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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Price 20c Prys
Overseas 30c Oorsee
POST FREE—POSVRY

ISBN 0 621 00997 0

Vol. 96.]

CAPE TOWN, 29TH JUNE, 1973.

[No. 3955.

KAAPSTAD, 29 JUNIE 1973.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1122. 29th June, 1973.

No. 1122. 29 Junie 1973.

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

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

No. 73 of 1973: Pension Laws Amendment Act, 1973.

No. 73 van 1973: Wysigingswet op die Pensioenwette, 1973.

Act No. 73, 1973

PENSION LAWS AMENDMENT ACT, 1973.

ACT

To amend section 15 of the Pension Laws Amendment Act, 1968, so as to increase the bonus payable to a person who is in receipt of a military pension; to amend section 4 of the Parliamentary Service and Administrators' Pensions Act, 1971, relating to previous pensionable service; to provide for pension benefits to certain officers in the Public Service in respect of certain periods of employment; to provide for the deduction of certain moneys from a pension or benefit payable to certain pensioners; to provide for the increase of certain pensions and the payment of an allowance or bonus to certain pensioners; to repeal certain laws; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 19th June, 1973.)

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

Amendment of section 15 of Act 79 of 1968, as amended by section 17 of Act 98 of 1969, section 11 of Act 20 of 1970, section 6 of Act 93 of 1971 and section 10 of Act 97 of 1972.

1. (1) Section 15 of the Pension Laws Amendment Act, 1968, is hereby amended by the substitution in subsection (1) for all the words preceding the proviso of the following words:

“(1) Any person who is in receipt of a pension, allowance or clothing grant in terms of or on the basis of the War Special Pensions Act, 1962 (Act No. 35 of 1962), or the War Pensions Act, 1967 (Act No. 82 of 1967), may be paid a bonus of thirty-five per cent of such pension, allowance or grant.”.

(2) Subsection (1) shall come into operation on 1 October 1973.

Amendment of section 4 of Act 81 of 1971.

2. (1) Section 4 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended by the addition of the following subsection:

“(8) For the purposes of subsection (4), a member referred to in that subsection who was, before the commencement of this Act, entitled in terms of the applicable pensions ordinance to elect within a period provided in such ordinance to count any service which he had prior to 1 April 1960, as pensionable service in terms of such ordinance, and who, before the expiration of such period, became a member as defined in this Act shall, if he did not make an election, be deemed to have elected so to count such service, and such service shall be deemed to be pensionable service under the applicable pensions ordinance.”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1971.

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Minister may make regulations for the payment of pension benefits to specified officers and their dependants.

3. (1) Notwithstanding anything to the contrary in any law contained the Minister may, in consultation with the Minister of Finance, make regulations providing for the payment, subject to such conditions as may be prescribed in such regulations, of pension benefits—

- (a) to any specified officer who retires or is retired or discharged on pension in terms of any law relating to his retirement or discharge on pension, or who so retires or is so retired or discharged—
 - (i) on account of continued ill-health which has not been occasioned by his own default;
 - (ii) owing to the abolition of his office or post or to any reduction in or reorganization or readjustment of the department or office in which he is employed;
 - (iii) on the grounds that his discharge will for reasons other than his own unfitness or incapacity, promote efficiency or economy in the department or office in which he is employed;
 - (iv) on account of unfitness for his duties, or incapacity to carry them out efficiently;
- (b) to the dependants of any specified officer who dies before his retirement or discharge or within five years after the date of his retirement or discharge.

(2) Any pension benefit payable in terms of any regulation made under subsection (1) or deemed to have been made thereunder as provided in subsection (4), shall be paid out of the Consolidated Revenue Fund.

(3) Any regulation under subsection (1) may be made with retrospective effect, and different regulations may be made in respect of different classes or categories of persons.

(4) Notwithstanding anything to the contrary in any law contained, the regulations promulgated under—

- (a) Government Notice No. R.1968 of 10 December 1965;
- (b) Government Notice No. R.1969 of 15 December 1965;

and
(c) Government Notice No. R.2031 of 22 December 1965, and any amendments thereof shall, in so far as such regulations relate to persons referred to in Chapter III of the regulations referred to in paragraph (a) or (b) or to persons referred to in Chapter IV of the regulations referred to in paragraph (c), be deemed to have been made under subsection (1).

(5) Any regulation made under subsection (1) or deemed to have been made under subsection (4) may be amended or repealed by the Minister in consultation with the Minister of Finance.

(6) For the purposes of this section—

“Minister” means the Minister of Social Welfare and Pensions;

“specified officer” means an officer as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957), who is not a White person as defined in section 1 of the Population Registration Act, 1950 (Act No. 30 of 1950), and whose period of service as such an officer includes a period of service in respect of which he has not contributed to a pension or provident fund or a scheme established by or under any law administered by or under the control of the Minister, and which is not pensionable service for the purposes of any such fund or scheme.

Pensions or benefits may in certain circumstances be applied in payment of certain debts.

4. (1) If the Minister or, if authorized thereto by the Minister, the Secretary is satisfied—

- (a) that any contributions or moneys due or payable by a pensioner to any medical aid fund or medical aid society established by or under or recognized by the Public Service Commission in accordance with any

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regulation made under section 26 (1) of the Public Service Act, 1957 (Act No. 54 of 1957), have not been paid; or

- (b) that any judgment or order for the payment of money given or made before or after the commencement of this section by a court of law against a pensioner in any judicial proceedings for the dissolution of the marriage between such pensioner and his spouse, has not been satisfied in full,

the Minister or the Secretary, as the case may be, may, notwithstanding anything to the contrary in any law contained, at his discretion direct that so much of any pension or benefit payable to such pensioner under any law administered by or under the control of the Minister as does not exceed the amount of the contributions or moneys which have not been paid or the amount of the judgment or order which has not been satisfied, shall be paid to such fund or such spouse, as the case may be, in such instalments or otherwise and at such times and in such circumstances and on such conditions as the Minister or the Secretary, as the case may be, may from time to time determine.

(2) The payment of any pension or benefit or of any part thereof in terms of a direction under subsection (1), shall be a complete discharge of any liability to pay such pension or benefit or such part to the pensioner concerned.

(3) For the purposes of this section—

“benefit” means any amount of money;

“Minister” means the Minister of Social Welfare and Pensions;

“pension” includes any annuity;

“pensioner” means a person to whom a pension or benefit is payable but does not include a person to whom a pension or benefit is payable as the widow or dependant of any other person;

“Secretary” means the Secretary for Social Welfare and Pensions.

Increase of certain pensions, and payment of allowances or bonuses to certain pensioners.

5. (1) Notwithstanding anything to the contrary in any law contained but subject to the provisions of this section, the Minister may from time to time in consultation with the Minister of Finance—

(a) authorize the increase of any pension payable under any law administered by or under the control of the Minister, or which is payable out of and is a charge against the Consolidated Revenue Fund, or which is payable out of moneys appropriated by Parliament for the service of the Department administered by the Minister;

(b) authorize the payment of an allowance or a bonus to any person who is in receipt of a pension referred to in paragraph (a),

in accordance with such rates or scales and in such circumstances and on such conditions and with effect from such date, which may be a date in the past, as the Minister may determine in consultation with the Minister of Finance.

(2) Different rates, scales, circumstances and conditions may be so determined in respect of different classes or categories of pensions or in respect of different population groups or classes or categories of persons.

(3) Any increase of any pension and any allowance or bonus payable under subsection (1) shall—

(a) if such pension is payable from moneys appropriated by Parliament, be paid from revenue;

(b) if such pension is payable from a pension fund or partly from a pension fund and partly from moneys appropriated by Parliament, be paid from revenue or from such pension fund or partly from revenue and partly from such pension fund in accordance with such ratio and in such manner and at such times and

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on such conditions as the Minister may, in consultation with the Minister of Finance, from time to time determine: Provided that any part of an allowance payable under this section from revenue to or in respect of any person who has retired or has been retired or discharged from the service of the Department of Posts and Telegraphs, or to any dependant of such a person, shall, if such person or dependant is a male person of or over the age of sixty-five years, or if such person or dependant is a female person of or over the age of sixty years, be charged to the Consolidated Revenue Fund to the extent determined by the Minister.

(4) If any person has in terms of section 47 (1) (b) of the Pension Laws Amendment Act, 1943 (Act No. 33 of 1943), or of section 22 of the Pension Laws Amendment Act, 1969 (Act No. 98 of 1969), been paid any amount to which he was not entitled, he or his estate, as the case may be, shall be liable to repay such amount unless the Minister or an authorized officer is satisfied that he received the amount without knowing that he was not entitled thereto.

(5) If the whole or any part of the amount referred to in subsection (4) has been repaid or has been deducted from a pension in terms of any law administered by or under the control of the Minister, the amount so recovered shall not be refundable.

(6) The Treasury or any person authorized thereto by the Treasury may at its or his discretion write off the whole or any part of an amount repayable in terms of subsection (4), if the Treasury or such person is satisfied that it would be uneconomical to attempt to recover such amount or that recovery thereof would cause undue hardship.

(7) If the Minister or an authorized officer is satisfied that any allowance which is being paid to any person in terms of subsection (1) (b) should be cancelled, reduced or increased, he may, with due regard to the circumstances of such person and to the rates, scales, circumstances and conditions determined in terms of subsection (1), cancel, reduce or increase the allowance with effect from such date, which may be a date in the past, as he may determine.

(8) For the purposes of this section—

“authorized officer” means an officer in the Department of Social Welfare and Pensions designated by the Minister for the purposes of this section;

“Minister” means the Minister of Social Welfare and Pensions;

“pension” includes an annuity and an additional benefit as defined in section 1 of the Associated Institutions Provident Fund Act, 1971 (Act No. 11 of 1971), which is in terms of the regulations made under that Act paid as an annuity;

“pension fund”, in relation to a pension payable from a pension fund, means the pension fund established by or under the law under which the pension in question is payable;

“revenue” means the Consolidated Revenue Fund or, in respect of any person retired or discharged from service under—

- (i) the Department of Posts and Telegraphs, the Post Office Fund;
- (ii) a provincial administration, the provincial revenue fund concerned;
- (iii) the Administration of the territory of South West Africa, the Revenue Fund of the territory.

Repeal of laws.

6. Section 5 of the Members of Statutory Bodies Pension Act, 1969 (Act No. 94 of 1969), section 22 of the Pension Laws Amendment Act, 1969 (Act No. 98 of 1969), section 14 of the

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Pension Laws Amendment Act, 1970 (Act No. 20 of 1970), section 14 of the Second Pension Laws Amendment Act, 1970 (Act No. 86 of 1970), and section 9 of the Pension Laws Amendment Act, 1971 (Act No. 93 of 1971), are hereby repealed.

Short title and
date of
commencement.

7. This Act shall be called the Pension Laws Amendment Act, 1973, and shall, except for sections 1 and 2, come into operation on 1 July 1973.