

**TRANSPORT EMPLOYEES RETIREMENT
BENEFITS (AMENDMENT) ACT, 1977**

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 51, 1977.

An Act to amend the Transport Employees Retirement Benefits Act, 1967, so as to provide for the automatic adjustment of pensions payable under that Act, and in certain other respects. [Assented to, 21st June, 1977.]

BE

Transport Employees Retirement Benefits (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short
title.**

1. This Act may be cited as the "Transport Employees Retirement Benefits (Amendment) Act, 1977".

**Amend-
ment of
Act No. 96,
1967.**

2. The Transport Employees Retirement Benefits Act, 1967, is amended in the manner set forth in Schedule 1.

Sec. 2.

SCHEDULE 1.

**AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967.**

(1) Section 2—

After the matter relating to Part III, insert :—

**PART IIIA—AUTOMATIC ADJUSTMENT OF
PENSIONS.**

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Part IIIA—

After Part III, insert :—

PART IIIA.

AUTOMATIC ADJUSTMENT OF PENSIONS.

31A. (1) In this Part, except in so far as the Interpretation: context or subject-matter otherwise indicates or Pt. IIIA. requires—

“adjustment date”, in relation to a year, means the first day of the pension pay period that ends on the first pension pay day in the October that next follows that year;

“adjustment percentage”, in relation to a year, means (subject to section 31B (2)) the percentage for that year, calculated in accordance with section 31B;

“Index number”, in relation to a June quarter, means the number for that June quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician under the Census and Statistics Act 1905 of the Parliament of the Commonwealth as amended from time to time or any Act of that Parliament passed in substitution therefor;

“June quarter”, in relation to a year, means the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

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SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

“pension” means a pension payable under section 23;

“pensioner” means a person in receipt of a pension;

“quarter”, in relation to a year, means—

- (a) the period commencing on and including 1st July in that year and ending on and including 30th September in that year;
- (b) the period commencing on and including 1st October in that year and ending on and including 31st December in that year;
- (c) the period commencing on and including 1st January in that year and ending on and including 31st March in that year; or
- (d) the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

“year” means—

- (a) the period commencing on and including 1st July, 1976, and ending on and including 30th June, 1977; or
- (b) a subsequent period commencing on and including 1st July and ending on and including the next following 30th June.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Where a pension is to be adjusted under this Part by reference to the adjustment percentage for a year, a reference (however expressed) in this Part to adjusting the pension is a reference to—

- (a) where the adjustment percentage is calculated in accordance with the formula set out in section 31B (1) (a)—increasing the pension; or
- (b) where the adjustment percentage is calculated in accordance with the formula set out in section 31B (1) (b)—reducing the pension.

31B. (1) For the purposes of the definition of Calculation of “adjustment percentage” in section 31A (1), the ^{of} adjustment percentage for a year shall be calculated—

- (a) if the Index number for the June quarter in that year is greater than the Index number for the immediately preceding June quarter—in accordance with the following formula :—

$$P = \frac{100 (C - L)}{L}$$

- (b) if the Index number for the June quarter in that year is less than the Index number for the immediately preceding June quarter—in accordance with the following formula :—

$$P = \frac{100 (L - C)}{L}$$

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

where—

P is the percentage to be obtained;

C is the Index number for the June quarter in that year; and

L is the Index number for the immediately preceding June quarter.

(2) Where—

(a) the percentage calculated for a year in accordance with this section is less than 1.0 per centum; or

(b) the Index number for the June quarter in that year is the same as the Index number for the immediately preceding June quarter,

there shall be deemed to be no adjustment percentage for that year.

(3) Where there is deemed to be no adjustment percentage for a year, then, for the purposes of calculating the percentage for the next year—

(a) the Index number for the June quarter in the firstmentioned year shall be deemed not to have been published; and

(b) the Index number for that quarter shall be deemed to be the same as the Index number for the June quarter in the last year for which there was an adjustment percentage.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(4) If at any time, whether before or after the commencement of this Part, the Australian Statistician has published in respect of a particular June quarter an Index number in substitution for an Index number previously published by him in respect of that quarter—

- (a) except as provided in paragraph (b)—the publication of the later Index number shall be disregarded; or
- (b) if the Minister so directs—regard shall, after the direction is given, be had to the later and not to the earlier Index number,

for the purposes of this Part.

(5) Notwithstanding subsection (4), if at any time after the commencement of this Part the Australian Statistician changes the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purposes of the application of this Part after the change takes place, regard shall be had only to Index numbers published in terms of the new reference base.

31c. (1) Subject to this Act, where there is an adjustment percentage for a year (in this section referred to as “the particular year”), the pension payable on the adjustment date for that year to a person to whom this section applies is hereby adjusted, on and from that adjustment date, by that percentage.

Adjustment
of pensions:
general
cases.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) This section applies to—

- (a) a person who last became a pensioner on or before 1st July in the particular year; and
- (b) a person who is the widow of a pensioner, where that pensioner last became a pensioner on or before 1st July in the particular year and died before the adjustment date for that year.

(3) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

Adjustment
of pensions:
partial
adjustment.

31D. (1) Subject to this Act, where there is an adjustment percentage for a year (in this section referred to as “the particular year”), the pension payable on the adjustment date for that year to a person to whom this section applies is hereby adjusted, on and from that adjustment date, by the percentage calculated in accordance with the formula set out in subsection (3).

(2) This section applies to—

- (a) a person who last became a pensioner after 1st July in the particular year but on or before 1st April in that year; and

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Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
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- (b) a person who is the widow of a pensioner, where that pensioner last became a pensioner after 1st July in the particular year but on or before 1st April in that year and died before the adjustment date for that year,

but does not apply to a person to whom section 31c applies.

- (3) The formula referred to in subsection (1) is—

$$A = P \times \frac{Q}{4}$$

where—

- A is the percentage by which the pension is to be adjusted;
- P is the adjustment percentage for the particular year; and
- Q is the number of whole quarters of the particular year, being whole quarters after, and (if applicable) the whole quarter on the first day of which—
- (a) in the case of a person referred to in subsection (2) (a)—the person last became a pensioner; or
- (b) in the case of a person referred to in subsection (2) (b)—her late pensioner husband last became a pensioner.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(4) A reference in subsection (1) to a pension payable to a person includes a reference to the pension that would have been payable to him had section 60A not been enacted.

Minimum
amount
to which
pensions
may be
reduced.

31E. Notwithstanding anything in this Part—

- (a) a pension (other than a pension payable to a person by virtue of her being a widow of a pensioner) shall not be reduced below the fortnightly amount that would, if this Part had not been enacted, have been payable; and
- (b) a pension payable to a person by virtue of her being a widow of a pensioner shall not be reduced below the fortnightly amount that would have been payable to her by reference to the pension that would, if this Part had not been enacted, have been payable to her late husband.

Additional
payment
by
employer

31F. (1) Where, by virtue of there being an adjustment percentage for a year, an increased pension is payable to a pensioner or to the widow of a deceased pensioner, the employer in whose service the pensioner or deceased pensioner was employed at the date of his retirement shall pay to the Board at such intervals as may be determined by the Board and on the requisition of the Board, an amount equal to the difference between the amount of the increased pension and the amount of pension that would have been payable had there been no adjustment percentage for that year.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) The provisions of section 29 (3), (4) and (5) apply to and in respect of any payment required by subsection (1) to be made to the Board in the same way as they apply to and in respect of any payment required by section 29 (2) or (2A) to be made to the Board.

31G. Where a percentage that is to be calculated under this Part is or includes a fraction of one-tenth of one per centum—

Calculation
of
percentages.

- (a) if that fraction is less than one-half of one-tenth—that fraction shall be disregarded; and
- (b) if that fraction is not less than one-half of one-tenth—that fraction shall be treated as one-tenth.

(3) Section 60A—

After section 60, insert:—

60A. (1) Notwithstanding anything in this Act, where a person entitled to receive a pension under section 23 (including any increase payable under Part IIIA) would, in the opinion of the Board, thereby be prejudicially affected in respect of any benefits otherwise receivable by that person, the amount of pension payable shall be such lesser amount than that provided for under this Act as the Board from time to time determines.

Suspension
of part of
pension in
certain
circum-
stances.

SCHEDULE

Transport Employees Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE TRANSPORT EMPLOYEES
RETIREMENT BENEFITS ACT, 1967—*continued.*

(2) Where the Board, under subsection (1), reduces the amount of an increase payable under Part IIIA, the amount of the increase as determined by the Board shall be payable in respect of such periods or at such times by way of lump sum or otherwise as the Board from time to time determines.

(3) A part of a pension that is not paid because of the Board's determination under subsection (1) shall, in calculating a pension payable to a person by virtue of her being a widow of a pensioner, be taken into account as if it had been payable.
