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GOVERNMENT GAZETTE

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1160.

11 June 1975.

No. 1160.

11 Junie 1975.

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 gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 50 of 1975: Pension Laws Amendment Act, 1975.

No. 50 van 1975: Wysigingswet op die Pensioenwette, 1975.

Act No. 50, 1975

PENSION LAWS AMENDMENT ACT, 1975.

ACT

To amend section 15 of the Pension Laws Amendment Act, 1968, so as to increase the bonus payable to persons who are in receipt of military pensions; to amend the provisions of the Members of Statutory Bodies Pension Act, 1969, so as to effect an alteration to the definition of "member"; to amend the provisions of the Parliamentary Service and Administrators' Pensions Act, 1971, relating to definitions; so as to provide for the counting of certain service rendered in the capacity of a commissioner-general appointed under section 2 (2) of the Promotion of Bantu Self-government Act, 1959, as pensionable service under the said Parliamentary Service and Administrators' Pensions Act, 1971, and for the payment of contributions in respect of service so counted as pensionable service; to amend the provisions of the Second Pension Laws Amendment Act, 1974, so as to grant certain persons formerly in the employ of local authorities the right not to have certain previous pensionable service reckoned as pensionable service under the said Act; to make new provision in respect of the pension payable to a former State President; to provide for the payment of pensions to certain widows of judges; to provide for the preservation of the pension rights of certain persons appointed or nominated as members of certain boards, institutions, establishments or bodies; and to provide for incidental matters.

(English text signed by the State President.)
(Assented to 4 June 1975.)

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, section 10 of Act 97 of 1972, section 1 of Act 73 of 1973, section 1 of Act 15 of 1974 and section 3 of Act 77 of 1974.

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

"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 with effect from 1 October 1975 be paid a bonus of seventy per cent of such pension, allowance or grant."

Amendment of section 1 of Act 94 of 1969.

2. (1) Section 1 of the Members of Statutory Bodies Pension Act, 1969, is hereby amended by the substitution for the definition of "member" of the following definition:

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“‘member’ means any person serving on a statutory body in a full-time, paid capacity, whose contract of service does not provide for the payment of a pension to or in respect of himself, other than such a gratuity as is referred to in section 3 (3), but does not include such person who is also, or any other person who is, a paid executive officer, officer or employee in the service of such body and who is not a contributing member of any pension or provident fund, from which he may personally receive any benefit, and which is administered by the Minister or is registered or exempt from registration under the Pension Funds Act, 1956 (Act No. 24 of 1956);”.

(2) An annuity payable under the said Members of Statutory Bodies Pension Act, 1969, to any person or to the widow of any person immediately prior to the commencement of this Act, shall continue to be payable to such person or to such widow as if the substitution of the definition of “member” in section 1 of the first-mentioned Act in terms of subsection (1) had not been effected, and an annuity 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 81 of 1971, as amended by section 20 of Act 33 of 1974 and section 4 of Act 77 of 1974.

3. Section 1 of the Parliamentary Service and Administrators’ Pensions Act, 1971, is hereby amended—

(a) by the substitution in subsection (1) for paragraph (b) of the definition of “arrear contributions” of the following paragraph:

“(b) which prior to the fixed date became due by a member in terms of section 3 (3) or section 3bis (3) or section 9 (1) of the First Pensions Act, section 13 (1) of the Parliamentary Service Pensions Amendment Act, 1956 (Act No. 68 of 1956), paragraph (a) or (c) of section 7 (3) of the Parliamentary Service and Administrators’ Pensions Amendment Act, 1961 (Act No. 70 of 1961), or section 14 (3) of the amendment Act, or which, after the fixed date, becomes payable in terms of section 2 (1) (b) or 4 (5) of this Act;”;

(b) by the substitution in subsection (1) for the definition of “commissioner-general” of the following definition:

“‘commissioner-general’ means a person holding office as a commissioner-general appointed under section 2 (2) of the Promotion of Bantu Self-government Act, 1959 (Act No. 46 of 1959), or as a person appointed in a similar capacity to render full-time paid service to the Government in the territory;”;

(c) by the substitution in subsection (1) for the definition of “pensionable service” of the following definition:

“‘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), 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;” and

(d) by the addition of the following subsection:

“(3) If any member who is a commissioner-general was not a member immediately prior to the commencement of section 3 of the Pension Laws Amendment Act, 1975, any service as a commissioner-general

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appointed under section 2 (2) of the Promotion of Bantu Self-government Act, 1959, rendered by him prior to such commencement shall, for the purposes of this Act, be deemed to be pensionable service and service in the office of commissioner-general."

Amendment of section 2 of Act 81 of 1971, as amended by section 5 of Act 77 of 1974.

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

"(1) (a) Subject to the provisions of this Act, a member shall, from the fixed date or from the date on which he becomes a member, whichever is the later date, and so long as he remains a member, contribute to revenue at the rate of eight per cent of his pensionable salary.

(b) A member referred to in section 1 (3) shall contribute to revenue at the rate of forty rand per month for every month of his service which has become pensionable service under that section."

Amendment of section 5 of Act 81 of 1971, as amended by section 7 of Act 77 of 1974.

5. Section 5 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Any amount which may become due by a member in terms of section 2 (1) (b) or 4 (5), may, if the member concerned so desires, be deducted by the responsible accounting officer from his salary in monthly instalments of not less than forty rand, and shall be paid to revenue."

Amendment of section 9 of Act 81 of 1971, as amended by section 10 of Act 77 of 1974.

6. (1) Section 9 of the Parliamentary Service and Administrators' Pensions Act, 1971, is hereby amended by the deletion in paragraph (a) of subsection (3) of the word "pensionable".

(2) The provisions of subsection (1) shall be deemed to have come into operation on 1 April 1971.

Amendment of section 16 of Act 77 of 1974.

7. Section 16 of the Second Pension Laws Amendment Act, 1974, is hereby amended—

(a) by the substitution in subsection (1) for the expression "(2) and (3)" of the expression "(2), (3) and (3A)"; and

(b) by the insertion after subsection (3) of the following subsection:

"(3A) (a) If an affected officer before the fixed date in writing notifies the Secretary for Social Welfare and Pensions that he wishes his previous pensionable service not to 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.

(b) If an affected officer prior to the commencement of section 7 of the Pension Laws Amendment Act, 1975, gave notice of the nature contemplated in paragraph (a) to the Secretary for Social Welfare and Pensions, such notice shall be deemed to have been given in terms of the said paragraph (a)."

Pension payable to a former State President.

8. (1) There shall be paid out of and as a charge on the Consolidated Revenue Fund—

(a) to any person who has at any time before the first day of April, 1968, occupied the office of State President, in lieu of any pension payable to him under any law in respect of any such office so occupied, a pension at the rate of twenty five thousand rand per annum;

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(b) to the widow of such person, whose marriage to him took place on or before the date on which he vacated the said office, a pension at the rate of three-fourths of the rate of the pension payable under paragraph (a).

(2) If any person to whom a pension is payable under subsection (1) is entitled to a pension under the Parliamentary Service and Administrators' Pensions Act, 1971 (Act No. 81 of 1971), (hereafter in this section referred to as a parliamentary pension), such parliamentary pension shall, notwithstanding anything to the contrary in any law contained, with effect from the date of commencement of this section cease to be payable to him and any right of such person to such parliamentary pension shall lapse and the widow or any child of such person shall not be entitled to any pension or benefit in terms of the said Act.

(3) Section 13 of the Pension Laws Amendment Act, 1971 (Act No. 93 of 1971), is hereby repealed.

(4) The provisions of this section shall be deemed to have come into operation on 1 April 1975.

Pensions payable to certain widows of former judges.

9. (1) There shall, with effect from 1 April 1975, be paid out of and as a charge on the Consolidated Revenue Fund, to the widow of a judge of the Supreme Court of South Africa who retired before 1 June 1956, or who died before that date, a pension of three thousand six hundred rand per annum.

(2) If any widow to whom a pension is payable under subsection (1) is entitled to a benefit under any Pensions (Supplementary) Act, such benefit shall, notwithstanding anything to the contrary in any law contained, with effect from 1 April 1975 cease to be payable to her, and any right of such widow to any such benefit shall lapse with effect from that date.

(3) Any benefit referred to in subsection (2) and paid to a widow referred to in that subsection after 31 March 1975, but before the date of commencement of this section, shall be set off against any pension payable to her under subsection (1) in such monthly instalments as the Secretary for Social Welfare and Pensions may determine.

(4) For the purposes of this section, "widow" shall not include the widow of a judge whose marriage to such judge took place after he ceased to be a judge.

Preservation of pension rights of certain persons.

10. (1) If a member of a pension fund is, before attaining the age at which he would have the right to retire on pension, appointed or nominated by the State President or a Minister referred to in section 20 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), as a member of any board, institution, establishment or body established by or under any law, and his pensionable service as such member is not in terms of any law required to be or capable of being reckoned as pensionable service for the purposes of any other pension fund of which he may become a member by virtue of such appointment or nomination, the Secretary for Social Welfare and Pensions may, in his discretion, declare such member a dormant member of such first-mentioned pension fund with effect from the date on which he has been so appointed or nominated.

(2) Notwithstanding anything to the contrary in any law contained—

(a) no contributions in respect of a dormant member shall be payable to the pension fund of which he is a dormant member in respect of the period during which he is a dormant member;

(b) no pension benefit shall be payable to a dormant member before the fixed date;

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- (c) (i) a dormant member shall, with effect from the fixed date and subject to the provisions of the applicable pension law, be entitled to such pension benefits as he would have been entitled to if he had on the fixed date been a contributing member of the pension fund of which he is a dormant member;
- (ii) the widow or dependant or estate of a dormant member who has died before the fixed date shall, with effect from the date of his death and subject to the provisions of the applicable pension law, be entitled to such pension benefits as such widow or dependant or estate would have been entitled to if such dormant member had on the date of his death been a contributing member of the pension fund of which he was a dormant member.
- (3) If a dormant member becomes or again becomes a contributing member of a pension fund he shall, with effect from the date on which he so becomes or again becomes a contributing member, cease to be a dormant member and his pensionable service shall be deemed not to have been interrupted by the period during which he was a dormant member and the aggregate of all the periods of his pensionable service shall be taken into account for the purposes of the applicable pension law.
- (4) For the purposes of this section —
- (a) “applicable pension law”, in relation to a dormant member or the widow, dependant or estate of a dormant member who has died, means the laws, regulations and rules relating to the pension fund of which he is or, immediately prior to the date of his death, was a dormant member, and in relation to a member who, in terms of subsection (3), has ceased to be a dormant member, means the laws, regulations and rules relating to the pension fund of which such member has become or again become a contributing member as contemplated in that subsection;
- (b) “contributing member” means a member contributing to a pension fund;
- (c) “dormant member” means any person declared a dormant member under subsection (1);
- (d) “fixed date” means the date on which a dormant member attains the age on which he, immediately prior to the date on which he was appointed or nominated as contemplated in subsection (1), would have had the right to retire on pension;
- (e) “pension benefit” means an amount of money payable in terms of the applicable pension law; and
- (f) “pension fund” means a pension or provident fund or scheme administered by or under the control of the Minister of Social Welfare and Pensions.
- (5) The provisions of this section shall be deemed to have come into operation on 1 April 1975.

Short title.

11. This Act shall be called the Pension Laws Amendment Act, 1975.