

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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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 679.

31 Maart 1978.

No. 679.

31 March 1978.

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. 40 van 1978: Wysigingswet op die Pensioenwette, 1978.

No. 40 of 1978: Pension Laws Amendment Act, 1978.

PENSION LAWS AMENDMENT ACT, 1978.

Act No. 40, 1978

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, in order to extend the definition of "associated institution"; and to provide for the declaration of certain companies to be associated institutions; to amend section 16 of the Second Pension Laws Amendment Act, 1974, in order to apply the provisions thereof to certain employees of the Government seconded for service to local authorities in a country or area no longer forming part of the Republic; and to amend the definition of "fixed date"; to amend section 10 of the Pension Laws Amendment Act, 1975, in order to extend the provisions relating to the preservation of pension rights to certain persons appointed, nominated or elected as members of or in the service of the governments or legislative bodies of certain countries; to amend section 8 of the Pension Laws Amendment Act, 1976, in order to apply the provisions thereof to Indians; to regulate the continuation of the pension rights of certain persons leaving the service of the Council for Scientific and Industrial Research; to regulate the retirement benefits of certain members of the staff of certain universities discharged in certain circumstances; and to provide for matters connected therewith:

*(Afrikaans text signed by the State President.)
(Assented to 30 March 1978.)*

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

1. Section 1 of the Associated Institutions Pension Fund Act, 1963 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (h) of the definition of "associated institution" of the following paragraph:
- 5 " (h) any other institution, organization or body established by or under any law, including any company incorporated in terms of the laws relating to companies, which, in terms of section 4, is declared by the Minister to be an associated institution for the purposes of this Act;".
- 10 Amendment of section 1 of Act 41 of 1963, as amended by section 18 of Act 50 of 1973.
2. Section 4 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:
- 15 "(1) The Minister may, after consultation with the Minister of Finance, by notice in the *Gazette* declare any institution, organization or body established by or under any law, including any company incorporated in terms of the
- Amendment of section 4 of Act 41 of 1963, as amended by section 15 of Act 91 of 1967.

PENSION LAWS AMENDMENT ACT, 1978.

Act No. 40, 1978

laws relating to companies, which is not an associated institution, to be such an institution as from a date specified in such notice.”.

3. The following section is hereby substituted for section 5 of 5 the principal Act: Substitution of section 5 of Act 41 of 1963.

10 “Date deemed to be specified date in relation to certain institutions, etc. 5. Whenever any institution, organization, [or] body or company becomes an associated institution on a date after the date specified in the regulations as the date of the establishment of the fund, such first-mentioned date shall in relation to such institution, organization, [or] body or company and any person in the service thereof, be deemed to be the specified date for the purposes of this Act.”.

15 4. Section 16 of the Second Pension Laws Amendment Act, 1974, is hereby amended— Amendment of section 16 of Act 77 of 1974, as amended by section 7 of Act 50 of 1975 and section 4 of Act 83 of 1976.

(a) by the substitution for subsection (3B) of the following subsection:

20 “(3B) If any person who was in the employ of a local authority, without a break in his service or after such a break in his service as the Secretary for Social Welfare and Pensions may approve, becomes a member of [the Government Service Pension Fund] a pension fund administered in terms of any law by or under the control of the Minister and is seconded for service to a local authority in a country or area which, immediately prior to [the commencement of this section] 1 July 1973, was a part of the Republic, the Minister, in consultation with the Minister of Finance, may declare that the provisions of this section shall apply with reference to such person, and such provisions shall thereupon *mutatis mutandis* apply with reference to such person as 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).”;

35 (b) by the substitution in subsection (4) for the definition of “fixed date” of the following definition:

40 ““fixed date” means the date on which 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 as contemplated in subsection (1) or ceases to be controlled, exercised or performed by a local authority or the date on which a person in the service of a local authority, with a view to such take-over and with the approval of the Minister, is appointed in the service of the Government;”.

50 5. Section 10 of the Pension Laws Amendment Act, 1975, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of section 10 of Act 50 of 1975.

55 “(1) If a member of a pension fund is, before attaining the age at which he would have the right to retire on pension, appointed, [or] nominated or elected [by the State President or a Minister referred to in section 20 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961)] without a break in his service or after such break in his service as the Secretary for Social Welfare and Pensions may approve, as a member or in the service of any board, institution, establishment or body established by or

60

PENSION LAWS AMENDMENT ACT, 1978.

Act No. 40, 1978

under any law, or of a government or legislative body of a country or area in Africa in respect of which Parliament has previously exercised legislative powers, and the said Secretary deems it expedient that his pensionable service as such member **[is not in terms of any law required to be or capable of being reckoned as pensionable service for the purposes of any other pension fund of which he may become a member by virtue of such appointment or nomination]** should be retained for him, the said Secretary **[of Social Welfare and Pensions]** may, in his discretion, declare such member a dormant member of such **[first-mentioned]** pension fund with effect from the date on which he has been so appointed, **[or]** nominated or elected."

6. Section 8 of the Pension Laws Amendment Act, 1976, is hereby amended—

Amendment of section 8 of Act 83 of 1976.

(a) by the substitution in subsection (1) for all the words preceding paragraph (a) of the following words:

"(1) For the purposes of any law relating to social pensions in the case of a White person or a Coloured person who is a South African citizen or an Indian who immediately prior to 26 October 1976 complied with all the requirements of such law relating to citizenship or residence in the Republic, and who is resident in a country or area which, immediately prior to **[the commencement of this section]** such date, was a part of the Republic and which has been designated by the Minister of Social Welfare and Pensions by notice in the *Gazette* for the purposes of this section—";

(b) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) any application for a pension or grant by such person in terms of such a law, which has been submitted to the Secretary for Social Welfare and Pensions or the Secretary for Coloured, Rehoboth and Nama Relations or the Secretary for Indian Affairs, as the case may be, shall be deemed to have been submitted to a district pension officer;"

(c) by the insertion after paragraph (a) of subsection (2) of the following paragraph:

"(aA) 'Indian' means a person classified as a member of the Indian group in terms of the Population Registration Act, 1950;"

7. (1) If any person who immediately before the commencement of this section was a contributor to the Associated Institutions Pension Fund established by the regulations promulgated under section 2 of the principal Act, in terms of section 4Ater (1) of the Armaments Development and Production Act, 1968 (Act No. 57 of 1968), becomes an employee of the corporation established by section 2, or a subsidiary company as defined in section 1, of the last-mentioned Act—

Continuation of pension rights and obligations of, and relating to, certain employees of the Council for Scientific and Industrial Research.

(a) such person shall be deemed to remain, without a break in his service, a member of the pension fund of which he so was a member and the provisions of any law relating to such pension fund shall continue to apply in respect of him as long as he so remains a member of such pension fund;

(b) such person shall, notwithstanding anything to the contrary in any law contained, not be entitled to the payment of any benefit from such pension fund or otherwise by virtue of the termination of his service in terms of the said section 4Ater (1);

(c) such corporation shall, in relation to such person, with effect from the date of such commencement, be subject to the provisions referred to in paragraph (a) to which the

PENSION LAWS AMENDMENT ACT, 1978.

Act No. 40, 1978

5 Council for Scientific and Industrial Research referred to in section 2 of the Scientific Research Council Act, 1962 (Act No. 32 of 1962), would have been subject if the Armaments Development and Production Amendment Act, 1978, had not been passed and such person had remained in the service of the said Council for Scientific and Industrial Research.

8. (1) If any person who is a member of the pension fund and who holds a post on the fixed establishment of any university, is in terms of a provision of any law discharged from such post by such university before attaining the age at which he would have the right to retire on pension, for the sole purpose of appointing a member of a national unit served by such university to such post, and such person, in the opinion of the Secretary for Social Welfare and Pensions, is unlikely to be appointed in any service or to assume any duty, within a period of six months after being so discharged, in terms of which he will be obliged to contribute to the pension fund or the Government Service Pension Fund established by section 3 of the Government Service Pension Act, 1973 (Act No. 57 of 1973), such person shall, for the purposes of the regulations, be deemed to be discharged from his service on attaining the age at which he would have the right to retire on pension, with effect from the date on which his discharge from the said post comes into force, and in calculating any annuity or gratuity to which he is entitled in terms of the said regulations, there shall be added to his pensionable service in terms of the said regulations a period equal to one third of his pensionable service or a period equal to the period between the date on which he is so discharged and the date on which he will attain the age at which he may retire in terms of the provisions of any law then applicable to him, whichever is the shorter period: Provided that no period which has been so added to his pensionable service shall exceed five years.

Pension benefits of members of the staff of certain universities discharged in certain circumstances.

(2) If any person who is a member of the pension fund, is deemed to have retired on pension in terms of subsection (1), there shall be recovered from time to time from the university in question the amount—

- (a) of any annuity paid in terms of the regulations to or in respect of such member in respect of any period within the period between the date of such retirement and the day immediately following the date on which he attains the age at which he is entitled to retire from service or, if he dies before the last-mentioned date, the date on which he would have attained the said age if he had not died;
- (b) by which any benefit paid in terms of the regulations is increased by reason of any addition of his pensionable service in terms of subsection (1).

(3) For the purposes of this section—

- (a) "national unit" means a national unit referred to in section 2 (1) of the Promotion of Bantu Self-government Act, 1959 (Act No. 46 of 1959);
- (b) "the pension fund" means the Associated Institutions Pension Fund established in terms of the regulations;
- (c) "the regulations" means the regulations promulgated in terms of the principal Act;
- (d) "university" means a university established by the University of Fort Hare Act, 1969 (Act No. 40 of 1969), the University of Zululand Act, 1969 (Act No. 43 of 1969), the University of the North Act, 1969 (Act No. 47 of 1969), and the Medical University of Southern Africa Act, 1976 (Act No. 78 of 1976).

PENSION LAWS AMENDMENT ACT, 1978.

Act No. 40, 1978

9. The provisions of—
- Commencement of
certain provisions.
- (a) sections 1, 2 and 3 shall be deemed to have come into operation on 10 May 1963;
- 5 (b) section 4 shall be deemed to have come into operation on 1 July 1973;
- (c) section 5 shall be deemed to have come into operation on 1 April 1975;
- (d) section 6 shall be deemed to have come into operation on 26 October 1976;
- 10 (e) section 7 shall come into operation on the date on which the Armaments Development and Production Amendment Act, 1978, comes into operation.

10. This Act shall be called the Pension Laws Amendment Act, Short title.
1978.