

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.



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 (GST included) 30c PRYS (AVB ingesluit)
ABROAD 40c BUITELANDS
POST FREE · POSVRY**

Vol. 217

CAPE TOWN, 13 JULY 1983

No. 8809

KAAPSTAD, 13 JULIE 1983

OFFICE OF THE PRIME MINISTER

KANTOOR VAN DIE EERSTE MINISTER

No. 1523.

13 July 1983

No. 1523.

13 Julie 1983

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. 96 of 1983: Pension Laws Amendment Act, 1983.

No. 96 van 1983: Wysigingswet op die Pensioenwette, 1983.

Act No. 96, 1983

PENSION LAWS AMENDMENT ACT, 1983

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 Members of Statutory Bodies Pension Act, 1969, so as to alter the rates for the calculation of annuities payable to a member or of a benefit and annuities payable to the widow of a member or pensioner; and to substitute certain obsolete designations; to amend the Parliamentary Service and Administrators' Pensions Act, 1971, so as to provide for the payment of pensions and other benefits to the Administrator-General for the territory of South West Africa; to further regulate the right to elect that certain service be counted as pensionable service; to make different provision for the calculation of gratuities payable to members; and to delete or to substitute certain obsolete expressions and designations; to amend the Social Pensions Act, 1973, so as to further regulate the receipt and investigation of applications for social pensions; and to substitute certain obsolete designations and expressions; to amend the Military Pensions Act, 1976, so as to further regulate the payment of an annual pension to parents of certain deceased members; and to substitute a certain obsolete designation; to amend the General Pensions Act, 1979, so as to do away with the time limit for the institution of legal proceedings; to extend the provision relating to the payment of pension benefits to certain members of the staff of certain universities; and to substitute a certain obsolete designation; to provide for the continuation of certain provisions of the Children's Act, 1960; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 30 June 1983.)

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

Amendment of
section 3 of
Act 94 of 1969.

1. Section 3 of the Members of Statutory Bodies Pension Act, 1969, is hereby amended—
- (a) by the substitution for subparagraph (ii) of paragraph 5 (b) of subsection (1) of the following subparagraph:
 “(ii) such annuity shall be calculated at the rate of 2,8 per cent of his final salary for each completed year of his service but not exceeding **[twenty]** 30 years;” and
- (b) by the substitution for paragraph (c) of the said subsection of the following paragraph:
 “(c) an annuity calculated at the rate of three and one-third per cent of his final salary for each completed year of his service but not exceeding **[twenty]** 30 15 years.”

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Amendment of section 4 of Act 94 of 1969, as amended by section 3 of Act 100 of 1979.

2. Section 4 of the Members of Statutory Bodies Pension Act, 1969, is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) The widow of a member who dies in service may elect to receive a benefit equivalent to **[two-thirds] three-fourths** of any benefit to which such member would have been entitled under section 3, had he retired on the date of his death.”; and
- (b) by the substitution for subsection (2) of the following subsection:
 “(2) There shall be paid to the widow of any person who was in receipt of any annuity in terms of section 3, with effect from the first day of the month which immediately follows the month in which he dies an annuity in an amount equal to **[two-thirds] three-fourths** of the annuity which such person so received.”.

Amendment of section 6 of Act 94 of 1969.

3. Section 6 of the Members of Statutory Bodies Pension Act, 1969, is hereby amended by the substitution in subsection (2) for the words “Secretary for Social Welfare and Pensions”, the 20 words “Social Welfare and Pensions” and the word “Secretary” of the words “Director-General: Health and Welfare”, the words “Health and Welfare” and the word “Director-General”, respectively.

Amendment of section 1 of Act 81 of 1971, as amended by section 20 of Act 33 of 1974, section 4 of Act 77 of 1974, section 3 of Act 50 of 1975, section 1 of Act 49 of 1979 and section 7 of Act 100 of 1979.

4. (1) Section 1 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended—

- (a) by the substitution in subsection (1) for the definition of “Administrator” of the following definition:
 “‘Administrator’ means the administrator of a province **[or the territory]** and includes the Administrator-General for the territory of South West Africa appointed under Proclamation No. 180 of 19 August 1977;”;
- (b) by the substitution in the said subsection for the definition of “applicable pensions ordinance” of the following definition:
 “‘applicable pensions ordinance’, in relation to any person who has been a member of a provincial council **[or of the Legislative Assembly of the territory]** or of an executive committee, means the pensions ordinance to which such person was subject prior to the date on which he became a member;”;
- (c) by the insertion in the said subsection after the definition of “Deputy Minister” of the following definition: 45
 “‘Director-General’ means the Director-General: Health and Welfare;”;
- (d) by the substitution in the said subsection for the definition of “executive committee” of the following definition: 50
 “‘executive committee’ means an executive committee referred to in section 76 of the Constitution Act **[or the executive committee referred to in section 2 of the South-West Africa Constitution Act, 1968 (Act No. 39 of 1968)]** or in any other law repealed 55 by **[any of the said Acts]** that Act;”;
- (e) by the substitution in the said subsection for the definition of “member of an executive committee” of the following definition: 60
 “‘member of an executive committee’ does not include an administrator of a province **[or the territory];**”;
- (f) by the substitution in the said subsection for the definition of “pensionable service” of the following definition:

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- “ ‘pensionable service’ means service as a member and includes service deemed to be pensionable service in terms of this Act or any other Act of Parliament and service which has, by virtue of an election made in terms of section 3 (1) or (3) or 4A, become or again become pensionable service, but does not include service as a member by a person contemplated in section 4 who has failed to make an election in terms of that section;”;
- (g) by the substitution in the said subsection for the definition of “pensionable service under the applicable pensions ordinance” of the following definition:
 “ ‘pensionable service under the applicable pensions ordinance’ means service as a member of a provincial council [or of the Legislative Assembly of the territory] or of an executive committee, but does not include any such service before 1 October 1960, unless such last-mentioned service is pensionable service as defined in the relative pensions ordinance;”;
- (h) by the substitution in the said subsection for the definition of “pensions ordinance” of the following definition:
 “ ‘pensions ordinance’ means an ordinance made under the powers conferred on a provincial council by the Provincial Powers Extension Act, [1960 (Act No. 42 of 1960) and includes the Legislative Assembly and Executive Committee Members’ Pensions Ordinance, 1961 (Ordinance No. 29 of 1961), of the territory] 1980 (Act No. 32 of 1980;”;
- (i) by the substitution in the said subsection for the definition of “revenue fund” of the following definition:
 “ ‘revenue fund’ means the provincial revenue fund of the province concerned [or the Territory Revenue Fund established under section 31 of the South-West Africa Constitution Act, 1968 (Act No. 39 of 1968), as the circumstances may require];”;
- (j) by the deletion in the said subsection of the definition of “Secretary”;
- (k) by the substitution in the said subsection for paragraphs (b), (c) and (d) of the definition of “service” of the following paragraphs, respectively:
 “(b) in relation to service in the capacity of—
 (i) Administrator of a province, service as certified by the [Secretary for the Interior] Director-General: Constitutional Development and Planning;
 (ii) [Administrator of the territory, service as certified by the Secretary to] Administrator-General for the territory of South West Africa appointed under Proclamation No. 180 of 19 August 1977, service as certified by the Secretary: Department of the Prime Minister;
 (c) in relation to service in an office referred to in section 10 (1), service as certified by the [Secretary for External] Director-General: Foreign Affairs and Information;
 (d) in relation to service as a commissioner-general, service as certified by the [Secretary for Plural Relations] Director-General: Co-operation and Development; and”;
- (l) by the deletion in the said subsection of the definition of “the territory”.
- (2) Paragraph (a) of subsection (1) shall be deemed to have come into operation on 7 October 1980 and paragraph (f) of the said subsection shall be deemed to have come into operation on 1 August 1982.

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Amendment of section 4 of Act 81 of 1971, as amended by section 2 of Act 73 of 1973, section 6 of Act 77 of 1974 and section 3 of Act 49 of 1979.

5. Section 4 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended—

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

“(1) (a) Any person who becomes a member on or after the fixed date and who, prior to the date on which he becomes such a member, was a member of a provincial council [or of the Legislative Assembly of the territory] or of an executive committee and was subject to a pensions ordinance, may elect in writing within ninety days of the date on which he has made and subscribed the oath or solemn declaration referred to in section 3 (1), to be subject to the provisions of this Act.

(b) Notwithstanding the provisions of paragraph (a), any person who was a member of a provincial council [or the Legislative Assembly of the territory] or of an executive committee and was subject to a pensions ordinance and who, on the date immediately preceding the date of the promulgation of the Parliamentary Service and Administrators' Pensions Amendment Act, 1979, was a member who was not subject to the provisions of this Act, may elect in writing within ninety days from such date to be subject to the provisions of this Act.”;

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

“(4) If a member who has elected to be subject to the provisions of this Act or to any of the provisions of the amendment Act or of the Second Pensions Act was, at any time before the date on which he made such election, a member of a provincial council [or of the Legislative Assembly of the territory] or of an executive committee and subject to a pensions ordinance, half of any pensionable service under the applicable pensions ordinance and the whole period of service as a member (if any) which he had prior to the making of such election shall be deemed to be pensionable service in terms of this Act.”; and

(c) by the deletion of subsection (7).

Insertion of section 4A in Act 81 of 1971.

6. (1) The following section is hereby inserted in the Parliamentary Service and Administrators' Pensions Act, 1971, after section 4:

“Option to count service in the President's Council as pensionable service.

4A. (1) Any member who was a member of the President's Council and who has elected in terms of paragraph 2 of the Proclamation relating to the Pension Scheme for Members of the President's Council, 1980 (Proclamation No. R.63 of 1981) (hereinafter referred to as the Pension Proclamation), to be subject to the provisions thereof, may, within 90 days after he was called upon to do so by the Director-General, elect in writing to count as pensionable service any period of pensionable service as contemplated in that Proclamation which has not become or has not again become pensionable service for the purposes of this Act in terms of any other provision of this Act.

(2) If any member who has in terms of subsection (1) elected to count any period of service so referred to as pensionable service, was entitled to a pension under the Pension Proclamation on the date on which he became a member, such pension shall as from that date cease to be payable to him, and he shall refund to revenue any amount paid to him by way of such a pension in respect of any period as from the said date.

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(3) Notwithstanding anything to the contrary in this Act contained, any member—

(a) who has in terms of subsection (1) of this section elected to count any period of service so referred to as pensionable service; and

(b) who was a chairman of a committee of the President's Council at any time before he so elected, shall, for the purposes of section 9, be deemed to be a member who held the office of Minister for the period during which he was that chairman.

(4) Any gratuity paid to a member in terms of the Pension Proclamation in respect of a period of pensionable service referred to in subsection (1), shall be set off against any gratuity payable to any such member in terms of this Act.”

(2) Subsection (1) shall be deemed to have come into operation on 1 August 1982.

Amendment of section 6 of Act 81 of 1971, as amended by section 8 of Act 77 of 1974, section 4 of Act 49 of 1979 and section 2 of Act 97 of 1980.

7. Section 6 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) a gratuity calculated in a manner or in accordance with the a formula determined by the State President and published in the *Gazette* [—

$$E \times F \times G$$

in which formula—

(i) E represents his pensionable salary;

(ii) F represents 0,0672; and

(iii) G represents the period of his pensionable service as a member but not exceeding 15 years].”

Amendment of section 8 of Act 81 of 1971, as substituted by section 5 of Act 49 of 1979.

8. Section 8 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Notwithstanding anything to the contrary in this Act or any other law contained but subject to the provisions of section 17A, there shall be payable to any member who occupied the office of Prime Minister and whose service as a member terminates at any time after 1 January 1979 an annual pension equal to the highest annual salary of such member during the period of his service, and a gratuity equal to such salary calculated in a manner or in accordance with a formula determined by the State President and published in the *Gazette*.”

Amendment of section 9 of Act 81 of 1971, as amended by section 10 of Act 77 of 1974, section 6 of Act 49 of 1979 and section 1 of Act 81 of 1982.

9. Section 9 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended—

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

“(1A) A member who has held an office referred to in subsection (1) and whose service as a member terminates on or after 1 January 1979 shall, in addition to any other pension or benefit payable to him in terms of this Act, be entitled to a gratuity calculated in a manner or in accordance with the a formula determined by the State President and published in the *Gazette* [—

$$(H - J) \times K \times L$$

in which formula—

(i) H represents the annual salary applicable to the office concerned at the time of the termination of the member's service as a member;

(ii) J represents the annual pensionable salary of the member;

(iii) K represents 0,087;

(iv) L represents the period for which such member served in the office concerned].”;

(b) by the substitution for subsection (2) of the following subsection:

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“(2) The aggregate of any pensions [or of any gratuities] payable in terms of this Act to any member referred to in subsection (1) shall not exceed the highest annual salary of the member during any period of his service.”

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Repeal of section 25 of Act 81 of 1971.

10. Section 25 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby repealed.

Substitution of certain designation in Act 81 of 1971.

11. Subject to the provisions of this Act, the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended by the substitution for the word “Secretary”, wherever it occurs, of the word “Director-General”.

Amendment of section 1 of Act 37 of 1973, as amended by section 15 of Act 77 of 1974.

12. Section 1 of the Social Pensions Act, 1973, is hereby amended—

(a) by the insertion after the definition of “blind person's pension” of the following definition:

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“Director-General, in relation to a power conferred or a function assigned by any provision of this Act, and in relation to persons belonging to any population group or class, means the head of the department of State administered by the Minister to whom the administration of that provision in relation to that power or function and in relation to those persons has been assigned in terms of section 18;”

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(b) by the deletion of the definition of “district pension officer”;

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(c) by the substitution for the definition of “district surgeon” of the following definition:

“district surgeon' means any medical practitioner registered as such under the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), who is in the service of—

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(a) the State, including a provincial administration;

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(b) an institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); or

(c) if designated by the Minister for the purposes of this Act, a community council as defined in section 1 of the Community Councils Act, 1977 (Act No. 125 of 1977), or a local authority as defined in section 1 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982);”

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(d) by the deletion of the definition of “Secretary”.

Substitution of section 4 of Act 37 of 1973.

13. The following section is hereby substituted for section 4 of the Social Pensions Act, 1973:

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“Application for social pension.

4. (1) Any person who claims a social pension shall apply to [a district pension officer] the Director-General on the form determined by the [Secretary] Director-General, and shall furnish [such particulars and information] in support of his application—

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(a) such particulars and information as may be prescribed or as the [district pension officer] Director-General may require; and

(b) in the case of any person who applies for a social pension on the ground that he is a disabled person, a report of a district surgeon who has examined any such person in the prescribed manner.

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(2) The Director-General shall, after such enquiry as he may consider necessary, consider the applica-

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tion together with such particulars and information and, in the case of an application referred to in paragraph (b) of subsection (1), the report so referred to, and shall, if he is satisfied that such a person is entitled to a social pension, determine the amount thereof.” 5

Repeal of section 12 of Act 37 of 1973.

14. Section 12 of the Social Pensions Act, 1973, is hereby repealed.

Substitution of section 13 of Act 37 of 1973.

15. The following section is hereby substituted for section 13 of the Social Pensions Act, 1973: 10

“Powers of Director-General as to the gathering of evidence.

13. (1) The **[Secretary or a district pension officer]** Director-General may take evidence for the purpose of enquiring into any matter falling within his functions relating to social pensions in terms of this Act, and for that purpose may subpoena witnesses, require the production of any book, record or document relevant to the enquiry, administer an oath or an affirmation to any witness and examine him, and examine any such book, record or document. 15

(2) A subpoena to appear before the **[Secretary or a district pension officer]** Director-General or to produce any book, record or document, shall correspond as nearly as practicable with the form prescribed for the purpose, shall be signed by the **[Secretary or the district pension officer in question]** Director-General, and shall be served on the person subpoenaed either by registered letter sent through the post or by delivery by a person authorized by the **[Secretary or the district pension officer]** Director-General so to serve it, or in the same manner as it would be served if it were a subpoena in a criminal case issued by a magistrate's court. 20 25 30

(3) Any person who, without lawful excuse (the onus of proving which shall be upon him) fails to attend at the time and place specified in a subpoena served upon him in terms of subsection (2), or to produce any book, record or document in terms of any such subpoena, or refuses to be sworn or to make an affirmation when called upon in terms of subsection (1) to do so, or when being examined in terms of that subsection refuses to answer fully and satisfactorily any question lawfully put to him, shall be guilty of an offence: Provided that any person so subpoenaed shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the Supreme Court is entitled. 35 40 45

(4) A witness who after having been duly sworn or having made an affirmation, gives false evidence before the **[Secretary or a district pension officer]** Director-general on any matter relevant to the enquiry, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law in respect of perjury.” 50

Substitution of certain designation in Act 37 of 1973.

16. Subject to the provisions of this Act, the Social Pensions Act, 1973, is hereby amended by the substitution for the word “Secretary”, wherever it occurs, of the word “Director-General”. 55

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

17. Section 1 of the Military Pensions Act, 1976, is hereby amended— 60

(a) by the insertion in subsection (1) after the definition of “dependant” of the following definition:

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and section 4 of
Act 97 of 1980.

“‘Director-General’ means the Director-General:
Health and Welfare;”;

- (b) by the substitution in the said subsection for the definition of “parent” of the following definition:
“‘parent’, in relation to a member, means his lawful parent or step-parent who, in the opinion of the [Secretary] Director-General was immediately prior to the member’s death dependent mainly or partly on such member for his maintenance [and includes any person who in the opinion of the Secretary is or was his foster parent and was immediately prior to the member’s death dependent mainly on such member for his maintenance];”; and
- (c) by the deletion in the said subsection of the definition of “Secretary”.

Substitution of certain designations in Act 84 of 1976.

18. Subject to the provisions of this Act, the Military Pensions Act, 1976, is hereby amended by the substitution for the words “Social Welfare and Pensions” and the word “Secretary”, wherever it occurs, of the words “Health and Welfare” and the word “Director-General”, respectively.

Repeal of section 6 of Act 29 of 1979.

19. Section 6 of the General Pensions Act, 1979, is hereby repealed.

Amendment of section 20 of Act 29 of 1979.

20. Section 20 of the General Pensions Act, 1979, is hereby amended by the substitution for paragraph (d) of subsection (3) of the following paragraph:

“(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), [or] the Medical University of Southern Africa Act, 1976 (Act No. 78 of 1976), or the Vista University Act, 1981 (Act No. 106 of 1981).”.

Substitution of certain words in Act 29 of 1979.

21. Subject to the provisions of this Act, the General Pensions Act, 1979, is hereby amended by the substitution for the words “Health, Welfare and Pensions”, wherever they occur, of the words “Health and Welfare”.

Continuation of certain provisions of Act 33 of 1960.

22. Notwithstanding the repeal of the provisions of the Children’s Act, 1960 (Act No. 33 of 1960), by section 63 of the Child Care Act, 1983, the provisions of sections 89 (1)(c) and 92 (1)(k) thereof shall, in relation to contributions towards the maintenance of any child by his parent, step-parent or guardian or of a parent, step-parent or guardian of any child, remain in force until a date fixed by the State President by proclamation in the Gazette.

Short title.

23. This Act shall be called the Pension Laws Amendment Act, 1983.