

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 uneven numbered pages as the other language is printed on even numbered pages.



STAATSKOERANT

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No. 11411

KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1394.

15 Julie 1988

No. 1394.

15 July 1988

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. 89 van 1988: Wysigingswet op die Pensioenwette, 1988.

No. 89 of 1988: Pension Laws Amendment Act, 1988.

PENSION LAWS AMENDMENT ACT, 1988

Act No. 89, 1988

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 Associated Institutions Pension Fund Act, 1963, so as to provide that regulations shall be made after consultation with the Minister of National Education; to amend the Government Service Pension Act, 1973, so as to adjust certain definitions; to regulate the pension rights of persons in the education service of the departments responsible for education; and to provide that regulations shall be made after consultation with the Minister of National Education; to amend the Occupational Diseases in Mines and Works Act, 1973, so as to substitute obsolete expressions and to delete the definitions of "secretary" and "Black affairs authority"; and to abolish the Black Compensation Fund and to transfer its funds, rights and liabilities to the Mines and Works Compensation Fund; to amend the General Pensions Act, 1979, so as to adjust certain definitions; to amend the formula according to which benefits are calculated which are preserved for dormant members; to extend the power of the Minister of National Health and Population Development to make regulations regarding the financial management and control of pension funds; and to provide for delegation by the said Minister and the Director-General; to amend the Temporary Employees Pension Fund Act, 1979, so as to provide that regulations shall be made after consultation with the Minister of National Education; to provide for the pension rights of the former Vice State President; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 6 July 1988.)

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

Amendment of section 2 of Act 41 of 1963, as amended by section 1 of Act 86 of 1970, section 2 of Act 97 of 1972, section 1 of Act 97 of 1980 and section 1 of Act 106 of 1986

5 1. Section 2 of the Associated Institutions Pension Fund Act, 1963, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

10 "Notwithstanding anything to the contrary in any other law contained, the Minister may from time to time, **[in consultation]** with the concurrence of the Minister of Finance and after consultation with the Minister of National Education, make regulations providing—".

PENSION LAWS AMENDMENT ACT, 1988

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Amendment of section 1 of Act 57 of 1973

2. Section 1 of the Government Service Pension Act, 1973, is hereby amended—

(a) by the insertion after the definition of “dependant” of the following definitions:

5 “‘Director-General’ means the Director-General of National Health and Population Development;

‘education service’ means the posts on the fixed establishment of the Department of Education and Culture: Administration: House of Assembly—

10 (a) to which persons are transferred on 1 April 1986 in terms of paragraph (g) of each of the proclamations Nos. 53, 54, 55 and 56 of 27 March 1986;

(b) which are created from 1 April 1986 under the laws referred to in paragraph (a) of each of the said proclamations; and

15 (c) which are created from the date of commencement of the Education Affairs Act (House of Assembly), 1988, under section 66 of that Act,

and includes any post which according to any law is deemed for pension and retirement purposes to be a post in the education service, but excluding a post held by an officer or employee as defined in section 1 of the Public Service Act, 1984 (Act No. 111 of 1984);”;

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

25 “‘Minister’ means the Minister of [Social Welfare and Pensions] National Health and Population Development;”;

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

Amendment of section 5 of Act 57 of 1973, as amended by section 1 of Act 83 of 1976 and section 3 of Act 97 of 1980

3. Section 5 of the Government Service Pension Act, 1973, is hereby amended by 30 the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) who on or after the fixed date is appointed in a permanent capacity or is transferred in a permanent capacity to a post on the fixed establishment of the public service, the permanent force, the police force, the prisons service, [or] the provincial service or the education service; or”.

35 Amendment of section 6 of Act 57 of 1973

4. Section 6 of the Government Service Pension Act, 1973, is hereby amended—

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

40 “(d) if he is a member of the provincial service or the education service, attains the age prescribed by or under a law determining the conditions of his service [under an administration] which conditions comply with the provisions of paragraphs (a) to (e), inclusive, of the proviso to section 5 (1) of the Provincial Pension Act as it read immediately prior to its repeal by this Act.”;

45 (b) by the substitution for paragraph (d) of subsection (9) of the following paragraph:

50 “(d) in the case of a member referred to in subsection (1) (d), he has attained the age of fifty-five years and the Administrator or Minister responsible for education concerned, as the case may be, approves his retirement on pension.”; and

(c) by the insertion after subsection (9) of the following subsection:

55 “(9A) For the purposes of this section ‘education service’ includes the teaching posts on the fixed establishment of the Department of Education and Culture: Administration: House of Representatives, the Department of Education and Culture: Administration: House of Delegates and the Department of Education and Training.”.

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Amendment of section 17 of Act 57 of 1973, as amended by section 5 of Act 15 of 1974 and section 3 of Act 106 of 1986

5. Section 17 of the Government Service Pension Act, 1973, is hereby amended by the substitution for subsection (6) of the following subsection:

- 5 “(6) The regulations contemplated in this section shall be made by the Minister with the concurrence of the Minister of Finance and after consultation with the Administrators and the Minister responsible for the Bureau, the Commission for Administration, the permanent force, the police force, the prisons service, National Education and Posts and Telecommunications.”.

10 Substitution of expression in Act 57 of 1973

6. The Government Service Pension Act, 1973, is hereby amended by the substitution for the expression “Secretary”, wherever it occurs, of the expression “Director-General”.

Amendment of section 1 of Act 78 of 1973, as amended by section 1 of Act 27 of 1974, 15 section 2 of Act 45 of 1975 and section 1 of Act 30 of 1978

7. Section 1 of the Occupational Diseases in Mines and Works Act, 1973, is hereby amended—

- (a) by the insertion after the definition of “director” of the following definition:
20 ““Director-General” means the Director-General: National Health and Population Development;”;
- (b) by the substitution for the definition of “Minister” of the following definition:
“Minister” means the Minister of [Mines] National Health and Population Development;”; and
- 25 (c) by the deletion of the definitions of “secretary” and “Black affairs authority”.

Amendment of section 48 of Act 78 of 1973

8. Section 48 of the Occupational Diseases in Mines and Works Act, 1973, is hereby amended—

- 30 (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
“(c) [if the certificate relates to a person other than a Black person] to the person to whom it relates, or if it relates to a deceased person, to the dependants, if any, of the deceased;”; and
- 35 (b) by the deletion of paragraph (d) of subsection (1).

Amendment of section 78 of Act 78 of 1973

9. Section 78 of the Occupational Diseases in Mines and Works Act, 1973, is hereby amended by the deletion of subsections (3) and (4).

Substitution of section 94 of Act 78 of 1973, as amended by section 3 of Act 30 of 1978

40 10. The following section is hereby substituted for section 94 of the Occupational Diseases in Mines and Works Act, 1973:

“Payment of, and interest on, benefits awarded

45 94. (1) Subject to the provisions of subsection (2), the commissioner shall pay a one-sum benefit awarded [to a White person or a Coloured person] under this Act, in a single payment.

(2) The commissioner shall, at the request in writing of a beneficiary [referred to in subsection (1)], pay [the] a one-sum benefit referred to in subsection (1) or any portion thereof as elected by the beneficiary, in such monthly or three-monthly instalments as may be determined from time to time by the beneficiary in question.

50

(3) The commissioner may pay any pension or any instalment of a one-sum benefit awarded [to any White person or a Coloured person] under the previous Act or this Act—

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- (a) to the beneficiary himself; or
 (b) in part to the beneficiary and in part to his dependants; or
 (c) in full to his dependants; or
 5 (d) for the benefit of the beneficiary or his dependants, to any other person or any institution, organization or Government Department; or
 (e) in part to the beneficiary and in part, for the benefit of the beneficiary or his dependants, in accordance with paragraph (d).
 10 (4) The commissioner shall add interest to any one-sum benefit or any other amount awarded under the previous Act or this Act **[to a White person or a Coloured person]**, or to the balance of any such benefit or amount, as the case may be, at a rate determined from time to time by the commissioner after consultation with the advisory committee, as
 15 from the first day of the month following the month in which such benefit or amount was awarded until the last day of the month preceding the month in which such benefit or amount or the final instalment thereof was paid: Provided that no interest shall be paid on any amount which has remained in the possession of the commissioner for less than thirty days."

20 Amendment of section 101 of Act 78 of 1973

11. Section 101 of the Occupational Diseases in Mines and Works Act, 1973, is hereby amended by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

- 25 "The commissioner may, subject to the provisions of subsection (3), make a special award to **[a White person or Coloured]** any person to whom a one-sum benefit has been awarded in respect of tuberculosis and who—".

Repeal of certain provisions of Act 78 of 1973

12. (1) Sections 108 to 111, 112 (2) and 113 to 119 of the Occupational Diseases in Mines and Works Act, 1973, are hereby repealed.

- 30 (2) (a) As from the date of commencement of this section—

- (i) the Black Compensation Fund referred to in section 109 (2) of the Occupational Diseases in Mines and Works Act, 1973, shall cease to exist;
 35 (ii) the Mines and Works Compensation Fund established by section 61 of the said Act shall be credited with all amounts which on that date are credited to the said Black Compensation Fund.
 (iii) all rights and liabilities, existing as well as prospective, of the said Black Compensation Fund shall become the rights and liabilities of the said Mines and Works Compensation Fund; and
 40 (iv) a reference in any law to the said Black Compensation Fund shall be construed as a reference to the said Mines and Works Compensation Fund.
 (b) The amounts credited to the said Compensation Fund in terms of paragraph (a) (ii) shall be distributed to the accounts referred to in section 67 of
 45 the said Act in the proportion determined by the Minister, after consultation with the advisory committee established by section 59 of the said Act and with the concurrence of the Minister of Finance.

Amendment of section 131 of Act 78 of 1973

13. Section 131 of the Occupational Diseases in Mines and Works Act, 1973, is hereby amended by the deletion in subsection (1) of the words "of the Black affairs authority", wherever they occur.

Substitution of expressions in Act 78 of 1973

14. The Occupational Diseases in Mines and Works Act, 1973, is hereby amended by the substitution for the expressions "secretary" and "Black affairs authority",
 55 wherever they occur, of the expressions "Director-General" and "commissioner", respectively.

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Amendment of section 1 of Act 29 of 1979, as amended by section 17 of Act 97 of 1980

15. Section 1 of the General Pensions Act, 1979, is hereby amended—

(a) by the substitution for the definition of “Director-General” of the following definition:

5 “‘Director-General’ means the Director-General: 【Health and Welfare】 National Health and Population Development;”;

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

10 “‘Minister’ means the Minister of 【Health and Welfare】 National Health and Population Development;”;

(c) by the deletion of the definition of “secretary”.

Amendment of section 15 of Act 29 of 1979, as amended by section 3 of Act 67 of 1981

16. Section 15 of the General Pensions Act, 1979, is hereby amended by the substitution in paragraph (b) of subsection (4) for the expression “ $A \times 1,06^n$ ” of the 15 expression “ $A \times 1,10^n$ ”.

Amendment of section 22A of Act 29 of 1979, as inserted by section 10 of Act 106 of 1986

17. Section 22A of the General Pensions Act, 1979, is hereby amended by the addition of the following subsections:

20 “(4) The regulations contemplated in subsection (1) may provide for the exercise or performance by the Director-General and the Treasury of such powers or duties as the Minister, with the concurrence of the Minister of Finance, may deem necessary for the achievement of the objects of this Act.

25 “(5) Regulations contemplated in this section may be made with retrospective effect.”.

Insertion of section 22B in Act 29 of 1979

18. The following section is hereby inserted in the General Pensions Act, 1979, after section 22A:

“Delegation

30 **22B. (1) The Minister may delegate any of the powers conferred upon him by this Act, excluding the power to make regulations, to the Director-General or any other officer in the Department of National Health and Population Development, and may authorize the Director-General or such an officer to perform any of the duties assigned to the Minister by this Act.**

35 **(2) The Director-General may delegate to any officer in his Department any of the powers conferred upon the Director-General by this Act, and may authorize such an officer to perform any of the duties assigned to the Director-General by this Act.**”.

40 Amendment of section 8 of Act 75 of 1979, as amended by section 11 of Act 106 of 1986

19. Section 8 of the Temporary Employees Pension Fund Act, 1979, is hereby amended by the substitution for subsection (6) of the following subsection:

45 “(6) Regulations made under this section shall be made by the Minister with the concurrence of the Minister of Finance after consultation with the Ministers responsible for the Commission for Administration, National Education and Posts and Telecommunications.”.

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Pension payable to former Vice State President

20. (1) The payment of the pension payable to the former Vice State President in terms of section 13 (3) of the Constitution Amendment Act, 1984 (Act No. 105 of 1984), shall be suspended for the period during which he is again appointed as
5 Minister and in terms of the Members of Parliament and Political Office-bearers Pension Scheme Act, 1984 (Act No. 112 of 1984), becomes a member of the Scheme as defined therein.

(2) On the termination of his membership of the said Scheme the payment of the pension suspended in terms of subsection (1) shall be resumed at the rate at which
10 it would have been payable had it not been so suspended.

(3) For the purposes of the calculation of any pension payable in terms of the Members of Parliament and Political Office-bearers Pension Scheme Act, 1984, as a result of the termination of his membership of the said Scheme—

- 15 (a) all his pensionable service as defined in that Act shall be recognized; and
(b) the amount of such pension shall not be more than the difference between the amount of his highest pensionable salary as defined in that Act and the amount of the resumed pension contemplated in subsection (2).

Commencement

21. (1) Sections 2, 3 and 4 shall be deemed to have come into operation on 1 April
20 1986.

(2) (a) Sections 7 to 14 shall come into operation on a date fixed by the State President by proclamation in the *Gazette*, which date may be a date in the past.

25 (b) Different dates may so be fixed in respect of each of the sections referred to in paragraph (a).

(3) Section 20 shall be deemed to have come into operation on 1 December 1986.

Short title

22. This Act shall be called the Pension Laws Amendment Act, 1988.