

No. 35, 1949.]

ACT

To amend the War Special Pensions Act, 1919, the War Special Pensions Act Amendment Act, 1920, the Old Age Pensions Act, 1928, the Blind Persons Act, 1936, the Government Service Pensions Act, 1936, the War Pensions Act, 1941, and the War Pensions Act, 1942; to make provision for pension benefits for certain persons employed at research institutes and for certain matters incidental thereto, to extend the power to perform the functions assigned to the Treasury in certain Acts, to officers in the Department of Pensions, and to provide for the inclusion in pensionable service of certain periods of service in the Special Service and Pioneer Battalions.

(English Text signed by the Governor-General.)
(Assented to 10th June, 1949.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Substitution of section 46 of Act 42 of 1919, as amended by section 23 of Act 41 of 1920.

1. The following section is hereby substituted for section *forty-six* of the War Special Pensions Act, 1919:

“Claims to 46. The provisions of sections *thirty-two*, *thirty-*
be decided *three*, *thirty-four* and sub-section (4) of section
by Military *thirty-seven* of the War Pensions Act, 1942 (Act
Pensions No. 44 of 1942), shall *mutatis mutandis* apply in
Boards respect of all claims for awards under this Act.”.
against
such
decisions lie
to Military
Pensions
Appeal
Tribunal
and Medical
Appeal
Boards.

Amendment of section 49 of Act 42 of 1919, as amended by section 7 of Act 17 of 1947.

2. Section *forty-nine* of the War Special Pensions Act, 1919, is hereby amended by the insertion in sub-section (2) after the word “person”, where it appears for the second and third times, of the words “or his wife”; and by the substitution in the said sub-section for the word “him” of the words “such person or his wife”.

Repeal of section 27 of Act 41 of 1920, as amended by section 17 of Act 45 of 1941.

3. Section *twenty-seven* of the War Special Pensions Act Amendment Act, 1920, is hereby repealed.

Amendment of section 1 of Act 22 of 1928, as amended by section 1 of Act 34 of 1931, section 1 of Act 34 of 1937 and section 2 of Act 48 of 1944.

4. Section *one* of the Old Age Pensions Act, 1928, is hereby amended by the addition at the end of the proviso thereto of the following paragraph:

“(v) in the case of a white person, residence in the Territory of South-West Africa shall for the purposes of paragraph (d) be deemed to be residence in the Union.”.

Amendment of section 4 of Act 11 of 1936.

5. Section *four* of the Blind Persons Act, 1936, is hereby amended by the addition at the end of the proviso thereto of the following paragraph:

“(vi) no person shall be entitled to a pension if he refuses, for reasons which the commissioner considers to be inadequate, to submit himself to any medical treatment which may be recommended by a medical practitioner referred to in section *two*.”.

Amendment of section 62 of Act 32 of 1936, as amended by section 11 of Act 32 of 1946.

6. Section *sixty-two* of the Government Service Pensions Act, 1936, is hereby amended by the substitution in the definition of “full benefit” for the words “the benefit is paid” of the words “any benefit is paid from the fund to a member or to or for the benefit of his dependants or into the Consolidated Revenue Fund in terms of section *seventy-one bis*.”.

Amendment of
section 69 of
Act 32 of 1936.

7. Section *sixty-nine* of the Government Service Pensions Act, 1936, is hereby amended by the addition at the end of paragraph (a) of sub-section (2) of the words "or into the Consolidated Revenue Fund in terms of section *seventy-one bis*."

Insertion of
section 71*bis*
in Act 32 of
1936.

8. The following section is hereby inserted in the Government Service Pensions Act, 1936, after section *seventy-one*:

"Disposal of unclaimed benefits. 71*bis*. If a benefit due to or in respect of a member in terms of the provisions of this Chapter has not been claimed within a period of twelve months from the date of retirement, discharge or death of that member, such benefit shall as soon as may be thereafter, be paid into the Consolidated Revenue Fund and if such member or his dependants subsequently claim payment thereof, an amount equal to the said benefit shall be paid to or for the benefit of the person entitled to it out of moneys appropriated by Parliament for the purpose."

Amendment of
section 30 of
Act 45 of 1941,
as amended by
section 58 of
Act 44 of 1942,
section 10 of
Act 48 of 1944,
section 2 of
Act 43 of 1946
and section 5
of Act 41 of
1948.

9. Section *thirty* of the War Pensions Act, 1941, is hereby amended—

(a) by the substitution for the second proviso to sub-section (1) of the following proviso:

"Provided further that for the purposes of paragraph (c) residence in Basutoland, Swaziland, the Bechuanaland Protectorate or the Territory of South-West Africa, or, in the case of a person who was repatriated from Argentina, in that country, shall be deemed to be residence in the Union."; and

(b) by the addition at the end thereof of the following sub-section:

"(3) Notwithstanding the provisions of paragraphs (b) and (c) of sub-section (1), a war veteran who is domiciled and resident in Basutoland, Swaziland, the Bechuanaland Protectorate or the Territory of South-West Africa at the time of making application for a veteran's pension and who is otherwise entitled to a veteran's pension under this Part may, subject to such conditions as the Minister may determine, be awarded such a pension: Provided that if such a war veteran is resident in the Territory of South-West Africa and receives a pension under the Old Age Pensions Ordinance, 1942 (Ordinance No. 13 of 1942), of that Territory, there shall be deducted from the said veteran's pension an amount equal to the pension and periodical allowance paid to him under the provisions of that Ordinance: Provided further that for the purposes of sub-section (2) of section *two* and section *four* of the Old Age Pensions Act, 1928, as applied by section *thirty-one* of this Act, such war veteran shall be deemed to be resident in the district of Pretoria."

Amendment of
section 7 of
Act 44 of 1942,
as substituted
by section 9 of
Act 58 of 1946.

10. (1) Section *seven* of the War Pensions Act, 1942, is hereby amended by the addition at the end of sub-section (2) of the following proviso:

"Provided that the whole of any gratuity awarded to a volunteer under this Act at any time prior to the date of promulgation of the War Pensions Laws Amendment Act, 1946 (Act No. 58 of 1946), or such portion of such gratuity as the Commissioner may determine, may be set off against a gratuity payable under this sub-section."

(2) Sub-section (1) shall be deemed to have come into operation on the first day of April, 1946.

Amendment of
section 38 of
Act 44 of 1942,
as amended by
section 14 of
Act 17 of 1947.

11. Section *thirty-eight* of the War Pensions Act, 1942, is hereby amended by the insertion in sub-section (2) after the word "person", where it appears for the second and third times, of the words "or his wife", and by the substitution in the said sub-section for the word "him" of the words "such person or his wife".

Certain persons
employed at
research institutes
to become
members of
Provident Fund
established under
section 12 of Act
20 of 1917.

12. (1) In this section—

"research institute" means an association—

(a) formed for the purpose of undertaking scientific industrial research and registered under the provisions of section *twenty-one* of the Companies Act, 1926 (Act No. 46 of 1926);

- (b) of which at least one member has been nominated by the Council for Scientific and Industrial Research referred to in section *two* of the Scientific Research Council Act, 1945 (Act No. 33 of 1945);
- (c) which is in receipt of a grant from the said Council in terms of paragraph (i) of sub-section (1) of section *four* of the lastmentioned Act; and
- (d) which has been recognized by the Treasury for the purposes of this section;

"Treasury" means the Minister of Finance or any officer in the Department of Finance or the Department of Pensions authorized by the said Minister to perform the functions assigned to the Treasury in this section.

(2) Every whole time officer on the permanent establishment of a research institute shall, subject to the approval of the Treasury and the succeeding provisions of this section, become a member of and shall contribute to the Provident Fund established under section *twelve* of the Higher Education Additional Provision Act, 1917 (Act No. 20 of 1917), as from the date on which the research institute is or was registered under the provisions of section *twenty-one* of the Companies Act, 1926, or from the date of his appointment to the said establishment, whichever may be the later date, whether that date is a date prior or subsequent to the date of commencement of this Act, as if he were a member of the teaching or administrative staff of a college or university as defined in section *one* of the said Higher Education Additional Provision Act, 1917, and the research institute shall for all purposes of the said Provident Fund be regarded as a college or university as so defined.

(3) Any person who was or is a member of the teaching or administrative staff of a college or university as defined in section *one* of the Higher Education Additional Provision Act, 1917, and who was or is a member of the said Provident Fund and who has been or is transferred to the service of an association referred to in paragraph (i) of sub-section (1) of section *four* of the Scientific Research Council Act, 1945, prior to the registration of that association under the provisions of section *twenty-one* of the Companies Act, 1926, shall be deemed to have been or to be seconded from the service of such college or university to the service of such association up to the day preceding such registration and shall contribute to the said Provident Fund in respect of such period of secondment: Provided that the contributions which would otherwise have been payable by the council of a college or university and by the Government in respect of the period of secondment, shall be paid by the association, the council of the college or university or the Government in full or in such proportions as the Treasury may determine.

(4) The board of control of a research institute shall be deemed to be a "council" as defined by the regulations governing the said Provident Fund and shall, anything to the contrary notwithstanding, collect and pay into the Provident Fund, at such times and in such manner as the Treasury may determine, the contributions due by officers of the board who are or who become members of the said Fund and shall likewise pay into the Provident Fund the contributions that would otherwise have been payable by the Government in respect of such officers.

(5) For the purposes of sections *twenty-six* and *twenty-seven* of the Government Service Pensions Act, 1936 (Act No. 32 of 1936), as amended, a research institute shall be deemed to be an institution of higher education, and for the purposes of sections *twenty-five* and *sixty-six bis* of the said Act shall be deemed to be a body established by law.

Reference to officer in Department of Finance in certain Acts to include reference to officer in Department of Pensions.

13. (1) Any reference in the Government Service Pensions Act, 1936 (Act No. 32 of 1936), or any other law relating to pensions, to an officer in the Department of Finance shall be deemed to include a reference to an officer in the Department of Pensions.

(2) Sub-section (1) shall be deemed to have come into operation on the first day of January, 1949.

Service in Special Service and Pioneer Battalions may, subject to conditions, be included in pensionable service.

14. (1) Notwithstanding the provisions of any other law, any person who, immediately prior to the date upon which he enlisted for military service, was a member of the Special Service or Pioneer Battalion and who has been appointed to a post in the public service and has elected, in terms of sub-section (5) of section *four* of the Public Servants (Military Service) Act, 1944 (Act No. 27 of 1944), to have the period or periods of his military service included in his pensionable service

may, subject to the provisions of paragraphs (a), (b) and (c) of section *sixteen* of the Government Service Pensions Act, 1936 (Act No. 32 of 1936), elect to contribute to the pension fund in respect of such period of his continuous service in the said Battalions as may be approved by the Treasury: Provided that—

- (a) an election so to contribute shall be exercised in writing within thirty days of the date upon which the person concerned is called upon by the head of his Department to do so;
- (b) any such person who elects so to contribute and who at the termination of his period of service in the said Battalions was paid a benefit under the provisions of the Government Service Pensions Act, 1936, shall refund the said benefit in such instalments as the Treasury may determine.

(2) For the purpose of this section the expressions "department", "military service", "public service" and "the pension fund" shall bear the meanings assigned to them in section one of the Public Servants (Military Service) Act, 1944, and the expression "Treasury" means the Minister of Finance or any officer in the Department of Finance or the Department of Pensions authorized by the said Minister to perform the functions assigned to the Treasury in this section.

Short title.

15. This Act shall be called the Pension Laws Amendment Act, 1949.