



Republic of Namibia
Annotated Statutes

Aged Persons Act 81 of 1967 (RSA)

(RSA GG 1771)

brought into force in South West Africa on 1 October 1968 in respect only of “Natives”, by RSA Proc. R.293/1968 (RSA GG 2182), pursuant to the authority of section 16 of the Pension Laws Amendment Act 79 of 1968 (RSA GG 2119); brought into force generally in South West Africa when the amendments made by Act 14 of 1971, including section 21A, came into force on 1 January 1972

APPLICABILITY TO SOUTH WEST AFRICA: Section 16 of the *Pension Laws Amendment Act 79 of 1968* (RSA GG 2119, also published in OG 2915) – which came into force on 1 October 1968 (section 17(1) of Act 79 of 1968) – without amending the Act, empowered the State President to make the provisions of the Act “*mutatis mutandis* applicable in the territory of South-West Africa, including the Eastern Caprivi Zipfel, in respect of natives, as defined in section 25 of the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of the said territory, in so far as those provisions relate to Bantu or Bantu persons”, **subject to** “such conditions, amendments or exceptions as may be specified in the proclamation”. It also empowered the State President to withdraw or amend any such proclamation. Section 16(4) stated:

“With effect from the date on which any Act referred to in subsection (1) becomes applicable in the said territory in terms of a proclamation issued under that subsection, the corresponding Act which under section 45(1) of the Pension Laws Amendment Act, 1965 (Act No. 102 of 1965), was declared to be applicable in the said territory, shall cease to be applicable therein: Provided that anything done in terms of the relevant corresponding Act and which could be done in terms of the relevant Act referred to in subsection (1) which becomes applicable in the territory on the said date, shall be deemed to have been done in terms of the last-mentioned Act.”

(The corresponding Act cited in section 45(1) of the *Pension Laws Amendment Act 102 of 1965* (RSA GG 1171) was the *Old Age Pensions Act 38 of 1962* (RSA GG 231).)

Pursuant to this authority, RSA Proc. R.293/1968 (RSA GG 2182) provided that the provisions of the Act were brought into force on 1 October 1968 “in the Territory of South-West Africa, including the Eastern Caprivi Zipfel, in respect of Natives, as defined in section 25 of the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of the said Territory, in so far as those provisions relate to Bantu”.

The Act was brought into force generally in South West Africa only when the amendments made by Act 14 of 1971 came into force on 1 January 1972. Section 21A (inserted by Act 14 of 1971) states “This Act and any amendment thereof shall, save in so far as it has already been declared to be applicable in the territory in terms of section 16(1) of the Pension Laws Amendment Act, 1968 (Act No. 79 of 1968), also apply in the territory, including the Eastern Caprivi Zipfel.” Section 1 (as inserted by Act 14 of 1971) also defines “Republic” to include “the territory”, which is defined as “the territory of South-West Africa”.

TRANSFER TO SOUTH WEST AFRICA: Section 21 of the Act gives the State President the power to assign the administration of the Act to one or more Ministers and to vary this assignment from time to time. (See RSA Proc. No. R.283/1968 (RSA GG 2176), as amended by RSA Proc. R.154/1985 (RSA GG 9917) and RSA Proc. R. 270/1971 (RSA GG 3327), repealed by RSA Proc. 219/1973 (RSA GG 4030).) Therefore it is not clear which transfer proclamation, if any, was applicable. However, the issue of transfer is not relevant to the content of the Act since there were no amendments to the Act in South Africa after 1976 (the date of the earliest transfer proclamation) and prior to Namibian independence.

as amended by

Pension Laws Amendment Act 98 of 1969 (RSA) (RSA GG 2463)

deemed to have come into force in relevant part on 1 October 1968 (section 16(2) of Act 98 of 1969)

Second Pension Laws Amendment Act 86 of 1970 (RSA) (RSA GG 2896)

deemed to have come into force in relevant part on 1 October 1968 (section 8(2) of Act 86 of 1970)

Aged Persons Amendment Act 14 of 1971 (RSA) (RSA GG 3062)

brought into force on 1 January 1972 by RSA Proc. R.269/1971 (RSA GG 3327)

Pension Laws Amendment Act 97 of 1972 (RSA) (RSA GG 3605)

came into force on date of publication: 5 July 1972, with amendment to section 2 of Act 81 of 1967 deemed to have come into force on 1 April 1972 (section 5(2) of Act 97 of 1972)

Social Pensions Act 37 of 1973 (RSA) (RSA GG 3866)

brought into force on 1 October 1973 by RSA Proc. 218/1973 (RSA GG 4030); explicitly applicable to South West Africa by virtue of section 20, which states: "This Act and any amendment thereof shall apply also in the territory, including the Eastern Caprivi Zipfel."

Aged Persons Amendment Act 46 of 1976 (RSA) (RSA GG 5072)

came into force on date of publication: 7 April 1976

Native Laws Amendment Proclamation, AG 3 of 1979 (OG 3898)

deemed to have come into force in relevant part on 1 August 1978 (section 5 of AG 3 of 1979)

The Act is repealed by section 21 of Act 37 of 1973, read together with the Schedule of Act 37 of 1973, "in so far as it relates to pension matters".

ACT

To provide for the protection and welfare of certain aged and debilitated persons, for the care of their interests, for the establishment and registration of certain institutions, for the accommodation and care of such persons in such institutions, for the payment of old age pensions and certain allowances to or in respect of certain aged persons, and for matters incidental thereto.

*(English text signed by the Acting State President)
(Assented to 9th June, 1967)*

ARRANGEMENT OF SECTIONS

1. Definitions
2. Establishment and maintenance of homes for the aged, payment of subsidies to homes for the aged and certain clubs, service centres and welfare organizations, and payment of old age pensions and certain allowances
3. Prohibition on management of unregistered homes for the aged, and registration of such homes
4. Inspection
5. Procedure for bringing a person who accommodates or cares for an aged or debilitated person before a magistrate
6. Enquiry into accommodation or care of aged or debilitated person
7. Persons entitled to old age pension
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9. Powers of Secretary and district pension officer as to the gathering of evidence
10. Application for a pension and decision thereon
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16. Exemption from stamp duty
17. Information to be furnished to the Secretary
18. Delegation of powers
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20. Regulations
21. Administration of Act
- 21A. Application of Act in the territory
22. Repeal of laws
23. Short title and commencement

Schedule

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

Definitions

1. (1) In this Act, unless the context otherwise indicates -

“aged person” means a person who, in the case of a male, is sixty-five years of age or older, and, in the case of a female, is sixty years of age or older;

[definition of “aged person” substituted by Act 14 of 1971]

“attendant’s allowance” means an attendant’s allowance referred to in section 2(c);

[definition of “Bantu” deleted by Act 14 of 1971]

“care”, when used as a noun, includes the provision of any meal, nursing services or other domestic services, and, when used as a verb, has a corresponding meaning;

[“definition of “care” inserted by Act 46 of 1976]

[definition of “Chinese” deleted by Act 14 of 1971]

[definition of “Coloured person” deleted by Act 14 of 1971]

“debilitated person” means a person who is sixty years of age or older and, by reason of old age or a physical or mental defect or illness, unable to care properly for his person or his interests, but does not require constant care by a medical practitioner or a qualified nurse;

[definition of “debilitated person” substituted by Act 14 of 1971]

“district pension officer” means any person appointed as such in terms of section 8;

“home for the aged” means any institution or other place of residence maintained mainly for the accommodation and care of aged or debilitated persons;

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[definition of “home for the aged” substituted by Act 97 of 1972 and by Act 46 of 1976]

[definition of “Indian” deleted by Act 14 of 1971]

“magistrate” includes an additional and an assistant magistrate, and also a Commissioner and an additional and an assistant Commissioner;

[definition of “magistrate” amended by AG 3 of 1979]

“manager”, in relation to a home for the aged, means the person exercising control over such home;

“Minister”, in relation to a power conferred or a function assigned by any provision of this Act, and in relation to persons belonging to any race or class, means the Minister to whom in terms of section 21 the administration of that provision in relation to that power or function and in relation to those persons has been assigned;

“pensioner” means a person receiving a pension under this Act;

“prescribed” means prescribed by regulation made under this Act;

“registered home for the aged” means a home for the aged registered in terms of section 3;

“registered welfare organization” means a welfare organization registered or deemed to be registered in terms of the National Welfare Act, 1965 (Act No. 79 of 1965);

[definition of “registered welfare organization” substituted by Act 14 of 1971]

“Republic” includes the territory;

[definition of “Republic” inserted by Act 14 of 1971]

“Secretary”, in relation to a power conferred or a function assigned by any provision of this Act, and in relation to persons belonging to any class or population group, means the head of the department of State in question administered by the Minister to whom the administration of that provision in relation to that power or function and in relation to those persons has been assigned in terms of section 21;

[definition of “Secretary” substituted by Act 97 of 1972]

“social welfare officer” means an officer who is employed in the professional division of the public service and who in the performance of his official duties is mainly engaged in welfare work;

“the territory” means the territory of South-West Africa;

[definition of “the territory” inserted by Act 14 of 1971]

“this Act” includes the regulations made thereunder;

[The definition of “white person” is deleted by Act 14 of 1971.

The definition of “this Act” should now end with a full stop instead of a semicolon.]

[RSA Proc. R.293/1968 (RSA GG 2182) provided for some definitions of terms in respect of the Act as it applied to “Bantu”, but these definitions presumably became irrelevant when the Act was applied generally to South West Africa in 1971.]

(2) The provisions of this Act shall not apply in respect of any place or part of a place registered or maintained in terms of any law as a hospital or clinic or in respect of which a hotel liquor licence or an accommodation establishment on-consumption licence has been issued and is in force in terms of the Liquor Act, 1928 (Act No. 30 of 1928), or the Liquor Ordinance, 1969 (Ordinance No. 2 of 1969), of the territory (as the case may be).

[Subsection (2) is inserted by Act 46 of 1976. The Liquor Ordinance 2 of 1969 has been replaced by the Liquor Act 6 of 1998.]

Establishment and maintenance of homes for the aged, payment of subsidies to homes for the aged and certain clubs, service centres and welfare organizations, and payment of old age pensions and certain allowances

2. The Minister may in consultation with the Minister of Finance and out of moneys appropriated by Parliament for the purpose, and subject to the provisions of this Act -

- (a) establish and maintain homes for the aged;
- (b) pay subsidies to the managers of registered homes for the aged, clubs and service centres for aged persons and welfare organizations providing welfare services to aged and debilitated persons;
- (c) pay old age pensions and additional or supplementary allowances to aged persons, and pay an attendant's allowance to or on behalf of a person to whom such a pension is paid and who has attained an age determined by the Minister for this purpose or is in such a physical or mental condition that he requires the regular attendance of any person.

[paragraph (c) substituted by Act 97 of 1972, with the substitution deemed to have come into effect on 1 April 1979 (section 5(2) of Act 97 of 1972)]

Prohibition on management of unregistered homes for the aged, and registration of such homes

3. (1) No person shall manage a home for the aged (except such a home maintained by the State), unless such home has been registered under this section.

(2) If any person desires to manage a home for the aged he may in the prescribed manner apply to the Minister for registration thereof.

(3) After consideration of an application referred to in subsection (2) the Minister may in his discretion -

- (a) refuse the application or grant it subject to such conditions as he may deem fit, and if he grants it, direct that a registration certificate specifying those conditions be issued to the applicant in the prescribed form; or
- (b) subject to such conditions as he may deem fit, grant authority to the applicant to manage the home for the aged for such period (not exceeding twelve months) as the Minister may determine, and direct that a registration certificate specifying those conditions be issued to the applicant in the prescribed form for that period, and after expiration of the said period, or after notice by the applicant in the prescribed manner that the said conditions have been complied with, whichever may occur first, reconsider the application.

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(4) The Minister may at any time after one month's notice of his intention to do so, and after consideration of any representations received by him during such month, amend or cancel, subject to the provisions of subsection (5), a registration certificate issued in terms of subsection (3)(a).

(5) The amendment or cancellation of such a registration certificate shall be effected by notice to the holder thereof, and shall take effect on a date specified in the notice, not being earlier than three months after the date of the notice, unless the Minister and the holder of the registration certificate have agreed otherwise.

(6) A person to whom a registration certificate has been issued in terms of subsection (3), shall not without the prior approval of the Minister transfer it to any other person.

(7) If the registration of a home for the aged has been cancelled in terms of subsection (4), or if the manager of a home for the aged desires to close down such home for any other reason, he shall take reasonable steps to ensure that on the closing down of such home the aged persons in question can be accommodated in another registered home for the aged or with persons who, in the opinion of a social welfare officer, are fit and proper persons for accommodating them.

(8) The manager of a home for the aged which immediately prior to the date of commencement of this section is being subsidized by the State, shall be entitled to have such home registered in terms of subsection (3)(a) subject to such conditions as the Minister may deem fit.

(9) A home for the aged which is in existence immediately prior to the date of commencement of this section but which is not then being subsidized by the State, shall be deemed to have been registered in terms of subsection (3)(a) during the period of twelve months immediately following upon the said date.

(10) Any person who contravenes or fails to comply with a provision of this section, or of a condition imposed thereunder, shall be guilty of an offence.

Inspection

4. (1) A social welfare officer may at any time -

- (a) visit and inspect a home for the aged, any place where any aged or debilitated person is cared for or accommodated for remuneration, whether by way of money or goods, or any place which the social welfare officer believes upon reasonable grounds to be a home for the aged or such a place;
- (b) interview any aged or debilitated person accommodated in such home for the aged or place;
- (c) either with or without the assistance of a medical practitioner, there enquire into the welfare of any such person;
- (d) direct any person who has in his possession or custody any book or document relating to such home for the aged or place, to submit such book or document to him for inspection.

(2) A social welfare officer exercising any power in terms of subsection (1) shall, at the request of the manager of the home for the aged in question or the person who has control

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over the place in question (as the case may be), produce a certificate issued by the Secretary and stating that he is such an officer.

(3) Any person who obstructs or hinders a social welfare officer in the exercise of his powers in terms of subsection (1), or who refuses to give him at his request access to an aged or debilitated person accommodated in a home for the aged or place referred to in subsection (1), or who refuses or fails to comply with a direction in terms of subsection (1)(d), shall be guilty of an offence.

[section 4 substituted by Act 46 of 1976]

Procedure for bringing a person who accommodates or cares for an aged or debilitated person before a magistrate

5. (1) If a social welfare officer submits or makes a written statement under oath to a Public Prosecutor, and in such statement it is alleged that any person within the area of jurisdiction of the magistrate's court to which that Public Prosecutor is attached -

- (a) accommodates or cares for an aged or debilitated person in a place other than a registered home for the aged in circumstances or in a manner likely to be injurious to his physical or mental well-being; or
- (b) presumably takes advantage of an aged or debilitated person by receiving excessive remuneration, by way of money or goods, for the accommodation or care of such person in a place other than a registered home for the aged,

that Public Prosecutor may, subject to the provisions of subsection (2), request the clerk of that court to issue a summons calling upon such firstmentioned person to appear, at a time and place specified therein, before a magistrate within that area, and informing him of the allegations against him.

(2) A Public Prosecutor shall not in terms of subsection (1) request a clerk of the court to issue a summons unless he has obtained from a social welfare officer a report on the accommodation or care of the aged or debilitated person in question.

(3) If on the ground of a statement under oath referred to in subsection (1) the Public Prosecutor has reason to suspect that a social welfare officer will be prevented or prohibited from going into or entering upon the place where the aged or debilitated person in question is being accommodated or cared for to make the necessary investigation for the purposes of a report referred to in subsection (2), or if such an officer has been prevented or prohibited from doing so, the magistrate in question may on the application of the Public Prosecutor issue a warrant authorizing a social welfare officer to go into or enter upon that place to make such investigation.

(4) A magistrate may in a warrant issued by him in terms of subsection (3) authorize a social welfare officer to take a district surgeon or a police officer or both with him for the purposes of an investigation referred to in the said subsection.

(5) The provisions of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), in relation to the form and manner of service of summonses in criminal cases in lower courts, the time to be allowed to a person summoned to appear, and the manner in which persons who have been summoned to appear, may be dealt with if they fail to appear or to remain in attendance, as required, shall *mutatis mutandis* apply in respect of summonses issued in terms of this section.

[The Criminal Procedure Act 56 of 1955 was never applicable to South West Africa. The South West African equivalent was the Criminal Procedure and Evidence Proclamation 30 of 1935, which was

replaced by the Criminal Procedure Ordinance 34 of 1963, which, with the exception of sections 300(3) and 370, has been replaced by the Criminal Procedure Act 51 of 1977.]

(6) Any person who obstructs or hinders a social welfare officer in the performance of his functions in terms of this section or refuses to furnish to a social welfare officer at his request any information in connection with the accommodation or care of an aged or debilitated person at his disposal which such officer requires for the purposes of an investigation referred to in subsection (3), shall be guilty of an offence.

Enquiry into accommodation or care of aged or debilitated person

6. (1) Subject to the provisions of this section, a magistrate before whom any person is brought in terms of section 5, shall enquire into the correctness or otherwise of the allegations contained in the summons in question.

(2) The Public Prosecutor or any other person designated by the magistrate for the purpose shall appear at the enquiry, and may call witnesses and cross-examine any other witnesses giving evidence at the enquiry.

(3) The person against whom the allegations in question were made, may give evidence himself, and he, or his legal representative, may cross-examine any witnesses called in terms of subsection (2), and call witnesses himself, and shall be given the opportunity to advance reasons why an order shall not be issued under subsection (10).

(4) Subject to anything to the contrary contained in this Act, the law relating to criminal trials in magistrates' courts shall *mutatis mutandis* apply in respect of the subpoena, the calling and examination of witnesses for the purposes of or at the enquiry, the taking of evidence and the production of documents and other articles thereat, and the payment of allowances to witnesses.

(5) The proceedings at the enquiry shall be conducted in an open court room or behind closed doors, as the magistrate holding the enquiry may determine.

(6) The provisions of section 156(1) of the Criminal Procedure Act 1955 (Act No. 56 of 1955), in so far as they relate to the conduct of a criminal trial in the absence of an accused, shall *mutatis mutandis* apply in respect of an enquiry held in terms of this section.

[The Criminal Procedure Act 56 of 1955 was never applicable to South West Africa. The South West African equivalent was the Criminal Procedure and Evidence Proclamation 30 of 1935, which was replaced by the Criminal Procedure Ordinance 34 of 1963, which, with the exception of sections 300(3) and 370, has been replaced by the Criminal Procedure Act 51 of 1977.]

(7) The provisions of section 108 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), shall *mutatis mutandis* apply in respect of any proceedings in connection with an enquiry held in terms of this section.

(8) The report referred to in section 5(2) shall be submitted to the magistrate holding the enquiry, and he may direct the district surgeon, or a psychiatrist or a clinical psychologist designated by him, to examine the aged or debilitated person in question and to furnish him with a report on his findings.

(9) The contents of a report submitted or furnished in terms of subsection (8) shall be disclosed to the person against whom the allegations were made, and if he so desires, he or his legal representative shall be given an opportunity of cross-examining the person who made the report, in relation to any matter arising out of the report, and of disproving any allegation occurring therein.

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(10) If after consideration of the evidence and of any report submitted or furnished in terms of subsection (8), it appears to the magistrate that any allegation in the summons in question against the person in question is correct, he may-

- (a) prohibit that person from accommodating or caring for the aged or debilitated person in question except subject to such conditions and in accordance with such requirements as the magistrate may impose; or
- (b) prohibit that person from accommodating or caring for any aged or debilitated person for such period, but not exceeding ten years, as may be determined by the magistrate.

[paragraph (b) substituted by Act 46 of 1976]

(10A) A prohibition imposed in terms of subsection (10) shall be of force throughout the Republic.

[subsection (10A) inserted by Act 46 of 1976]

(11) Any person who contravenes or fails to comply with any condition, requirement or prohibition imposed in terms of subsection (10) shall, subject to the provisions of subsection (12), be guilty of an offence.

(12) It shall be a defence to a charge under subsection (11) alleging that the accused accommodated or cared for an aged or debilitated person in contravention of a condition, requirement or prohibition imposed in terms of subsection (10), that the aged or debilitated person was unable to find any other accommodation or care.

[subsection (12) substituted by Act 46 of 1976]

Persons entitled to old age pension

7. (1) Subject to the provisions of this Act every aged person shall be entitled to receive an old age pension if he satisfies the Secretary-

- (a) that at the time of his application for such a pension in terms of section 10 he is resident in the Republic; and
- (b) that he -
 - (i) is a South African citizen; or
 - (ii) was ordinarily resident in the Republic for not less than fifteen out of the twenty years immediately preceding the date of that application; or
 - (iii) has entered the Republic from Angola or any other territory or country specified by the Minister, and complies with such conditions as the Minister may, in consultation with the Minister of Finance, determine.

[subparagraph (iii) substituted by Act 14 of 1971]

(2)

[subsection (2) deleted by Act 14 of 1971]

(3)

[subsection (3) deleted by Act 14 of 1971]

(4) No pension shall be paid under this Act to any person in receipt of a pension or an allowance under the Blind Persons Act, 1962 (Act No. 39 of 1962), the War Veterans' Pensions Act, 1962 (Act No. 40 of 1962), or the Disability Grants Act, 1962 (Act No. 41 of 1962).

[Only the Blind Persons Act 39 of 1962 is still in force in Namibia, and both the Aged Persons Act 91 of 1967 and Blind Persons Act 39 of 1962 have been repealed insofar as they relate to pensions.]

(5) The payment of a pension under this Act to a person who is absent from the Republic for a continuous period exceeding six months shall be suspended as from the first day of the seventh month following upon the month in which he last left the Republic: Provided that if the Secretary is, for reasons advanced by such person, of the opinion that it is just that payment of that pension be continued or resumed, the Secretary may permit payment thereof to be continued or resumed for such period or periods and subject to such conditions as he may determine.

[subsection (5) substituted by Act 14 of 1971]

(6)

[subsection (6) deleted by Act 14 of 1971]

District pension officers

8. The Minister shall appoint for every area determined by him an officer in the public service as district pension officer who shall be charged with-

- (a) the receipt and registration of applications for pensions in terms of this Act;
- (b) the investigation of such applications; and
- (c) the submission of every such application with his report thereon to the Secretary.

Powers of Secretary and district pension officer as to the gathering of evidence

9. (1) The Secretary or a district pension officer may take evidence for the purpose of enquiring into any matter falling within his functions in terms of this Act relating to pensions and allowances, and for that purpose may subpoena witnesses, require the production of any book, record or document relevant to the enquiry, administer an oath or an affirmation to any witness and examine him, and examine any such book, record or document.

(2) A subpoena to appear before the Secretary or a district pension officer or to produce any book, record or document, shall correspond as nearly as practicable with the form prescribed for the purpose, shall be signed by the Secretary or the district pension officer in question, and shall be served on the person subpoenaed either by registered letter sent through the post or by delivery by a person authorized by the Secretary or the district pension officer so to serve it, or in the same manner as it would be served if it were a subpoena in a criminal case issued by a magistrate's court.

(3) Any person who, without lawful excuse (the onus of proving which shall be upon him) fails to attend at the time and place specified in a subpoena served upon him in terms of subsection (2), or to produce any book, record or document in terms of any such subpoena, or

refuses to be sworn or to make an affirmation when called upon in terms of subsection (1) to do so, or when being examined in terms of that subsection, refuses to answer fully and satisfactorily any question lawfully put to him, shall be guilty of an offence: Provided that any person so subpoenaed shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the Supreme Court is entitled.

(4) A witness who after having been duly sworn or having made an affirmation, gives false evidence before the Secretary or a district pension officer on any matter relevant to the enquiry, knowing such evidence to be false, shall be guilty of perjury.

Application for a pension and decision thereon

10. (1) Any person who claims a pension shall on the form prescribed by the Secretary apply to a district pension officer therefor, and shall furnish such evidence and information in support of his application as may be prescribed or as the district pension officer may require.

(2) The district pension officer shall after such enquiry as he may consider necessary in connection with any application in terms of subsection (1), transmit to the Secretary the application together with the prescribed particulars and all information at his disposal in connection therewith, and his report thereon.

(3) The Secretary shall after consideration of any application transmitted to him in terms of subsection (2) and of the report of the district pension officer thereon and any particulars and information furnished in respect thereof, determine whether the applicant is entitled to a pension and, if he is so entitled, fix the amount of such pension.

Suspension and administration of pensions

11. (1) If in the opinion of the Secretary a pensioner misuses his pension the Secretary may suspend payment thereof or order that it be administered subject to such conditions as he may determine.

(2) If the Secretary is of the opinion that it is for any reason not advisable to pay a pension directly to a pensioner, he may order such pension to be paid to some other person on behalf of that pensioner subject to such conditions as to its administration as the Secretary may determine.

Repayment or overpayments

12. (1) If any person in terms of this Act received any sum of money which was paid to him by virtue of the fact that he was a pensioner or was regarded as a pensioner, and to which he was not entitled, he or, if he dies, his estate, shall be liable to repay that sum to the Minister, unless the Minister is satisfied that he received it without any knowledge that he was not entitled thereto.

(2) Such sum may in the discretion of the Secretary and without prejudice to any other remedy, be recovered by means of deductions from any pension due to the person liable to repay it.

(3) The provisions of this section shall apply with the necessary modification in the case of a person to whom such a sum of money was paid for or for the benefit of any other person.

(4) The Treasury or any person authorized thereto by the Treasury may at its or his discretion write off the whole or any portion of any sum repayable in terms of this section, if the Treasury or such person is satisfied that it would be uneconomical to recover such sum or that recovery thereof would cause undue hardship.

Appeal to the Minister

13. (1) Any decision or action relating to pensions and allowances by the Secretary in the administration of this Act shall be subject to an appeal to the Minister.

(2) In any question arising out of any provision of this Act relating to pensions and allowances the decision of the Minister shall be final: Provided that the Minister may at any time reconsider and vary or reverse such decision.

Pensions not assignable or executable

14. (1) No pension or allowance or right to a pension or an allowance in terms of this Act shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated, nor shall it be liable to attachment or any form of execution under a judgment or order of a court of law, and if a pensioner attempts to assign, transfer or otherwise cede or to pledge or hypothecate a pension or an allowance or a right to a pension or an allowance, payment of the pension and allowance may by order of the Minister be withheld, suspended or entirely discontinued.

(2) In any proceedings for civil imprisonment against a pensioner his means shall be deemed not to include any sum received by him by virtue of this Act.

(3) If the estate of any pensioner is sequestrated, any sum payable to him in terms of this Act by virtue of the fact that he is a pensioner, shall not form part of the assets in his insolvent estate.

False statements and improper receipt of pensions

15. Any person who, for the purpose of obtaining or retaining a pension or an allowance in terms of this Act, whether for himself or for any other person, or for the purpose of obtaining such a pension or an allowance for himself or for any other person at a higher rate than that appropriate to the case, makes any statement or representation which he knows to be false, and any person who receives in respect of any such pension or allowance payment of any sum which he is to his knowledge not entitled to receive, shall be guilty of an offence.

Exemption from stamp duty

16. No stamp duty shall be payable in respect of-

- (a) any power of attorney given by an applicant to any person to apply on his behalf for a pension or an allowance in terms of this Act, or any power of attorney given by a pensioner to any person to receive payment of such a pension and an allowance on his behalf; or
- (b) any receipt given in respect of the payment of such a pension and an allowance.

Information to be furnished to the Secretary

17. Notwithstanding anything to the contrary contained in any law, any registrar of births and deaths, any registrar of deeds or any prescribed officer shall upon application by the

Secretary furnish him with such information relative to any applicant for a pension in terms of this Act as may be prescribed or as may in any particular case be determined by the Secretary.

Delegation of powers

18. (1) The Minister may delegate to the Secretary or any other officer in the department of State of which the Secretary is the head, and, with the approval of the Minister in question, to any officer in any other department of State, any power conferred upon him by this Act, except a power conferred by section 20.

(2) The Secretary may, with the approval of the Minister, authorize any officer in the department of State of which the Secretary is the head, and with the approval of the Minister concerned, any officer in any other department of State, to exercise on behalf of the Secretary any power conferred upon him by this Act.

[subsection (2) substituted by Act 98 of 1969, with the substitution deemed to be effective as of 1 October 1968 (section 16(2) of Act 98 of 1969)]

Penalties

19. Any person convicted of any offence in terms of any provision of this Act shall be liable to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment.

Regulations

20. (1) The Minister may make regulations as to -

- (a) the form of any application (except an application for a pension), authority, certificate, consent, notice, order, register, process or subpoena which is to or may be made, granted, given, issued or kept in terms of this Act, and any other form required in administering the provisions of this Act;
- (b) the procedure to be followed and the conditions which may be imposed in connection with the registration of homes for the aged, and the minimum standards with which such homes are to comply;
- (c) the books, accounts and registers which are to be kept by the managers of registered homes for the aged, the manner in which such books, accounts and registers are to be kept and dealt with, and the returns and reports to be furnished in connection with such homes for the aged;
- (cA) the records to be kept by any person who cares for or accommodates for remuneration, whether by way of money or goods, any aged or debilitated person in any place other than a registered home for the aged;

[paragraph (cA) inserted by Act 46 of 1976]

- (d) the further conditions with which a person is to comply to be entitled to an old age pension in terms of this Act;
- (e) the payment of attendants' allowances and additional or supplementary allowances referred to in section 2(c);

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- (f) the maximum amount, subject to the provisions of subsection (2), of such an old age pension and additional or supplementary and attendants' allowances, and the determination of the amount thereof in any particular case;
- (g) applications for such pensions and allowances, and the particulars and information to be furnished in connection with such an application by an applicant for such a pension or allowance, or any category of such applicants;
- (h) the registration and investigation of and decision on applications for such pensions or allowances;
- (i) the income and assets to be taken into account in determining the amount of such pension;

[paragraph (i) substituted by Act 14 of 1971]

- (j) the date as from which any such old age pension or additional, supplementary or attendant's allowance shall accrue;
- (k) the method of payment of such pensions and allowances;
- (l) the payment of any such pension or allowance to a person other than the pensioner himself;
- (m) the circumstances in which such pensions and allowances may be paid to persons maintained or receiving treatment in State institutions or institutions receiving grants-in-aid from the State;
- (n) the information which may from time to time be required of a pensioner;
- (o) the cancellation, lapsing, suspension or alteration of the amount of any such pension or allowance;
- (p) the administration of such a pension or allowance;
- (q) the repayment of overpayments;
- (r) the manner and period in which a decision of the Secretary may be appealed against;
- (s) any other matter which in terms of any provision of this Act is to or may be prescribed, or in respect of which, in the opinion of the Minister, it is necessary or expedient to make regulations for achieving the objects of this Act.

(2) No regulation by virtue of which the aggregate amount of the pension and allowances to which any pensioner whose income (including assets) has not increased, has at any time been entitled, will be reduced, shall be made without the approval, by resolution, of the Senate and of the House of Assembly.

[subsection (2) substituted by Act 86 of 1970, with the substitution deemed to be effective as of 1 October 1968 (section 8(2) of Act 86 of 1970)]

(3) Different regulations may under subsection (1) be made in respect of different areas or in respect of persons belonging to different classes or population groups.

[subsection (3) substituted by Act 14 of 1971]

(4) Regulations under subsection (1) may be made with retrospective effect from a date not earlier than the date of commencement of this Act.

[subsection (4) inserted by Act 86 of 1970, with the insertion deemed to be effective as of 1 October 1968 (section 8(2) of Act 86 of 1970)]

Administration of Act

21. (1) The State President may by proclamation in the *Gazette* assign the administration of the provisions of this Act, either generally or in respect of persons belonging to a specified class or population group defined in the proclamation, to any Minister or partly to one Minister and partly to another Minister or other Ministers, and may in such proclamation specify the powers or functions which shall be exercised or performed by the several Ministers, and may further state therein that any power or function assigned to a Minister by this Act, shall be exercised or performed by that Minister acting in consultation with another Minister.

[subsection (1) substituted by Act 14 of 1971]

(2) The State President may from time to time by like proclamation vary or amend any such proclamation.

Application of Act in the territory

21A. This Act and any amendment thereof shall, save in so far as it has already been declared to be applicable in the territory in terms of section 16(1) of the Pension Laws Amendment Act, 1968 (Act No. 79 of 1968), also apply in the territory, including the Eastern Caprivi Zipfel.

[Section 21A is inserted by Act 14 of 1971. See the note in the heading of this Act on the Act's initial partial applicability to South West Africa under the authority of Act 79 of 1968.]

Repeal of laws

22. (1) Subject to the provisions of subsections (2) and (3) the laws specified in the Schedule are hereby repealed to the extent shown in the third column thereof.

(2) Anything done in terms of a law repealed by subsection (1) which could be done in terms of a provision of this Act, shall be deemed to have been done in terms of that provision.

(3) Notwithstanding the repeal of the Old Age Pensions Act, 1962 (Act No. 38 of 1962), by subsection (1) of this section, the provisions of section 2(4) of that Act shall continue to apply in respect of any person to whom a pension is being paid at the commencement of this Act by virtue of those provisions, until he returns to the Republic.

[Act 14 of 1971 provides for the following additional repeals in South West Africa:

“Repeal of Ordinance 2 of 1965 of the territory of South-West Africa in certain respects

6. (1) Subject to subsection (2), the Social Pensions Ordinance, 1965 (Ordinance No. 2 of 1965), of the territory of South-West Africa is hereby repealed in so far as it relates to old age pensions and matters incidental thereto.

(2) Anything done in terms of the ordinance repealed by subsection (1), which could be done in terms of any provision of the principal Act [Act 81 of 1967], shall be deemed to have been done in terms of the corresponding provisions of that Act.

(3) For the purposes of subsection (2) any person who immediately prior to the commencement of this Act received a pension or allowance under the ordinance repealed by this Act, shall be deemed at the time of making application for such pension or allowance to have satisfied the residential requirements referred to in section 7 of the principal Act.”]

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Short title and commencement

23. (1) This Act shall be called the Aged Persons Act, 1967, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may in terms of subsection (1) be fixed in respect of different provisions or in respect of different races or classes of persons.

SCHEDULE

No. and Year of Law.	Title.	Extent of Repeal.
Act No. 38 of 1962.	Old Age Pensions Act, 1962.	The whole.
Act No. 92 of 1962.	Pension Laws Amendment Act, 1962.	Sections 42 and 43, and section 51 in so far as it relates to old age pensions.
Act No. 95 of 1963.	Pension Laws Amendment Act, 1963.	Sections 24, 25 and 26.
Act No. 84 of 1964.	Pension Laws Amendment Act, 1964.	Sections 13, 14, 15 and 16.
Act No. 102 of 1965.	Pension Laws Amendment Act, 1965.	Sections 32, 33 and 34.
Act No. 26 of 1966.	Pension Laws Amendment Act, 1966.	Section 13 in so far as it relates to old age pensions.