

OFFICE OF THE PRESIDENT

No. 1244  
2 October 1998

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

NO. 75 OF 1998: SPECIAL PENSIONS AMENDMENT ACT, 1998

GENERAL EXPLANATORY NOTE:

Words in bold type indicate omissions from existing enactments.

Words in italics indicate insertions in existing enactments.

(English text signed by the President.)

(Assented to 30 September 1998.)

ACT

To amend the Special Pensions Act, 1996, so as to extend the right to a pension to persons who suffer from terminal diseases; to advance the payment of benefits to the date on which a pensioner attains the age of 35 years; to validate certain applications; to further regulate the payment of benefits to pensioners holding office in a legislature; to do away with optional early pensions; to further regulate the appointment of members of the Special Pensions Board; to further regulate the dissolution of the Board; to further regulate the composition of the Special Pensions Review Board; to further regulate the Minister's powers to make regulations; and to amend certain definitions; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 1 of Act 69 of 1996

1. Section 1 of the Special Pensions Act, 1996 (hereinafter referred to as the principal Act), is hereby amended by the substitution for subsections (3) and (4) of the following subsections, respectively:

"(3) A person who made sacrifices or served the public interest in establishing non-racial democratic constitutional order and who is a citizen, or entitled to be a citizen, of the Republic, has

the right to a pension in terms of this Act if that person-

(a) was prevented from providing for a pension because, prior to 2 February 1990, that person suffered a permanent and total disability arising out of any of the circumstances listed in subsection (1)(b)(i) or (iii);  
*or*

(b) *complies with the criteria contemplated in subsection (1), and submits proof to the satisfaction of the Board that he or she suffers from a terminal disease.*

(4) A pensioner who qualifies for a benefit in terms of subsection (1) is entitled to receive a pension, payable monthly, commencing on the first day of the month during which that person attains the age of **60** 35 years."

Amendment of section 6 of Act 69 of 1996

2. (1) Section 6 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Any person who applies for a benefit in terms of this Act must-

(a) (i) complete an application form as set out in Schedule 2;

(b) (ii) have a Commissioner of Oaths certify on the application form that the applicant swore or affirmed that the information contained in that form is correct; and

(c)(iii) submit the application form to the Board on or before the closing date; *or*

(b) *on or before the closing date complete and submit to the Board a form with the heading 'BIOGRAPHICAL PROFILE OF MEMBERS OF EX-BANNED POLITICAL ORGANISATIONS' which was issued by the Department of Finance."*

(2) Subsection (1) must be regarded as having taken effect on 1 December 1996.

Amendment of section 9 of Act 69 of 1996

3. Section 9 of the principal Act is hereby amended by the deletion of subsection (7).

Repeal of section 11 of Act 69 of 1996

4. Section 11 of the principal Act is hereby repealed.

Amendment of section 16 of Act 69 of 1996

5. Section 16 of the principal Act is hereby amended-

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Minister, in consultation with the President, must **from persons nominated in accordance with subsection (2)** appoint appropriate persons to be either full-time or part-time members of the Board, and must fill any vacancies on the Board as they arise by appointing **from the persons so nominated** appropriate persons."; and

(b) by the deletion of subsection (2).

Amendment of section 27 of Act 69 of 1996

6. Section 27 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister may dissolve the Board at any time after the Board has completed its activities, but not later than **2 four** years after the commencement date.".

Amendment of section 2X of Act 69 of 1996

7. Section 28 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) There is hereby established a Special Pensions Review Board consisting of a **judge of the Supreme Court** *person with appropriate legal experience* as its Chairperson and two other members, one of whom must be an actuary.".

Amendment of section 29 of Act 69 of 1996

8. Section 29 of the principal Act is hereby amended by the deletion of the word "and" at the end of paragraph (a) of subsection (1) and the insertion after the said paragraph (a) of the following paragraph:

"(aA) *prescribing alternative measures which may be followed if it is impossible for an applicant to provide a certified copy as contemplated in Schedule 2 to accompany his or her application;* or".

Amendment of section 31 of Act 69 of 1996

9. Section 31 of the principal Act is hereby amended-

(a) by the substitution in subsection (1) for the definition of

"application" of the following definition:

" *'application'* means-

(a) *a completed and sworn statement in the form set out in Schedule 2; or*

(b) *an application on the form referred to in section 6(1)(b);"*  
and

(b) by the substitution in subsection (1) for the definition of "dependant" of the following definition:

" *'dependant'* means an applicant in respect of whom a deceased person-

(a) *was legally liable for maintenance;*

(b) *was not legally liable for maintenance, if the applicant-*

(i) *was at the time of the death of the deceased in fact dependant on the deceased for maintenance;*

(ii) *is the spouse of the deceased, including a party to a customary union or a union recognised as a marriage under any Asian religion;*

(iii) *is a child of the deceased, including a posthumous child, an adopted child and a child born out of wedlock; or*

(c) *would have become legally liable for maintenance, had the deceased not died;".*

Substitution of Schedule 3 to Act 69 of 1996

10. The following Schedule is hereby substituted for Schedule 3 to the principal Act:

"SCHEDULE 3

PENSIONS PAYABLE IN TERMS OF SECTION 1(6)

---

AGE CATEGORY IN YEARS	ANNUAL PENSION AMOUNT IN RANDS
-----------------------	--------------------------------

---

35 but younger than 45	50 6 000 PLUS 1200 for each year of service exceeding 5 years but less than or equal to 20 years with maximum amount of 24 000
------------------------	--

45	50 but younger than 65	12 000 PLUS 1 200 for each year of service exceeding 5 years but less than or equal to 20 years, with maximum amount of 30 000
----	------------------------	--

65 and older                    24 000 PLUS 1 200 for each year of service exceeding 5 years with maximum amount of 42 000.

Where years of service exceed 25 years, a fixed amount of 84 000".

---

Amendment of law

11. The law referred to in the second column of the Schedule is hereby amended to the extent set out in the third column of the Schedule.

Short title and commencement

12. This Act is called the Special Pensions Amendment Act, 1998, and takes effect on a date determined by the President by proclamation in the Gazette.

SCHEDULE

(Section 9)

---

No. and year of law	Short title	Extent of repeal
---------------------	-------------	------------------

---

Act No. 84 of 1976	Military Pensions Act, 1976	The amendment of section 1 by the substitution in subsection (1) for the definition of "military service" of the following definition:
--------------------	-----------------------------	--

" 'military service' includes-

(a) naval, air or military service or training being performed or undergone by a member in terms of the Defence Act;

(b) *military service or training performed or undergone in a political organisation by any person entitled to a pension in terms of the Special Pensions Act, 1996 (Act No. 69 of 1996);"*

