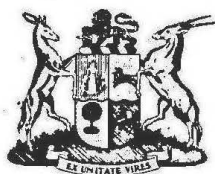


Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



STAATSKOERANT

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[No. 6549

DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 1441.

4 Julie 1979.

No. 1441.

4 July 1979.

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. 100 van 1979: Wysigingswet op die Pensioenwette, 1979.

No. 100 of 1979: Pension Laws Amendment Act, 1979.

Act No. 100, 1979

PENSION LAWS AMENDMENT ACT, 1979.

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 Republic of South Africa Constitution Act, 1961, so as to make further provision relating to the payment of pensions to the widows of certain persons who occupied the office of State President; to amend the Members of Statutory Bodies Pension Act, 1969, so as to substitute the definition of "final salary"; to make further provision relating to the payment of annuities to the widows of persons who were in receipt of certain annuities; and to create a certain presumption relating to the nature of the service of a person who served simultaneously on two or more statutory bodies in a paid capacity; to amend the Associated Institutions Provident Fund Act, 1971, so as to substitute the definitions of "associated institution" and "department"; and to provide for the retention of membership of the Associated Institutions Provident Fund by a member who is transferred and appointed to a post in respect of which he would otherwise be liable to become a member of the Government Service Pension Fund; to amend the Parliamentary Service and Administrators' Pensions Act, 1971, so as to substitute the definition of "pensionable service under the applicable pensions ordinance"; and to provide for the payment of gratuities in the case of members who die and are not survived by a widow or children; to amend the Military Pensions Act, 1976, so as to further regulate the date with effect from which pensions may be paid; to amend the General Pensions Act, 1979, so as to extend the provisions relating to the protection of pensions on insolvency to other pension benefits; and to provide for the pension rights of persons in the employment of local authorities who become employees of a water board; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 21 June 1979.)*

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

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

"(b) to the widow of any such person **[, unless her marriage to him took place after the date on which he vacated office,]** a pension at the rate of three-quarters of the rate of the pension payable to such person."

Amendment of section 15 of Act 32 of 1961, as amended by section 18 of Act 102 of 1965, section 2 of Act 79 of 1968, section 1 of Act 93 of 1971, section 2 of Act 48 of 1974 and section 1 of Act 77 of 1974.

Act No. 100, 1979

PENSION LAWS AMENDMENT ACT, 1979.

Amendment of
section 1 of
Act 94 of 1969.

2. Section 1 of the Members of Statutory Bodies Pension Act, 1969 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of "final salary" of the following definition:

"'final salary' means the amount of the annual salary or the aggregate amount of the annual salaries payable to a member on the date of his retirement or death in respect of his service on one or more statutory bodies [together with the amount] and includes the total amount of any [allowance] allowances regularly paid to him annually in respect of special services rendered by him to the statutory body or bodies concerned, but does not include any allowance paid to him in respect of subsistence and transport expenses or entertainment expenses;"

Amendment of
section 4 of
Act 94 of 1969.

3. Section 4 of the principal Act is hereby amended 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 an annuity in terms of section 3 [, shall, provided the person concerned was married to such widow before the date of his retirement, become entitled to], 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 of the annuity which such person so received."

Insertion of
section 4A of
Act 94 of 1969.

4. The following section is hereby inserted in the principal Act after section 4:

"Presumption. 4A. If the Minister, after such enquiry as he may deem fit, certifies in writing that he is satisfied that any person who has, during the period stated in such certificate, simultaneously served on two or more statutory bodies in a paid capacity, was during ordinary office hours usually engaged in the affairs of any of such statutory bodies, such person shall for the purposes of this Act be deemed to have served during the period so stated in a full-time paid capacity on one statutory body."

Amendment of
section 1 of
Act 11 of 1971.

5. Section 1 of the Associated Institutions Provident Fund Act, 1971, is hereby amended—

(a) by the substitution for paragraph (b) of the definition of "associated institution" of the following paragraph:

"(b) in relation to any person who, notwithstanding his transfer to or employment under any department, in terms of any law [other than this Act] elected or was required to remain a member of and to contribute to the Fund or to an old provident fund, as the case may be, and who while in the service of such department so contributes, shall include such department to the extent required for the purposes of this Act;" and

(b) by the substitution for the definition of "department" of the following definition:

"'department' means a department as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957), and includes the Department of Posts and Telecommunications referred to in section 1 of the Post Office Service Act, 1974 (Act No. 66 of 1974);"

Act No. 100, 1979

PENSION LAWS AMENDMENT ACT, 1979.

Insertion of section 6A in Act 11 of 1971.

6. The following section is hereby inserted in the Associated Institutions Provident Fund Act, 1971, after section 6:

“Retention of membership of Fund instead of becoming member of the Government Service Pension Fund.

6A. (1) Notwithstanding anything to the contrary in any law contained, any member of the Fund who is transferred, and is appointed without a break in his service, to a post in respect of which he becomes liable to contribute to the Government Service Pension Fund established by section 3 of the Government Service Pension Act, 1973 (Act No. 57 of 1973), may, within ninety days after being called upon to do so by the Secretary, elect to remain a member of the Fund and, if he so elects, he shall—

(a) remain a member of the Fund and shall, in relation to the Fund, continue to be subject to all the obligations and be entitled to all the rights and privileges of a member as if he had not been so transferred and appointed;

(b) not be subject to the provisions of any law in accordance with which he is required to become a member of the said Government Service Pension Fund as a result of such transfer or appointment.

(2) Any employer's contributions payable in respect of a member who so remains a member shall be paid from revenue, as defined in section 1 of the Government Service Pension Act, 1973.”

Amendment of section 1 of Act 81 of 1971, as amended by section 4 of Act 77 of 1974, and section 3 of Act 50 of 1975.

7. Section 1 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended by the substitution for the definition of “pensionable service under the applicable pensions ordinance” of the following definition:

“‘pensionable service under the applicable pensions ordinance’ means [pensionable service as defined in the applicable pensions ordinance, and includes any period which in terms of such ordinance is deemed to be a period of pensionable service as so defined] 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.”

Insertion of section 12A in Act 81 of 1971.

8. The following section is hereby inserted in the Parliamentary Service and Administrators' Pensions Act, 1971, after section 12:

“Payment of gratuities in case of members who die and are not survived by a widow or children.

12A. If a member dies who would have been entitled to a gratuity under section 6, 8 or 9 if he had not died but had ceased to be a member on the date of his death and is not survived by a widow or a child to whom a gratuity is payable under section 11 or 12 or if such member is a female, the gratuity to which such member would have been so entitled, shall be paid to such member's estate.”

Amendment of section 10 of Act 84 of 1976, as amended by section 5 of Act 26 of 1977.

9. Section 10 of the Military Pensions Act, 1976, is hereby amended by the addition to subsection (1) of the following proviso:

“Provided that the Secretary may, if there are good reasons for doing so, direct that the pension shall be payable with effect from a date not more than twelve months prior to the date on which such application is so received.”

Act No. 100, 1979

PENSION LAWS AMENDMENT ACT, 1979.

Substitution of section 3 of Act 29 of 1979.

10. The following section is hereby substituted for section 3 of the General Pensions Act, 1979:

"Benefit not asset in insolvent estate."

3. **[The annuity]** Any benefit received under any pension law by any person whose estate is sequestrated shall not form part of the assets in his insolvent estate." 5

Insertion of section 20A in Act 29 of 1979.

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

"Employees of local authorities becoming employees of water board."

20A. (1) If any scheme referred to in section 110

(1) (a) of the Water Act, 1956 (Act No. 54 of 1956), is acquired by a water board and the Minister with the concurrence of the Minister of Finance in respect of a specified local authority agrees thereto, then, notwithstanding anything to the contrary in any law contained, but subject to the provisions of subsections (2), (3) and (4), the period of previous pensionable service of any affected officer of such local authority who becomes or is obliged to become a member of the Pension Fund with effect from the fixed date in terms of any law, shall be reckoned as pensionable service for the purpose of the Pension Fund. 10 15 20

(2) If the previous pensionable service of an affected officer is reckoned as pensionable service in terms of subsection (1) for the purposes of the Pension Fund, there shall, notwithstanding anything to the contrary in any law contained or the rules or regulations governing the applicable pension fund, be paid by the last-mentioned pension fund to the Pension Fund in respect of such previous pensionable service— 25 30

(a) an amount which is equal to the amount of the transfer value which would have been payable in terms of the provisions of the laws or the rules or regulations relating to the applicable pension fund, if the affected officer concerned was transferred, and directly appointed, to the service of another local authority having a different pension fund or associated with a different pension fund or, if no amount would have been so payable, an amount which the Minister or an officer of the Department of Social Welfare and Pensions authorized thereto by the Minister determines after consultation with the management of the applicable pension fund concerned, with due regard to the circumstances of a specified case or category of cases; 35 40 45

(b) interest calculated at 5,5% a year on the amount referred to in paragraph (a), compounded annually as at 31 March, and calculated from the fixed date to the date on which the said amount is paid to the Pension Fund in terms of this subsection. 50

(3) If the total of the amounts to be paid to the Pension Fund in terms of paragraphs (a) and (b) of subsection (2)— 55

(a) is less than the amount to be paid in terms of the regulations governing the Pension Fund in respect of the previous pensionable service of the affected officer concerned in order to reckon such previous pensionable service for the purposes of the Pension Fund, the deficiency shall be paid by the water board concerned to the Pension Fund; 60

(b) exceeds the amount referred to in paragraph (a), the surplus shall be paid to the affected officer concerned by the applicable pension fund. 65

Act No. 100, 1979

PENSION LAWS AMENDMENT ACT, 1979.

(4) If an affected officer prior to the fixed date notifies the Secretary for Social Welfare and Pensions in writing that he desires that his previous pensionable service should not be reckoned as pensionable service in terms of subsection (1), such previous pensionable service shall not be reckoned as pensionable service in terms of that subsection. 5

(5) For the purpose of this section—

'affected officer' means any person who immediately prior to the fixed date was in the employment of a local authority in or in connection with a scheme referred to in subsection (1) and who immediately prior to the fixed date was a member of an applicable pension fund; 10 15

'Minister' means the Minister of Social Welfare and Pensions;

'Pension Fund' means the Associated Institutions Pension Fund established under section 2 of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963); 20

'local authority' means an institution or a body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); 25

'applicable pension fund', in relation to a particular affected officer, means a superannuation, pension or provident fund or scheme established by or under any law or otherwise for the benefit of the employees of the local authority in whose service such affected officer was immediately prior to the fixed date, or for the benefit of the employees of such local authority and of any other local authority or local authorities and to which such affected officer contributed immediately prior to the fixed date and which has been approved by the Minister for the purposes of this section; 30 35

'fixed date' means the date on which any scheme referred to in section 110 (1) (a) of the Water Act, 1956 (Act No. 54 of 1956), is acquired by a water board or the date on which any person in the service of a local authority is, with a view to such acquisition and with the approval of the Minister, appointed in the service of a water board; 40 45

'previous pensionable service' means pensionable service in terms of the provisions of the laws or the rules or regulations governing any applicable pension fund; 50

'water board' means a board established under section 108 (2) of the Water Act, 1956." 55

Substitution of long title of Act 29 of 1979.

12. The following long title is hereby substituted for the long title of the General Pensions Act, 1979: 55

“ACT

To consolidate certain laws relating to pensions generally; to further regulate pension matters generally; and to provide for incidental matters.” 60

Commencement of certain provisions.

13. The provisions of—

- (a) sections 2 and 4 shall be deemed to have come into operation on 1 June 1979;
- (b) sections 5 and 6 shall come into operation on the date of commencement of section 1 of the Second Pension Laws Amendment Act, 1978 (Act No. 105 of 1978); 65

Act No. 100, 1979

PENSION LAWS AMENDMENT ACT, 1979.

- (c) sections 7 and 8 shall be deemed to have come into operation on 1 January 1979; and
- (d) sections 10 and 11 shall be deemed to have come into operation on the date of commencement of the Water Amendment Act, 1979 (Act No. 51 of 1979). 5

Short title.

14. This Act shall be called the Pension Laws Amendment Act, 1979.