

BUITENGEWONE



EXTRAORDINARY

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DEPARTMENT OF THE PRIME MINISTER.

No. 1162.]

[5th July, 1968.]

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

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No. 79 of 1968: Pension Laws Amendment Act, 1968 116

No. 79, 1968.]

ACT

To provide for the increase of certain benefits under section 47 of the Pension Laws Amendment Act, 1943; to provide for an increased pension for any person who occupied the office of State President at any time after the first day of April, 1968; to amend the definitions of "child" and "wife" in the War Special Pensions Act, 1962, and provide for the increase under certain circumstances of the pension payable under section 19 of that Act to the widow of a volunteer; to repeal section 51 of the Pension Laws Amendment Act, 1962; to empower the Secretary for Coloured Affairs to condone for pension purposes service breaks in the case of certain persons; to amend the provisions of the Government Service Pensions Act, 1965, relating to the making of regulations and to permissible deductions from pensions; to amend the definitions of "child" and "wife" in the War Pensions Act, 1967; to revoke certain limitations on the grant of certain benefits under section 7 or 16 of the last-mentioned Act; to provide for the increase under certain circumstances of the pension payable under section 19 of that Act to the widow of a volunteer; to amend the provisions relating to an application for benefits under that Act; to provide for the payment of bonuses to persons in receipt of military pensions; to provide for the application of certain laws in the territory of South-West Africa; and to provide for matters incidental thereto.

(Afrikaans text signed by the State President.)

(Assented to 20th June, 1968.)

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 47 of Act 33 of 1943, as amended by section 13 of Act 41 of 1948, section 2 of Act 62 of 1957, section 9 of Act 67 of 1959, section 3 of Act 92 of 1962 and section 7 of Act 26 of 1966.

1. Section 47 of the Pension Laws Amendment Act, 1943, is hereby amended—

(a) by the substitution for paragraphs (i) to (v) inclusive of subsection (3) of the following paragraphs:

- “(i) thirty per cent of that pension if the pension became payable with effect from a date prior to the first day of October, 1953;
- (ii) twenty-five per cent of that pension if the pension became payable with effect from a date after the thirtieth day of September, 1953, but prior to the first day of October, 1958;
- (iii) twenty per cent of that pension if the pension became payable with effect from a date after the thirtieth day of September, 1958, but prior to the first day of October, 1962;

- (iv) fifteen per cent of that pension if the pension became payable with effect from a date after the thirtieth day of September, 1962, but prior to the first day of October, 1965;
- (v) ten per cent of that pension if the pension became payable with effect from a date after the thirtieth day of September, 1965, but prior to the first day of October, 1968; or
- (vi) five per cent of that pension if the pension becomes payable with effect from a date after the thirtieth day of September, 1968.”; and
- (b) by the substitution for paragraphs (a) and (b) of subsection (6) of the following paragraphs:
 - “(a) the expression ‘revenue’—
 - (i) save as provided in subparagraph (ii), has the meaning assigned thereto in section 1 of the Government Service Pensions Act, 1965 (Act No. 62 of 1965);
 - (ii) in relation to non-White persons who have retired or have been discharged from employment at or in connection with any native school or Bantu school as defined in section 1 of the Bantu Education Act, 1953 (Act No. 47 of 1953), means the Bantu Education Account referred to in section 20 of the Exchequer and Audit Act, 1956 (Act No. 23 of 1956);
 - (b) ‘revenue fund’ means—
 - (i) save as provided in subparagraph (ii), a fund referred to in the definition of ‘revenue’ in section 1 of the said Government Service Pensions Act, 1965;
 - (ii) in relation to the non-White persons referred to in paragraph (a) (ii), the said Bantu Education Account;”.

Amendment of section 15 of Act 32 of 1961, as amended by section 18 of Act 102 of 1965.

2. (1) Section 15 of the Republic of South Africa Constitution Act, 1961, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) to any person who has at any time after the first day of April, 1968, occupied the office of State President, a pension at the rate of thirteen thousand rand per annum;”.

(2) A pension payable to any person under the said paragraph (a) immediately prior to the commencement of this Act, shall continue to be payable to him as if the substitution of that paragraph in terms of subsection (1) had not been effected, and a pension which but for such substitution would have been payable to the widow of any such person in the event of his death shall in that event still be payable to her as if such substitution had not been effected.

Amendment of section 1 of Act 35 of 1962.

3. Section 1 of the War Special Pensions Act, 1962, is hereby amended—

(a) by the substitution for the definition of “child” of the following definition:

“‘child’, in relation to a volunteer, means—

- (a) any child of the volunteer, whether legitimate or illegitimate;
- (b) any step-child of the volunteer, and any child legally adopted by such volunteer;
- (c) any child regularly maintained by the volunteer at the termination of his military service:

Provided that, for the purposes of this Act—

- (i) any child who is a child of a volunteer in terms of paragraph (a) or (b) but was legally adopted by some other person before the termination of such volunteer’s military service, shall be deemed not to be the child of such volunteer;
- (ii) any child who is a child of a volunteer in terms of the foregoing provisions shall

- continue to be the child of such volunteer and shall not be or become the child of any other person, unless such other person is himself a volunteer who has become the adoptive parent or step-parent of such child;
- (iii) if any child is the child of more than one volunteer in terms of the foregoing provisions, he shall be deemed to be the child of such one of those volunteers as would entail payment of the highest allowance in respect of such child;”;

(b) by the substitution for the definition of “wife” of the following definition:

“‘wife’, in relation to a volunteer, means—

- (a) a woman who is married to the volunteer but does not include a woman who is separated *a mensa et thoro* from the volunteer (whether by order of court or otherwise), unless such woman so separated is legally entitled to claim maintenance for herself, or is actually in receipt of maintenance for herself, from the volunteer; or
- (b) a woman who has had a child by the volunteer and was wholly or substantially maintained by him on a normal marital basis for at least one year prior to his enlistment and is still being maintained by him, and who has not returned to nor is in receipt of support from her husband, provided the volunteer has no wife as defined in paragraph (a).”.

Amendment of section 19 of Act 35 of 1962, as amended by section 36 of Act 92 of 1962, section 25 of Act 102 of 1965 and section 10 of Act 26 of 1966.

4. Section 19 of the War Special Pensions Act, 1962, is hereby amended by the insertion after subsection (1A) of the following subsections:

“(1B) If a volunteer who was in receipt of a disablement pension or an alternative pension in respect of a pensionable degree of disablement of not less than forty per cent, died prior to the first day of October, 1968, of a disability which was not attributable to or aggravated by his military service, any pension which in terms of subsection (1) becomes payable to a widow of the volunteer with effect from the first day of October, 1968, or a later date and which, but for the amendment of section 1 of this Act by section 3 of the Pension Laws Amendment Act, 1968, would not have become so payable, may, subject to the provisions of paragraph (b) of the proviso to subsection (1), be increased to an amount not exceeding one-half of the disablement pension and allowance for wife, which would have been payable to the volunteer in terms of this Act had he been alive on the first day of October, 1968, and had he on that day been in receipt of an allowance for wife.

(1C) If on or after the first day of October, 1968, the disablement pensions or allowances for wives which are payable to volunteers in terms of this Act, are, by reason of an amendment to this Act, increased, the amount of any pension payable to the widow of a volunteer by virtue of the provisions of subsection (1), (1A) or (1B), may be increased by an amount equal to one-half of the increase: Provided that the increased pension shall not exceed the appropriate rate specified in the second column of the Fourth Schedule.”.

Repeal of section 51 of Act 92 of 1962.

5. Section 51 of the Pension Laws Amendment Act, 1962, is hereby repealed.

Amendment of section 13 of Act 47 of 1963, as amended by section 3 of Act 76 of 1967.

6. Section 13 of the Coloured Persons Education Act, 1963, is hereby amended by the addition of the following subsection:

“(8) A power vested in any authority of a provincial administration to condone for pension purposes any break in the service of a person referred to in subsection (1), shall vest in the Secretary.”.

Amendment of
section 5 of
Act 62 of 1965,
as amended by
section 18 of
Act 91 of 1967.

7. Section 5 of the Government Service Pensions Act, 1965, is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) Any regulation, not being a regulation which amends existing regulations and which increases the rate at which contributions shall be made to any fund referred to in section 2 or decreases the amount of any benefits payable, may be made with retrospective effect from a date not earlier than the fixed date.”.

Amendment of
section 14 of
Act 62 of 1965.

8. Section 14 of the Government Service Pensions Act, 1965, is hereby amended by the addition of the following subsection:

“(4) Where an officer or employee dies before the last day of a period in respect of which salary or allowances have been paid to him prior to his death, a *pro rata* part of the amount so paid may be recovered in respect of the unexpired portion of that period by deducting it in a lump sum or in such instalments as the Secretary may determine from the pension payable to the estate or to a dependant of the deceased under this Act or any other law contemplated in subsection (1).”.

Amendment of
section 1 of
Act 82 of 1967.

9. Section 1 of the War Pensions Act, 1967, is hereby amended—

(a) by the substitution for the definition of “child” of the following definition:

“‘child’, in relation to a volunteer, means—

- (a) any child of the volunteer, whether legitimate or illegitimate;
- (b) any step-child of the volunteer, and any child legally adopted by such volunteer;
- (c) any child regularly maintained by the volunteer at the termination of his military service:

Provided that, for the purposes of this Act—

- (aa) any child who is a child of a volunteer in terms of paragraph (a) or (b) but was legally adopted by some other person before the termination of such volunteer’s military service, shall be deemed not to be the child of such volunteer;
- (bb) any child who is a child of a volunteer in terms of the foregoing provisions shall continue to be the child of such volunteer and shall not be or become the child of any other person, unless such other person is himself a volunteer who has become the adoptive parent or step-parent of such child;
- (cc) if any child is the child of more than one volunteer, in terms of the foregoing provisions, he shall be deemed to be the child of such one of those volunteers as would entail payment of the highest allowance in respect of such child;” and

(b) by the substitution for paragraph (a) of the definition of “wife” of the following paragraph:

“(a) a woman who is married to the volunteer but does not include a woman who is separated *a mensa et thoro* from the volunteer (whether by order of court or otherwise), unless such woman so separated is legally entitled to claim maintenance for herself, or is actually in receipt of maintenance for herself, from the volunteer;”.

Amendment of
section 7 of
Act 82 of 1967.

10. Section 7 of the War Pensions Act, 1967, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) A female volunteer to whom a disablement pension has been awarded in terms of section 6 shall be awarded an allowance at the rate specified in Schedule 3 in respect of each child dependent upon her for maintenance, and an

allowance at the rate specified in Schedule 2 in respect of her husband while such husband is by reason of physical or mental infirmity dependent upon her for his maintenance.”.

Amendment of
section 16 of
Act 82 of 1967.

11. Section 16 of the War Pensions Act, 1967, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) If the widower of a woman volunteer who was killed or died in the circumstances described in subsection (1), was by reason of physical or mental infirmity, dependent upon such volunteer for maintenance at the time of her death, he shall, for as long as such infirmity continues, be granted a pension at the rate and a gratuity in the amount specified in Schedule 6.”.

Amendment of
section 19 of
Act 82 of 1967.

12. Section 19 of the War Pensions Act, 1967, is hereby amended by the addition of the following subsections:

“(3) If a volunteer who was in receipt of or entitled to a disablement pension in respect of a disablement assessed at not less than forty per cent, died prior to the first day of October, 1968, of a disability not caused or aggravated by his military service, any pension which in terms of subsection (1) becomes payable to a widow of the volunteer with effect from the first day of October, 1968, or a later date and which, but for the amendment of section 1 of this Act by section 9 of the Pension Laws Amendment Act, 1968, would not have become so payable, may be increased to an amount not exceeding—

(a) one-half of the sum total of the disablement pension, supplementary pension (if any) and allowance for wife, which would have been payable to the volunteer in terms of this Act had he been alive on the first day of October, 1968, and had he on that day been in receipt of an allowance for wife; or

(b) the appropriate rate specified in the second column of Schedule 6,

whichever is the lesser amount.

(4) If on or after the first day of October, 1968, the disablement pensions, supplementary pensions, or allowances in respect of wives, which are payable to volunteers in terms of this Act are, by reason of an amendment to this Act, increased, the amount of any pension payable to the widow of a volunteer by virtue of the provisions of subsection (1) (a), (2) (a) or (3) (a) may be increased by an amount equal to one-half of the increase: Provided that the increased Pension payable to the widow shall not exceed the appropriate rate specified in the second column of Schedule 6.”.

Amendment of
section 31 of
Act 82 of 1967.

13. Section 31 of the War Pensions Act, 1967, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) No benefit shall be awarded under this Act unless application is made therefor to the Secretary, but an application by or on behalf of a volunteer for compensation in respect of disablement, or an application by or on behalf of the widow, children, parents or dependants of a deceased volunteer for a benefit in respect of the death of such volunteer, shall be deemed to be an application for all the benefits (other than a benefit under section 7 or section 16 (3) or (5)) to which the applicant may be entitled or may become entitled under the provisions of this Act, including any benefit for which provision is made at a date subsequent to the date of the application.”.

Amendment of
section 42 of
Act 82 of 1967.

14. Section 42 of the War Pensions Act, 1967, is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Whenever an application for a benefit under this Act has been rejected and is not renewed within six months of the date of notification of such rejection, any renewal of the application shall for the purposes of this section be deemed to be a fresh application: Provided that where a case is reviewed by the board as a result of an amendment to this Act (other than an amendment effected by the Pension Laws Amendment Act, 1968), the date of taking effect of any award granted as the result of such review shall be the date on which the amendment concerned became operative.”.

Grant of bonus to persons in receipt of military pensions.

15. (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 ten per cent of such pension, allowance or grant: Provided that in the case of a person in receipt of a supplementary pension or allowance in terms of section 39 of the War Special Pensions Act, 1962, or in terms of section 43 (2) or 44 of the War Pensions Act, 1967, the bonus shall be calculated on the full amount of the pension or allowance received by such person from another government as contemplated in the said section 39, 43 (2) or 44, together with the supplementary pension, allowance or grant aforesaid.

(2) For the purposes of sections 33 and 35 of the War Pensions Act, 1967, any bonus payable in terms of subsection (1) shall be regarded as a benefit payable under that Act.

Application of certain laws in South-West Africa.

16. (1) The State President may by proclamation in the *Gazette* declare the provisions of the Aged Persons Act, 1967 (Act No. 81 of 1967), the Blind Persons Act, 1968 (Act No. 26 of 1968), and the Disability Grants Act, 1968 (Act No. 27 of 1968), to be *mutatis mutandis* applicable in the territory of South-West Africa, including the Eastern Caprivi Zipfel, in respect of natives, as defined in section 25 of the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of the said territory, in so far as those provisions relate to Bantu or Bantu persons.

(2) The said provisions may be declared to be applicable subject to such conditions, amendments or exceptions as may be specified in the proclamation.

(3) The State President may in like manner withdraw or amend any proclamation issued under this section.

(4) With effect from the date on which any Act referred to in subsection (1) becomes applicable in the said territory in terms of a proclamation issued under that subsection, the corresponding Act which under section 45 (1) of the Pension Laws Amendment Act, 1965 (Act No. 102 of 1965), was declared to be applicable in the said territory, shall cease to be applicable therein: Provided that anything done in terms of the relevant corresponding Act and which could be done in terms of the relevant Act referred to in subsection (1) which becomes applicable in the territory on the said date, shall be deemed to have been done in terms of the last-mentioned Act.

Commencement of certain provisions.

17. (1) The provisions of sections 1 (a), 3, 4, 5 and 9 to 16 inclusive shall come into operation on the first day of October, 1968.

(2) The provisions of sections 1 (b) and 7 shall be deemed to have come into operation on the first day of April, 1968.

(3) The provisions of section 6 shall be deemed to have come into operation on the first day of January, 1964.

(4) The provisions of section 8 shall be deemed to have come into operation on the fifteenth day of November, 1967.

Short title.

18. This Act shall be called the Pension Laws Amendment Act, 1968.