



Republic of Namibia
Annotated Statutes

Members of Statutory Bodies Pension Act 94 of 1969 (RSA)

(RSA GG 2459)

came into force in South Africa and South West Africa

on date of publication: 27 June 1969

(see section 7 of Act)

APPLICABILITY TO SOUTH WEST AFRICA: Section 7 states “This Act and any amendment thereof shall, so far as is necessary for the effective application thereof, apply also in the territory.” Section 1 defines “the territory” as “the territory of South-West Africa, including that part of the said territory known as the Eastern Caprivi Zipfel and referred to in section 38(5) of the South West Africa Constitution Act, 1968 (Act No. 39 of 1968)”.

TRANSFER OF ADMINISTRATION 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 Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, 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, meaning that amendments made to the Act in South Africa prior to Namibian independence continued to apply to South West Africa by virtue of the wording of section 12 of the Act.

as amended by

Pension Laws Amendment Act 73 of 1973 (RSA) (RSA GG 3955)

came into force in relevant part on 1 July 1973 (section 7 of Act 73 of 1973)

Pension Laws Amendment Act 50 of 1975 (RSA) (RSA GG 4739)

came into force in relevant part on date of publication: 11 June 1975

Pension Laws Amendment Act 100 of 1979 (RSA) (RSA GG 6549)

specific sections came into force on different dates;

effective dates indicated in annotations to individual sections of the Act

Pension Laws Amendment Act 96 of 1983 (RSA) (RSA GG 8809)

came into force on date of publication: 13 July 1983

Act 94 of 1969 was amended in South Africa by the Legal Succession to the South African Transport Services Act 9 of 1989 (RSA GG 11743). However, the portions of Act 9 of 1989 which amended Act 94 of 1969 came into force only after Namibian independence, on 1 April 1990, in terms of section 37(2) read with section 3(1) of Act 9 of 1989; the date referred to in section 3(1) was set by RSA Government Notice 578/1990 (RSA GG 12364) as being 1 April 1990. Therefore these amendments were not applicable to South West Africa and are not reflected here.

ACT

Members of Statutory Bodies Pension Act 94 of 1969 (RSA)

To provide for the establishment, control and administration of a pension scheme for, and the payment of pensions and other financial benefits to, certain persons serving in a full-time, paid capacity as members of certain bodies established by law, or performing full-time, paid Government service in any other capacity prescribed by law, and to their widows; and to provide for other incidental matters.

*(Afrikaans text signed by the State President)
(Assented to 19th June, 1969)*

ARRANGEMENT OF SECTIONS

1. Definitions
2. Establishment of scheme and payment of pensions
3. Benefits on retirement
4. Benefits for widows
- 4A. Presumption
5. **[deleted]**
6. Administration
7. Application of Act to South-West Africa
8. Short title

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

Definitions

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

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

“Consolidated Revenue Fund”, in relation to any payment to be made out of that Fund, means moneys appropriated by Parliament for the purpose of such payment;

“final salary” means the amount of the annual salary or the aggregate amount of the annual salaries payable to a member on the date of his retirement or death in respect of his service on one or more statutory bodies and includes the total amount of any allowances regularly paid to him annually in respect of special services rendered by him to the statutory body or bodies concerned, but does not include any allowance paid to him in respect of subsistence and transport expenses or entertainment expenses;

[definition of “final salary” amended by Act 100 of 1979, with this amendment deemed to have come into force on 1 June 1979 (section 31(a) of Act 100 of 1979)]

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

Members of Statutory Bodies Pension Act 94 of 1969 (RSA)**[The definition of "member" is substituted by Act 50 of 1975, which provides the following transitional provision in section 2(2):**

"An annuity payable under the said Members of Statutory Bodies Pension Act, 1969, to any person or to the widow of any person immediately prior to the commencement of this Act [Act 50 of 1975], shall continue to be payable to such person or to such widow as if the substitution of the definition of "member" in section 1 of the first-mentioned Act [Act 94 of 1969] in terms of subsection (1) [referring to section 2(1) of Act 50 of 1975] had not been effected, and an annuity which, but for such substitution, would have been payable to the widow of any such person in the event of his death, shall in that event still be payable to her as if such substitution had not been effected."]

"Minister" means the Minister of Social Welfare and Pensions;

"pension" means an annuity or gratuity;

"Railway and Harbour Fund", in relation to any payment to be made out of that Fund by virtue of the provisions of section 2(3)(c), means moneys appropriated by Parliament for the purpose of such payment;

"retirement" means the termination for any reason of a member's service; and "retire" has a corresponding meaning;

"scheme" means the Members of Statutory Bodies Pension Scheme referred to in section 2;

"service" means continuous service as a member, including similar service in relation to a statutory body rendered immediately prior to the commencement of this Act;

"statutory body" means any board, council or other body established by or under any Act of Parliament or any ordinance of a provincial council or of the Legislative Assembly of the territory to perform any function prescribed by or under any law, and -

- (a) in respect of which all expenditure on the remuneration of its full-time members is defrayed from moneys appropriated for the purpose by Parliament or by a provincial council or by the Legislative Assembly of the territory, as the case may be; or
- (b) which has, at its request, been designated by the Minister, in consultation with the Minister of Finance, as a statutory body for the purposes of this Act;

"the territory" means the territory of South-West Africa, including that part of the said territory known as the Eastern Caprivi Zipfel and referred to in section 38(5) of the South-West Africa Constitution Act, 1968 (Act No. 39 of 1968).

Establishment of scheme and payment of pensions

2. (1) There is hereby established a pension scheme to be known as the Members of Statutory Bodies Pension Scheme.

(2) A pension payable in terms of this Act shall, subject to the provisions of subsection (3), be paid from the Consolidated Revenue Fund.

(3) The amount of a pension payable in terms of subsection (2) shall, on such conditions (which may include conditions as to the payment in advance of any amount by any fund or body referred to in paragraph (a) or (b), respectively), in such manner and at such time as the Minister shall, in consultation with the Minister of Finance, determine -

- (a) in the case of any person who was a member in relation to a statutory body referred to in paragraph (a) of the definition of "statutory body" in section 1, which has

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been established by or under an ordinance referred to in that paragraph, or in the case of the widow of such a person, be recoverable from the provincial revenue fund of the province concerned, or from the Territory Revenue Fund, as the case may be;

- (b) in the case of any person who was a member in relation to a statutory body referred to in paragraph (b) of the said definition, or in the case of the widow of such a person, be recoverable from such statutory body; and
- (c) in the case of any person who was a member in relation to the statutory body referred to in section 102 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), or in the case of the widow of such a person, be recoverable from the Railway and Harbour Fund.

[The Republic of South Africa Constitution Act 32 of 1961 was South Africa's constitution from 1961 to 1984. Section 102 concerned the Railways and Harbours Board.]

Benefits on retirement

3. (1) Any member who has completed not less than nine years' service may, subject to the provisions of subsections (3) and (4), elect to receive on his retirement one of the following benefits, namely -

- (a) a gratuity calculated at the rate of one-ninth of his final salary for each completed year of his service;
- (b) a gratuity coupled with an annuity where -
 - (i) such gratuity shall be calculated at the rate of one-eighteenth of his final salary for each completed year of his service; and
 - (ii) such annuity shall be calculated at the rate of 2,8 per cent of his final salary for each completed year of his service but not exceeding 30 years;

[subparagraph (ii) amended by Act 96 of 1983]

- (c) an annuity calculated at the rate of three and one-third per cent of his final salary for each completed year of his service but not exceeding 30 years.

[paragraph (c) amended by Act 96 of 1983]

(2) Any retiring member who has completed not less than three but less than nine years' service shall receive the benefit referred to in subsection (1)(a).

(3) Any member who was immediately prior to the commencement of this Act entitled, on account of his membership of any statutory body referred to in paragraph (a) of the definition of "statutory body" in section 1, to receive, on his retirement after not less than three years' service, a gratuity, calculated at the rate of six per cent of his final salary for each completed year of his service together with interest at the rate of four and one-half per cent per annum, compounded annually on the thirty-first day of March, and calculated as though the said six per cent were a contribution paid on the last day of every year of such member's service, may elect to receive such gratuity in lieu of any benefit to which he may be entitled in terms of subsection (1) or (2).

(4) If any person who after his retirement is in receipt of an annuity in terms of subsection (1)(b) or (c), again becomes a member, he shall forfeit all further claim to such

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annuity and such annuity shall lapse with effect from the date on which he again becomes a member, and on his subsequent retirement from service, a benefit shall be determined for him in accordance with the election exercised by him under subsection (1) at the time of his first-mentioned retirement and on the basis of the aggregate of the periods of his service preceding his first-mentioned and his last-mentioned retirement: Provided that if the benefit so determined is calculated in terms of subsection (1)(b), the amount of the gratuity calculated in terms of subsection (1)(b)(i) shall be reduced by the amount of the gratuity paid to him at the time of his first-mentioned retirement.

(5) If such person again becomes a member after his last-mentioned retirement, the provisions of subsection (4) shall *mutatis mutandis* apply to him.

Benefits for widows

4. (1) The widow of a member who dies in service may elect to receive a benefit equivalent to three-fourths of any benefit to which such member would have been entitled under section 3, had he retired on the date of his death.

[subsection (1) amended by Act 96 of 1983]

(2) There shall be paid to the widow of any person who was in receipt of an annuity in terms of section 3, with effect from the first day of the month which immediately follows the month in which he dies an annuity in an amount equal to three-fourths of the annuity which such person so received.

[Subsection (2) is amended by Act 100 of 1979 (with effect from the amending Act's date of publication: 4 July 1979) and by Act 96 of 1983. The amendment markings in Act 100 of 1979 are incomplete.]

(3) An annuity paid to any widow in terms of this section shall, notwithstanding her remarriage, continue to be payable to her.

Presumption

4A. If the Minister, after such enquiry as he may deem fit, certifies in writing that he is satisfied that any person who has, during the period stated in such certificate, simultaneously served on two or more statutory bodies in a paid capacity, was during ordinary office hours usually engaged in the affairs of any of such statutory bodies, such person shall for the purposes of this Act be deemed to have served during the period so stated in a full-time paid capacity on one statutory body.

[Section 4A is inserted by Act 100 of 1979, with this insertion deemed to have come into force on 1 June 1979 (section 31(a) of Act 100 of 1979).]

5.

[section 5 deleted by Act 73 of 1973]

Administration

6. (1) The scheme shall be controlled and administered by the Minister.

(2) The Minister may delegate any of the powers conferred on him by this Act to the Director-General: Health and Welfare or to any other officer of the Department of Health and

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Welfare, and may authorize the said Director-General or officer to perform or carry out any of the functions or duties entrusted to or imposed on the Minister by this Act.

[subsection (2) amended by Act 96 of 1983]

Application of Act to South-West Africa

7. This Act and any amendment thereof shall, so far as is necessary for the effective application thereof, apply also in the territory.

Short title

8. This Act shall be called the Members of Statutory Bodies Pension Act, 1969.