

· BUITENGEWONE

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA

OFFICIAL GAZETTE

EXTRAORDINARY

OF SOUTH WEST AFRICA

UITGAWE OP GESAG

WINDHOEK

PUBLISHED BY AUTHORITY

30c Woensdag 14 Julie 1982 Wednesday 14 July 1982 No. 4654

INHOUD:

Bladsy

CONTENTS:

Page

GOEWERMENSKENNISGEWING:

GOVERNMENT NOTICE:

No. AG. 117 Afkondiging van Wet op Pensioene vir Regters, 1982 (Wet 11 van 1982), van die Nasionale Vergadering van Suidwes-Afrika

1

No. AG. 117 Promulgation of Judge's Pensions Act, 1982 (Act 11 of 1982), of the National Assembly of South West Africa

1

Goewermentskennisgewing

Government Notice

Kantoor van die

Office of the

ADMINISTRATEUR-GENERAAL VIR DIE
GEBIED SUIDWES-AFRIKA

ADMINISTRATOR-GENERAL FOR THE
TERRITORY OF SOUTH WEST AFRICA

DEPARTEMENT VAN DIE MINISTERS-
RAAD

DEPARTMENT OF THE COUNCIL OF MI-
NISTERS

No. AG. 117 1982

No. AG. 117 1982

AFKONDIGING VAN WET VAN
NASIONALE VERGADERING

PROMULGATION OF ACT OF NATIONAL
ASSEMBLY

Die volgende Wet, wat ingevolge die Proklamasie op die Nasionale Vergadering, 1979 (Proklamasie AG. 21 van 1979), deur die Nasionale Vergadering van Suidwes-Afrika aangeneem is deur die Administrateur-generaal onderteken is, word hierby afgekondig ingevolge artikel 19 van daardie Proklamasie:—

The following Act, which has been adopted by the National Assembly of South West Africa and signed by the Administrator-General in terms of the National Assembly Proclamation, 1979 (Proclamation AG. 21 of 1979), is hereby published in terms of section 19 of that Proclamation:—

No. 11 van 1982: Wet op Pensioene vir Regters, 1982

No. 11 of 1982: Judges' Pensions Act, 1982

JUDGES' PENSIONS ACT, 1982

Act No. 11, 1982

*(English text signed by the Administrator-General
on 5 July 1982)*

ACT

To provide for the payment of pensions to judges of the Supreme Court of South West Africa who retire or are removed from office on the grounds of certain circumstances, and to the dependants of judges or retired judges who die; and for matters connected therewith.

BE IT ENACTED by the National Assembly of South West Africa, as follows:—

1. In this Act, unless the context indicates otherwise —

Definitions.

- (i) "annuity" means any amount payable from revenue in terms of section 2(1)(a) or 3(1) at an annual rate in equal monthly payments; (v)
- (ii) "Court" means the Supreme Court of South West Africa; (iii)
- (iii) "dependant", in relation to a judge or pensioner, means the widow or minor child of such a judge or pensioner, and includes any other person designated for the purposes of this Act by the Secretary as a dependant of a judge or pensioner; (i)
- (iv) "gratuity" means a single amount payable from revenue in terms of section 2(1)(b) or 3(2) or (3); (ii)
- (v) "judge" means any person holding the office of judge president or judge of the Court; (x)
- (vi) "pension" means a gratuity or an annuity; (vi)
- (vii) "pensionable emoluments" means the annual salary payable to a judge in terms of section 1 of the Judges' Remuneration Act, 1981 (Act 16 of 1981); (viii)

JUDGES' PENSIONS ACT, 1982

Act No. 11, 1982

- (viii) "pensionable service" means any period of service, calculated by the year and a portion of a year, performed as a judge in a permanent capacity, as well as such service performed in an acting capacity for any continuous period immediately prior to assuming office as a judge in a permanent capacity; (vii)
- (ix) "pensioner" means any person in receipt of an annuity; (ix)
- (x) "revenue" means the Central Revenue Fund; (iv)
- (xi) "Secretary" means the Secretary for Finance. (xi)

2. (1) Any judge who retires from office in terms of subsection (7) of section 4 of the Supreme Court of South West Africa Proclamation, 1981 (Proclamation 222 of 1981), or is removed from office under subsection (6) of the said section 4 on the grounds of incapacity arising out of a permanent infirmity of mind or body disabling him from the proper discharge of the duties of his office, shall be paid —

Pension payable to judges after retirement or removal from office on grounds of infirmity.

- (a) an annuity which in respect of each office held by him during his pensionable service shall be calculated in accordance with the formula —

$$\frac{A}{B} \times C$$

in which formula —

A represents the pensionable emoluments applicable to the office concerned at the time of such a judge's retirement from office;

B represents 15;

C represents the period of pensionable service of such a judge in the office concerned;

- (b) a gratuity equal to one year's equivalent of such annuity.
- (2) (a) The total of the annuity payable in terms of subsection (1) of this section to a judge who retires in terms of paragraph (a) or (c) of subsection (7) of section 4 of the said Supreme Court of South West Africa Proclamation, 1981, or is removed from office in the circumstances referred to in subsection (1) of this section, shall not be less than forty-three per cent of his highest pensionable emoluments during the period of his pensionable service and shall, subject to the provisions of section 7, not exceed such pensionable emoluments.

JUDGES' PENSIONS ACT, 1982

Act No. 11, 1982

(b) Subject to the provisions of section 7, the total of the annuity payable in terms of subsection (1) of this section to a judge who retires from office in terms of paragraph (b) of the said subsection (7), shall not exceed eighty per cent of his highest pensionable emoluments during the period of his pensionable service, plus four per cent of such pensionable emoluments for every full year of pensionable service, if any, performed after attainment of the age of sixty-five years.

(3) The amount of a gratuity payable to a judge in terms of subsection (1)(b) shall not exceed his highest pensionable emoluments during the period of his pensionable service.

3. (1) There shall be paid to the widow of —

Pensions payable on death.

(a) a judge, an annuity equal to three-fourths of the annuity which such judge would have received in terms of section 2 if he had not died, but had retired in terms of paragraph (c) of subsection (7) of section 4 of the Supreme Court of South West Africa Proclamation, 1981 (Proclamation 222 of 1981), on the date of his death;

(b) a pensioner, an annuity equal to three-fourths of the annuity paid to such a pensioner on the date immediately prior to his death.

(2) If any judge dies, there shall be paid to such dependants of the judge as the Secretary may designate or to the judge's estate or to both such dependants and such estate, a gratuity which shall be equal to six times the gratuity which such judge would have received in terms of section 2 if he had not died, but had retired in terms of paragraph (c) of subsection (7) of section 4 of the said Supreme Court of South West Africa Proclamation, 1981, on the date of his death.

(3) If a pensioner dies within a period of five years after he became entitled to an annuity in terms of section 2, there shall be paid to such dependants of the pensioner as the Secretary may designate or to the pensioner's estate or to both such dependants and such estate, a gratuity equal to the total amount of annuity which would have been paid to the pensioner during the period from the first day of the month immediately following the date of his death up to and including the last day of the month in which the said period of five years expires, had he not died.

JUDGES' PENSIONS ACT, 1982

Act No. 11, 1982

- (4) Any gratuity payable in terms of this section —
- (a) to the dependants of a judge or pensioner, shall be divided among them in such proportions as the Secretary may determine;
 - (b) to both the dependants and the estate of a judge or pensioner, shall be divided among both such dependants and such estate in such proportions as the Secretary may determine.
4. (1) (a) Any judge or pensioner may, on such form and subject to such conditions as the Secretary may determine, notify the Secretary of his wish that the gratuity referred to in section 3 be paid on his death to the beneficiaries mentioned in that form and be divided among such beneficiaries in the proportion mentioned in that form.
- (b) A judge or pensioner may, with the concurrence of the Secretary, withdraw any such notification or substitute a new notification therefor.
 - (c) For the purposes of this section "beneficiaries" include the estate of the judge or pensioner concerned.
- (2) Notwithstanding anything to the contrary contained in any law, the Secretary may on the death of a judge or pensioner who so notified him, pay at his discretion the gratuity concerned in accordance with the judge's or pensioner's wish.

Payment of gratuity to beneficiaries designated by judge or pensioner.

5. If the Secretary is satisfied that for any reason it is undesirable to pay direct to any person the whole amount of any pension payable to such a person, the Secretary may order that such pension or any portion thereof be paid to any other person on such conditions as the Secretary may determine in regard to the disposal thereof for the benefit of such first-mentioned person or his dependants.

Payment of pensions to persons other than those entitled thereto.

6. All annuities shall be paid on such dates and in such manner as the Secretary may determine.

Method of payment of annuities.

7. Any annuity shall be supplemented in accordance with such rates or scales and in such circumstances and on such conditions and with effect from such date, which may be a date in the past, as the Council of Ministers may determine.

Supplement of annuities.

JUDGES' PENSIONS ACT, 1982

Act No. 11, 1982

8. An annuity shall be payable —

Date from which annuities are payable and ceased.

- (a) in the case of a judge, with effect from the first day of the month following the month in which his service as judge terminated;
- (b) in the case of a widow of a deceased judge or pensioner, with effect from the first day of the month following the month of such judge's or pensioner's death;
- (c) until the last day of the month in which the pensioner concerned died.

9. (1) No pension or right in respect of any pension shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated or, save as provided in section 11(2) of the Maintenance Act, 1963 (Act 23 of 1963), be liable to be attached or subjected to any form of execution in terms of any judgement or order of any court of law.

Prohibition of cession and attachment of pensions.

(2) Notwithstanding the provisions of subsection (1) or any other law, the Secretary may from time to time —

- (a) deduct from the pension of any person any amount which is due to revenue; or
- (b) with the concurrence of the person concerned, deduct from the pension of any person any amount which is to be appropriated for a purpose determined by the Council of Ministers.

10. Any pension received by any person whose estate is being sequestrated, shall not form part of the assets in his insolvent estate.

Pension not an asset in insolvent estate.

11. (1) Any legal proceedings in respect of any act performed in terms of this Act or, in respect of any failure to perform any act in terms thereof, shall be instituted within twelve months from the date upon which the plaintiff had knowledge or could reasonably have had knowledge of such act or failure.

Time limit in respect of certain actions.

(2) No legal proceedings referred to in subsection (1) shall be instituted before the expiry of thirty days after the service of a notice in writing on the defendant stating clearly and fully the intention of instituting such proceedings and particulars in regard to the alleged act or failure constituting the cause of action.

JUDGES' PENSIONS ACT, 1982

Act No. 11, 1982

12. The Secretary may delegate any power conferred upon him by this Act to the holder of any post on the establishment of the Department of Finance and may authorize him to perform any function assigned to or carry out any duty imposed upon the Secretary.

Delegation of powers.

13. The Secretary shall, subject to the control of the Council of Ministers, be charged with the general execution of this Act.

Execution of Act.

14. The Judges' Pensions Act, 1978 (Act 90 of 1978), the Judges' Pensions Amendment Act, 1979 (Act 66 of 1979), and sections 15 and 16 of the Pensions Laws Amendment Act, 1980 (Act 97 of 1980), are hereby repealed.

Repeal of laws.

15. This Act shall be called the Judges' Pensions Act, 1982, and shall be deemed to have come into operation on 1 January 1982.

Short title and commencement.