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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1525.

1 Augustus 1980.

No. 1525.

1 August 1980.

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

No. 97 van 1980: Wysigingswet op die Pensioenwette, 1980.

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

No. 97 of 1980: Pension Laws Amendment Act, 1980.

PENSION LAWS AMENDMENT ACT, 1980

Act No. 97, 1980

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 Associated Institutions Pension Fund Act, 1963, so as to extend the powers of the Minister to make regulations; to amend the Parliamentary Service and Administrators' Pensions Act, 1971, so as to change the basis for the determination of the period after which certain members with provincial service become entitled to pensions and gratuities; to amend the Government Service Pension Act, 1973, regarding membership of the Government Service Pension Fund; to amend the Military Pensions Act, 1976, so as to abolish consolidated pensions and to provide for the payment of other pensions in the place thereof; and to further provide for the reduction of a pension after a gratuity has been paid; to amend the Judges' Pensions Act, 1978, so as to make further provision for widows' pensions; to amend the General Pensions Act, 1979, regarding certain definitions; so as to provide for the establishment of the Civil Pensions Stabilisation Account; to extend the powers of the Minister to make regulations; to provide for the pension contributions to be made by the Secretary to Parliament; to further regulate the payment of a pension to the widow of a former State President; and to provide for a gratuity to be paid to beneficiaries designated by a member of a pension fund; to make provision for the interpretation of certain expressions; to repeal certain laws; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 1 July 1980.)*

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

1. Section 2 of the Associated Institutions Pension Fund Act, 1963, is hereby amended—
- (a) by the insertion after paragraph (a) of subsection (2) of the following paragraph:
- “(aA) make provision for persons who are contributors to the Provident Fund for Associated Institutions established by section 3 of the Associated Institutions Provident Fund Act, 1971 (Act No. 11 of 1971), to be released from all obligations towards and to relinquish all rights and privileges in the said provident fund and to become members and contribute to the fund, if they so elect;”**; and
- Amendment of section 2 of Act 41 of 1963, as amended by section 1 of Act 86 of 1970 and section 2 of Act 97 of 1972.

PENSION LAWS AMENDMENT ACT, 1980

Act No. 97, 1980

- (b) by the addition to subsection (2) of the following paragraph:
 “(h) prescribe the conditions on which a member who is seconded for employment in respect of which he is not liable to contribute to the fund, may continue to contribute to the fund.”
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2. Section 6 of the Parliamentary Service and Administrators’ Pensions Act, 1971, is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 “(1) Subject to the provisions of this section there shall, on the termination of his service, be payable to a member whose service terminates on or after 1 January 1979 and who has had not less than eight years of **【pensionable】** qualifying service—”;
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- (b) by the substitution for the word “pensionable” in subsections (2) and (3) of the word “qualifying”; and
- (c) by the addition of the following subsection:
 “(6) In this section ‘qualifying service’ means pensionable service and, in the case of a member who made an election in terms of section 4, includes that half of such a member’s pensionable service under the applicable pensions ordinance which is not in terms of that section deemed to be pensionable service.”
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3. Section 5 of the Government Service Pension Act, 1973, is hereby amended—
- (a) by the addition to paragraph (d) of subsection (2) of the word “or”; and
- (b) by the addition to subsection (2) of the following paragraph:
 “(e) referred to in section 3 (b) of the Public Service Act, 1957 (Act No. 54 of 1957).”
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4. Section 1 of the Military Pensions Act, 1976, is hereby amended—
- (a) by the deletion in subsection (1) of the definitions of “consolidated pension”, “formula III” and “formula IV”;
- (b) by the substitution in subsection (1) for the definition of “member” of the following definition:
 “‘member’ means, subject to the provisions of section 21, any member of the Citizen Force or any Commando or **【of】** the Reserve mentioned in section 5 or 6 of the Defence Act **【but excluding such member who is an officer or employee as defined in section 2 (3) of the Pension Laws Amendment Act, 1974 (Act No. 15 of 1974)】**;”
- (c) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
 “(a) Any amount or number which is permitted or required to be determined by the Minister in terms of the definition of formula I or formula II **【or formula III】** shall be determined by notice in the *Gazette* and different amounts or numbers may so be determined in respect of different population groups or categories of persons.”; and
- (d) by the deletion in paragraph (b) of subsection (2) of the words “or consolidated pension”.
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5. Section 3 of the Military Pensions Act, 1976, is hereby amended by the deletion of paragraph (e) of subsection (1).

Amendment of section 6 of Act 81 of 1971, as amended by section 8 of Act 77 of 1974 and section 4 of Act 49 of 1979.

Amendment of section 5 of Act 57 of 1973, as amended by section 1 of Act 83 of 1976.

Amendment of section 1 of Act 84 of 1976, as amended by section 1 of Act 26 of 1977.

Amendment of section 3 of Act 84 of 1976, as amended by section 2 of Act 26 of 1977.

PENSION LAWS AMENDMENT ACT, 1980

Act No. 97, 1980

6. The following section is hereby inserted in the Military Pensions Act, 1976, after section 4:

Insertion of section 4A in Act 84 of 1976.

5 "Payment of pensions in-
stead of
consolidated
pensions. 4A. The payment to any person of a consolidated
10 pension within the meaning of this Act prior to the
amendment thereof by the Pension Laws Amendment
Act, 1980, shall with effect from 1 April 1980 be
discontinued and in its stead there shall be paid to
such a person such pension contemplated in section 4
as may be designated by the Minister: Provided that
the pension payable to such a person shall amount to
not less than the consolidated pension that would
otherwise have been payable to him on that date."

7. Section 5 of the Military Pensions Act, 1976, is hereby amended by the substitution for subsection (3) of the following
15 subsection:

Amendment of section 5 of Act 84 of 1976.

20 "(3) If a pension is awarded to any member in terms of section 4 (a) within a period of 40 months after a gratuity has been paid to him in terms of subsection (1) of this section, any pension or pensions paid to him in terms of paragraph (a) or paragraphs (a) and (b) of section 4 shall be reduced by one
25 fortieth of the amount of the gratuity which was so paid to him up to and including the last day of the fortieth month after [that reduction was first made] the member became entitled to the said gratuity or until the date on which such pension or pensions is or are discontinued, whichever date is the earlier."

8. Section 8 of the Military Pensions Act, 1976, is hereby repealed.

Repeal of section 8 of Act 84 of 1976, as amended by section 4 of Act 26 of 1977.

9. Section 11 of the Military Pensions Act, 1976, is hereby amended by the substitution in paragraphs (i) and (ii) of
30 subsection (3) for the expression "formula IV" of the expression "formula I".

Amendment of section 11 of Act 84 of 1976.

10. Section 12 of the Military Pensions Act, 1976, is hereby amended—

Amendment of section 12 of Act 84 of 1976, as amended by section 6 of Act 26 of 1977.

35 (a) by the deletion in the words preceding paragraph (a) of subsection (1) of the words "or consolidated pension";
(b) by the substitution for paragraph (a) of subsection (1) of
40 the following paragraph:
"(a) in the case of the death of a member receiving a pension [or of any person who receives a consolidated pension], up to and including the last day of the month in which such member [or such person] dies;";
45 (c) by the deletion of paragraphs (c) and (f) of subsection (1); and
(d) by the deletion in paragraph (a) of subsection (4) of the words "or a consolidated pension".

11. Section 14 of the Military Pensions Act, 1976, is hereby amended by the substitution for the words preceding paragraph (a)
50 of subsection (1) of the following words:

Amendment of section 14 of Act 84 of 1976, as substituted by section 8 of Act 26 of 1977.

"(1) Subject to the provisions of this Act any person who [is in receipt of a consolidated pension or] lays claim to a pension or gratuity and who—"

12. Section 19 of the Military Pensions Act, 1976, is hereby amended by the deletion in subsection (2) of the words "or
55 consolidated pension" wherever they appear.

Amendment of section 19 of Act 84 of 1976, as amended by section 9 of Act 26 of 1977 and section 23 of Act 29 of 1979.

PENSION LAWS AMENDMENT ACT, 1980

Act No. 97, 1980

13. Section 21 of the Military Pensions Act, 1976, is hereby amended—
- (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
- 5 “(c) to a member or any person who is entitled to a benefit under the regulations made under section **[2 (1) of the Pension Laws Amendment Act, 1974 (Act No. 15 of 1974)] 11 (1) of the General Pensions Act, 1979 (Act No. 29 of 1979).**”; and
- 10 (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:
- “(a) who is not **[in receipt of a consolidated pension] a person referred to in section 4A; and**”.
14. Section 26 of the Military Pensions Act, 1976, is hereby amended by the deletion of subsection (2).
- 15 Amendment of section 26 of Act 84 of 1976.
15. Section 1 of the Judges' Pensions Act, 1978, is hereby amended—
- (a) by the substitution for the definition of “salary” of the following definition:
- 20 “‘salary’ means, subject to the provisions of subsection (2), the annual salary and the allowance payable to a judge in terms of section 1 of the Judges' Remuneration Act, 1978 (Act No. 91 of 1978);”; and
- 25 (b) by the addition of the following subsection, the existing section becoming subsection (1):
- “(2) If a judge who has been seconded for service as a judge of a state which formerly formed part of the Republic dies or retires or is removed from office while holding the office of chief justice of the High Court of such state in a permanent capacity, his salary shall for the purposes of this Act be deemed to be that of a judge president of a provincial division of the Supreme Court of South Africa.”.
- 30
- 35 16. Section 4 of the Judges' Pensions Act, 1978, is hereby amended by the substitution for subsections (3) and (4) of the following subsections, respectively:
- “(3) To the widow of any person who in terms of any law repealed by this Act paid contributions to revenue and who retired from office as a judge or was removed from office as a judge before the fixed date and who died [or dies] on or after 1 July 1974 but before 1 April 1980, there shall be paid a pension of R2 819,30 per annum plus R281,93 per annum in respect of each completed year in respect of which contributions were so paid [Provided that the pension to which such widow shall be entitled under this section shall amount to not less than R4 356 and not more than R5 638,60 per annum].
- 40 (4) To the widow of any person who—
- 50 (a) in terms of any law repealed by this Act paid contributions to revenue and who retired from office as a judge or was removed from office as a judge before the fixed date and who died or dies on or after 1 April 1980;
- (b) on or after the fixed date retired or retires from office in terms of section 2 or was or is removed from office in the circumstances referred to in section 3 (2) or died or dies whilst holding office as a judge,
- 55 there shall be paid with effect from the first day of the month immediately following upon the month in which he
- 60 died a pension—
- Amendment of section 4 of Act 90 of 1978, as amended by section 4 of Act 66 of 1979.

PENSION LAWS AMENDMENT ACT, 1980

Act No. 97, 1980

- 5 **[(a)] (i)** in the case of the widow of any person who so retired or was so removed from office, equal to **[one-half] three-fourths** of the pension which was in terms of section 3 payable to him on the date of his death;
- 10 **[(b)] (ii)** in the case of the widow of any person who died whilst holding office as a judge, equal to **[one-half] three-fourths** of the pension to which such person would have been entitled in terms of section 3 if he retired from office in terms of section 2 (c) on the date of his death."

17. Section 1 of the General Pensions Act, 1979, is hereby amended— Amendment of section 1 of Act 29 of 1979.

- 15 (a) by the insertion after the definition of "benefit" of the following definition:
 "Director-General' means the Director-General: Health, Welfare and Pensions;";
- 20 (b) by the substitution for the definition of "Government Employees' Provident Fund" of the following definition:
 "Government Employees' Provident Fund' means the **[Government Employees' Provident Fund referred to in section 2 (3) of the Government Service Pensions Act, 1965 (Act No. 62 of 1965)] Temporary Employees Pension Fund;**";
- 25 (c) by the substitution for the definition of "Government Non-White Employees' Pension Fund" of the following definition:
 "Government Non-White Employees' Pension Fund' means the **[pension fund established for Government non-White employees by the regulations made under section 2 of the Government non-White Employees' Pensions Act, 1966 (Act No. 42 of 1966)] Temporary Employees Pension Fund;**";
- 30 (d) by the substitution for the definition of "Minister" of the following definition:
 "Minister' means the Minister of **[Social] Health, Welfare and Pensions;**" and
- 35 (e) by the insertion after the definition of "Secretary" of the following definition:
 "Temporary Employees Pension Fund' means the **pension fund established by section 3 of the Temporary Employees Pension Fund Act, 1979 (Act No. 75 of 1979).**"

45 18. The following section is hereby inserted in the General Pensions Act, 1979, after section 8: Insertion of section 8A in Act 29 of 1979.

- 50 "Civil Pensions Stabilization Account. **8A. (1) The Director-General shall cause to be kept an account to be known as the Civil Pensions Stabilization Account (hereinafter called the account), which shall be credited with—**
- 55 (a) any moneys contributed to the account by members of pension funds;
- (b) any moneys as may be appropriated by Parliament for the account;
- (c) any interest as may be acquired from the investment of moneys in the account; and
- (d) such other moneys as may accrue to the account from any other source.
- 60 (2) The Director-General may from time to time direct that an amount determined by him be paid out of the account to a pension fund so as to assist such pension fund in meeting its additional liabilities

PENSION LAWS AMENDMENT ACT, 1980

Act No. 97, 1980

resulting from an increase in annuities, allowances or bonuses referred to in section 8.

(3) Moneys standing to the credit of the account and which are not immediately required for the purpose mentioned in subsection (2), shall be invested with the Public Debt Commissioners.

(4) The account shall be audited by the Auditor-General.”

19. Section 11 of the General Pensions Act, 1979, is hereby amended—

Amendment of section 11 of Act 29 of 1979.

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

“(1) Notwithstanding anything to the contrary in any law contained, the Minister may, with the concurrence of the Minister of Finance, the Minister of Posts and Telecommunications and the Administrators, and after consultation with [(a)] the Minister responsible for the National Intelligence Service, [(b)] the Minister [of the Interior and Immigration] responsible for the Commission for Administration, [(c)] the Minister of Defence, [(d)] the Minister of Police, and [(e)] the Minister of Prisons, make regulations which provide—

(a) for the payment of compensation to or in respect of, or to a dependant of, any officer or employee who dies or is retired or discharged as a result of injury or ill-health arising out of and in the course of his employment by the Government or by any provincial administration, and for the rendering of medical treatment (including surgical or hospital treatment, skilled nursing services and the supply and repair of any artificial part of the body or any device) to such officer or employee in respect of such injury or ill-health;

(b) for the payment of annuities or benefits to or in respect of, or to a dependant of, any officer or employee referred to in paragraph (a) according to the degree of any such officer's or employee's permanent disablement as determined by the Workmen's Compensation Commissioner in terms of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941);

(c) for the exercise and the performance by the Director-General of such powers and duties as the Minister may deem necessary for the effective carrying out of the regulations.”; and

(b) by the substitution for subsection (4) of the following subsection:

“(4) For the purposes of this section—

‘employee’ means any member of the Reserve Police Force established under section 34 (2) of the Police Act, 1958 (Act No. 7 of 1958), or any member of the Police Reserve established under section 34A (1) of the Police Act, 1958, or any member of the [Government Employees' Provident Fund, but does not include any employee to whom the provisions of the Military Pensions Act, 1976, apply in relation to the injury or ill-health referred to in subsection (1) of this section] Temporary Employees Pension Fund who is in the employ of the Government or any provincial administration;

‘officer’ means any member of the Government Service Pension Fund [established under section 3 of the Government Service Pension Act, 1973 (Act No. 57 of 1973)] and includes a specified officer as defined in

PENSION LAWS AMENDMENT ACT, 1980

Act No. 97, 1980

5 section 10 ~~[(6)]~~ (4) [of this Act, but does not include any officer to whom the provisions of the War Pensions Act, 1976, apply in relation to the injury or ill-health referred to in subsection (1) of this section].”

20. The following section is hereby inserted in the General Pensions Act, 1979, after section 13:

Insertion of section 13A in Act 29 of 1979.

10 “Pension contributions by Secretary to Parliament. 13A. (1) Pension contributions at the prescribed rate shall be deducted from the pensionable emoluments of the Secretary to Parliament with effect from 1 April 1980 and be paid to the State Revenue Fund.
15 (2) For the purposes of subsection (1)—
‘pensionable emoluments’ means the amount of the salary and allowances of the Secretary to Parliament which the Speaker determines;
20 ‘prescribed rate’ means the rate of contributions prescribed under section 17 (2) (b) of the Government Service Pension Act, 1973 (Act No. 57 of 1973).”

21. Section 17 of the General Pensions Act, 1979, is hereby amended by the substitution for paragraph (b) of the following paragraph:

Amendment of section 17 of Act 29 of 1979.

25 “(b) to the widow of such person [whose marriage to him took place before the date on which he vacated the said office] a pension [at the rate of R18 750 per annum] equal to three-fourths of the pension payable to him immediately prior to his death.”

30 22. The following section is hereby inserted in the General Pensions Act, 1979, after section 20A:

Insertion of section 20B in Act 29 of 1979.

35 “Payment of gratuity to beneficiaries designated by member of pension fund. 20B. (1) (a) If a pension law enacts that a gratuity is payable on the death of any member of a pension fund to the dependants of such a member or to his estate, that member may, on such form and subject to such conditions as the Director-General may determine, notify the Director-General of his wish that the said gratuity on his death be paid to the beneficiaries mentioned in that form and be divided among such beneficiaries in the proportion mentioned in that form.
40 (b) A member may with the concurrence of the Director-General withdraw any such notification or substitute a new notification therefor.
45 (2) Notwithstanding anything to the contrary in any law contained the Director-General may on the death of a member who so notified him pay at his discretion the gratuity concerned in accordance with the member’s wish.
50 (3) For the purposes of this section—
‘beneficiary’ means any dependant of the member concerned and includes the estate of such member and also any person who is not a dependant of such member;
55 ‘member’ means a member of a pension fund and includes a pensioner who was such a member.”

60 23. A reference in any law to an officer in the Department of Social Welfare and Pensions, the Secretary for Social Welfare and Pensions and the Minister of Social Welfare and Pensions shall be construed as a reference to an officer in the Department of Health, Welfare and Pensions, the Director-General: Health, Welfare and

Change of certain names and official titles.

PENSION LAWS AMENDMENT ACT, 1980

Act No. 97, 1980

Pensions and the Minister of Health, Welfare and Pensions, respectively.

24. Sections 5 and 6 of the Pension Laws Amendment Act, 1979, shall come into operation on 1 July 1980. Commencement of sections 5 and 6 of Act 100 of 1979.

5 25. The laws specified in the Schedule are hereby repealed to the extent shown in the third column thereof. Repeal of laws.

26. The provisions of— Commencement of certain provisions.

(a) section 1 (b) shall be deemed to have come into operation on 1 October 1976;

10 (b) section 3 shall be deemed to have come into operation on 1 July 1973;

(c) sections 4 up to and including 14 and 18 shall be deemed to have come into operation on 1 April 1980;

15 (d) section 19 shall be deemed to have come into operation on 5 April 1979; and

(e) section 23 shall be deemed to have come into operation on 1 April 1980.

27. This Act shall be called the Pension Laws Amendment Act, 1980. Short title.

Schedule

LAWS REPEALED

| Number and year of law | Title of law | Extent of repeal |
|------------------------|--|--------------------|
| Act No. 43 of 1917 | War Special Pensions Act, 1917 | The whole |
| Act No. 2 of 1941 | Special Pension Act, 1941 | The whole |
| Act No. 33 of 1943 | Pension Laws Amendment Act, 1943 | The whole |
| Act No. 43 of 1946 | Old Age and Veterans' Pensions Amendment Act, 1946 | The whole |
| Act No. 67 of 1959 | Pension Laws Amendment Act, 1959 | Sections 53 and 54 |
| Act No. 11 of 1971 | Associated Institutions Provident Fund Act, 1971 | Section 13 |
| Act No. 77 of 1974 | Second Pension Laws Amendment Act, 1974 | Section 17 |
| Act No. 100 of 1979 | Pension Laws Amendment Act, 1979 | Section 13 (b) |