

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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[No. 8239

KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1122.

9 Junie 1982.

No. 1122.

9 June 1982.

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

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

No. 81 van 1982: Wysigingswet op die Pensioenwette, 1982.

No. 81 of 1982: Pension Laws Amendment Act, 1982.

GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- _____** Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Parliamentary Service and Administrators' Pensions Act, 1971, so as to further regulate the payment of pension benefits to any person who holds or held the office of President of the Senate or Speaker of the House of Assembly after having held the office of Minister, and to certain former members who have been or are appointed to the post of Envoy Extraordinary and Minister Plenipotentiary or Ambassador Extraordinary and Plenipotentiary; to amend the Military Pensions Act, 1976, so as to revoke the limitations on the payment of certain gratuities; to amend the Judges' Pensions Act, 1978, so as to provide for the payment of pensions and other financial benefits to the surviving spouse of a female judge; to amend the General Pensions Act, 1979, so as to alter the basis for the determination of the amount payable by certain pension funds to the Government Service Pension Fund or the Temporary Employees Pension Fund on the transfer of members; and to further define the expression "fixed date"; to repeal certain laws; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 1 June 1982.)*

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

1. Section 9 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended by the substitution in subsection (2A) for the expression "subsection (1)" of the expression "subsections (1) and (1A)". Amendment of section 9 of Act 81 of 1971, as amended by section 10 of Act 77 of 1974 and section 6 of Act 49 of 1979.
2. Section 10 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended— Amendment of section 10 of Act 81 of 1971, as substituted by section 11 of Act 77 of 1974.
 - (a) by the substitution in subsection (1) for the expression "paragraph (a), (b), (c) or (d)" of the expression "paragraph (a), (b) or (c)"; and
 - (b) by the substitution in subsection (2) for the expression "section 9 (1) (e)" of the expression "section 9 (1) (c)".
3. Section 5 of the Military Pensions Act, 1976, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 5 of Act 84 of 1976, as amended by section 7 of Act 97 of 1980.

"(1) If any member suffers from a pensionable disability which has in terms of the provisions of this Act been determined at less than 20 per cent, there shall be paid to him such gratuity as the Minister may with the concurrence of the Minister of Finance determine from time to time by notice in the *Gazette* [and which, if the pensionable disability of the member—

PENSION LAWS AMENDMENT ACT, 1982

Act No. 81, 1982

- (a) has been determined at not more than ten per cent, shall not exceed three hundred rand;
- (b) has been determined at more than ten per cent but less than twenty per cent, shall not exceed six hundred rand].”.

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4. Section 1 of the Judges’ Pensions Act, 1978, is hereby amended by the addition to subsection (1) of the following definition:

“widow includes the surviving spouse of a female judge.”.

Amendment of section 1 of Act 90 of 1978, as amended by section 1 of Act 66 of 1979 and section 15 of Act 97 of 1980.

10 5. Section 4A of the Judges’ Pensions Act, 1978, is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) if such judge is not survived by a widow **[or if such judge is a female]**, be payable to the estate of such judge.”.

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Amendment of section 4A of Act 90 of 1978, as inserted by section 5 of Act 66 of 1979.

6. Section 12 of the General Pensions Act, 1979, is hereby amended—

Amendment of section 12 of Act 29 of 1979.

(a) by the substitution for subsections (1) up to and including (5) of the following subsections, respectively:

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“(1) If any undertaking or activity of a local authority or any power or function of a local authority in connection with the provision of any service or the administration of any area, is taken over by the Government or ceases to be controlled, exercised or performed by a local authority by virtue of any action taken in terms of an Act of Parliament, and the Minister with the concurrence of the Minister of Finance in respect of a specified local authority agrees thereto, then, notwithstanding anything to the contrary in any law contained but subject to the provisions of subsections (2), (3) and (4), [—

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(a)] the period of previous pensionable service of any affected officer of such local authority who becomes or shall become a member of the Government Service Pension Fund or the **[Government employees’ Provident Fund] Temporary Employees Pension Fund** with effect from the fixed date in terms of any law, shall be reckoned as pensionable service for the purpose of the fund of which he so becomes or shall so become a member [;

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(b) any affected officer of such local authority who becomes with effect from the fixed date a non-White employee as defined in section 1 of the Government non-White Employees Pensions Act, 1966 (Act No. 42 of 1966), shall, with effect from the said date, become a member of the Government Non-White Employees’ Pension Fund, and shall contribute to the said pension fund in accordance with regulations made under section 2 of that Act, and the period of his previous pensionable service shall be reckoned as pensionable service for the purposes of the said pension fund].

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(2) If the previous pensionable service of an affected officer is reckoned as pensionable service in terms of subsection (1) for the purposes of the Government Service Pension Fund or the **[Government Employees’ Provident Fund or the Government Non-White Employees’] Temporary Employees Pension Fund**, there shall, notwithstanding anything to the contrary in any law contained or the rules or regulations governing the applicable pension fund, be paid by the last-mentioned pension fund to the Government Service Pension Fund or the **[Government Employees’ Provident Fund or the**

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PENSION LAWS AMENDMENT ACT, 1982

Act No. 81, 1982

Government Non-White Employees' Temporary Employees Pension Fund, as the case may be, in respect of such previous pensionable service —

- 5 (a) an amount which is equal to **[the amount or the transfer value which would have been payable in terms of the provisions of the laws or the rules or regulations governing the applicable pension fund if the affected officer concerned was transferred or directly appointed to the service of another local authority having a different pension fund or associated with a different pension fund or, if no amount would have been so payable, an amount which the Minister or an officer of the Department of Social Welfare and Pensions authorized thereto by the Minister, may determine after consultation with the management of the applicable pension fund concerned, with due regard to the circumstances of a specified case or category of cases]** the interest of the affected officer concerned in the assets of the applicable pension fund as calculated by the actuary of such applicable pension fund;
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- 25 (b) interest calculated at 5,5% per annum on the amount referred to in paragraph (a), compounded annually as at 31 March, and calculated from the fixed date to the date on which the said amount is paid to the pension fund **[or provident fund]** in question in terms of this subsection.

30 (3) If the total of the amounts to be paid to the Government Service Pension Fund or the **[Government Employees' Provident Fund or the Government Non-White Employees' Temporary Employees Pension Fund]** in terms of subsection (2) (a) and (b) **[—**

- 35 (a) **is less than]** exceeds the amount to be paid in terms of the regulations governing the Government Service Pension Fund or the **[Government Employees' Provident Fund or the Government Non-White Employees' Temporary Employees Pension Fund]**, as the case may be, in respect of the previous pensionable service of the affected officer concerned in order to reckon such previous pensionable service for the purposes of the one or the other of the aforementioned funds, **[the deficiency shall be paid from revenue to the fund concerned;**
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- 45 (b) **exceeds the amount referred to in paragraph (a),]** the surplus shall be paid to the affected officer concerned by the applicable pension fund.

50 (4) If an affected officer before the fixed date in writing notifies the **[Secretary] Director-General** that he wishes his previous pensionable service not to be reckoned as pensionable service in terms of subsection (1), such previous pensionable service shall not be reckoned as pensionable service in terms of that subsection.

55 (5) If any person who was in the employ of a local authority, without a break in his service or after such break in his service as the **[Secretary] Director-General** may approve, becomes a member of a pension fund, and is seconded for service to a local authority in a country or area which **[immediately before 1 July 1973]** was a part of the Republic, the Minister, with the concurrence of the Minister of Finance, may declare that the provisions of this section shall apply with reference to such person, and thereupon such provisions shall *mutatis mutandis* apply with reference to such person as

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PENSION LAWS AMENDMENT ACT, 1982

Act No. 81, 1982

- if a take-over referred to in subsection (1) took place on the date on which he was so seconded for service and such person is an affected officer and such date is the fixed date referred to in subsection (4)."; and
- 5 (b) by the deletion in subsection (6) of the definition of "revenue".

7. Section 15 of the General Pensions Act, 1979, is hereby amended by the substitution for paragraph (d) of subsection (4) of the following paragraph:
- 10 (d) 'fixed date' means the date on which a dormant member attains the age at which he, immediately before the date on which he was appointed, **[or]** nominated or elected as contemplated in subsection (1), would have had the right to retire on pension;".

Amendment of section 15 of Act 29 of 1979, as amended by section 3 of Act 67 of 1981.

- 15 8. The National Welfare Act, 1965 (Act No. 79 of 1965), the National Welfare Amendment Act, 1971 (Act No. 13 of 1971) and the National Welfare Amendment Act, 1976 (Act No. 44 of 1976), is hereby repealed.

Repeal of laws.

9. The provisions of—
- 20 (a) section 1 shall be deemed to have come into operation on 1 January 1979;
- (b) sections 4 and 5 shall be deemed to have come into operation on 1 January 1982; and
- 25 (c) section 7 shall be deemed to have come into operation on 5 April 1979.

Commencement of certain provisions.

10. This Act shall be called the Pension Laws Amendment Act, 1982.

Short title.