

# PENSIONS

---

## *Railways and Harbours Pensions Amendment Act 26 of 1941*, as amended in South Africa prior to Namibian independence

**Summary:** This Act ([SA GG 2904](#)) concerns benefits for employees of the Railway Administration upon retirement and for the dependants of deceased employees. It is not included in the database of annotated statutes as it has been earmarked for repeal as an obsolete law by the Law Reform and Development Commission.<sup>130</sup>

**Applicability to SWA:** Section 8A states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

**Transfer of administration to SWA:** The relevant Transfer Proclamation is the Executive Powers (Transport) Transfer Proclamation (AG 14/1978), dated 15 March 1978. However, the Act was excluded from transfer by section 3(2)(a) of the General Proclamation, which exempted “those provisions of any law ... which provide for or relate to ... pension rights and privileges or any other conditions of service of any person who is, or is engaged for employment, in the service of the State or the Government of the Republic or any of its departments in terms of that law or any other law”.

**Amendments:** The following pre-independence South African amendments applied to SWA –

- *Railways and Harbours Acts Amendment Act 23 of 1944* ([SA GG 3338](#))
- *Railways and Harbours Acts Amendment Act 44 of 1959* ([SA GG 6237](#))
- *Railways and Harbours Acts Amendment Act 62 of 1962* ([RSA GG 253](#))
- *Railways and Harbours Acts Amendment Act 6 of 1965* ([RSA GG 1050](#))
- *Second Railways and Harbours Acts Amendment Act 85 of 1971* ([RSA GG 3202](#))
- *Railways and Harbours Pensions Further Amendment Act 45 of 1974* ([RSA GG 4434](#))
- *Second Railways and Harbours Acts Amendment Act 89 of 1976* ([RSA GG 5179](#))
- *Railways and Harbours Acts Amendment Act 67 of 1980* ([RSA GG 7039](#))
- *Railways and Harbours Acts Amendment Act 29 of 1981* ([RSA GG 7475](#))
- *Second Railways and Harbours Acts Amendment Act 60 of 1981* ([RSA GG 7753](#))
- *South African Transport Services Amendment Act 6 of 1982* ([RSA GG 8039](#))
- *South African Transport Services Amendment Act 44 of 1985* ([RSA GG 9708](#)).

**Regulations:** Regulations are authorised by section 7 of the Act. Pre-independence regulations have not been researched. No post-independence regulations have been promulgated.

## **Ex-Volunteers Assistance Proclamation 2 of 1945**

**Summary:** This Proclamation ([OG 1166](#)) covers grants and loans to persons who rendered certain military services. It is not included in the database of annotated statutes as it has been earmarked for repeal as an obsolete law by the Law Reform and Development Commission.<sup>131</sup>

**Amendments:** The Proclamation is amended by Proc. 14/1945 ([OG 1186](#)), Proc. 19/1945 ([OG 1192](#)), Proc. 25/1946 ([OG 1273](#)), Proc. 23/1948 ([OG 1364](#)) and Proc. 20/1949 ([OG 1423](#)).

---

<sup>130</sup> Law Reform and Development Commission, *Report on Repeal of Obsolete Laws: Phase 2* (LRDC 42), March 2021, pages 65-ff.

<sup>131</sup> Law Reform and Development Commission, *Report on Repeal of Obsolete Laws: Phase 2* (LRDC 42), March 2021, pages 32-ff.

**Regulations:** The Proclamation makes no provision for regulations.

***Railways and Harbours Special Pensions Act 36 of 1955***, as amended in South Africa prior to Namibian independence  

**Summary:** This Act ([SA GG 5494](#), also published in [OG 1915](#)) provides for the recalculation of benefits payable to certain former members of the various Railways and Harbours pension funds or their dependants. It applies only to persons who died or retired before October 1953 and has been earmarked for repeal as an obsolete law by the Law Reform and Development Commission.<sup>132</sup>

**Applicability to SWA:** Section 8 states “This Act shall apply to the Territory of South West Africa”. The only amendments to the Act in South Africa prior to Namibian independence – the *Railways and Harbours Pensions Amendment Act 22 of 1956* and the *Railways and Harbours Act Amendment Act 34 of 1957* – are both expressly applicable to SWA.

**Transfer of administration to SWA:** The relevant Transfer Proclamation is the Executive Powers (Transport) Transfer Proclamation (AG 14/1978), dated 15 March 1978. However, the Act was excluded from transfer by section 3(2)(a) of the General Proclamation, which exempted “those provisions of any law ... which provide for or relate to ... pension rights and privileges or any other conditions of service of any person who is, or is engaged for employment, in the service of the State or the Government of the Republic or any of its departments in terms of that law or any other law”.

**Amendments:** The following pre-independence South African amendments applied to SWA –

- *Railways and Harbours Pensions Amendment Act 22 of 1956* ([SA GG 5679](#))
- *Railways and Harbours Acts Amendment Act 34 of 1957* ([SA GG 5882](#)).

**Regulations:** The Act makes no provision for regulations.

***Pension Funds Act 24 of 1956***, as amended in South Africa prior to Namibian independence  

**Summary:** This Act ([SA GG 5679](#)) regulates pension funds. It was brought into force in South Africa and South West Africa on 1 January 1958 by SA Proc. 330/1957 ([SA GG 5971](#)). This Act will be repealed by the Financial Institutions and Markets Act 2 of 2021 ([GG 7645](#)), which has not yet been brought into force. Note, however, that Act 2 of 2021 (in item 6 of Schedule 3) provides for the continued application of this Act to a certain extent for a period of three years after the date of repeal, in respect of matters occurring during the period three years before that date:

Despite the repeal of the laws referred to in Schedule 2, for a period of three years after the effective date and in respect of a matter that occurred during the period of three years immediately before the effective date, NAMFISA may exercise any power under such repealed law to investigate and prosecute any breach of that law, as if it were proceeding with a complaint in terms of this Act.

**Applicability to SWA:** Section 1 defines “Union” to include “the Territory”, which is defined as “the Territory of South West Africa”. Section 40 states “This Act shall apply also in the Territory.” Although section 40 did not make amendments to the Act in South Africa automatically applicable to SWA, they appear to have applied to SWA by virtue of the definition of “Union” in section 1. (Act 9/1994 supports this assumption by referring to previous amendments made by Act 103 of 1979, Act 86 of 1984 and Act 53 of 1989).

---

<sup>132</sup> Law Reform and Development Commission, *Report on Repeal of Obsolete Laws: Phase 2* (LRDC 42), March 2021, pages 68-ff.

**Transfer of administration to SWA:** This Act was administered by the Minister of Finance. Acts administered by the Minister of Finance in the Department of Inland Revenue were transferred to South West Africa by the Executive Powers (Inland Revenue) Transfer Proclamation, AG 18 of 1978, but this Act fell under the Department of Finance at the time, as indicated by government notices pertaining to the Registrar and Deputy Registrar of Friendly Societies issued during the 1970s. See, for example, Government Notice 1317/1970 ([RSA GG 2768](#)) and Government Notice 1640/1977 ([RSA GG 5715](#)). There was no transfer proclamation for laws administered by the Minister of Finance in the Department of Finance.

**Amendments:** The following pre-independence South African amendments were applicable to SWA –

- *Finance Act 81 of 1957* ([SA GG 5907](#))
- *Finance Act 80 of 1959* ([SA GG 6255](#))
- *Inspection of Financial Institutions Act 68 of 1962* ([RSA GG 264](#))
- *Second Finance Act 58 of 1966* ([RSA GG 1577](#))
- *Financial Institutions Amendment Act 65 of 1968* ([RSA GG 2107](#))
- *Financial Institutions Amendment Act 80 of 1969* ([RSA GG 2446](#))
- *Financial Institutions Amendment Act 23 of 1970* ([RSA GG 2661](#))
- *Financial Institutions Amendment Act 91 of 1972* ([RSA GG 3594](#))
- *Financial Institutions Amendment Act 101 of 1976* ([RSA GG 5217](#))
- *Financial Institutions Amendment Act 94 of 1977* ([RSA GG 5624](#))
- *Financial Institutions Amendment Act 80 of 1978* ([RSA GG 6060](#))
- *Financial Institutions Amendment Act 103 of 1979* ([RSA GG 6568](#))
- *Financial Institutions Amendment Act 99 of 1980* ([RSA GG 7151](#))
- *Financial Institutions Amendment Act 82 of 1982* ([RSA GG 8240](#))
- *Corporation for Public Deposits Act 46 of 1984* ([RSA GG 9149](#))
- *Financial Institutions Amendment Act 86 of 1984* ([RSA GG 9313](#))
- *Financial Institutions Amendment Act 50 of 1986* ([RSA GG 10248](#))
- *Financial Institutions Amendment Act 51 of 1988* ([RSA GG 11313](#))
- *Financial Institutions Amendment Act 53 of 1989* ([RSA GG 11892](#))
- *Financial Institutions Second Amendment Act 54 of 1989* ([RSA GG 11893](#)).

Act 94 of 1969 was also 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.

After Namibian independence, Act 4/1994 ([GG 812](#)) amends section 36 to allow the imposition of limits on the amount of funds which may be invested outside Namibia.

The Short-term Insurance Act 4 of 1998 ([GG 1832](#)), which was brought into force on 1 July 1998 by GN 142/1998 ([GG 1887](#)), repeals section 39 insofar as it relates to short-term insurance.

The Long-term Insurance Act 5 of 1998 ([GG 1834](#)), which was brought into force on 1 July 1998 by GN 144/1998 ([GG 1888](#)), repeals the remainder of section 39.

The Namibia Financial Institutions Supervisory Authority Act 3 of 2001 ([GG 2529](#)), which was brought into force on 14 May 2001 by GN 85/2001 ([GG 2528](#)), amends section 1, substitutes section 3 and repeals section 3A.

The Maintenance Act 9 of 2003 ([GG 3043](#)), which was brought into force on 17 November 2003 by GN 232/2003 ([GG 3093](#)), amends section 37.

Act 5/2011 ([GG 4735](#)) amends sections 1, 19, 36 and 37.

Act 6/2014 ([GG 5584](#)) amends sections 19 and 37D.

**Regulations:** Pre-independence regulations were contained in RSA GN R.98 of 1962 ([RSA GG 162](#)), as amended by –

RSA GN R.2144/1984 ([RSA GG 9437](#))  
RSA GN R.1790/1985 ([RSA GG 9892](#))  
RSA GN R.1037/1986 ([RSA GG 10249](#))  
RSA GN R. 232/1987 ([RSA GG 10601](#))  
RSA GN R.1452/1989 ([RSA GG 11992](#))  
GN 103/1994 ([GG 870](#))  
GN 143/1994 ([GG 899](#))  
GN 56/1995 ([GG 1044](#))  
GN 108/1995 ([GG 1095](#))  
GN 30/2008 ([GG 3985](#))  
GN 127/2013 ([GG 5205](#))

Note that GN 350/2003 withdraws GN 127/2013 with effect from its publication date, as if it never existed.

GN 351/2003 ([GG 5383](#))  
GN 38/2015 ([GG 5689](#)).

This Government Notice refers to a previous amendment made by GN 321 of 18 December 2013. This is in error. GN 321/2013 ([GG 5351](#)) was published on 29 November 2013 and concerns the import of poultry products into Namibia. The only *Government Gazette* published on 18 December 2013 ([GG 5365](#)) contains nothing relating to this Act. This erroneous reference was probably intended to refer to GN 351/2003 ([GG 5383](#)) published on 31 December 2013.

However, new **Pensions Funds Regulations** are contained GN 211/2018 ([GG 6697](#)), which repeals the regulations in RSA GN R.98 of 1962 (without mentioning their amendments).

**Application of law:** The application of the Act is affected by the Members of Parliament and other Office-bearers Pension Fund Act 20 of 1999 ([GG 2239](#)), in respect of the fund created by that Act.

The Government Institutions Pension Fund (GIPF) is exempted from section 19(4) of the Act, subject to specified limitations, by GN 91/2015 ([GG 5751](#)).

**Appointments:** A Registrar and Deputy Registrar of Pension Funds are appointed in General Notice 29/1991 ([GG 174](#)).

**Cases:** *Old Mutual Life Assurance Co Namibia Ltd v Old Mutual Namibia Staff Pension Fund & Another* 2006 (1) NR 211 (HC) (section 37D); *Rössing Uranium Ltd v Former Members of the Rössing Pension Fund* 2017 (3) NR 819 (SC) (pension fund rules binding on trustees of private pension fund under section 13 of Act and their decisions are not subject to administrative review under the Act or under the rules of the fund; at para 80, decision criticises lack of provision for distribution of surpluses in the Act).

**Commentary:**

Florian Beukes, “Freedom of testation v section 37C of the Pension Funds Act, 1956 (No. 24 of 1956)”, *Namibia Law Journal*, Volume 4, Issue 1, 2012  
Law Reform and Development Commission, *Government Institutions Pension Fund (GIPF) Legal Framework Discussion Paper*, LRDC 26, 2013, available [here](#).

## **Administration Employees Pension Ordinance 19 of 1959**

**Summary:** This Ordinance ([OG 2199](#)) provides for pensions and benefits for certain employees of the

administration of South West Africa. It is not included in database due to its limited ongoing relevance.

**Amendments:** This Proclamation is amended by Ord. 18/1960 ([OG 2254](#)) and Ord. 23/1962 ([OG 2409](#)).

See also the Regulation of Membership of the Union Widows' Pension Fund Ordinance 15 of 1960 ([OG 2254](#)), which provides for male contributors of the Administration Employees Pension Fund to be members of the Union Widows Pension Fund.

**Regulations:** Regulations are authorised by section 29 of the Ordinance. No pre-independence regulations have been located, and no post-independence regulations have been promulgated.

### ***Members of Statutory Bodies Pension Act 94 of 1969***, as amended in South Africa prior to Namibian independence

**Summary:** This Act ([RSA GG 2459](#)) establishes a pension scheme for employees of statutory bodies.

**Applicability to SWA:** 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 “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 SWA:** 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 SWA.

**Amendments:** The following pre-independence South African amendments were applicable to SWA –

- *Pension Laws Amendment Act 73 of 1973* ([RSA GG 3955](#))
- *Pension Laws Amendment Act 50 of 1975* ([RSA GG 4739](#))
- *Pension Laws Amendment Act 100 of 1979* ([RSA GG 6549](#))
- *Pension Laws Amendment Act 96 of 1983* ([RSA GG 8809](#)).

Act 94 of 1969 was also 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.

**Regulations:** The Act makes no provision for regulations.

### ***Black Authorities' Service Pensions Act 6 of 1971***, as amended in South Africa prior to Namibian independence

**Summary:** This Act ([RSA GG 3022](#)) (originally called the “Bantu Authorities' Service Pensions Act”) provides for the establishment and control of a pension fund for the employees of certain “black authorities”. It is not included in database due to its limited ongoing relevance.

**Applicability to SWA:** Section 1 defines the authorities covered by the Act to included “any executive

council, tribal authority, community authority or regional authority referred to in the Development of Self-Government for Native Nations in South West Africa Act, 1968 (Act No. 54 of 1968)". Section 1 defines "the territory as "the territory of South West Africa," and section 8 states "This Act and any amendment thereof shall apply also in the territory, including the Eastern Caprivi Zipfel."

**Transfer of administration of SWA:** The relevant transfer proclamation is the Executive Powers Transfer Proclamation (AG 3/1977) dated 28 September 1977, as amended. However, section 3(1)(e) exempts from transfer "those provisions of any law providing for or relating to... pension rights and privileges of any person who is, or is engaged, in the service of the state...". Thus, the administration of the Act was not transferred to SWA.

**Amendments:** The following pre-independence South African amendments were applicable to SWA –

- *Black Education Account Abolition Act 20 of 1972* (originally "Bantu Education Account Abolition Act") ([RSA GG 3431](#))
- *Black Laws Amendment Act 23 of 1972* (originally "Bantu Laws Amendment Act") ([RSA GG 3447](#))
- *Black Laws Amendment Act 4 of 1976* (originally "Bantu Laws Amendment Act") ([RSA GG 5012](#))
- *Black Laws Amendment Act 119 of 1977* ([RSA GG 5671](#)).

**Regulations:** Regulations are authorised by section 5 of the Act. Two sets of pre-independence regulations have been located which appear to remain in force.

**Authorities' Service Superannuation Fund Regulations** are published under RSA GN R.1954 of 1971 ([RSA GG 3300](#)). These regulations were amended prior to Namibian independence by the following:

- RSA GN R.1618/1972 ([RSA GG 3651](#))
- RSA GN R.1182/1976 ([RSA GG 5209](#))
- RSA GN R.1315/1977 ([RSA GG 5654](#))
- RSA GN R.1316/1977 ([RSA GG 5654](#))
- RSA GN R.2854/1979 ([RSA GG 6794](#))
- RSA GN R.1444/1981 ([RSA GG 7655](#))
- RSA GN R.1258/1985 ([RSA GG 9782](#)).

**Authorities' Service Pension Fund Regulations** are published in RSA GN R.317/1978 ([RSA GG 5888](#)). These regulations were specifically made applicable to "the Territory of South West Africa with the consent of the Administrator-General for the Territory of South West Africa". The Government Notice that issues these regulations repeals the regulations contained in RSA GN R.1955/1971 as amended. The regulations were amended prior to Namibian independence by the following:

- RSA GN R.2861/1979 ([RSA GG 6794](#))
- RSA GN R.1443/1981 ([RSA GG 7655](#))
- RSA GN R.1988/1982 ([RSA GG 8383](#))
- RSA GN R.1259/1985 ([RSA GG 9782](#))
- RSA GN R.2141/1988 ([RSA GG 11548](#)).

Neither of these sets of regulations has been included in the database of annotated regulations because they appear to have limited current relevance.

No post-independence regulations have been promulgated.

***Government Service Pension Act 57 of 1973***, as amended in South Africa prior to Namibian independence

**Summary:** This Act ([RSA GG 3934](#)) provides for pensions and other financial benefits for certain persons employed by the South African Government, the Administration of South West Africa, and provincial administrations. It is not included in the database of annotated statutes due to its limited ongoing relevance.

**Applicability to SWA:** 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 of administration to SWA:** 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 SWA.

**Amendments:** Only one South African amending Act – the *Pensions Laws Amendment Act 83 of 1976* ([RSA GG 5173](#)) – was made expressly applicable to SWA. However, the other amendments to the Act in South Africa were probably applicable to SWA by virtue of the definition of Republic, making the following list of amendments applicable to SWA –

- *Pension Laws Amendment Act 15 of 1974* ([RSA GG 4198](#)) (repeals section 17(2)(i))
- *Pension Laws Amendment Act 83 of 1976* ([RSA GG 5173](#)) (amends sections 5 and 7)
- *Pension Laws Amendment Act 26 of 1977* ([RSA GG 5463](#))
- *General Pensions Act 29 of 1979* ([RSA GG 6390](#))
- *Pension Laws Amendment Act 97 of 1980* ([RSA GG 7150](#))
- *Pension Laws Amendment Act 106 of 1986* ([RSA GG 10452](#))
- *Pension Laws Amendment Act 89 of 1988* ([RSA GG 11411](#)).

Section 2 of the *Pension Laws Amendment Act 15 of 1974* ([RSA GG 4198](#)) is an independent provision which was made explicitly applicable to South West Africa.

Section 2(5) was substituted by the *Pension Laws Amendment Act 83 of 1976* ([RSA GG 5173](#)), with this amendment being explicitly applicable to SWA. (Section 2 was amended further in RSA by the *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, nor was the Act itself applicable in any way to SWA, not even by a definition of Republic.) Section 2 of the *Pension Laws Amendment Act 15 of 1974*, as amended in SWA, reads 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 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) substituted by the Pension Laws Amendment Act  
83 of 1976 ([RSA GG 5173](#))]

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

No repeal of this provision has been located, but it is not clear if it has any ongoing effect.

**Regulations:** Regulations are authorised by section 17 of the Act, as well as the independent supplementary provision on regulations discussed above. Pre-independence regulations under these laws have not been researched. No post-independence regulations have been promulgated.

***Military Pensions Act 84 of 1976***, as amended in South Africa prior to Namibian independence



**Summary:** This Act ([RSA GG 5174](#)) provides benefits and medical treatment in regard to disablement caused or exacerbated by military service under the Defence Act. It also consolidates other war pensions.



**Applicability to SWA:** Section 1 defines “Republic” to include “the territory of South West Africa”. Section 25 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

**Transfer of administration to SWA:** The relevant transfer proclamation is the Executive Powers (Social Welfare and Pensions) Transfer Proclamation (AG 11/1977), dated 30 November 1977. However, section 3(b) of this Transfer Proclamation explicitly excluded this Act from section 3(1) of the General Proclamation. Therefore, the administration of the Act was not transferred to SWA.

**Amendments:** The following pre-independence South African amendments were applicable to SWA –

- *Pension Laws Amendment Act 26 of 1977* ([RSA GG 5463](#))
- *General Pensions Act 29 of 1979* ([RSA GG 6390](#))
- *Pension Laws Amendment Act 100 of 1979* ([RSA GG 6549](#))
- *Pension Laws Amendment Act 97 of 1980* ([RSA GG 7150](#))
- *Pension Laws Amendment Act 81 of 1982* ([RSA GG 8239](#))
- *Pension Laws Amendment Act 96 of 1983* ([RSA GG 8809](#))
- *Pension Laws Amendment Act 123 of 1984* ([RSA GG 9381](#))
- *Pension Laws Amendment Act 106 of 1986* ([RSA GG 10452](#))
- *Pension Laws Amendment Act 88 of 1987* ([RSA GG 10980](#)).

**Regulations:** Pre-independence regulations have not been comprehensively researched.

RSA regulations are contained in RSA GN R.1806/1976 ([RSA GG 5304](#)), which is deemed to have come into force on 30 June 1976 by section 15(2) of the *Pension Laws Amendment Act 26 of 1977* ([RSA GG 5463](#)); however, section 15 of this notice was repealed by the *General Pensions Act 29 of 1979* ([RSA GG 6390](#)).

No post-independence regulations have been promulgated.

### ***Pensions Laws Amendment Act 83 of 1976, sections 1-5 and 8***

**Summary:** Sections 1-4 of this Act ([RSA GG 5173](#)) amend other laws. Section 5 relates to the consolidation of pensions or benefits under the *Simonstown Naval Base Employees’ Transfer Act 72 of 1956* and allowances or bonuses under any other law. Section 8 contains presumptions and definitions for purposes of laws relating to social pensions.

**Applicability to SWA:** Section 10 states that sections 1, 2, 3, 4, 5 and 8 “shall also apply in the territory of South West Africa, including the Eastern Caprivi Zipfel”.

**Transfer of administration to SWA:** 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 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 SWA. In any event, the wording of section 10 did not make amendments made to the Act in South Africa prior to Namibian independence automatically applicable to South West Africa.

Section 8 of the Act was amended in South Africa prior to Namibian independence by the *Pension Laws Amendment Act 40 of 1978* ([RSA GG 5965](#)), which was not made independently applicable to SWA. The *General Pensions Act 29 of 1979* ([RSA GG 6390](#)), which was also not made independently applicable to SWA, repealed sections 1-4 and 8 – as well as section 10 of *Act 83 of 1976* which made the selected sections of the Act applicable to SWA. However, since these amendments were not

independently applicable to SWA, the Act appeared to remain in force in SWA as it stood prior to these amendments.

### ***Temporary Employees Pension Fund Act 75 of 1979***, as amended in South Africa prior to Namibian independence

**Summary:** This Act ([RSA GG 6518](#)) provides pensions and other benefits to certain temporary employees and their dependants. It is not included in the database of annotated statutes as it has been earmarked for repeal as an obsolete law by the Law Reform and Development Commission.<sup>133</sup>

**Applicability to SWA:** Section 9A (added by RSA Proclamation R.217 of 1979) states “This Act and any amendment thereof shall apply also in the Territory of South West Africa, including the Eastern Caprivi Zipfel.” This section also provides special definitions for “revenue” and “Government” in regard to South West Africa.

**Transfer of administration to SWA:** 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 SWA.

**Amendments:** The following pre-independence South African amendments were applicable to SWA –

- *Pension Laws Amendment Act 106 of 1986* ([RSA GG 10452](#))
- *Pension Laws Amendment Act 89 of 1988* ([RSA GG 11411](#)).

**Regulations:** Regulations are authorised by section 8 of the Act. Pre-independence regulations have not been researched in light of the anticipated repeal of this law. No post-independence regulations have been promulgated.

### **National Pensions Act 10 of 1992**

**Summary:** This Act ([GG 395](#)) provides for national pensions to be paid to aged, blind and disabled persons. It repeals the German War Veterans’ Pensions Ordinance 3 of 1965 and the *Social Pensions Act 37 of 1973*. It was brought into force on 1 October 1994 by Proc. 25/1994 ([GG 942](#)).

**Regulations:** Regulations made under the repealed laws survive pursuant to section 17(2) of this Act, which states that –

any regulation, made, or any act done under any provision of any law repealed by subsection (1), shall be deemed to have been made or done under the corresponding provisions of this Act: Provided that in the case of any regulation made in relation to any old age pension or veteran’s pension, as the case may be, such regulation shall be deemed to have been made in relation to a basic state pension payable under this Act.

Pre-independence regulations have not been comprehensively researched. It appears that many of the surviving regulations are race-based and therefore inappropriate to independent Namibia.

Section 16 of this Act authorises regulations, but none have yet been promulgated.

**Notices:** All national pensions were equalised at N\$135/month in terms of section 17(3) by GN

---

<sup>133</sup> Law Reform and Development Commission, *Report on Repeal of Obsolete Laws: Phase 2* (LRDC 42), March 2021, pages 81-ff.

201/1994 ([GG 962](#)). Subsequent pension increases were not gazetted; section 16 of the Act authorises regulations on maximum pension amounts but does not require that such amounts be contained in regulations.

The old age pension was increased from N\$600/month to N\$1000/month in April 2015. (See “Old age pension to increase by N\$100 next year”, *The Namibian*, 6 November 2015.) Disability pensions also increased from N\$600/month to N\$1000/month in April 2015. (See Verua Kavezeri, “Daily struggles of a maimed villager”, *The Namibian*, 3 September 2015.) Both old age and disability pensions were increased to N\$1100/month effective 1 April 2016. (See “Increase in pensioner, disability grants”, *New Era*, 8 June 2016.) Both old age and disability pensions were again increased, to N\$1200/month, effective 1 April 2017. (This was reported in a press release of Ministry of Poverty Eradication and Social Welfare dated 14 July 2017; the increased amount was provided from August 2017, with a once-off extra amount to cover the increase for the period from April to August.) Both “pensions and grants” were again increased, to N\$1250/month, effective 1 April 2018. The increased amount was provided from August 2018, with a once-off extra amount to cover the increase for the period from April to August. (See Alwonda Izaaks “Govt increases pensions and grants by N\$50”, *The Namibian*, 3 July 2018.)

## Members of Parliament and other Office-bearers Pension Fund Act 20 of 1999

**Summary:** This Act ([GG 2239](#)) establishes a pension fund for Members of Parliament and other Office-bearers. It was brought into force on 4 January 2000 by GN 284/1999 ([GG 2253](#)), replacing the Members of Parliament and other Office-bearers Pensions Act 21 of 1990 ([GG 116](#)) which was repealed with effect from the same date (GN 285/1999, [GG 2253](#)).

**Regulations:** The Act makes no provision for regulations.

**Rules:** The pension fund established under this Act was registered in terms of the *Pension Fund Act 24 of 1956*. The rules approved by the Registrar of Pension Funds and the announcement of the registration are contained in GN 269/2000 ([GG 2443](#)).

**Application of law:** Note that the Judges’ Pensions Act 13 of 2011, provides for the transfer of judges’ pensions and gratuities from the State Revenue Fund to the Members of Parliament and other Office-bearers Pension Fund.

**Notices:** Certain specific officials are named as office-bearers for purposes of the Act from time to time, but these designations have not been recorded here.

## Judges’ Pensions Act 13 of 2011

**Summary:** This Act ([GG 4862](#)) repeals the Judges Pensions Act 28 of 1990 and provides for the transfer of judges’ pensions and gratuities from the State Revenue Fund to the Members of Parliament and other Office-bearers Pension Fund. (See Members of Parliament and other Office-bearers Pension Fund Act 20 of 1999.) The Act was brought into force on 30 March 2012 by GN 92/2012 ([GG 4915](#)), which was also set as the transfer date for the pension funds in terms of section 2 of the Act by GN 93/2012 ([GG 4915](#)).

It should be noted that section 7 of the Act provides that, if there is a dispute or doubt regarding entitlement to a pension under the repealed law on the transfer date, then the repealed Act will continue to apply as if this Act had not been passed, and the transfer date will become the date on which the dispute is settled or the doubt resolved.

**Regulations:** The Act makes no provision for regulations.

See also Presidential Emoluments Act 17 of 1990 and Former Presidents' Pension and Other Benefits Act 18 of 2004 (**PRESIDENT**).

See also Social Security Act 34 of 1994 (National Pension Fund) (**SOCIAL SECURITY**).

See also Veterans Act 2 of 2008 (**SOCIAL WELFARE**).