



Republic of Namibia  
Annotated Statutes

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## Government Service Pension Act 57 of 1973 (RSA)

(RSA GG 3934)

came into force on the “fixed date” (1 July 1973) except for section 17,  
which came into operation on the date of publication: 18 June 1973  
(section 20 of Act read with definition of “fixed date” in section 1)

**APPLICABILITY TO SOUTH WEST AFRICA:** Section 1 defines “Republic” to include “the territory”, which is defined as “the territory of South West Africa”. Section 19 states “This Act shall apply also in the territory, including the Eastern Caprivi Zipfel.” The wording of section 19 did not make amendments to the Act automatically applicable to SWA, but they are probably applicable by virtue of the definition of “Republic” in section 1.

**TRANSFER TO SOUTH WEST AFRICA:** The relevant transfer proclamation is the Executive Powers (Social Welfare and Pensions) Transfer Proclamation (AG 11/1977), dated 30 November 1977. However, section 3(c) of the transfer proclamation provided that section 3(1) of the General Proclamation shall not apply to “the provisions of any law relating to any pension or provident fund or scheme which is administered by the Minister of Social Welfare and Pensions or is otherwise controlled by him ...”. Therefore, the administration of the Act was not transferred to South West Africa.

**as amended by**

**Pension Laws Amendment Act 15 of 1974 (RSA) (RSA GG 4198)**  
brought into force with effect from 1 April 1974 by RSA Proc. 6 /1974 (RSA GG 4237)

**Pension Laws Amendment Act 83 of 1976 (RSA) (RSA GG 5173)**  
came into force in relevant part on 1 July 1976 (section 11(a) of Act)

**Pension Laws Amendment Act 26 of 1977 (RSA) (RSA GG 5463)**  
came into force on date of publication: 23 March 1977;  
repealed in part by Act 29 of 1979

**General Pensions Act 29 of 1979 (RSA) (RSA GG 6390)**  
came into force on date of publication: 5 April 1979

**Pension Laws Amendment Act 97 of 1980 (RSA) (RSA GG 7150)**  
deemed to come into force in relevant part (section 3)  
on 1 July 1973 (section 26(b) of Act 97 of 1980)

**Pension Laws Amendment Act 106 of 1986 (RSA) (RSA GG 10452)**  
came into force in relevant part (section 3) on date of publication: 19 September 1986

**Pension Laws Amendment Act 89 of 1988 (RSA) (RSA GG 11411)**  
specific sections came into force on different dates;  
effective dates indicated in annotations to individual sections of the Act

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**ACT**

**Government Service Pension Act 57 of 1973 (RSA)**

**To provide for pensions and other financial benefits for certain persons in the employ of the Government or of the provincial administrations or of the Administration of the territory of South West Africa and for their dependants; to repeal certain pension laws; and to provide for incidental matters.**

*(Afrikaans text signed by the State President.)  
(Assented to 12th June, 1973.)*

## ARRANGEMENT OF SECTIONS

1. Definitions
2. Disestablishment of previous funds and Additional Benefits Account and the vesting of the assets and rights of the said funds and account in the Fund
3. Establishment of the Fund
4. Consolidation of certain benefits, and transfer of obligations and liabilities
5. Membership of the Fund
6. Ages for retirement
7. Application of section 6(2) to certain persons
8. Annuities or benefits may not be granted or varied except in accordance with statute
9. **[deleted]**
10. **[deleted]**
11. Annuities on conviction of certain offences
12. **[deleted]**
13. **[deleted]**
14. **[deleted]**
15. Assignment of certain powers, functions and duties to the Director-General
16. Delegation of powers
17. Regulations
18. Repeal of laws
19. Application of Act to South West Africa
20. Short title and commencement

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

**[The term “Director-General” is substituted for the word “Secretary” throughout the Act by Act 89 of 1988, with effect from 15 July 1988.**

**Many of the laws referred to in this Act are no longer in force; since this Act concerns pensions for past service, the updated laws in force have not been comprehensively annotated.]**

### Definitions

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

“Additional Benefits Account” means the Additional Benefits Account referred to in section 2(5) of the Pensions Act;

“administration” means a provincial administration or the Administration of the territory;

“Administrator” means the Administrator of a province or the Administrator of the territory;

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“annuity” means an amount which is payable each year;

“benefit” means an amount of money;

“Bureau” means the Bureau for State Security referred to in the Public Service Act, 1957 (Act No. 54 of 1957);

“dependant”, in relation to any member or any person entitled to an annuity or benefit, means the widow or minor child of such member or person, including his minor step-child or a minor child who has been legally adopted by him, and also any person who, in the opinion of the Director-General, was totally or partially dependent on such member or person for maintenance at the time of his death;

“Director-General” means the Director-General of National Health and Population Development;

**[The definition of “Director-General” is inserted by Act 89 of 1988 with effect from 1 April 1980.]**

“education service” means the posts on the fixed establishment of the Department of Education and Culture: Administration: House of Assembly –

- (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
- (c) which are created from the date of commencement of the Education Affairs Act (House of Assembly), 1998, 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);

**[The definition of “education service” is inserted by Act 89 of 1988 with effect from 1 April 1980.]**

“fixed date” means the first day of July 1973;

“Government” means the Government of the Republic;

“Government Service Widows’ Pension Fund” means the fund referred to in section 2(2) of the Pensions Act;

“member”, in relation to the Fund, means a person referred to in section 5 and includes such a person who is absent with or without leave or has been suspended from duty and who immediately prior to such absence or suspension was contributing to the Fund;

“Minister” means the Minister of National Health and Population Development;

**[The definition of “Minister” is substituted by Act 89 of 1988 with effect from 1 April 1980.]**

“New Railways and Harbours Superannuation Fund” means the fund referred to in section 3 of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960);

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“pensionable service”, in relation to a member, means any period of pensionable service as defined in the regulations and includes any period which is reckoned as pensionable service of that member in terms of the regulations;

“pensioner” means a person who is in receipt of an annuity under this Act;

“permanent force” means the Permanent Force as constituted under the Defence Act, 1957 (Act No. 44 of 1957);

“Permanent Force Pension Fund” means the Permanent Force Pension Fund referred to in section 2 (1) of the Pensions Act;

“police force” means the Force referred to in section 2 of the Police Act, 1958 (Act No.7 of 1958), with the exception of members of the Police Reserve of Officers or the Reserve Police Force and special constables, and includes persons employed in the Bureau;

“prescribed” means prescribed by regulation;

“previous fund” means the Public Service Pension Fund, the Permanent Force Pension Fund, the South African Police and Prisons Service Pension Fund, the Provincial and the Territory Service Pension Fund or the Government Service Widows’ Pension Fund;

“prisons service” means the Prisons Service as defined in section 1 of the Prisons Service Act, 1959 (Act No. 8 of 1959), or in section 1 of that Act as modified and applied to the territory by Proclamation No. 271 of 1959;

“provincial service” means the posts on the fixed establishment of an administration, including the posts falling under an administration and controlled under the authority of an administration by -

- (a) a school board, hospital board or other similar body or by a school, hospital, clinic or medical, dental or nursing institution;
- (b) any institution which for the purpose of this definition has been designated or was designated by any law or by the Director-General on the recommendation of an Administrator,

but does not include any post held by an officer or employee as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957);

“Provincial and the Territory Service Pension Fund” means the fund established by section 2(1) of the Provincial Pension Act;

“public service” means the posts classified in any division referred to in section 3(1)(a)(i) of the Public Service Act, 1957 (Act No. 54 of 1957), and includes any post which according to any law is deemed for pension and retirement purposes to be a post so classified;

“Public Service Pension Fund” means the Public Service Pension Fund referred to in section 2(1) of the Pensions Act;

“regulation” means any regulation made and in force under this Act;

“Republic” includes the territory;

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“revenue” means moneys appropriated by Parliament from the Consolidated Revenue Fund or, in relation to persons serving under, or retired or discharged from the service of -

- (a) the Department of Posts and Telegraphs, the Post Office Fund;
- (b) a provincial administration, the provincial revenue fund concerned;
- (c) the administration of the territory, the territory Revenue Fund;

[The definition of “Secretary” is deleted by Act 89 of 1988 with effect from 1 April 1980.]

“South African Police and Prisons Service Pension Fund” means the South African Police and Prisons Service Pension Fund referred to in section 2(1) of the Pensions Act;

“the Commission” means the Public Service Commission appointed under section 4 of the Public Service Act, 1957 (Act No. 54 of 1957);

“the Fund” means the Government Service Pension Fund established by section 3;

“the Pensions Act” means the Government Service Pensions Act, 1965 (Act No. 62 of 1965);

[The Government Service Pensions Act 62 of 1965) was repealed by the Temporary Employees Pension Fund Act 75 of 1979.]

“the Provincial Pension Act” means the Provincial and the Territory Service Pension Act, 1969 (Act No. 14 of 1969);

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

“this Act” includes any regulation;

“Treasury” means the Minister of Finance or any officer in the Department of Finance acting under his authority;

“Union public service pension fund” means the Union public service pension fund referred to in section 3 of the Government Service Pensions Act, 1936 (Act No. 32 of 1936);

“widow’s pension” means an annuity payable to a widow under this Act.

### **Disestablishment of previous funds and Additional Benefits Account and the vesting of the assets and rights of the said funds and account in the Fund**

2. (1) Every previous fund and the Additional Benefits Account shall cease to exist with effect from the fixed date, and any amount which was credited to any such fund or account immediately prior to that date, shall vest in the Fund with effect from the fixed date.

(2) Any amount which immediately prior to the fixed date was due to a previous fund or the Additional Benefits Account or accrued to such a fund or the said account, shall with effect from the fixed date be deemed to be an amount which is due to the Fund or has accrued to the Fund, as the case may be.

### **Establishment of the Fund**

3. There is hereby, with effect from the fixed date, established a fund to be known as the Government Service Pension Fund and consisting of -

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- (a) the amounts vested in the said fund in terms of section 2 or paid to the Fund in terms of that section;
- (b) the amounts paid to the said fund by members in terms of the regulations;
- (c) the amounts paid from revenue to the said fund;
- (d) any other amounts which are to be credited to the said fund from time to time.

**Consolidation of certain benefits, and transfer of obligations and liabilities**

4. (1) If immediately prior to the fixed date any person was in receipt of an annuity which was payable in terms of the Pensions Act or the Provincial Pension Act from a previous fund or from revenue or from the Additional Benefits Account or partly from a previous fund and partly from revenue or the said account, and any allowance or bonus which was payable in terms of section 22 of the Pension Laws Amendment Act, 1969 (Act No. 98 of 1969), such annuity, allowance and bonus shall, subject to the provisions of this Act, with effect from the fixed date, be consolidated into one amount and such consolidated amount shall, with effect from the fixed date, be paid to such person from the Fund, in lieu of such annuity, allowance and bonus, as an annuity (in this section referred to as a consolidated annuity).

(2) Any amount which immediately prior to the fixed date was due to any person from a previous fund in terms of a provision of any law and which was not paid from such fund, shall be paid from the Fund.

(3) A benefit which, if the Provincial Pension Act had not been repealed by this Act, would have become payable in terms of section 3(5) of the first-mentioned Act from the Provincial and the Territory Service Pension Fund when any circumstance referred to in that section arises, shall, subject to the provisions of this Act, when the said circumstance arises, be paid from the Fund.

(4) If a pensioner to whom a consolidated annuity is payable, dies on or after the fixed date, there shall be paid to his widow a widow's pension as determined by regulation.

**Membership of the Fund**

5. (1) A person who was a member of a previous fund immediately prior to the fixed date, shall cease to be a member of such previous fund with effect from the fixed date, and shall, except in respect of any amount which was due by him to a previous fund immediately prior to the fixed date, be released from all obligations towards, and shall relinquish all rights and privileges in respect of, such previous fund and, if he is not a pensioner, shall, subject to the provisions of the regulations, become a member of the Fund with effect from the fixed date and shall, with effect from the fixed date, contribute to the Fund as provided by regulation.

- (2) Every person -
  - (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, the provincial service or the education service; or

[Paragraph (a) is substituted with amendment markings  
by Act 89 of 1988, with effect from 1 April 1980.]

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- (b) who on or after the fixed date has in terms of any regulation made under the Defence Act, 1957 (Act No. 44 of 1957), relating to the conditions of service of members of the permanent force, been enrolled as a qualified pilot or navigator for service in the permanent force for a period which, whether apart from or together with any period which he, prior to such service, served in a whole-time capacity as a qualified pilot or navigator in the permanent force, amounts to at least twenty years; or
- (c) who complies with the requirements prescribed by regulation, or
- (d) referred to in section 2 (1) of the Simonstown Naval Base Employees' Transfer Act, 1956 (Act No. 72 of 1956), and who occupies a post referred to in paragraph (a) of this subsection; or

**[Paragraph (d) is inserted by Act 83 of 1976,  
which also adds the word "or" to the end of paragraph (c).]**

- (e) referred to in section 3 (b) of the Public Service Act, 1957 (Act No. 54 of 1957).

**[Paragraph (e) is inserted by Act 97 of 1980,  
which also adds the word "or" to the end of paragraph (d).  
Paragraph (e) should end with a comma rather than a full stop.]**

shall, subject to the provisions of the regulations, become a member of the Fund and contribute thereto.

**Ages for retirement**

**6.** (1) Subject to the provisions of this section, a member shall have the right to retire on pension and shall be so retired with effect from the date on which he -

- (a) if he is a member of the public service, attains the age of sixty-five years;
- (b) if he is a member of the permanent force, attains the age which has been prescribed as his pensionable age in terms of the Defence Act, 1957 (Act No. 44 of 1957);
- (c) if he is a member of the police force or the prisons service, attains the age of sixty years;
- (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, which conditions comply with the provisions of paragraphs (a) to (c), inclusive, of the proviso to section 5 (1) of the Provincial Pension Act as it read immediately prior to its repeal by this Act.

**[Paragraph (d) is substituted with amendment markings  
by Act 89 of 1988, with effect from 1 April 1980.]**

(2) A member referred to in subsection (1)(a) who was appointed to a post in the public service with effect from a date prior to the twenty-fourth day of June 1955, shall have the right at any time before or after attaining, in the case of a male member, the age of sixty years, or, in the case of a female member, the age of fifty-five years, to give written notice to the head of his department of his wish to retire on pension and -

- (a) if he gives such notice at least three months prior to the date on which he attains the said age, he shall, subject to the provisions of subsection (1)(a), be retired on pension with effect from the date on which he attains the said age; or

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- (b) if he gives such notice but such notice is not given at least three months prior to the date on which he attains that age, he shall be retired on pension on the first day of the fourth month following the month in which such notice is received.

(3) Notwithstanding the provisions of subsection (1)(b), a member who is, without a break in his service, a member of the permanent force with effect from a date prior to the sixteenth day of August 1963, shall have the right to retire on pension and shall, subject to the provisions of subsection (11)(a), be so retired -

- (a) in the case of an officer of the general duties branch of the permanent force, with effect from the date on which he attains the age of -
  - (i) fifty-one years, if he is a lieutenant and was born on or after the first day of January 1922;
  - (ii) fifty-one years, if he is a captain and was born on or after the first day of January 1921;
  - (iii) fifty-five years, if he is a major and was born on or after the first day of January 1917;
  - (iv) sixty years, if he is a commandant and was born on or after the first day of January 1913;
- (b) in the case of a member who is a private or lance corporal, who was born on or after the first day of January 1917 and who is not an artisan or artificer, with effect from the date on which he attains the age of fifty-five years;
- (c) in the case of a member to whom paragraph (a) or (b) does not apply, with effect from the date on which he attains the age of sixty years.

(4) A member to whom subsection (3) applies, shall have the right to give notice as prescribed under the Defence Act, 1957 (Act No. 44 of 1957), of his wish to retire on pension on the date on which he attains or on a specified date after he has attained the age at which, in terms of the provisions of any law which was in force and applicable to him immediately prior to the sixteenth day of August 1963, he would have had the right to retire on pension and would have had to be retired on pension, and, if he so gives such notice, he shall be retired on pension with effect from the said date, provided such date is an earlier date than the date on which he has the right to retire on pension and shall be retired on pension in terms of subsection (3).

(5) A member who was appointed to the police force or the prisons service prior to the first day of January 1966, shall have the right at any time to give written notice to the head of his department of his wish to retire on pension, and -

- (a) if he was so appointed prior to the twenty-fourth day of June 1955 and gives such notice at least three months prior to the date on which he attains the age of fifty-five years, he shall, subject to the provisions of subsection (11)(a), be retired on pension with effect from the date on which he attains that age;
- (b) if he was so appointed. prior to the twenty-fourth day of June 1955 and gives such notice but such notice is not given at least three months prior to the date on which he attains the age of fifty-five years, he shall be retired on pension with effect from the first day of the fourth month following the month in which such notice is received;  
or



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- (c) if he was so appointed on or after the twenty-fourth day of June 1955 and gives such notice at least three months prior to the date on which he attains the age of fifty-eight years, he shall, subject to the provisions of subsection (11)(a), be retired on pension with effect from the date on which he attains that age;
- (d) if he was so appointed on or after the twenty-fourth day of June 1955 and gives such notice but such notice is not given at least three months prior to the date on which he attains the age of fifty-eight years, he shall be retired on pension with effect from the first day of the fourth month following the month in which such notice is received.

(6) The provisions of subsection (5) shall, notwithstanding anything to the contrary contained in any law, *mutatis mutandis* apply in respect of a member who is employed in the Bureau and -

- (a) who immediately prior to the date on which he was or is transferred to the Bureau, was a member of the Public Service Pension Fund, the Permanent Force Pension Fund, the New Railways and Harbours Superannuation Fund or the Fund, or of any other pension or provident fund which is administered by the Minister under any pension law other than this Act;
- (b) who was appointed with effect from a date prior to the commencement of the Pensions Act, to employment in respect of which he became liable to contribute to the fund in question;
- (c) whose period of pensionable service as a member of the fund in question from the date of such appointment to the date of such transfer was in fact continuous,

as if the said member had been appointed to the police force with effect from the date of his appointment to the employment referred to in paragraph (b).

(7) If the Minister who, in terms of section 20 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), administers the Department in which a member is employed, or the Administrator of the province or of the territory by which a member who is an officer as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957), is employed, deems it in the public interest to retain such member in his office or post beyond the day immediately preceding the day on which he shall be retired on pension in terms of any provision of this section, the Minister or the Administrator, as the case may be, may so retain such member from time to time for periods -

- (a) which, in the case of a member referred to in subsection (1)(a), are recommended by the Commission but which, except with the approval, by resolution, of the Senate and the House of Assembly, shall not exceed in the aggregate two years;
- (b) to which, in the case of a member referred to in subsection (1)(b) or subsection (3), the member concerned consents and which shall not exceed in the aggregate five years;
- (c) which, in the case of a member referred to in subsection (1)(c), shall not exceed in the aggregate three years, but which, after the expiry of the said three years, may, with the approval, by resolution, of the Senate and the House of Assembly, be extended for further periods which shall not exceed in the aggregate two years.

(8) A person who was a member of a previous fund and who prior to the fixed date was retained in his office or post in terms of any provision of any law for a fixed period beyond the

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day immediately preceding the day on which he had to be retired on pension in terms of any provision of any law, shall, if such period did not expire prior to the fixed date, be deemed to have been retained in the said office or post in terms of subsection (7).

(9) Notwithstanding anything to the contrary contained in this Act or any other law, a member may be retired on pension if -

- (a) in the case of a member referred to in subsection (1)(a), he has attained the age of sixty years or, in the case of a male member referred to in subsection (2), he has attained the age of fifty-five years or, in the case of a female member referred to in the last-mentioned subsection, she has attained the age of fifty years, and the Commission, in every case referred to in this paragraph, recommends that he or she be retired on pension;
- (b) in the case of a member referred to in subsection (1)(b) or (3), he has attained the age of forty-five years;
- (c) in the case of a member referred to in subsection (1)(c), he has attained the age of fifty years;
- (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.

**[Paragraph (d) is substituted with amendment markings  
by Act 89 of 1988, with effect from 1 April 1980.]**

(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.

**[Subsection (9A) is inserted by Act 89 of 1988, with effect from 1 April 1980.]**

(10) Notwithstanding anything to the contrary contained in subsection (1)(d) or (9)(d), a member referred to in the first-mentioned subsection shall be deemed to have attained the age on which he shall be retired on pension, on attaining the age of sixty years.

- (11) (a) If a member, other than a member referred to in subsection (1)(d) or (9)(d), attains the age on which he is entitled to retire on pension or shall be retired on pension in terms of any provision of this section or any law referred to therein, after the first day of a month, he shall, for the purposes of the application of the provisions of this section, be deemed to attain the said age on the first day of the month immediately following that month.
- (b) Notwithstanding anything to the contrary contained in this Act or any other law, a member referred to in subsection (1)(d) or (9)(d) shall not be retired on pension on any day other than the first day of a month.

(2) If a member to whom the provisions of section 6(3), 7(4) or 8(3) of the Pensions Act applied immediately prior to the fixed date, gave written notification in terms of any provision of section 6, 7 or 8 of the said Act, of his wish to retire on pension or to be retired on pension, he shall be retired on pension as if the provisions of the said sections 6, 7 and 8 had not been repealed by this Act.

### **Application of section 6(2) to certain persons**

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7. Notwithstanding anything to the contrary contained in this Act or any other law, the provisions of section 6 (2) shall apply *mutatis mutandis* in respect of -

- (a) a person who immediately prior to the twenty-fourth day of June 1955 was a member of the provident fund established in terms of section 19 of the Higher Education Act, 1923 (Act No. 30 of 1923), and who in accordance with section 25 (2) of the Vocational Education Act, 1955 (Act No. 70 of 1955), elected to become a member of the Public Service Pension Fund;
- (b) a person who immediately prior to the day referred to in paragraph (a), was a teacher to whom section 10(5) of the Bantu Education Act, 1953 (Act No. 47 of 1953), applied and who in terms of regulation 56 (2) of the regulations made under the said Act and published in Government Notice No. 2583 of 30 December 1955 or in terms of section 52 (1) of the Pension Laws Amendment Act, 1959 (Act No. 67 of 1959), elected to become a member of the Public Service Pension Fund;
- (c) a person who in accordance with regulation 3(3) of the regulations referred to in paragraph (b), is regarded as having been appointed under the said regulations and who immediately prior to the twenty-fourth day of June 1955 was a contributor to a pension fund which was established by a provincial ordinance for the benefit of teachers, and who prior to the commencement of the Pension Laws Amendment Act, 1959, was in terms of the provisions of regulation 56(1) of the said regulations, admitted as a member of the Public Service Pension Fund;
- (d) a person to whom section 52 (2) of the Pension Laws Amendment Act, 1959, applies and who in terms of the proviso to that section elected to become a member of the Public Service Pension Fund and who immediately prior to the twenty-fourth day of June 1955, was a contributor to a pension fund which was established by a provincial ordinance for the benefit of teachers;
- (e) a person to whom section 13 (1) of the Coloured Persons Education Act, 1963 (Act No. 47 of 1963), or section 13 (1) of the Indians Education Act, 1965 (Act No. 61 of 1965), applies and whose pensionable service commenced prior to the twenty-fourth day of June 1955 in terms of a pension law referred to in section 13(1)(b) of either of the said Acts;
- (f) a member, except a member to whom paragraph (a), (b) or (e) applies, who immediately prior to the date on which he was or is transferred to employment in respect of which he was or is required to contribute to the Public Service Pension Fund or the Fund, was a member of the Permanent Force Pension Fund or the South African Police and Prisons Service Pension Fund if, immediately prior to the twenty-fourth day of June 1955, he was a contributor to the Union public service pension fund, and his pensionable service commenced from a date prior to the said date and the period of the said service is in fact continuous;
- (g) a member, except a member to whom paragraph (a), (b) or (e) applies, to whom the provisions of subsection (1) of section 13 of the Government Service Pensions Act, 1955 (Act No. 58 of 1955), applied immediately prior to the commencement of the Pensions Act, if -
  - (i) immediately prior to the date on which he began to contribute to the Public Service Pension Fund in terms of that subsection or immediately prior to a break in his service referred to in paragraph (c) of that subsection, as the case

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may be, he was a member of a pension or provident fund which was administered in terms of a pension law referred to in the said subsection; and

- (ii) his previous pensionable service commenced from a date prior to the twenty-fourth day of June 1955 in terms of the said pension law and, in accordance with subsection (2) of the said section 13, he elected to reckon the said service as pensionable service in terms of the Government Service Pensions Act, 1955; and
  - (iii) on the date on which he became subject to the said pension law, or (if he became subject to the said pension law more than once) on the date on which he last became subject to that law, he would have become a contributor to the Union public service pension fund if he had been appointed to a post in the public service on that date; or
  - (iv) the said previous pensionable service includes a continuous period of pensionable service in the public service during which he was a contributor to the Union public service pension fund;
- (h) a member, except a member to whom paragraph (a), (b) or (e) applies, who in the circumstances referred to in section 13 of the Government Service Pensions Act, 1955, or in terms of a regulation made under the Pensions Act which prior to the first day of April 1969, corresponded with that section, became liable to contribute to the Public Service Pension Fund prior to the said date, and who, if the Government Service Pensions Act, 1955, had not been repealed, would have satisfied the requirements of subparagraphs (i) and (ii) and subparagraph (iii) or (iv) of section 26(9)(b) of the Government Service Pensions Act, 1955: Provided that for the purposes of this paragraph any election made in terms of such regulation shall be deemed to have been made in terms of section 13 of the Government Service Pensions Act, 1955;
- (i) a member, except a member to whom paragraph (a), (b) or (e) applies, to whom the provisions of section 13(5) or section 15(7) of the Government Service Pensions Act, 1955, applied immediately prior to the commencement of the Pensions Act or to whom corresponding provisions of the regulations made under the Pensions Act applied, if -
- (i) he was a contributor to the Union public service pension fund;
  - (ii) his initial period of pensionable service commenced prior to the twenty-fourth day of June 1955 in terms of the Government Service Pensions Act, 1936 (Act No. 32 of 1936), or the Government Service Pensions Act, 1955, or the regulations made under the Pensions Act; and
  - (iii) the period of the said service was in fact continuous;
- (j) a member, except a member to whom paragraph (a), (b) or (e) applies, to whom the provisions of section 15 (1) of the Government Service Pensions Act, 1955, applied immediately prior to the commencement of the Pensions Act or to whom corresponding provisions of the regulations made under the Pensions Act applied, if -
- (i) he had continuous pensionable service with the railways administration with effect from a date prior to the twenty-fourth day of June 1955; and

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- (ii) he was a member of the New Railways and Harbours Superannuation Fund immediately prior to the twenty-fourth day of June 1955; or
  - (iii) the said pensionable service includes a period of continuous pensionable service in the public service during which he was a contributor to the Union public service pension fund;
- (k) a member, except a member to whom paragraph (a), (b) or (e) applies, who in the circumstances referred to in section 13(1) of the Government Service Pensions Act, 1955, or in terms of a regulation made under the Pensions Act, which corresponds with that section, became or becomes liable on or after the first day of April, 1969, to contribute to the Public Service Pension Fund or the Fund, if -
- (i) prior to the date on which he became or becomes so liable, he was a member of a pension or provident fund administered in terms of a pension law referred to in the said section; and
  - (ii) his previous pensionable service commenced with effect from a date prior to the twenty-fourth day of June 1955 in terms of such pension law and, in terms of a regulation relating to the Public Service Pension Fund, was reckoned as pensionable service for the purposes of that fund; and
  - (iii) on the date on which he became liable to contribute to the said pension or provident fund in terms of such pension law, or, if he is a person to whom section 4(1)(a)(i) of the Provincial Pension Act applied on the date on which he became liable to contribute to a fund referred to in the definition of “provincial or the territory pension fund” in section 1 of that Act, or (if he became so liable more than once), on the date on which he last became so liable, he would have become a contributor to the Union public service pension fund if he had been appointed to a post in the public service on that date; or
  - (iv) the said pensionable service includes a period of continuous pensionable service in the public service during which he was a contributor to the Union public service pension fund;
- (l) a person, except a member to whom paragraph (a), (b) or (e) applies, who in terms of section 3(5) of the Durban Corporation Telephone Employees’ Transfer Act, 1969 (Act No. 88 of 1969), elected to become a member of the Public Service Pension Fund and who was an employee of the City Council of Durban continuously from a date prior to the twenty-fourth day of June 1955, up to and including the thirty-first day of March 1969;
- (m) a person, who in terms of section 21(3) of the Pension Laws Amendment Act, 1969 (Act No. 98 of 1969) elected to become a member of the Public Service Pension Fund,
- (n) any person referred to in section 5(2)(d),

**[Paragraph (n) is inserted by Act 83 of 1976.]**

as if such person or member had been appointed to a post in the public service with effect from a date prior to the twenty-fourth day of June 1955.

**Annuities or benefits may not be granted or varied except in accordance with statute**

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8. Save as is otherwise provided in this Act, no award of an annuity or other similar benefit or any increase thereof in respect of any person's former employment in the public service, the permanent force, the police force, the prisons service or provincial service, or in the public or civil service of any part of South Africa now included in the Republic, and no alteration of any condition or condonation of a breach of any condition upon which such annuity or benefit is by law earned or to be earned, shall be lawful unless the award, increase, alteration or condonation is specifically authorized by Act of Parliament.

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9.

[Section 9 is amended by Act 26 of 1977 and deleted by Act 29 of 1979.]

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10.

[Section 10 is deleted by Act 29 of 1979.]

**Annuities on conviction of certain offences**

11. (1) If any pensioner is convicted of any offence and sentenced to death or to any term of imprisonment exceeding twelve months without the option of a fine, payment of his annuity to him shall be discontinued.

(2) The annuity of such pensioner or a portion thereof shall, during such pensioner's imprisonment, be paid to or for the benefit of such of his dependants and according to such allocation among them as the Director-General may determine.

(3) On the discharge of such pensioner from prison, the payment to him of the annuity shall be resumed and he shall also be paid any portion of his annuity which may have been withheld and not paid in terms of subsection (2).

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12.

[Section 12 is deleted by Act 29 of 1979.]

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13.

[Section 13 is deleted by Act 29 of 1979.]

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14.

[Section 14 is deleted by Act 29 of 1979.]

**Assignment of certain powers, functions and duties to the Director-General**

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15. Whenever any provision of any other law relating to the pension rights of any person confers a power on or entrusts a function to or imposes a duty on the Commissioner of Pensions, whether directly or indirectly, that power may be exercised and that function may be performed and that duty shall be carried out by the Director-General or any person in his Department whom he, with the approval of the Minister, designates for that purpose.

**Delegation of powers**

16. (1) The Minister may delegate to the Director-General or any other person in the Department of Social Welfare and Pensions any of the powers, except the power conferred by section 17, conferred upon him by this Act, and may authorize the Director-General or such a person to perform any of the functions or to carry out any of the duties which are assigned to or imposed on the Minister by this Act.

(2) The Director-General may, with the approval of the Minister, delegate to any officer in his Department any of the powers conferred upon the Director-General by this Act and authorize such officer to perform any of the functions and carry out any of the duties assigned to the Director-General by this Act.

**Regulations**

17. (1) Notwithstanding anything to the contrary contained in any law, the Minister may, from time to time, make regulations -

(a)

[Paragraph (a) is deleted by Act 106 of 1986.]

(b) regarding the payment of contributions to the Fund and the payment of annuities and benefits from the Fund to or in respect of members on their retirement, discharge, resignation or death;

(c) regarding any matter required or permitted to be prescribed under this Act,

and generally for the better achievement of the objects and purposes of this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), such regulations may -

(a) prescribe the classes or categories of persons who shall become members of the Fund and shall contribute to the Fund;

(b) from time to time prescribe the conditions subject to which and the rate at which members shall contribute to the Fund, and the times at which and the manner in which such contributions or any amounts which are payable to the Fund in terms of this Act, shall be deducted from the pensionable emoluments of members and paid to the Fund;

(c) from time to time prescribe the circumstances in which and the basis and conditions subject to which any period which is not a period of pensionable service as defined in the regulations, may be reckoned as pensionable service and the amount, including interest, which shall be paid to the Fund in respect of such period by the member concerned or any other person or from revenue, and the times at which and the manner in which such amount shall be so paid;

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- (d) prescribe the circumstances in which and the basis and conditions on which a member of the Fund may be transferred to any other pension fund or provident fund referred to in the regulations as a member of such other pension fund or provident fund or in which or on which a member of any such other pension fund or provident fund may be transferred to the Fund as a member, and the amount, including interest, which shall be paid from or to the Fund by the member concerned, the other pension fund or provident fund or the Fund in respect of such transfer, and the manner in which such amount shall be calculated and paid;
- (e) from time to time prescribe the contributions, interest or other amounts which shall or may be paid from time to time to the Fund from revenue and the circumstances in which and the basis and conditions on which and the manner in which the said contributions, interest or other amounts shall be calculated and shall or may be paid to the Fund;
- (f) from time to time prescribe the annuities or benefits payable from the Fund to members or their widows or dependants or the persons prescribed by regulation, in respect of the pensionable service of members in cases or classes or categories of cases specified by regulation, and the manner in which such annuities or benefits shall be calculated and the times at which and the manner in which such annuities or benefits shall be paid;
- (g) provide for the investment of amounts standing to the credit of the Fund and for the periodical valuation of the assets and liabilities of the Fund by an actuary who is a Fellow of an institute, faculty, society or chapter of actuaries approved by the Minister;
- (h) provide for the conditions on which a member who is seconded to employment in respect of which he is not liable to contribute to the Fund, may continue to contribute to the Fund and receive an annuity or benefit from the Fund;
- (i)

**[Paragraph (i) is deleted by Act 15 of 1974. It previously read as follows:**

“(i) provide for the payment of compensation to or in respect of members who die or are retired or discharged by reason of bodily injury or ill-health arising out of and in the course of their employment, and for the provision of medical treatment for such members in respect of such injury or ill-health, and the circumstances in which and the basis and conditions on which and the times when and the manner in which such compensation or such medical treatment may be paid or provided;”.

**See the independent provision concerning regulations on similar topics, quoted at the end of this section.]**

- (j) prescribe formulae from time to time or provide for the approval by the Minister of formulae for the calculation of benefits or other prescribed amounts;
- (k) provide for the exercise or performance by the Director-General, the Treasury or the Commission of such powers or functions as the Minister may deem necessary for the achievement of the objects of this Act.

(3) Notwithstanding the provisions of subsections (1) and (2), the regulations made thereunder may provide that any annuity which is payable thereunder may be supplemented by an amount which the Minister may from time to time determine in consultation with the Minister of Finance in a written notice to the Director-General, or that such annuity shall in a specified case not be less than an amount so determined.



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(4) Different regulations may be made under this section in respect of members who belong to different population groups, classes or categories.

(5) Any regulation, except a regulation which amends existing regulations and increases the rate at which members shall contribute to the Fund or reduces the amount of an annuity payable from the Fund, may be made with retrospective effect.

(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 Ministers responsible for the Bureau, the Commission for Administration, the permanent force, the police force, the prisons service, National Education and Posts and Telecommunications.

**[Subsection (6) is substituted by Act 106 of 1986 and substituted with amendment markings by Act 89 of 1988, with effect from 15 July 1988.]**

**[Section 2 of the RSA Pension Laws Amendment Act 15 of 1974 (RSA GG 4198) is an independent provision which was made explicitly applicable to South West Africa. It was amended by section 3 of the RSA Pension Laws Amendment Act 83 of 1976 (RSA GG 5173), with this amendment being made explicitly applicable to South West Africa by section 10 of Act 83 of 1976. Section 2 was amended further in RSA by the RSA General Pensions Act 29 of 1979 (RSA GG 6390) which repealed all of section 2 except subsection (4) – but that amending law was *not* made explicitly applicable to SWA. The General Pensions Act 29 of 1979 also repealed section 3 of Act 83 of 1976, as well as section 10 of that Act which made section 3 applicable to SWA. It is not entirely clear what portions of the provision, if any, continued to be in force with respect to SWA. Prior to the changes made by the RSA General Pensions Act 29 of 1979, the provision read as follows:**

**“Regulations relating to payment of compensation and rendering of medical treatment**

2. (1) Notwithstanding anything to contrary any law contained, the Minister of Social Welfare and Pensions may, in consultation with the Minister of Finance, the Minister of Posts and Telecommunications and the Administrators, and after consultation with -

- (a) the Minister who is responsible for the Bureau;
- (b) the Minister of the Interior;
- (c) the Minister of Defence;
- (d) the Minister of Police; and
- (e) the Minister of Prisons,

make regulations which provide for the payment of compensation to or in respect of, or to a dependant of, any officer or employee who dies or is retired or as a result of injury or ill-health out of and in the course of his employment by the Government or by an administration of any province or of the territory South West Africa, and for the rendering of medical treatment (including surgical or hospital treatment, skilled nursing services and the supply and repair of any artificial part of the body or any device), to such officer or employee in respect of such injury or ill-health.

(2) Regulations referred to in subsection (1), except regulations which reduce compensation, may be made with retrospective effect and different regulations may be made in respect of different classes or categories of officers or employees.

(3) For the purposes of this section -

“employee” means any member of the Reserve Police Force established section 34(2) of the Police Act, 1958 (Act 7 of 1958), or any member of the Police Reserve established under 34A(1) of the Police Act, 1958, or any member of the Government Employees’ Provident Fund referred to in section 2(3) of the Government Service Pensions Act, 1965 (Act 62 of 1965), and includes any person who in terms of section 2 of the Simonstown Naval Base Employees’ Transfer Act, 1956 (Act No. 72 of 1956), became an employee referred to that section but does not include any employee to whom the provisions of the War Pensions Act, 1967 (Act No. 62 of 1967), apply in relation to the injury or ill-health referred to in subsection (1) of this section;

“officer” means any member of the Government Service Pension Fund established under section 3 of the Government Service Pension Act, 1973 (Act No. 57 of 1973), and includes a specified officer as defined in section 3(6) of the Pension Laws Amendment Act, 1973 (Act No. 73 of 1973), but does not include any officer to

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whom the provisions of the War Pensions Act, 1967, apply in relation to the injury or ill-health referred to in subsection (1) of this section.

(4) Any annuity, pension or benefit payable immediately before 1 July 1973 in terms of the regulations promulgated by Government Notice R.1929 of 8 December 1965, and any amendment thereof, shall be continued at the rates and subject to the conditions which were applicable immediately before the date of commencement of this section.

(5) Notwithstanding anything to the contrary in any law contained -

- (a) any increase of a pension or other benefit effected under section 5(1)(bA) of the Government Service Pensions Act, 1965, or in terms of any regulation made under that Act on or after 1 July 1973, but before the date of commencement of this section, shall be deemed to be compensation in terms of the regulations promulgated under subsection (1);
- (b) any military service as defined in section 1 of the Military Pensions Act, 1976, and rendered by an officer or employee, shall, for the purposes of this section and the regulations made thereunder, be deemed to have been service in the Government or in the administration of the province or of the territory of South West Africa in whose service he was during the time he rendered such military service;
- (c) an officer or employee who renders military service or undergoes training within the meaning of the Defence Act, 1957 (Act No. 44 of 1957), shall, for the purposes of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), be deemed to be a workman while rendering such military service or undergoing such training.

**[Subsection (5) is substituted by Act 83 of 1976.]**

(6) This section shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”]

**Repeal of laws**

18. The laws specified in the Schedule to this Act are hereby repealed to the extent indicated in the third column of that Schedule.

**Application of Act to South West Africa**

19. This Act shall apply also in the territory, including the Eastern Caprivi Zipfel.

**Short title and commencement**

20. This Act shall be called the Government Service Pension Act, 1973, and shall come into operation on the fixed date, except section 17, which shall come into operation on the date of promulgation of this Act in the *Gazette*.

**SCHEDULE**

Number and year of law	Short title	Extent of repeal
Act No. 62 of 1965	Government Service Pensions Act, 1965	The whole, except in so far as it relates to - <ul style="list-style-type: none"> <li>(a) the Government Employees' Provident Fund or the joint pre-Union fund referred to in section 2(3) or 9, respectively. of that Act;</li> <li>(b) a benefit referred to in section 5(1)(bA) of that Act;</li> <li>(c) a matter referred to in section 21 or 22 of that Act;</li> <li>(d) a matter referred to in section 22A of that Act in so far as</li> </ul>

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		such matter relates to a person referred to in subsection (2) of that section; (e) a matter relating to a fund, benefit or matter referred to in paragraph (a), (b), (c) or (d).
Act No. 14 of 1969	Provincial and the Territory Service Pension Act, 1969	The whole.
Act No. 88 of 1969	Durban Corporation Telephone Employees' Transfer Act, 1969	Section 7.
Act No. 98 of 1969	Pension Laws Amendment Act, 1969	Sections 7 to 10, inclusive, and sections 18 and 19.
Act No. 20 of 1970	Pension Laws Amendment Act, 1970	Sections 2, 3 and 12.
Act No. 86 of 1970	Second Pension Laws Amendment Act, 1970	Sections 12 and 13.
Act No. 93 of 1971	Pension Laws Amendment Act, 1971	Section 7.
Act No. 97 of 1972	Pension Laws Amendment Act, 1972	Sections 12 and 13.