



Republic of Namibia
Annotated Statutes

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

(RSA GG 3022)

came into force on date of publication: 17 March 1971;
originally entitled "Bantu Authorities' Service Pensions Act"

APPLICABILITY TO SOUTH WEST AFRICA: Section 1 defines the authorities covered by the Act to include "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 TO SOUTH WEST AFRICA: 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 South West Africa.

as amended by

Black Education Account Abolition Act 20 of 1972 (RSA GG 3431)

came into force on 1 April 1972 (section 28 of Act 20 of 1972);
originally named "Bantu Education Account Abolition Act"

Black Laws Amendment Act 23 of 1972 (RSA GG 3447)

deemed to have come into force in relevant part on 17 March 1971
(section 11(2) of Act 23 of 1972);
originally named "Bantu Laws Amendment Act"

Black Laws Amendment Act 4 of 1976 (RSA GG 5012)

deemed to have come into force in relevant part on 1 April 1975
(section 23(2) of Act 4 of 1976);
originally named "Bantu Laws Amendment Act"

Black Laws Amendment Act 119 of 1977 (RSA GG 5671)

came into force on date of publication: 29 July 1977;
originally named "Bantu Laws Amendment Act"

Second Bantu Laws Amendment Act 102 of 1978 (RSA) (RSA GG 6095)

brought into force in relevant part on 1 August 1978 by RSA Proc. R.198/1978 (RSA GG 6120)

**Laws on Plural Relations and Development Second
Amendment Act 98 of 1979 (RSA) (RSA GG 6547)**

came into force on 1 July 1979 (section 17(2) of Act 98 of 1979)

ACT

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

To provide for the establishment, control and administration of a joint pension fund and of a joint superannuation fund for, and for the payment of pensions and other financial benefits to, persons in the service of certain authorities established by law, and to their dependants; and to provide for incidental matters.

*(English text signed by the State President.)
(Assented to 11th March, 1971.)*

ARRANGEMENT OF SECTIONS

1. Definitions
2. Establishment of pension fund and superannuation fund
3. Membership of pension fund and superannuation fund
4. Ages for retirement
- 4A. Transfer of assets and liabilities of pension fund or superannuation fund to certain other pension funds, superannuation funds or provident funds
5. Regulations
6. Recovery of certain losses or overpayments from pensions
7. Delegation
8. Application of Act to South West Africa
9. Short title

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

[References to "Bantu" in South African laws were changed to "Black" or "Blacks" by section 17 of Act 102 of 1978, which also changed references to the "Bantu Administration and Development" into references to "Plural Relations and Development". Act 98 of 1979 changed references to "Plural Relations and Development" into references to "Co-operation and Development".]

Definitions

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

"actuary" means a Fellow of the Institute of Actuaries of England or of the Faculty of Actuaries in Scotland or of the Society of Actuaries of America;

"age of retirement" means any age referred to in section 4;

"approved employment" means employment preceding a period of service with an authority without interruption (or with such interruption as a prescribed authority may deem necessary and reasonable) which may, solely in determining a qualifying period for admission to membership of the superannuation fund, in terms of the regulations be deemed to be service with an authority;

"authority" means -

- (a) any authority or territorial board established under the Black Authorities Act, 1951 (Act No. 68 of 1951);

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

- (b) 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); or
- (c) any other authority or body established by or under any law, and designated by the Minister as an authority for the purposes of this Act;

“child” means a child of a deceased member of the pension fund or of the superannuation fund, born out of a customary union (as defined in section 35 of the Black Administration Act, 1927 (Act No. 38 of 1927) or out of a marriage (as so defined), whether or not such customary union or marriage subsisted on the day of such member's death, provided such child -

[The equivalent of the South African Black [Bantu] Administration Act 38 of 1927 in South West Africa was the Native Administration Proclamation 15 of 1928.]

- (a) has not contracted a marriage (as so defined). and is not a partner (as so defined) to any customary union (as so defined);
- (b) has not attained the age of eighteen years;
- (c) is not self-supporting; and
- (d) has been designated by the Secretary as a child for the purposes of this Act;

“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;

“declared department or body” means a department (as defined in section 1 (1) of the Public Service Act, 1957 (Act No. 54 of 1957), or any other institution, authority or body established by or under any law and designated by the State President as a declared department or body for the purposes of this Act;

[The “Administration of South West Africa” and the “Secretary for South West Africa” were removed from the coverage of the Public Service Act 54 of 1957 by RSA Proc. R 112/1980 (RSA GG 7097). The public service in South West Africa was then governed by the Government Service Act 2 of 1980 (OG 4116), which was renamed the Public Service Act 2 of 1980 and replaced by the Public Service Act 13 of 1995.]

“dependant” means the widow or child of a deceased member of the pension fund or of the superannuation fund;

“employer’s contribution” means an amount being regularly paid, in terms of the regulations, in respect of each contributor to the pension fund or to the superannuation fund, as the case may be, from revenue to the fund concerned;

“fixed date”, in relation to any authority or any person employed by any authority, means the date with effect from which such authority is designated as an authority for the purposes of this Act, as contemplated in the definition of “authority”;

“Government” means the Government of the Republic, and includes every provincial administration and the administration of the territory, but does not include the railway administration;

“local authority” means any institution, council or body referred to in section 84(1)(f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), or any other institution, council or body recognized by the Minister as a local authority for the purposes of this Act;

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

“Minister” means the Minister of Co-operation and Development;

“municipal pension fund” means any superannuation, pension or provident fund or scheme with which a local authority is associated or which has been established by a local authority for the benefit of its employees, or by or under any ordinance for the benefit of the employees of one or more local authorities and which, in the case of the employees of a local authority which is not an institution, council or body referred to in section 84(1)(f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), has been approved by the Minister for the purposes of this Act;

[The definition of “municipal pension fund” is substituted by Act 4 of 1976.]

“ordinance” means any ordinance of any province or the territory and includes any proclamation issued by the Administrator of the territory;

“other pension fund or a provident fund” means any pension fund or scheme or provident fund administered by the Minister of Social Welfare and Pensions in terms of any law other than this Act, any such fund or scheme as may be established in terms of a pension law administered by the Government of the Transkei referred to in the Transkei Constitution Act, 1963 (Act No. 48 of 1963), and any other such fund or scheme approved by the Minister for the purposes of this Act;

“pension” means any annuity, gratuity or other benefit;

“pensionable age” means the age referred to in section 4 (5);

“pension fund” means the Authorities' Service Pension Fund established by section 2(1);

“prescribed” means prescribed by regulation;

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

“revenue” -

(a) in relation to -

- (i) service with an authority performed in or in connection with any undertaking or activity of, or any service rendered or any function exercised by, an authority; and
- (ii) any pension payable in respect of such service,

means moneys made available by the authority concerned;

(b) in relation to -

- (i) service with an authority performed by any person while seconded for service with a declared department or body; and
- (ii) any pension payable in respect of such service,

means moneys made available in terms of an agreement between the Government and the authority concerned, from any source referred to in such agreement;

(c) in relation to the payment of a pension in respect of service performed partly in the circumstances contemplated in paragraph (a) and partly in the circumstances contemplated

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

in paragraph (b), means moneys made available in terms of an agreement between the Government and the authority concerned from any source referred to in such agreement;

- (d) in relation to the payment, out of revenue in terms of the regulations, to or in respect of a member of the pension fund or of the superannuation fund or to or in respect of any person employed by an authority or a declared department or body but disqualified in terms of the regulations from becoming such member, of a pension for service in respect of which such member or person has not contributed to the pension fund or the superannuation fund or to any other pension fund or a provident fund -
- (i) in respect of a period of such service (if any) in which such member or person was in the service of the Government, means the Consolidated Revenue Fund, the Post Office Fund, the provincial revenue fund of the province concerned or the Revenue Fund of the territory, as the case may be;

[Paragraph (i) is substituted by Act 20 of 1972.]

- (ii) in respect of a period of such service in which such member or person was employed as a teacher in service referred to in paragraph (a) of the definition of "non-White employee" in section 1 of the Government non-White Employees Pensions Act, 1966 (Act No. 42 of 1966), means the Consolidated Revenue Fund; and

[Paragraph (ii) is substituted by Act 20 of 1972. The Government Non-white Employees Pensions Act 42 of 1966 was repealed by the Temporary Employees Pension Fund Act 75 of 1979.]

- (iii) in respect of a period of such service in which such member or person was in service with an authority or was employed by an authority or a declared department or body, means revenue as defined in paragraphs (a), (b) and (e);

"Secretary" means the Secretary for Co-operation and Development;

"service with an authority" means employment (other than employment as a casual employee) in the service of and on or supernumerary to the establishment of an authority, whether such service is performed by the person concerned in or in connection with any undertaking or activity of, or any service rendered or function performed by an authority, or while such person is seconded for service with a declared department or body and so serves;

"superannuation fund" means the Authorities' Service Superannuation Fund established by section 2(2);

"the territory" means the territory of South-West Africa;

"this Act" includes any regulation;

"widow" means -

- (a) the surviving woman who was associated with a deceased member of the pension fund or of the superannuation fund in a marriage (as defined in section 35 of the Black Administration Act, 1927 (Act No. 38 of 1927) subsisting at such member's death; or
- (b) the surviving female partner (as so defined) of every customary union (as so defined) between her and such member, subsisting at his death.

[The equivalent of the South African Black [Bantu] Administration Act 38 of 1927 in South West Africa was the Native Administration Proclamation 15 of 1928.]

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

(2) Notwithstanding the provisions of section 2(3) of this Act and section 18 of the Government Service Pensions Act, 1965 (Act No. 62 of 1965), the Secretary may at his discretion order that any pension or a portion thereof which is payable to any person in terms of this Act, shall be paid to some other person designated by the Secretary from time to time, under such conditions as to its administration for the benefit of such first-mentioned person as the Secretary may determine.

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

Establishment of pension fund and superannuation fund

2. (1) There is hereby established a fund to be known as the Authorities' Service Pension Fund, which shall consist of -

- (a) the amounts which are paid to that fund in terms of the regulations by persons who have become liable to contribute to that fund;
- (b) the employer's contributions which are paid to that fund;
- (c) any other amounts which are to be credited to that fund.

(2) There is hereby established a fund to be known as the Authorities' Service Superannuation Fund, which shall consist of -

- (a) the amounts which are paid to that fund in terms of the regulations by persons who have become liable to contribute to that fund;
- (b) the employer's contributions which are paid to that fund;
- (c) any other amounts which are to be credited to that fund.

(3) For the purposes of the Government Service Pensions Act, 1965 (Act No. 62 of 1965), or any other law relating to a pension fund or scheme administered by the Minister or by the Minister of Social Welfare and Pensions or designated by the Minister, the superannuation fund shall be deemed to be a pension fund within the meaning of that Act or such other law, and this Act shall be deemed to be a law relating to a pension fund or scheme administered by the Minister of Social Welfare and Pensions.

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

Membership of pension fund and superannuation fund

3. (1) Every person who, on the fixed date, is in service with an authority in a permanent capacity or on probation and is not a member of any other pension fund or a provident fund, shall, subject to the regulations, on that date become a member of, and with effect from that date contribute to, the pension fund in terms of the regulations.

(2) Every person who, on the fixed date, is in service with an authority otherwise than as contemplated in subsection (1), is not a member of any other pension fund or a provident fund, and before that date has completed a prescribed qualifying period in such service or in approved employment, shall, subject to the regulations, on that date become a member of, and with effect from that date contribute to, the superannuation fund in terms of the regulations.

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

(3) Every person who on the fixed date is in service with an authority in a permanent capacity or on probation, and on the day immediately prior to that date was by law liable to contribute to any other pension fund or a provident fund, or on or after the said date is appointed or transferred to service with an authority and assumes duty in such service in a permanent capacity or on probation, shall -

- (a) with effect from the said fixed date or the date on which he is so appointed or transferred, as the case may be, and subject to the regulations, become a member of and contribute to the pension fund; and
- (b) contribute, subject to the regulations, with effect from that fixed date or the date on which he is so appointed or transferred, as the case may be, to the pension fund in respect of his previous pensionable service (if any) with any other pension fund or a provident fund preceding his pensionable service under this Act without interruption of the continuity of his employment or after such interruption of such continuity as a prescribed authority may consider necessary and reasonable.

(4) Every person who -

- (a) is on the fixed date in service with an authority or is appointed or transferred to such service on or after that date;
- (b) is employed in such service otherwise than as contemplated in subsection (1); and
- (c) has on the said fixed date or on the other date on which he is appointed or transferred in terms of paragraph (a), not completed a prescribed qualifying period in such service or in approved employment,

shall, subject to the regulations, become a member of the superannuation fund on the day after the date on which he completed such qualifying period and shall on that day become liable to contribute to the said fund: Provided that if any such person has been so appointed or transferred (without interruption of the continuity of his employment or after such interruption of such continuity as a prescribed authority may consider necessary and reasonable) from employment in respect of which he contributed to any other pension fund or a provident fund -

- (i) he shall be deemed to have completed such qualifying period on the day preceding the date of such appointment or transfer; and
- (ii) he shall, on the date of such appointment or transfer, become liable to contribute to the superannuation fund, in terms of prescribed conditions, in respect of his pensionable service as a member of any such other fund.

(5) Any person who for a prescribed qualifying period (without interruption of the continuity of such period or with such interruption of such continuity as a prescribed authority may consider necessary and reasonable) has performed casual labour with an authority or a declared department or body or in approved employment, shall, if the said prescribed authority so directs, become a member of the superannuation fund, on the prescribed conditions, and shall contribute to that fund in terms of the regulations, and any person who has so become a member of that fund shall for the purposes of subsection (6) be deemed to be in service with an authority.

(6) Any person who, in terms of this section, has become a member of either the pension fund or the superannuation fund, as the case may be, and any person whose membership has in terms of the regulations been transferred from the one said fund to the other, shall, subject to the regulations, remain a member of such fund or of the last such fund of which he so became a member, as the case may be, while he remains in service with an authority in any capacity without

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

interruption of the continuity of his employment, and if, on the termination of his service with an authority for any reason other than the attainment of the age for retirement, ill-health or misconduct, he is, without interruption of the continuity of his employment or after such interruption of such continuity as a prescribed authority may consider necessary and reasonable, re-appointed to service with an authority in the same or any other capacity, the continuity of his employment shall be deemed not to have been interrupted, and he shall, subject to the regulations, remain a member of the fund to which he contributed before his service was so terminated.

(7) If any authority or declared department or body takes over any undertaking or activity of a local authority or any power or function of a local authority in connection with the rendering of any service or the administration of any area, any person who is a member of a municipal pension fund and immediately prior to the date on which such undertaking, activity, power or function is so taken over, is in the service of such local authority in or in connection with such undertaking or activity or the rendering of such service or the administration of such area, shall, by virtue of such taking over, become liable to become a member of and to contribute to the pension fund, if his appointment or transfer to service with an authority is in a permanent capacity or on probation, or to become a member of and to contribute to the superannuation fund if such appointment or transfer occurs in any other manner, and, notwithstanding anything to the contrary contained in any law (including the provisions of the ordinance or rules governing such municipal pension fund) -

- (a) the period of such person's service recognized in terms of such ordinance or rules as pensionable service, shall be included in such person's pensionable service for the purposes of the pension fund or of the superannuation fund, as the case may be, unless such a person notifies the Secretary in writing before the relative date of take-over that he does not wish his previous pensionable service to be reckoned as pensionable service in terms of this subsection;

[Paragraph (a) is substituted by Act 4 of 1976.]

- (b) an amount equal to the transfer value which would have been payable in terms of such ordinance or rules if such person had been transferred or directly appointed to the service of any other local authority having a different municipal pension fund or associated with a different municipal pension fund, shall be paid out of the municipal pension fund concerned to the pension fund or to the superannuation fund, as the case may be or, if no amount would have been so payable, an amount which the Minister determines after consultation with the management of the municipal pension fund concerned, with due regard to the circumstances of a specified case or category of cases;

[Paragraph (b) is substituted by Act 4 of 1976.]

- (c) interest at the rate of five and one-half per cent per annum, compounded annually on the thirty-first day of March and calculated from the date on which such person becomes liable to contribute to the pension fund or the superannuation fund, as the case may be, up to the date of payment of such amount, shall be added to an amount payable in terms of paragraph (b).

[Paragraph (c) is substituted by Act 119 of 1977.]

(7A) If the total of the amounts payable to the pension fund or the superannuation fund in terms of paragraphs (b) and (c) of subsection (7) -

- (a) is less than the amount payable in terms of the regulations governing the pension fund or the superannuation fund, as the case may be, in respect of the previous pensionable service of the member of a municipal pension fund concerned in order

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

to reckon such previous pensionable service for the purposes of the pension fund or superannuation fund, the deficiency shall be paid from revenue to the pension fund or superannuation fund, as the case may be;

- (b) exceeds the amount referred to in paragraph (a), the surplus shall be paid to the member concerned by the municipal pension fund.

[Subsection (7A) is inserted by Act 4 of 1976.]

(8) Where a class or category of persons who, while in the service of the Government, or in service with an authority prior to the fixed date, performed work of such a kind as to become members of any other pension fund or a provident fund of which the benefits are substantially more favourable than the benefits payable in terms of the regulations in corresponding circumstances out of the pension fund -

- (a) become liable to contribute to the pension fund In terms of subsection (3); and
- (b) continue to perform the said kind of work in service with an authority,

the Minister may direct that special benefits shall, subject to the regulations, be paid to such persons or, if deceased, to their dependants, and such benefits shall not be less favourable than the benefits which would, in corresponding circumstances, have been payable, from the other pension fund or provident fund concerned of which those persons were members, to such persons or dependants, had such persons remained members of such pension fund or provident fund.

Ages for retirement

4. (1) Subject to the provisions of subsection (2), a member of the pension fund or of the superannuation fund, as the case may be, shall have the right to retire on pension and shall be retired on pension on attaining an age prescribed by or under any law determining the conditions of his service with an authority: Provided that if no age has, in relation to any authority, been so prescribed, any member of the pension fund or the superannuation fund in the service of such authority shall have the right to retire on pension and may be retired on pension when he attains the pensionable age.

- (2) Notwithstanding the provisions of any such law -
 - (a) no age under fifty-five years may be so prescribed;
 - (b) different ages may be so prescribed for different classes or categories of persons or by or in respect of different authorities;
 - (c) provision may be made by or under any such law for persons of a class or category designated by or under such law, retiring on pension and being retired on pension at such alternative ages as may be prescribed by or under such law.

(3) Notwithstanding the provisions of this section or of any law, a member of the superannuation fund -

- (a) who, not less than one month before the date on which he attains the pensionable age, gives written notification to the head of the authority or declared department or body with which he is serving of his desire to retire on pension, shall be retired on pension on such date;

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

(b) who, on or after the said date, so gives notification, shall be retired on pension on the first day of the month immediately following the month in which such notification is received;

(c) who, on or after the said date resigns voluntarily or for any reason, other than his misconduct, is retired or discharged, shall be deemed to be retired on pension in terms of paragraph (b).

(4) Notwithstanding anything to the contrary in any law contained, but subject to the approval of a person or body designated for the purpose by or under any law governing the conditions of service of persons in service with an authority, any member of the pension fund or of the superannuation fund who has attained the age of fifty-five years may be retired on pension.

(5) Notwithstanding the provisions of subsections (1), (2), (3) and (4) or of any law referred to in subsection (1), a member of the pension fund or of the superannuation fund shall be deemed to have attained the pensionable age when he attains the age of sixty years.

(6) Notwithstanding any provision to the contrary in any law contained, but subject to the provisions of subsection (3), no person shall retire or be retired on any day other than the first day of the month immediately succeeding the month in which he attains an age for retirement.

Transfer of assets and liabilities of pension fund or superannuation fund to certain other pension funds, superannuation funds or provident funds

4A. Notwithstanding anything to the contrary contained in any law the Minister may, in consultation with the Minister of Finance, direct that such portion as he may determine of the assets and liabilities of the pension fund and the superannuation fund be transferred, as from a date fixed by him, to any pension, superannuation or other provident fund -

- (a) established in respect of persons in the employ of provident any authority; and
- (b) of which members of the pension fund or superannuation fund are to become members as from a fixed date.

[Section 4A is inserted by Act 119 of 1979.]

Regulations

5. (1) The Minister may, in consultation with the Minister of Finance, from time to time make regulations -

- (a) for the management and control of the pension fund and the superannuation fund;
- (b) providing for the payment of contributions to the said funds and of benefits from such funds or from revenue, or from such funds and from revenue, to or in respect of members of those funds on their retirement, discharge, resignation or death;
- (c) in regard to any matter which under this Act is required or permitted to be prescribed by regulation, and generally for the better carrying out of the objects and purposes of this Act.

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

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

- (a) prescribe the classes or categories of persons who, notwithstanding the provisions of section 3, shall be disqualified from membership of the pension fund or of the superannuation fund;
- (b) provide for the determination of the nature and duration of a qualifying period of service (if any) required for admission to membership of the superannuation fund;
- (c) prescribe the periods which shall or may be reckoned as pensionable service in determining a benefit payable to or in respect of any person who contributed to the pension fund or the superannuation fund, as the case may be, and the conditions for the inclusion in such pensionable service of any previous periods of pensionable service in respect of which such person contributed to the one or the other of such funds or to any other pension fund or a provident fund or to the Consolidated Revenue Fund, or to any other fund or any account established by law, and provide for the determination of the amount required by the pension fund or by the superannuation fund, as the case may be, in respect of the recognition of any previous period for inclusion in the pensionable service of the person concerned;
- (d) prescribe the conditions on which a member of the pension fund may be permitted to include any period not referred to in paragraph (c), in his pensionable service, and the authority by whom such permission may be granted, and provide for the calculation of the amount required by that fund in respect of such inclusion;
- (e) provide for the payment out of revenue on the retirement or death of any person who has contributed to the pension fund or the superannuation fund, of a benefit in respect of the periods in which such person was in the whole-time service of the Government or of an authority and which are, or by law are deemed, to be continuous with such person's pensionable service, but which, in terms of any law, are not included in such pensionable service, and prescribe conditions for the payment of such benefit;
- (f) prescribe the rate or scale (determined on the basis of emoluments payable or on such other basis as may be specified in the regulations) according to which any person becoming liable, in terms of section 3, to contribute to either the pension fund or to the superannuation fund, as the case may be, shall so contribute, and the times at which the contributions concerned shall be payable, provide for the deduction of such contributions and of any other amounts owing to the fund concerned from the emoluments of the persons concerned, and prescribe the authority by whom such deductions shall be made, and the amounts of such deductions shall be paid to the fund concerned;
- (g) prescribe the contributions, interest and other amounts which shall be paid from the Consolidated Revenue Fund, or from any other fund or any account established by law, or from revenue to either the pension fund or to the superannuation fund, as the case may be, or which shall be paid from the one or the other of such funds to the Consolidated Revenue Fund or to such other fund or account or to revenue, and the circumstances and manner in which such contributions, interest and amounts shall so be paid;
- (h) prescribe the benefits (determined on the basis of emoluments received over any period or on such other basis as may be specified in the regulations) payable from the pension fund or from the superannuation fund, as the case may be, or from revenue or from the one or the other of such funds and from revenue, and the circumstances in which and the conditions on which such benefits shall be payable in particular cases or classes of cases;

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

- (i) prescribe the salaries, wages or allowances, whether in cash or in kind, in respect of which contributions shall be paid to the pension fund or to the superannuation fund and on which the benefits payable from any such fund or from revenue or from any such fund and from revenue shall be based;
- (j) prescribe the nature of and the method of calculating the special benefits referred to in section 3(8), and the conditions on which such benefits are payable to a member of the pension fund or, if deceased, his dependant, including, in connection therewith, providing for the payment by such member and from revenue of special contributions to such fund, for special payments from the said fund or from revenue or from such fund and from revenue to such member or, if deceased, his dependant, and provide for the case where such member is at any time in the course of his service with an authority permanently transferred to perform work other than the kind of work referred to in section 3(8)(b);
- (k) provide for -
 - (i) the investment of amounts standing to the credit of the pension fund and of the superannuation fund;
 - (ii) the periodical valuation by an actuary of the assets and liabilities of the pension fund and of the superannuation fund;
- (l) prescribe the conditions on which a member of the pension fund mayor shall become a member of the superannuation fund, and a member of the superannuation fund mayor shall become a member of the pension fund, and provide for the payment from the one fund to the other of the amount required in respect of the recognition of any such member's appropriate previous pensionable service with the one or the other of such funds;
- (m) provide for the payment from the pension fund or from the superannuation fund, as the case may be, of the amount required by any other pension fund or a provident fund in respect of the recognition of the pensionable service of a member of the one or the other of the first-mentioned funds, who by law has become liable to contribute to the other pension fund or provident fund concerned in respect of such pensionable service, and for the payment of interest on such amount;
- (n) prescribe the conditions on which a contributor to the pension fund or to the superannuation fund shall or may continue contributing to the fund of which he is a member if he is seconded to service which is not service with an authority and in respect of which he is not liable so to contribute;
- (o) provide for the payment from revenue of a benefit in respect of continuous wholetime employment with an authority or a declared department or body (including similar employment with the Government which precedes and is continuous with such employment or is in terms of any law deemed to be continuous therewith) to or in respect of any person who, in terms of this Act, is disqualified from becoming a member of both the pension fund and the superannuation fund and for whom no provision for a pension is made in any other law, and prescribe the conditions on which such benefit may be paid;
- (p) provide for the exercise or performance by the Secretary of such powers or functions as the Minister may consider necessary for the achievement of the objects of this Act.

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

(3) Different regulations may be made in respect of the pension fund and the superannuation fund, and in respect of persons belonging to different classes or categories.

(4) Any regulation or any amendment of a regulation other than an amendment increasing the rate or scale of contributions to the pension fund or the superannuation fund by a member of the one or the other of such funds or substituting any less favourable benefit for a prescribed benefit or abolishing any such benefit, may be made with retrospective effect from a date not earlier than the fixed date in relation to the authority concerned.

Recovery of certain losses or overpayments from pensions

6. (1) Notwithstanding the provisions of section 2(3) of this Act, section 14 of the Government Service Pensions Act, 1965 (Act No. 62 of 1965), or any other law

- (a) any amount payable by any person in service with an authority to the authority concerned on the date of his retirement or discharge or which such authority is liable to pay in respect of such person;
- (b) the amount of any loss certified by a person recognized by the Minister for the purpose, to have been sustained by an authority as the result of theft, fraud, negligence or misconduct on the part of any person in the service of such authority; or
- (c) the amount of any loss certified by any person so recognized, to have been sustained by a declared department or body as the result of theft, fraud, negligence or misconduct on the part of any person seconded, in terms of the provisions of any law, for service with such declared department or body.

may be deducted from the pension payable to such person in terms of this Act, in a lump sum or in such instalments as the Secretary may determine.

(2) Notwithstanding the provisions of section 2(3) of this Act, section 14 of the said Government Service Pensions Act, 1965, or any other law, the amount of any loss certified by a person recognized by the Minister for the purpose, to have been sustained by an authority as a result of theft, fraud, negligence or misconduct on the part of any person -

- (a) who has, in terms of the provisions of any law, been designated to assist such authority, and
- (b) who, while he so assisted such authority, contributed to any pension or provident fund administered by the Minister of Social Welfare and Pensions,

may be deducted from the pension payable to such person, in terms of the law governing such pension or provident fund, in a lump sum or in such instalments as the Secretary may determine.

(3) Notwithstanding the provisions of section 2 (3) of this Act or section 14 of the said Government Service Pensions Act, 1965, a *pro rata* portion of any amount paid as salary or allowances to any person in service with an authority in respect of any period, may, where such person dies before the last day of such period, be recovered in respect of the unexpired portion of such period by deducting it in a lump sum or in such instalments as the Secretary may determine, from the pension payable to the estate or to a dependant of the deceased under this Act.

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

Delegation

Black Authorities' Service Pensions Act 6 of 1971 (RSA)

7. (1) The Minister may delegate to the Secretary or any other officer of the Department of Co-operation and Development and, with the approval of the Minister of Social Welfare and Pensions, to the Secretary or any other officer of the Department of Social Welfare and Pensions, any of the powers conferred on the Minister by this Act, except any power conferred by section 5, and may authorize the Secretary or any other officer of the Department of Co-operation and Development, and similarly the Secretary or any other officer of the Department of Social Welfare and Pensions, to perform any of the functions or duties which are by this Act entrusted to or imposed on the Minister.

(2) Any such Secretary may with the approval of the Minister delegate any of the powers conferred by this Act on such Secretary, or which may under subsection (1) be delegated to him, to any other officer of the public service.

[Subsection (2) is substituted by Act 23 of 1972.]

(3) Any such Secretary may with the approval of the Minister authorize any other officer of the public service to perform any of the functions or duties which are by this Act entrusted to or imposed on such Secretary, or which he may under subsection (1) be authorized to perform.

[Subsection (3) is substituted by Act 23 of 1972.]

Application of Act to South West Africa

8. This Act and any amendment thereof shall apply also in the territory, including the Eastern Caprivi Zipfel.

Short title

9. This Act shall be called the Black Authorities' Service Pensions Act, 1971.