ’n plaaslike, klimaats- of ander toelae) bereken teen ’n maandelikse skaal of op enige ander wyse as per jaar. (v)

2. Die „Nieuwe Spoorwega en Havens Superannuasie Fonds” ingestel kragtens artikel 3 van die „Spoorwega en Havens Superannuasie Fonds Wet, 1925” (Wet No. 24 van 1925), word hierby onder die naam „Nuwe Spoorweg- en Hawesuperannuasiefonds” voortgesit.

3. ’n Gesamentlike Komitee oor Pensioenaangeleenthede verteenwoordigende die Administrasie en die personeelverenigings word aangestel en gereël op die wyse wat voorgeskryf word.

Gesamentlike
Komitee oor
Pensioenaange-
leenthede.

4. (1) Nieteenstaande andersluidende bepalinge vervat in enige ander wet, kan die Minister in oorleg met die Spoorwegraad, regulasies wat nie met hierdie Wet onbestaanbaar is nie, uitvaardig ten opsigte van enigeen van of al die ondervermelde aangeleenthede—

Regulasies.

- (a) die wyse waarop die Nuwe Fonds bestuur word, en die vorm waarin en wyse waarop die rekenings daarvan gehou moet word;
- (b) die kategorieë persone wat lede van die Nuwe Fonds sal wees of kan word;

Act No. 35, 1971

RAILWAYS AND HARBOURS PENSIONS ACT, 1971.

- (c) the rate at which contributions shall be paid to the New Fund by persons who are or become contributors thereto and the manner in which such contributions shall be made;
- (d) the pensionable emoluments on which contributions to the New Fund shall be paid and on which the benefits payable shall be based;
- (e) the method of calculating antedated, arrear or current contributions to the New Fund and interest thereon, and the collection thereof;
- (f) the forms and periods of notice to be given by members of the New Fund who are entitled to or claim pension benefits;
- (g) the benefits payable and the manner of calculation thereof;
- (h) the mode of payment of pension benefits;
- (i) the evidence of age or marital state to be required from any person or the evidence that may be required as to a servant's death before any benefits may be claimed;
- (j) the conditions whereby servants may be permitted to contribute to the New Fund in respect of continuous employment immediately preceding admission to membership thereof and the procedure to be followed in connection therewith;
- (k) the continuity of employment for the purpose of membership of the New Fund;
- (l) the procedure to be followed in regard to the retirement of a servant from the Service before superannuation on grounds of permanent ill-health or physical disability;
- (m) the procedure to be adopted in the nomination by staff associations of members of the New Fund to be members of the Joint Committee and alternates to such members, the powers in connection with the administration of the Fund and the New Fund which may be conferred on the committee and the procedure to be observed by the committee and any subcommittee thereof,

and generally for the efficient achievement of the objects and purposes of this Act, the generality of this provision not being limited by the matters specifically mentioned in this subsection.

(2) Different regulations may be made to suit the varying requirements of particular classes of servants and beneficiaries.

(3) Any matter relating to the New Fund prescribed by regulation in terms of this section may be amended by the Minister in consultation with the Railway Board and any such amendment shall come into operation from a date to be specified by the authorizing authority.

(4) The Minister, in consultation with the Railway Board, may amend or rescind any regulation made in terms of the provisions of any law repealed by this Act.

(5) Any regulation made in terms of the provisions of any law repealed by this Act shall remain of force and effect until amended or rescinded in terms of subsection (4).

(6) Any regulations made by the Minister, in consultation with the Railway Board, in terms of this Act shall be laid upon the Table of the Senate and of the House of Assembly within fourteen days after its promulgation if Parliament is in ordinary session or, if Parliament is not in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session, and if both the Senate and the House of Assembly by resolution passed in the same session disapprove of any regulation or any provision thereof, such regulation or provision shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such regulation or such provision before it so ceased to be of force

SPOORWEG- EN HAWEPENSIOENWET, 1971.

Wet No. 35, 1971

- (c) die skaal waarvolgens bydraes tot die Nuwe Fonds betaal moet word deur persone wat bydraers daartoe is of word en die wyse waarop sodanige bydraes betaal moet word;
- (d) die pensioengewende emolumente waarop bydraes tot die Nuwe Fonds betaal moet word en waarop die voordele betaalbaar gebaseer moet word;
- (e) die metode waarvolgens teruggedateerde, agterstallige of lopende bydraes tot die Nuwe Fonds en rente daarop bereken word en die verhaal daarvan;
- (f) die vorms en tydperke waarin kennisgewing deur lede van die Nuwe Fonds wat op pensioenvoordele geregtig is of daarop aanspraak maak, gegee moet word;
- (g) die voordele betaalbaar en metode van berekening daarvan;
- (h) die wyse waarop pensioenvoordele betaal word;
- (i) die bewys van ouderdom of huwelikstaat wat deur iemand verstrek moet word of die bewys aangaande 'n dienaar se dood wat verlang kan word aler voordele geëis kan word;
- (j) die voorwaardes waarop dienare toegelaat kan word om tot die Nuwe Fonds by te dra ten opsigte van ononderbroke diens onmiddellik voor toelating tot lidmaatskap daarvan en die prosedure wat in verband daarmee gevolg moet word;
- (k) die onafgebrokenheid van diens vir die doel van lidmaatskap van die Nuwe Fonds;
- (l) die prosedure wat gevolg moet word in verband met die afdanking uit die Diens van 'n dienaar voor superannuasie weens blywende swak gesondheid of liggaamlike ongeskiktheid;
- (m) die prosedure wat gevolg moet word met die benoeming deur personeelverenigings van lede van die Nuwe Fonds as lede van die gesamentlike komitee en as plaasvervangers vir sodanige lede, die bevoegdhede in verband met die bestuur van die Fonds en die Nuwe Fonds wat aan die komitee verleen kan word, en die prosedure wat deur die komitee en enige subkomitee daarvan gevolg moet word,

en oor die algemeen vir die doelmatige verwesenliking van die oogmerke en doelstellings van hierdie Wet, in dié sin dat die algemene strekking van hierdie bepaling nie beperk word deur die aangeleenthede wat bepaaldelik in hierdie subartikel vermeld word nie.

(2) Verskillende regulasies kan uitgevaardig word om aan die verskillende vereistes van bepaalde kategorieë van dienare en voordeeltrekkers te voldoen.

(3) Enige aangeleenthede in verband met die Nuwe Fonds voorgeskryf deur regulasie kragtens hierdie artikel kan deur die Minister in oorleg met die Spoorwegraad gewysig word en enige sodanige wysiging word van krag vanaf 'n datum bepaal deur die magtigende gesag.

(4) Die Minister kan, in oorleg met die Spoorwegraad, 'n regulasie kragtens die bepalinge van enige deur hierdie Wet herroep wet uitgevaardig, wysig of nietig verklaar.

(5) Alle regulasies kragtens die bepalinge van enige deur hierdie Wet herroep wet uitgevaardig, bly van krag tot tyd en wyl dit ingevolge subartikel (4) gewysig of nietig verklaar is.

(6) Alle regulasies wat kragtens hierdie Wet deur die Minister in oorleg met die Spoorwegraad uitgevaardig word, moet binne veertien dae na afkondiging daarvan in die Senaat en in die Volksraad ter Tafel gelê word, indien die Parlement in gewone sessie is, of, indien die Parlement nie in gewone sessie is nie, binne veertien dae na die aanvang van sy eersvolgende gewone sessie, en indien sowel die Senaat as die Volksraad by besluit, wat gedurende dieselfde sessie geneem is, 'n regulasie of 'n bepaling daarvan afkeur, verval die regskrag van so 'n regulasie of bepaling, dog sonder om afbreuk te doen aan die geldigheid van iets wat ingevolge so 'n regulasie of so 'n bepaling gedoen

Act No. 35, 1971

RAILWAYS AND HARBOURS PENSIONS ACT, 1971.

and effect, or to any right or liability acquired or incurred in terms of such regulation or such provision before it so ceased to be of force and effect.

Annuities and other benefits from the New Fund.

5. A pension benefit shall be paid to the beneficiary stipulated in the regulations and such payment shall be calculated in terms of and effected subject to the provisions of such regulations.

Pension benefits from the New Fund not assignable or executable.

6. No pension benefit from the New Fund, or right to such a benefit, or right in respect of contributions made by a member or on his behalf shall be capable of being assigned or transferred, or otherwise ceded, or of being pledged or hypothecated, or 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 benefit or right, payment of the same may be withheld, suspended, or entirely discontinued, if the Administration so determines: Provided that the Administration may direct the payment of such pension benefit or of any benefit in pursuance of such contributions or part thereof to any one or more of the dependants of the beneficiary or to a trustee for such dependant or dependants during such period as it may direct.

How annuities from the New Fund affected by insolvency.

7. (1) If the estate of any person in receipt of an annuity from the New Fund is sequestrated or surrendered or assigned for the benefit of his creditors, payment of the annuity shall forthwith be discontinued: 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 annuitant, his wife or any minor child, or failing a wife or minor child, to the mother of an illegitimate child or any child whether legitimate or adopted or illegitimate or other relative dependent on him for maintenance: Provided further that if the payment is made to the annuitant, it shall be for his own personal use and may not in any way be attached or appropriated by the trustees in his insolvency or by his creditors, anything to the contrary notwithstanding in any law relating to insolvency.

(2) Whenever payment of an annuity has been discontinued under this section, it shall be revived on rehabilitation of the annuitant, or on the setting aside of the sequestration of his estate, or on the claims of his creditors being satisfied, and he shall receive an annuity at the same rate and under the same conditions as before the sequestration, surrender or assignment, together with any arrears that may be due.

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

8. (1) If a member of the New Fund—

(a) is dismissed or ordered to resign from the Service on account of fraud or dishonesty, or is deemed to have been dismissed in terms of section 19 (4) (a) of the Service Act, where the offence in respect of which he was convicted involves fraud or dishonesty; or

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

(c) leaves the Service for any reason, or dies, before any loan or advance (other than a loan referred to in section 9) which had been made to him at his specific request by the Administration or from the Benevolent Fund referred to in section 34 of the Service Act, has been repaid in full,

SPOORWEG- EN HAWEPENSIOENWET, 1971.

Wet No. 35, 1971

is voor die regskrag daarvan aldus verval het, of aan 'n reg of verpligting wat ingevolge so 'n regulasie of so 'n bepaling verkry of opgeloopt is voor die regskrag daarvan aldus verval het.

5. 'n Pensioenvoordeel word betaal aan die voordeeltrekker bepaal in die regulasies en bedoelde betaling word bereken en geskied onderworpe aan die bepalings van sodanige regulasies.

Jaargelde en ander voordele uit die Nuwe Fonds.

6. Geen pensioenvoordeel uit die Nuwe Fonds, of reg op so 'n pensioenvoordeel, of reg ten opsigte van bydraes deur of ten behoeve van 'n lid gestort, kan oorgedra of oorgemaak of andersins gesedeer, of verpand of met verband beswaar word nie, en dit kan ook nie ingevolge 'n vonnis of bevel van 'n geregshof in beslag geneem of aan enige vorm van tenuitvoerlegging onderwerp word nie, en vir geval die voordeeltrekker poog om 'n pensioenvoordeel of reg oor te dra, oor te maak of andersins te sedeer of om dit te verpand of met verband te beswaar, kan betaling daarvan teruggehou, opgeskort of geheel en al gestaak word, indien die Administrasie daartoe besluit: Met dien verstande dat die Administrasie kan gelas dat gedurende die tydperk wat hy bepaal betaling van so 'n pensioenvoordeel of van enige voordeel uit hoofde van sodanige bydraes, of gedeelte daarvan, aan een of meer van die afhanklikes van die voordeeltrekker of aan 'n kurator vir sodanige afhanklike of afhanklikes moet geskied.

Pensioenvoordele uit die Nuwe Fonds kan nie oorgedra of in beslag geneem word nie.

7. (1) Indien die boedel van iemand wat 'n jaargeld uit die Nuwe Fonds ontvang, gesekwestreer of oorgegee word, of daar ten bate van sy skuldeisers daarvan afstand gedoen word, word betaling van die jaargeld onverwyld gestaak: Met dien verstande dat in so 'n geval die jaargeld in geheel of ten dele betaal word aan of ten bate van enigeen van of al die volgende persone, naamlik die jaargeldtrekker, sy eggenote of minderjarige kind of, as daar nie 'n eggenote of minderjarige kind is nie, aan die moeder van 'n buite-egtelike kind of aan enige kind, hetsy eg of aangenome of buite-egtelik, of enige ander familiebetrekking, wat vir onderhoud van hom afhanklik is: Met dien verstande voorts dat indien betaling aan die jaargeldtrekker geskied, dit vir sy eie persoonlike gebruik is en, ondanks andersluidende bepalings van 'n wet op insolvensie, dit op generlei wyse deur die kuratore van sy insolvente boedel of deur sy skuldeisers in beslag geneem of toegeëien mag word nie.

Hoe jaargelde uit die Nuwe Fonds deur insolvensie geraak word.

(2) Wanneer betaling van 'n jaargeld ingevolge hierdie artikel gestaak is, herleef dit ingeval die jaargeldtrekker gerehabiliteer word of ingeval die sekwestrasie van sy boedel ter syde gestel of aan die eise van sy skuldeisers voldoen word, en ontvang hy 'n jaargeld teen dieselfde skaal en op dieselfde voorwaardes as voor die sekwestrasie, oorgawe of afstanddoening, tesame met alle agterstallige bedrae wat verskuldig mag wees.

8. (1) Indien 'n lid van die Nuwe Fonds—

(a) vanweë bedrog of oneerlikheid ontslaan word uit die Diens of beveel word om daaruit te bedank, of geag word ontslaan te gewees het ingevolge artikel 19 (4) (a) van die Dienswet waar daar bedrog of oneerlikheid betrokke is by die oortreding ten opsigte waarvan hy skuldig bevind is; of

(b) uit die Diens bedank of dros ten einde ontslag of gedwonge bedanking vanweë bedrog of oneerlikheid te vermy, of in afwagting van die inbring teen hom van 'n tugaanklag of 'n strafregtelike aanklag waarby bedrog of oneerlikheid betrokke is; of

(c) die Diens om watter rede ook al verlaat, of te sterwe kom, voordat 'n lening of voorskot (behalwe 'n lening in artikel 9 bedoel) wat op sy uitdruklike versoek aan hom toegestaan is deur die Administrasie of uit die Hulpfonds in artikel 34 van die Dienswet bedoel, ten volle terugbetaal is,

Verhaal van sekere skulde aan Administrasie verskuldig, op voordele betaalbaar aan lede by hul ontslag of uitdienststreding.

Act No. 35, 1971

RAILWAYS AND HARBOURS PENSIONS ACT, 1971.

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

(2) For the purposes of subsection (1) the expression "benefit" shall be deemed to include, in relation to a deceased member, the capital sum on which the calculation of any annuity payable to his widow is required to be based.

Application of
pension benefits
and other moneys
in liquidation
of debts to
Administration
in respect of
dwelling-houses.

9. If in any agreement between the Administration and a member of the New Fund, in terms of which such member purchases from the Administration any dwelling-house or in terms of which such member is to receive any loan from the Administration in order to acquire land for the purpose of erecting a dwelling-house thereon or to acquire or erect a dwelling-house or to discharge any bond over any land or dwelling-house owned by the member, it is provided that—

(a) if for any reason such member retires or is ordered to resign or is dismissed or retired from the Service on an annuity, the Administration may commute by a single amount such portion of the annuity as may be necessary to liquidate any amount payable—

(i) under such agreement; or

(ii) in pursuance of any insurance entered into by the Administration in connection with the repayment of any amount under such agreement, which remains unpaid at the date of his retirement, enforced resignation or dismissal, the Administration may, upon such member so retiring or being so ordered to resign, dismissed or retired, effect such commutation and apply such first-mentioned amount towards the liquidation of the amount so remaining unpaid; or

(b) if for any reason such member resigns voluntarily or is ordered to resign or is dismissed or retired from the Service otherwise than on an annuity, or if such member dies before retirement from the Service, the Administration may apply any moneys due under this Act to him or his successor in title in respect of such property, towards the liquidation of any amount payable—

(i) under such agreement; or

(ii) in pursuance of any insurance entered into by the Administration in connection with the repayment of any amount under such agreement,

which remains unpaid at the date of his retirement, voluntary resignation, enforced resignation, dismissal or death, the Administration may, upon such member so retiring, voluntarily resigning or being so ordered to resign, dismissed or retired or upon his death, as the case may be, so apply the said moneys: Provided that the Administration shall not so apply out of moneys so due to any such successor an amount in excess of the amount which bears to the total amount so remaining unpaid the same proportion as the value of such successor's share or interest in the property bears, in the opinion of the Minister, to the value of the whole thereof: Provided further that no pension benefit payable to a widow shall be so applied.

SPOORWEG- EN HAWEPENSIOENWET, 1971.

Wet No. 35, 1971

het die Administrasie die reg om die bedrag van enige verlies, soos deur die Administrasie vasgestel, wat hy ten gevolge van sodanige bedrog of oneerlikheid gely het, of die onbetaalde balans van sodanige lening of voorskot, na gelang van die geval, te verhaal op enige voordeel wat aan so 'n voormalige lid of sy boedel of aan iemand anders ten opsigte van sy dood uit die Nuwe Fonds betaalbaar is: Met dien verstande dat die onus om te bewys dat 'n lid bedank of gedros het om enige rede in paragraaf (b) vermeld, op die Administrasie rus.

(2) By die toepassing van subartikel (1) word die uitdrukking „voordeel”, met betrekking tot 'n afgestorwe lid, geag die kapitaalsom in te sluit waarop die berekening van 'n aan sy weduwee betaalbare jaargeld gegrond moet word.

9. Indien daar in 'n ooreenkoms tussen die Administrasie en 'n lid van die Nuwe Fonds, ingevolge waarvan so 'n lid 'n woonhuis van die Administrasie koop of ingevolge waarvan so 'n lid 'n lening van die Administrasie staan te ontvang ten einde grond te verkry met die doel om 'n woonhuis daarop te bou, of ten einde 'n woonhuis te verkry of te bou of ten einde 'n verband oor grond of 'n woonhuis wat aan die lid behoort, af te los, bepaal word dat—

Aanwending van pensioenvoordele en ander gelde ter vereffening van skulde aan die Administrasie ten opsigte van woonhuise.

(a) as so 'n lid, om watter rede ook al, met 'n jaargeld uit die Diens tree of bevel word om daaruit te bedank of daaruit ontslaan of afgedank word, die Administrasie so 'n gedeelte van die jaargeld in 'n enkele bedrag kan omset as wat nodig is ter vereffening van enige bedrag betaalbaar—

(i) ingevolge daardie ooreenkoms; of
(ii) ingevolge 'n versekering deur die Administrasie aangegaan in verband met die terugbetaling van enige bedrag ingevolge daardie ooreenkoms, wat op die datum van sy uitdienstreding, afdanking, gedwonge bedanking of ontslag nog onbetaal is, kan die Administrasie, wanneer so 'n lid aldus uit die Diens tree of bevel word om daaruit te bedank of ontslaan of afgedank word, sodanige omsetting doen en sodanige eersbedoelde bedrag aanwend ter vereffening van die bedrag wat aldus onbetaal is; of

(b) as so 'n lid, om watter rede ook al, vrywillig uit die Diens bedank of bevel word om daaruit te bedank of daaruit ontslaan of afgedank word anders as met 'n jaargeld, of as so 'n lid voor sy uitdienstreding te sterwe kom, die Administrasie enige gelde wat ingevolge hierdie Wet verskuldig is aan hom of sy regsopvolger ten opsigte van sodanige eiendom of van sy belang in sodanige eiendom, kan aanwend ter vereffening van enige bedrag betaalbaar—

(i) ingevolge daardie ooreenkoms; of
(ii) ingevolge 'n versekering deur die Administrasie aangegaan in verband met die terugbetaling van enige bedrag ingevolge daardie ooreenkoms, wat op die datum van sy uitdienstreding, vrywillige bedanking, afdanking, gedwonge bedanking, ontslag of dood nog onbetaal is, kan die Administrasie, wanneer so 'n lid aldus uit die Diens tree of bevel word om aldus te bedank of ontslaan of afgedank word, of te sterwe kom, na gelang van die geval, bedoelde gelde aldus aanwend: Met dien verstande dat die Administrasie nie aldus uit gelde wat soos voormeld aan 'n regsopvolger verskuldig is, 'n groter bedrag mag aanwend nie as die bedrag wat tot die hele som wat aldus onbetaal is, in dieselfde verhouding staan as dié waarin die waarde van so 'n regsopvolger se aandeel of belang in die eiendom na die oordeel van die Minister tot die waarde van die eiendom as geheel staan: Met dien verstande voorts dat geen pensioenvoordeel betaalbaar aan 'n weduwee aldus aangewend mag word nie.

Act No. 35, 1971

RAILWAYS AND HARBOURS PENSIONS ACT, 1971.

Administration to retain the Fund and the New Fund and pay interest.

10. (1) The moneys of the Fund together with the moneys of the New Fund shall be vested in the Administration and shall be held by it on behalf of the members of both funds subject to the provisions of this Act and of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912). The moneys of both funds shall be dealt with in all respects as if the two funds were one.

(2) Revenue shall be charged with the average rate of interest earned from year to year on the Administration's permanent investment with the Public Debt Commissioners, on all moneys standing to the credit of the Fund and of the New Fund in the books of the Administration and such interest shall be credited to the Fund and the New Fund as at the last day of each month.

Periodical valuation of the Fund and the New Fund.

11. (1) The Fund and the New Fund shall be valued every five years by an actuary appointed by the Minister.

(2) The actuary shall value the assets and liabilities of the Fund and the New Fund and shall declare what surplus or deficiency appears on the same and shall state how such surplus or deficiency appears to have arisen.

(3) The actuary shall report to the Minister and shall in his report state the data and processes used in his investigation and valuation.

(4) A copy of the said report shall be laid upon the Tables of both Houses of Parliament within fourteen days after receipt thereof by the Minister if Parliament is in ordinary session or if Parliament is not in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

Contributions to the Fund and the New Fund by Administration.

12. (1) Notwithstanding the provisions of section 11, the Administration shall at five-yearly intervals determine the anticipated income and expenditure of the Fund and the New Fund on an economic basis with a view to relating income more closely to expenditure in order that the growth may be limited to a realistic rate.

(2) On the last day of each month and after determining the ratio of its contribution to the aggregate of the contributions or interest, or both, paid into the Fund and the New Fund by members during the month, the Administration shall pay into the funds the sums so calculated.

(3) The Administration shall also pay into the funds from time to time any further amounts that may be necessary to maintain the funds in a sound financial condition.

Transfers to and from other services.

13. (1) If a person who is a member of the New Fund is transferred without a break in his service to any other service for the benefit of the members whereof a pension or provident fund exists under any law relating to pensions administered by the Pensions Authority or by a Provincial Administration or the Administration of the Territory of South-West Africa, and he becomes a member of any such fund as from the date of his transfer and is permitted to contribute thereto in respect of his past pensionable employment under the Administration, he shall be entitled for pension purposes to reckon the whole period of his pensionable employment under the Administration as continuous with that of his pensionable employment in the service to which he is transferred: Provided that there shall be paid from the New Fund to the Pensions Authority or to the administration concerned, as the case may be, such amount as is required by the pension or provident fund of which such person becomes a member, and such person shall thereafter have no further claim on the New Fund.

(2) If a person who is a member of a pension or provident fund established under any law relating to pensions administered by the Pensions Authority or by a Provincial Administration or the Administration of the Territory of South-West Africa, is transferred without a break in his service to the service of the Administration and becomes a member of the New Fund

SPOORWEG- EN HAWEPENSIOENWET, 1971.

Wet No. 35, 1971

10. (1) Die gelde van die Fonds tesame met die gelde van die Nuwe Fonds berus by die Administrasie en word deur hom gehou ten behoeve van die lede van albei fondse onderworpe aan die bepalings van hierdie Wet en van die „Spoorweg- en Havendienst Wet, 1912” (Wet No. 28 van 1912). Met die gelde van albei fondse word in alle opsigte gehandel asof die twee fondse één is.

Die Administrasie behou die Fonds en die Nuwe Fonds en betaal rente.

(2) Inkomste word met die gemiddelde rentekoers wat van jaar tot jaar op die Administrasie se permanente beleggings by die Staatskuldkommissarisse verdien word, belas op alle gelde wat in die boeke van die Administrasie tot krediet van die Fonds en van die Nuwe Fonds staan, en sodanige rente word op die laaste dag van elke maand aan die Fonds en die Nuwe Fonds gekrediteer.

11. (1) Die Fonds en die Nuwe Fonds word elke vyf jaar gewaardeer deur 'n aktuaris deur die Minister aangestel.

Periodieke waardering van die Fonds en die Nuwe Fonds.

(2) Die aktuaris waardeer die bates en laste van die Fonds en die Nuwe Fonds en verklaar watter oorskot of tekort daarop voorkom, en meld hoe sodanige oorskot of tekort blyk te ontstaan het.

(3) Die aktuaris doen aan die Minister verslag en meld in sy verslag die gegewens en werkwyse wat in sy ondersoek en waardering gebruik is.

(4) 'n Afskrif van genoemde verslag word in albei Huise van die Parlement ter Tafel gelê binne veertien dae nadat dit deur die Minister ontvang is indien die Parlement in gewone sessie is, of indien die Parlement nie in gewone sessie is nie, binne veertien dae na die aanvang van sy eersvolgende gewone sessie.

12. (1) Ondanks die bepalings van artikel 11, moet die Administrasie vyfjaarliks die verwagte inkomste en uitgawe van die Fonds en die Nuwe Fonds op 'n ekonomiese grondslag bereken met die oog daarop om inkomste nader by uitgawe aan te pas, sodat die groei tot 'n realistiese koers beperk kan word.

Bydraes tot die Fonds en die Nuwe Fonds deur die Administrasie.

(2) Op die laaste dag van elke maand en nadat sy bydrae in verhouding tot dié van die gesamentlike bydraes, of rente, of albei, wat gedurende die maand in die Fonds en die Nuwe Fonds gestort is deur lede, bepaal is, dra die Administrasie tot die fondse by en stort hy daarin die bedrae aldus bereken.

(3) Die Administrasie stort ook van tyd tot tyd in die fondse die verdere bedrae wat nodig is om die gesonde finansiële stand van die fondse te handhaaf.

13. (1) Indien iemand wat 'n lid van die Nuwe Fonds is, sonder onderbreking van sy diens oorgeplaas word na 'n ander diens ten bate van die lede waarvan 'n pensioen- of voorsorgfonds bestaan ingevolge 'n wet op pensioene wat uitgevoer word deur die Pensioen-outeiteit of deur 'n Provinsiale Administrasie of die Administrasie van die Gebied Suidwes-Afrika, en hy vanaf die datum van sy oorplasing 'n lid van so 'n fonds word, en toegelaat word om daartoe by te dra ten opsigte van sy vorige pensioengewende diens by die Administrasie, is hy geregtig om vir pensioendoeleindes die hele tydperk van sy pensioengewende diens by die Administrasie te reken as aan-eenlopend met dié van sy pensioengewende diens in die diens waarna hy oorgeplaas is: Met dien verstande dat daar uit die Nuwe Fonds aan die Pensioen-outeiteit of aan die betrokke administrasie, na gelang van die geval, die bedrag betaal word wat deur die pensioen- of voorsorgfonds waarvan so 'n persoon lid word, vereis word, en daardie persoon het daarna geen verdere vordering teen die Nuwe Fonds nie.

Oorplasing na en van ander dienste.

(2) Indien iemand wat 'n lid is van 'n pensioen- of voorsorgfonds ingestel kragtens 'n wet op pensioene wat deur die Pensioen-outeiteit of deur 'n Provinsiale Administrasie of die Administrasie van die Gebied Suidwes-Afrika uitgevoer word, sonder 'n onderbreking van sy diens oorgeplaas word na die diens van die Administrasie en 'n lid van die Nuwe Fonds

Act No. 35, 1971

RAILWAYS AND HARBOURS PENSIONS ACT, 1971.

(as a condition of admission whereto a medical examination shall not be required), he shall be entitled for pension purposes to reckon the whole period of his pensionable employment in the service from which he was transferred, as continuous with that of his pensionable employment under the Administration: Provided that there shall be paid from the pension or provident fund of which such person was a member, to the Administration for the benefit of the New Fund, such amount as is required by the New Fund, and thereafter such person shall have no further claim upon the pension or provident fund of which he was a member.

(3) For the purposes of subsection (2) the requirements of the New Fund shall be calculated at an amount equal to twice the amount of the contributions which would have been payable to the New Fund by the person transferred if, during the period of his pensionable employment in the service from which he was transferred, he had been a member of the New Fund and had contributed to that fund in accordance with the appropriate scale of contributions from time to time in force under this Act or the regulations, the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960), or the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), and on the pensionable emoluments on which he was from time to time contributing to the pension or provident fund established for the said service, together with interest compounded annually at the rate of five per cent per annum and calculated by reference to the dates upon which such contributions would have become payable.

Servant's right to compensation under Workmen's Compensation Acts, etc. not affected.

14. Nothing contained in this Act or in the regulations shall in any way affect the rights which a servant or his dependants may have to be paid compensation under any law relating to workmen's compensation, or in accordance with any such law as applied by section 17 of the Service Act, in respect of an accident to the servant which arose out of and in the course of his employment, whether within or outside the Republic, and the amount payable under or in accordance with any such law shall not be reduced by reason of any payment that may be made to the servant or his dependants from the New Fund or any similar fund which may be established hereafter.

Recall to the Service after pension.

15. 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.

Reappointment of pensioners.

16. (1) Subject to the provisions of section 15, if any pensioner holds an appointment in or is appointed to the Service either in a permanent or in a temporary capacity, he shall be paid the emoluments or remuneration usually paid in respect of the office or post in which he is employed without regard to the annuity drawn by him and notwithstanding anything in any law contained such annuity shall not be subject to abatement unless in special circumstances the Minister otherwise directs.

(2) If any pensioner holds an appointment in, or is appointed under the Public Service Act, 1957 (Act No. 54 of 1957), to a position in the Public Service as in that Act defined, the provisions of subsection (1) as to abatement of his annuity shall apply.

(3) In this section "pensioner" means any person in receipt of an annuity from revenue or from any pension or superannuation fund administered by the Administration, but does not include a person in receipt of an annuity from the Cape Widows' Pension Fund (Railways).

SPOORWEG- EN HAWEPENSIOENWET, 1971.

Wet No. 35, 1971

word (as 'n voorwaarde van toelating waartoe geen geneeskundige ondersoek vereis word nie), is hy geregtig om vir pensioendoeleindes die hele tydperk van sy pensioengewende diens in die diens waaruit hy oorgeplaas is, as aaneenlopend te reken met dié van sy pensioengewende diens by die Administrasie: Met dien verstande dat daar uit die pensioen- of voorsorgfonds waarvan so iemand 'n lid was, aan die Administrasie ten bate van die Nuwe Fonds die bedrag betaal word wat deur die Nuwe Fonds vereis word, en so iemand het daarna geen verdere vordering teen die pensioen- of voorsorgfonds waarvan hy 'n lid was nie.

(3) By die toepassing van subartikel (2) word die behoeftes van die Nuwe Fonds bereken teen 'n bedrag gelykstaande met twee maal die bedrag van die bydraes wat deur die oorgeplaaste persoon aan die Nuwe Fonds betaalbaar sou gewees het indien hy gedurende die tydperk van sy pensioengewende diens in die diens waaruit hy oorgeplaas is, 'n lid van die Nuwe Fonds was en tot daardie fonds bygedra het ooreenkomstig die toepaslike skaal van bydraes van tyd tot tyd vasgestel deur hierdie Wet of die regulasies, die Wet op die Spoorweg- en Hawesuperannuasiefonds, 1960 (Wet No. 39 van 1960), of die „Spoorwegen en Havens Superannuatie Fonds Wet, 1925" (Wet No. 24 van 1925), en op die pensioengewende emolumente waarop hy van tyd tot tyd bygedra het tot die pensioen- of voorsorgfonds vir bedoelde diens ingestel, tesame met jaarliks saamgestelde rente teen die koers van vyf persent per jaar en bereken met verwysing na die datums waarop sodanige bydraes betaalbaar sou geword het.

14. Geen bepaling van hierdie Wet of die regulasies doen op enigerlei wyse afbreuk nie aan die regte wat 'n dienaar of sy afhanklikes het om vergoeding te ontvang ingevolge 'n Ongevallewet of ooreenkomstig so 'n wet soos toegepas deur artikel 17 van die Dienswet, ten opsigte van 'n ongeval wat die dienaar betref het en wat uit en in die loop van sy diens, hetsy in of buite die Republiek, ontstaan het, en die bedrag wat kragtens of ooreenkomstig so 'n wet betaalbaar is, word nie verminder nie uit hoofde van 'n betaling wat aan die dienaar of sy afhanklikes gedoen mag word uit die Nuwe Fonds of 'n soortgelyke fonds wat hierna ingestel mag word.

Dienaar se reg op vergoeding kragtens Ongevallewette, ens. word nie geraak nie.

15. Aan 'n dienaar aan wie 'n jaargeld voor superannuasie toegeken is, kan die keuse gegee word om sy dienste te hervat in sy vorige betrekking of pos of in 'n betrekking of pos van gelyke of hoër rang as dié wat hy voorheen beklee het, en met emolumente minstens gelykstaande met dié wat hy op die datum waarop hy die Diens verlaat het, ontvang het.

Terugroeping na die Diens na aftrede met pensioen.

16. (1) Behoudens die bepalings van artikel 15, word daar aan 'n pensioentrekker wat 'n betrekking in die Diens beklee of in 'n betrekking in die Diens aangestel word, hetsy in 'n vaste of 'n tydelike hoedanigheid, die emolumente of besoldiging betaal wat gewoonlik betaal word ten opsigte van die betrekking of pos waarin hy diens doen, sonder inagneming van die jaargeld deur hom ontvang, en ondanks andersluidende wetsbepalings is so 'n jaargeld nie aan korting onderhewig nie tensy die Minister in besondere omstandighede anders gelas.

Heraanstelling van pensioentrekkers.

(2) Indien 'n pensioentrekker 'n betrekking beklee, of ingevolge die Staatsdienswet, 1957 (Wet No. 54 van 1957), aangestel word in 'n betrekking, in die Staatsdiens, soos in daardie Wet omskryf, is die bepalings van subartikel (1) met betrekking tot vermindering van sy jaargeld van toepassing.

(3) In hierdie artikel beteken „pensioentrekker" iemand wat 'n jaargeld ontvang uit inkomste of uit 'n pensioen- of superannuasiefonds deur die Administrasie bestuur, maar nie ook iemand wat 'n jaargeld uit die Kaapse Weduweespensioenfonds (Spoorweë) ontvang nie.

Act No. 35, 1971

RAILWAYS AND HARBOURS PENSIONS ACT, 1971.

Option to members of New Fund to contribute in respect of periods of previous non-contributory service.

17. (1) A member of the New Fund who was admitted to membership thereof prior to the first day of January, 1949, and who, immediately prior to the date of such admission, was employed in a temporary or a casual capacity, shall have the right to elect, subject to the succeeding provisions of this section, to contribute to that fund in respect of the period of his continuous service prior to the said date but not from a date earlier than that upon which he attained the age of sixteen years, and he shall not be precluded from electing so to contribute because he had exercised or failed to exercise any option that had previously been available to him under any other law.

(2) The election provided for in subsection (1) shall be exercised within a period of three months after the date on which there is furnished to the member by the Administration's Chief Accountant a statement of the arrear contributions and interest that will become payable by him to the New Fund should he decide to contribute in respect of any such period of continuous service as is referred to in that subsection.

(3) (a) If a member elects to contribute in respect of any such period of continuous service he shall be required to pay arrear contributions to the New Fund according to his age at the date from which contributions are due to be paid, at the appropriate rate calculated on the pensionable emoluments drawn by him during the period to be covered, and he shall pay compound interest on such arrear contributions in respect of any period up to the date or dates upon which payment thereof is actually made, at the rate of four and one half per cent per annum, compounded quarterly.

(b) The said arrear contributions and interest may be paid in one amount, or by such monthly instalments as may be determined by the Administration's Chief Accountant in consultation with the member concerned.

(4) (a) If a member referred to in subsection (1) dies or retires or is retired from the Service on the ground of superannuation or by reason of severe bodily injury occasioned without his own default, or by reason of permanent ill-health or physical disability in respect of which a railway medical officer or such practitioner or board as may be prescribed in terms of the applicable pension law, has not certified that it was occasioned by the member's own default, or in consequence of a reduction or reorganization of staff—

(i) before the statement referred to in subsection (2) has been furnished to him; or

(ii) within three months after such statement was furnished to him but before he has exercised the election referred to in subsection (1),

he shall be deemed to have elected to contribute in respect of such period of continuous service as is referred to in subsection (1), and any benefit payable to the member or to some other person in respect of his death shall be calculated as if the amount payable in terms of subsection (3) had been paid in full at the time of the member's death or retirement, as the case may be: Provided that in the case of a member who has died, the provisions of this paragraph shall be given effect to only if it would be to the advantage of the member's widow or other dependant to do so.

(b) If a member who has elected to contribute in respect of any such period of continuous service as is referred to in subsection (1), dies or leaves the Service for any of the reasons mentioned in paragraph (a) of this subsection before the amounts payable in terms of subsection (3) have been paid in full, any benefit payable

SPOORWEG- EN HAWEPENSIOENWET, 1971.

Wet No. 35, 1971

17. (1) 'n Lid van die Nuwe Fonds wat voor die eerste dag van Januarie 1949 tot lidmaatskap daarvan toegelaat is en wat onmiddellik voor die datum van sodanige toelating in 'n tydelike of 'n los hoedanigheid in diens was, het die reg om te kies, onderworpe aan die hieropvolgende bepalings van hierdie artikel, om tot daardie fonds by te dra ten opsigte van die tydperk van sy onafgebroke diens vóór daardie datum maar nie vanaf 'n vroeër datum nie as dié waarop hy die ouderdom van sestien jaar bereik het, en hy word nie belet om te kies om aldus by te dra nie omdat hy 'n keuse wat hy voorheen ingevolge enige ander wet gehad het, uitgeoefen het of versuim het om dit uit te oefen.

Keuse aan lede van Nuwe Fonds om ten opsigte van tydperke van vorige nie-bydraende diens by te dra.

(2) Die keuse waarvoor in subartikel (1) voorsiening gemaak word, moet uitgeoefen word binne 'n tydperk van drie maande na die datum waarop die Administrasie se hoofrekenmeester aan die lid 'n staat verstrek van die agterstallige bydraes en rente wat deur hom aan die Nuwe Fonds betaalbaar sal word ingeval hy sou besluit om by te dra ten opsigte van die tydperk van onafgebroke diens wat in daardie subartikel bedoel word.

(3) (a) Indien 'n lid kies om ten opsigte van so 'n tydperk van onafgebroke diens by te dra, word daar van hom vereis om agterstallige bydraes aan die Nuwe Fonds te betaal volgens sy ouderdom op die datum vanaf welke bydraes verskuldig is, teen die toepaslike skaal bereken op die pensioengewende emolumente wat hy ontvang het gedurende die tydperk wat gedek moet word, en moet hy saamgestelde rente betaal op sulke agterstallige bydraes ten opsigte van enige tydperk tot op die datum of datums waarop betaling daarvan werklik geskied, teen die skaal van vier-en-'n-half persent per jaar, drie-maandeliks saamgestel.

(b) Bedoelde agterstallige bydraes en rente kan betaal word in een bedrag of in die maandelikse paaielemente wat deur die Administrasie se hoofrekenmeester in oorleg met die betrokke lid bepaal word.

(4) (a) Indien 'n in subartikel (1) bedoelde lid te sterwe kom of uit die Diens tree of daaruit afgedank word op grond van bereiking van die leeftydgrens of as gevolg van ernstige liggaamlike besering sonder sy eie skuld opgedoen of as gevolg van blywende swak gesondheid of liggaamlike ongeskiktheid ten opsigte waarvan 'n spoorweggeneesheer of sodanige ander praktisyn of raad wat ingevolge die toepaslike pensioenwet voorgeskryf word, nie gesertifiseer het dat dit deur die lid se eie skuld veroorsaak is nie, of ten gevolge van 'n vermindering of reorganisering van personeel—

(i) voordat die in subartikel (2) bedoelde staat aan hom verstrek is; of

(ii) binne drie maande nadat sodanige staat aan hom verstrek is maar voordat hy die in subartikel (1) bedoelde keuse uitgeoefen het,

word hy geag te gekies het om by te dra ten opsigte van die tydperk van onafgebroke diens wat in subartikel (1) bedoel word, en word enige voordeel wat aan die lid of aan iemand anders ten opsigte van sy dood betaalbaar is, bereken asof die bedrag wat ingevolge subartikel (3) betaalbaar is, ten tyde van die lid se dood of uitdienstreding, na gelang van die geval, ten volle betaal was: Met dien verstande dat in die geval van 'n lid wat te sterwe gekom het, daar aan die bepalings van hierdie paragraaf uitvoering gegee word slegs indien die lid se weduwee of ander afhanklike daardeur bevoordeel sou word.

(b) Indien 'n lid wat gekies het om by te dra ten opsigte van 'n tydperk van onafgebroke diens soos in subartikel (1) bedoel, te sterwe kom of die Diens verlaat om enigeen van die redes genoem in paragraaf (a) van hierdie subartikel voordat die bedrae wat ingevolge subartikel (3) betaal moet word, ten volle betaal is, word enige

Act No. 35, 1971

RAILWAYS AND HARBOURS PENSIONS ACT, 1971.

to the member or to some other person in respect of his death, shall be calculated as if such amounts had been paid in full at the time of the member's death or retirement, as the case may be.

- (c) (i) Upon the death or retirement of a member to whom paragraph (a) or (b) of this subsection applies, any amount payable in terms of subsection (3) which has not then been paid or paid in full, shall be recovered by deduction thereof from any benefit payable to the member or to some other person in respect of his death;
- (ii) for the purpose of subparagraph (i) the expression "benefit" shall be deemed to include, in relation to a deceased member, the capital sum on which in terms of the applicable pension law, the calculation of any annuity payable to his widow is based.

(5) If a member who has elected to contribute in respect of such period of continuous service as is referred to in subsection (1) ceases to be a servant in the circumstances mentioned in section 13 (1) of the Service Act before the amounts payable by him in terms of subsection (3) of this section have been paid in full, and an annuity is granted to him under the said section, there shall be taken into account, for the purpose of calculating the amount of such annuity, only such portion of the said period of service as has actually been covered by contributions at the date upon which the member ceased to be a servant.

Minister may re-open certain cases.

18. The Minister may re-open and make any necessary adjustments in cases in which through some error or omission an injustice would otherwise be done to a servant who is a member of the New Fund or was qualified to become a member thereof, provided that a recommendation shall be obtained in all such cases from the Joint Committee.

Investment of funds and interest payments.

19. (1) Notwithstanding anything in the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), contained, the moneys of the 1912 Pension Fund and of the Cape Widows' Pension Fund (Railways) shall be vested in the Administration and shall, with the moneys of the Fund and the New Fund, be held by the Administration on behalf of the members of the said funds, respectively, subject to the provisions of the aforesaid Act and of this Act or the regulations framed thereunder, and the Administration shall pay over such moneys of the said funds as are not immediately required to the Public Debt Commissioners as deposits available for investment by the Administration under the Public Debt Commissioners Act, 1969 (Act No. 2 of 1969).

(2) Such moneys together with all other moneys that are paid over to the Public Debt Commissioners by the Administration, shall constitute a deposit available for investment by the Administration under such last-mentioned Act.

(3) The Administration shall pay interest on the moneys so vested in it, in the manner and at the rate prescribed in section 10 (2) of this Act.

Repeal of laws.

20. (1) Subject to subsections (2) and (3), the laws specified in the Schedule to this Act are hereby repealed to the extent set forth in the third column thereof.

(2) Any regulation, notice, appointment or election made, issued, published or exercised, and any other action validly taken under any provision of a law repealed by this Act, shall be deemed to have been made, issued, published, exercised or taken under the corresponding provision of this Act or the regulations.

SPOORWEG- EN HAWEPENSIOENWET, 1971.

Wet No. 35, 1971

voordeel wat aan die lid of aan iemand anders ten opsigte van sy dood betaalbaar is, bereken asof sodanige bedrae ten volle betaal was ten tyde van die lid se dood of uitdienstreding, na gelang van die geval.

- (c) (i) By die dood of uitdienstreding van 'n lid op wie paragraaf (a) of (b) van hierdie subartikel van toepassing is, word enige bedrag betaalbaar ingevolge subartikel (3) wat nie dan betaal of ten volle betaal is nie, verhaal by wyse van aftrekking daarvan van enige voordeel wat aan die lid of aan iemand anders ten opsigte van sy dood betaalbaar is;
- (ii) by die toepassing van subparagraaf (i) word die uitdrukking „voordeel”, met betrekking tot 'n oorlede lid, geag die kapitaalsom in te sluit waarop die berekening van 'n aan sy weduwee betaalbare jaargeld ingevolge die toepaslike pensioenwet gebaseer word.

(5) Indien 'n lid wat gekies het om by te dra ten opsigte van 'n tydperk van onafgebroke diens soos in subartikel (1) bedoel, ophou om 'n dienaar te wees onder die omstandighede vermeld in artikel 13 (1) van die Dienswet, voordat die bedrae deur hom betaalbaar ingevolge subartikel (3) van hierdie artikel ten volle betaal is, en 'n jaargeld ingevolge bedoelde artikel aan hom toegestaan word, word daar by die berekening van die bedrag van sodanige jaargeld net daardie gedeelte van bedoelde tydperk van diens in ag geneem wat op die datum waarop die lid opgehou het om 'n dienaar te wees, werklik deur hydraes gedek is.

18. Die Minister kan gevalle waarin daar, weens 'n fout of versuim, andersins onreg sou geskied teenoor 'n dienaar wat 'n lid is van die Nuwe Fonds of wat bevoeg was om 'n lid daarvan te word, heropen en alle nodige wysigings daarin laat aanbring, mits 'n aanbeveling in alle sodanige gevalle van die Gesamentlike Komitee verkry word.

Minister kan sekere gevalle heropen.

19. (1) Ondanks andersluidende bepalings van die „Spoorweg- en Havendienst Wet, 1912” (Wet No. 28 van 1912), berus die gelde van die 1912-pensioenfondse en van die Kaapse Weduweepensioenfondse (Spoorweë) by die Administrasie en word dit tesame met die gelde van die Fonds en die Nuwe Fonds deur die Administrasie behou ten bate van die lede van genoemde fondse, onderskeidelik, onderworpe aan die bepalings van voormelde Wet en hierdie Wet of die regulasies daarkragtens opgestel, en die Administrasie betaal soveel van die gelde van genoemde fondse as wat nie onmiddellik benodig word nie, aan die Staatskuldkommissaris as deposito's beskikbaar vir belegging deur die Administrasie kragtens die Wet op die Staatskuldkommissaris, 1969 (Wet No. 2 van 1969).

Belegging van fondse en rentebetalings.

(2) Sodanige gelde tesame met alle ander gelde wat aan die Staatskuldkommissaris deur die Administrasie oorbetal word, verteenwoordig 'n beskikbare deposito vir belegging deur die Administrasie kragtens laasgenoemde Wet.

(3) Die Administrasie betaal rente op die gelde wat aldus by hom berus op die wyse en teen die koers voorgeskryf in artikel 10 (2) van hierdie Wet.

20. (1) Met inagneming van subartikels (2) en (3) word die wette in die Bylae by hierdie Wet vermeld hierby herroep vir sover in die derde kolom daarvan uiteengesit word.

Herroeping van wette.

(2) Alle regulasies, kennisgewings, aanstellings of keuses wat ingevolge een of ander bepaling van 'n deur hierdie Wet herroepe wet uitgevaardig, uitgereik, gepubliseer of uitgeoefen is, en alle ander handelings wat wettig ingevolge so 'n bepaling verrig is, word geag kragtens die ooreenstemmende bepaling van hierdie Wet of die regulasies uitgevaardig, uitgereik, gepubliseer, uitgeoefen of verrig te gewees het.

Act No. 35, 1971

RAILWAYS AND HARBOURS PENSIONS ACT, 1971.

(3) Nothing in this Act contained, shall be deemed to affect the existing rights of members and beneficiaries of the various funds referred to in this Act in so far as such rights existed at the date on which this Act shall be deemed to have come into operation.

Application
of Act to
South-West Africa.

21. This Act and any amendment thereof shall apply also in the Territory of South-West Africa, including the Eastern Caprivi Zipfel.

Short title and
commencement.

22. This Act shall be called the Railways and Harbours Pensions Act, 1971, and shall be deemed to have come into operation on the first day of April, 1971.

Schedule.

LAWS REPEALED.

Number and Year of Law.	Title.	Extent of Repeal.
Act No. 34 of 1920	Railways and Harbours Strike and Service Act Amendment Act, 1920.	So much as is un-repealed.
Act No. 7 of 1928	Railways and Harbours Service and Superannuation (Amendment) Act, 1928.	So much as is un-repealed.
Act No. 27 of 1936	Railway Pensioners Act, 1936	The whole.
Act No. 41 of 1953	Railways and Harbours Special Pensions Act, 1953.	So much as is un-repealed.
Act No. 39 of 1960	Railways and Harbours Superannuation Fund Act, 1960.	The whole.
Act No. 62 of 1961	Railways and Harbours Acts Amendment Act, 1961.	Sections 15 to 21 inclusive.
Act No. 7 of 1963	Railways and Harbours Acts Amendment Act, 1963.	Sections 19 to 26 inclusive.
Act No. 54 of 1964	Railways and Harbours Acts Amendment Act, 1964.	Section 8.
Act No. 6 of 1965	Railways and Harbours Acts Amendment Act, 1965.	Sections 61 to 69 inclusive and 78.
Act No. 18 of 1966	Railways and Harbours Acts Amendment Act, 1966.	Sections 6 to 11 inclusive.
Act No. 23 of 1967	Railways and Harbours Acts Amendment Act, 1967.	Sections 3 to 8 inclusive.
Act No. 8 of 1968	Railways and Harbours Acts Amendment Act, 1968.	Sections 7 and 8.
Act No. 60 of 1968	Second Railways and Harbours Acts Amendment Act, 1968.	Sections 5 to 8 inclusive.
Act No. 41 of 1969	Second Railways and Harbours Acts Amendment Act, 1969.	Sections 4 to 11 inclusive.
Act No. 57 of 1970	Railways and Harbours Acts Amendment Act, 1970.	Section 4.
Act No. 24 of 1971	Railways and Harbours Acts Amendment Act, 1971.	Section 10.

SPOORWEG- EN HAWEPENSIOENWET, 1971.

Wet No. 35, 1971

(3) Geen bepaling van hierdie Wet word geag die bestaande regte van lede en voordeeltrekkers van die verskeie fondse in hierdie Wet vermeld te raak nie, vir sover sodanige regte bestaan het op die datum waarop hierdie Wet geag word in werking te getree het.

21. Hierdie Wet en enige wysiging daarvan is ook in die Toepassing Gebied Suidwes-Afrika insluitende die Oostelike Caprivi Zipfel van Wet op Suidwes-Afrika. van toepassing.

22. Hierdie Wet heet die Spoorweg- en Hawepensioenwet, Kort titel en 1971, en word geag in werking te getree het op die eerste dag van inwerkingtreding. April 1971.

Bylae.

WETTE HERROEP.

Nommer en jaartal van Wet.	Titel.	In hoeverre herroep.
Wet No. 34 van 1920	Spoorwegen en Havens Werkstaking en Dienst Wet Wijzigings Wet, 1920.	Vir sover onherroep.
Wet No. 7 van 1928	Spoorweë- en Hawediens en Superannuasie Wysigings Wet, 1928.	Vir sover onherroep.
Wet No. 27 van 1936	Spoorwegpensioenariewet, 1936	Die geheel.
Wet No. 41 van 1953	Spesiale Spoorweg- en Hawepensioenwet, 1953.	Vir sover onherroep.
Wet No. 39 van 1960	Wet op die Spoorweg- en Hawesuperannuasiefonds, 1960.	Die geheel.
Wet No. 62 van 1961	Wysigingswet op Spoorweg- en Hawewette, 1961.	Artikels 15 tot en met 21.
Wet No. 7 van 1963	Wysigingswet op Spoorweg- en Hawewette, 1963.	Artikels 19 tot en met 26.
Wet No. 54 van 1964	Wysigingswet op Spoorweg- en Hawewette, 1964.	Artikel 8.
Wet No. 6 van 1965	Wysigingswet op Spoorweg- en Hawewette, 1965.	Artikels 61 tot en met 69 en 78.
Wet No. 18 van 1966	Wysigingswet op Spoorweg- en Hawewette, 1966.	Artikels 6 tot en met 11.
Wet No. 23 van 1967	Wysigingswet op Spoorweg- en Hawewette, 1967.	Artikels 3 tot en met 8.
Wet No. 8 van 1968	Wysigingswet op Spoorweg- en Hawewette, 1968.	Artikels 7 en 8.
Wet No. 60 van 1968	Tweede Wysigingswet op Spoorweg- en Hawewette, 1968.	Artikels 5 tot en met 8.
Wet No. 41 van 1969	Tweede Wysigingswet op Spoorweg- en Hawewette, 1969.	Artikels 4 tot en met 11.
Wet No. 57 van 1970	Wysigingswet op Spoorweg- en Hawewette, 1970.	Artikel 4.
Wet No. 24 van 1971	Wysigingswet op Spoorweg- en Hawewette, 1971.	Artikel 10.