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Government Notice

OFFICE OF THE PRIME MINISTER

No. 110

2012

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 3 of 2013: Veterans Amendment Act, 2013.

Act No. 3, 2013 VETERANS AMENDMENT ACT, 2013**EXPLANATORY NOTE:**

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Veterans Act, 2008 so as to amend, insert and substitute certain definitions; to provide for veteran status to certain categories of participants in the liberation struggle; to repeal the provisions on establishment of a pension integrated scheme for veterans and to substitute it by an once-off gratuity; to provide for token of appreciation for certain categories of persons; and to provide for matters incidental thereto.

(Signed by the President on 18 April 2013)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:

Amendment of section 1 of Act No. 2 of 2008

1. Section 1 of the Veterans Act, 2008 (Act No. 2 of 2008) (hereinafter referred to as the principal Act), is amended by -

(a) the insertion after the definition of “Ministry” of the following definition:

“ ‘once-off gratuity’ means the once-off lump sum payable under this Act to a veteran;”;

(b) the insertion after the definition of “prescribed” of the following definition:

“ ‘Pretoria trial’ means the trial which took place in Pretoria, Republic of South Africa, of persons who took part in the liberation struggle and who were captured or detained or held before or after the Omugulugwombashe battle of 26 August, 1966;”;

(c) the insertion after the definition of “this Act” of the following definition:

“ ‘token of appreciation’ means a recognition in monetary or material form for a person’s participation in the liberation struggle;”; and

(d) the substitution for the definition of “veteran” for the following definition:

“ ‘veteran’ means any of the persons described in section 27(2) or (3);”.

Amendment of section 6 of Act No. 2 of 2008

2. Section 6 of the principal Act is amended by -

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- (a) the substitution for paragraph (d) of subsection (1) of the following paragraph:
- “(d) any assistance rendered to veterans [**or dependants of veterans**] in relation to projects; and
- (b) the substitution for paragraph (e) of subsection (1) of the following paragraph:
- “(e) annual grants payable to an association or organisation of veterans [**and dependants of veterans**] in terms of section 44. [**and**];”; and
- (c) the deletion of paragraph (f) of subsection (1).

Amendment of section 15 of Act No. 2 of 2008

3. Section 15 of the principal Act is amended by -
- (a) the substitution for paragraph (g) of subsection (1) of the following paragraph:
- “(g) two representatives nominated by an organisation or association representing veterans [**and dependants of living or deceased veterans**] as recognised by the Minister in terms of section 44; and;”;
- (b) the substitution for subsection (2) of the following subsection:
- “(2) Before appointing members in terms of subsection (1)(g), the Minister must, by written notice to the organisation or association, request that organisation or association to nominate, within a specified period, four veterans [**or dependants of living or deceased veterans,**] two of whom may be appointed as members of the Board.”;
- (c) the substitution for subsection (3) of the following subsection:
- “(3) On the expiry of the period referred to in subsection (2), the Minister may appoint as members of the Board, two of the persons nominated in terms of that subsection, who in the opinion of the Minister possess the necessary expertise to represent the interests of the veterans [**and dependants of living or deceased veterans**].”; and
- (d) the substitution for subsection (4) of the following subsection:
- “(4) Where no nomination, as contemplated in subsection (2) is made, or persons so nominated for appointment do not satisfy the requirements of subsection (3), the Minister may, despite the provisions of subsection (1)(g), appoint two veterans [**or dependants of living or deceased veterans**], who in his or her opinion are capable of representing the interests of veterans [**and dependants of living or deceased veterans**], as members of the Board.”.

Act No. 3, 2013 VETERANS AMENDMENT ACT, 2013**Amendment of section 22 of Act No. 2 of 2008**

4. Section 22 of the principal Act is amended by -
- (a) the substitution for paragraph (e) of subsection (1) of the following paragraph:
- “(e) determine applications by veterans [**or dependants of veterans**] for funding of projects by the Fund;” and
- (b) the substitution for paragraph (g) of subsection (1) of the following paragraph:
- “(g) initiate or approve projects by veterans [**and dependants of veterans**]”.

Substitution of section 27 of Act No. 2 of 2008

5. The following section is substituted for section 27 of the principal Act:
- “Qualifications for registration as veteran or dependant of living or deceased veteran**

27. (1) No person qualifies for registration as a veteran or dependant of a living or deceased veteran unless that person -
- (a) in the case of a veteran, meets the requirements of a veteran set out in subsection (2);
- (b) in the case of a dependant of a living veteran, the veteran himself or herself meets the requirements of a veteran set out in subsection (2); or
- (c) in the case of a dependant of a deceased veteran, the deceased veteran himself or herself during his or her lifetime, met the requirements of a veteran set out in subsection (2).
- (2) A veteran is a person who -
- (a) was a member of the liberation forces, provided the person was above 18 years of age on 21 March 1990;
- (b) consistently and persistently participated or engaged in any political, diplomatic or under-ground activity in furtherance of the liberation struggle up to the date of independence; or
- (c) owing to his or her participation in the liberation struggle was convicted, whether in Namibia or elsewhere, of any offence closely connected to the struggle and sentenced to imprisonment, provided the person continued with the liberation struggle activities after being released.

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(3) For the purposes of subsection (2)(b) the following persons are considered to be veterans:

- (a) persons who were captured, detained or held by the colonial forces before or after the Cassinga Massacre of 1978, provided the persons continued with the liberation struggle activities after being released;
- (b) persons who were captured by the colonial forces at Chetequera (Vietnam Base) and released from Mariental in 1984, provided the persons continued with the liberation activities after being released;
- (c) persons who were captured or detained or held by the colonial forces between 1959 and 21 March 1990, and released during 1989 and 1990;
- (d) persons who were captured or detained or held as accused during the Pretoria Trial, and released, provided the persons continued with the liberation struggle activities after being released; or
- (e) persons who were captured or detained and tortured by the colonial forces between 1959 and 21 March 1990, and who owing to any disability or incapacity caused by such torture were, upon their release, unable to continue with the liberation struggle activities.

(4) Persons who meet the following criteria, do not qualify for registration as veterans, but may be registered as qualifying for a token of appreciation:

- (a) persons who were captured, detained or held by the colonial forces before or after the Cassinga Massacre of 1978, and who after their release did not continue with the liberation struggle, provided such persons did not join the enemy;
- (b) persons who were captured by the colonial forces at Chetequera (Vietnam Base) and released from Mariental in 1984, and who after their release did not continue with the liberation struggle, provided such persons did not join the enemy; or
- (c) other categories of prescribed persons who participated in the liberation struggle, but who do not qualify for registration as veterans."

Amendment of section 30 of Act No. 2 of 2008

6. Section 30 of the principal Act is amended by substitution for paragraph (b) of subsection (2) of the following paragraph:

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“(b) who is a widow or widower of such veteran, is entitled to receive assistance [**only until such date as he or she**] for a period of 10 years, but the assistance ceases if the widow or widower -

- (i) remarries;
- (ii) dies; or
- (iii) becomes subject to any other disqualification contemplated in this Act,

whichever date or event [**event or date**] is earliest.”.

Amendment of section 35 of Act No. 2 of 2008

7. Section 35 of the principal Act is amended by -

(a) the substitution for subsection (1) of the following subsection:

“(1) The Minister may, after consultation with the Board [, **by regulation**] -

- (a) establish one or more projects; or
- (b) stipulate the various economic sectors in which projects may be established,

for the provision of benefits or assistance to or in respect of any veteran [**or dependant of a veteran**] or any classes of veterans [**or dependants of veterans**], and may in like manner suspend or abolish such projects.”;

(b) the substitution for subsection (2) of the following subsection:

(2) The Minister may, under subsection (1), grant or establish different benefits or projects [**Regulations made under subsection (1) may provide for different benefits or projects to be granted or established**] to or for different categories of veterans [**or dependants of veterans**].”; and

(c) the substitution for subsection (3) of the following subsection:

“(3) Any project established under subsection (1) is, subject to any conditions which may be imposed[**prescribed**] under this section, entitled to receive funding from the Fund.”.

Amendment of section 36 of Act No. 2 of 2008

8. Section 36 of the principal Act is amended by substitution for subsection (1) of the following subsection:

“(1) Any registered veteran [**or dependant of a veteran**] who wishes to obtain funding for a project must, in the prescribed form and manner, apply for such funding from the Fund.”.

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Substitution of section 37 of Act No. 2 of 2008

9. The following section is substituted for section 37 of the principal Act:

“Once-off gratuity and token of appreciation

37. (1) A veteran is entitled to a once-off gratuity payable by the Fund for his or her participation in the liberation struggle.

(2) A person who is registered as qualifying for a token of appreciation in terms of this Act is entitled to a token of appreciation.

(3) Section 33 applies with necessary changes to a once-off gratuity or a token of appreciation, or a right to a once-off gratuity or a token of appreciation.

(4) Notwithstanding anything to the contrary in any law, the once-off gratuity or token of appreciation is exempt from income tax.”.

Insertion of section 37A of Act No. 2 of 2008

10. The following section is inserted after section 37 of the principal Act.

“Payments of once-off gratuity or token of appreciation on death

37A. (1) In this section “dependant” means -

- (a) the surviving spouse;
- (b) the child, including a posthumous child, irrespective of the age of the child; or
- (c) a parent.

(2) Notwithstanding the provisions of any other law, a surviving dependant of any person who, but for his or her death occurring after the commencement of this Act, would have been entitled to receive a once-off gratuity or token of appreciation where the token of appreciation is payable in the form of money, in terms of this Act, is entitled to receive the gratuity or token of appreciation to which that person would have been entitled, had he or she survived.

(3) The once-off gratuity or the token of appreciation referred to in subsection (2) must, if the person referred to in that subsection -

- (a) is survived by a spouse, be paid to that spouse;
- (b) is survived by a spouse and children, the surviving spouse is entitled to receive an amount which is equal to 55 percent of the amount, and the children

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are entitled to receive an amount which is equal to 45 percent of the amount, to be equally divided among the children;

- (c) is not survived by a spouse but by a child or children, be paid to the child or the children in equal proportions;
- (d) is not survived by a spouse or children, be paid to the parent or each parent of the deceased person in equal proportions; or
- (e) was at the time of the death legally or factually responsible for maintenance of a person, be paid to that person if the Board is satisfied that such person was legally or factually dependent on the deceased person for maintenance.”.

Amendment of Section 44 of Act No. 2 of 2008

11. Section 44 of the principal Act is amended by -

(a) the substitution for subsection (1) of the following subsection:

“(1) Veterans [**and dependants of living or deceased veterans**] may form an association or organisation for the purposes of representing their interests.”; and

(b) the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) the association or organisation is representative of such number of registered veterans [**and dependants of living or deceased veterans**] as may be prescribed;”.

Amendment of section 46 of Act No. 2 of 2008

12. Section 46 of the principal Act is amended by -

(a) the substitution of subsection (1) of the following subsection:

“(1) The Minister may, at his or her own initiative or after consultation with the Board [**on the recommendation of the Board**], make regulations not inconsistent with the provisions [**if**] of this Act relating to -”;

(b) the addition of the following paragraph after paragraph (a):

“(aa)” the once-off gratuity and the token of appreciation contemplated in section 37 and section 37A;”.

Short title and commencement

13. This Act is called the Veterans Amendment Act, 2013 and comes into operation on a date determined by the Minister by notice in the *Gazette*.