

(26 November 1999 – to date)

[This is the **current** version and applied as from **26 November 1999**, i.e. the date of commencement of the Maintenance Act 99 of 1998 – to date]

GENERAL PENSIONS ACT 29 OF 1979

Government Notice 746 in Government Gazette 6390, dated 5 April 1979. Commencement date:
5 April 1979.

As amended by:

Pension Laws Amendment Act 100 of 1979 - Government Notice 1441 in Government Gazette 6549, dated 4 July 1979. Commencement date: **4 July 1979, unless otherwise indicated.**

Pension Laws Amendment Act 97 of 1980 - Government Notice 1525 in Government Gazette 7150, dated 1 August 1980. Commencement date: **1 August 1980, unless otherwise indicated.**

Pension Laws Amendment Act 67 of 1981 - Government Notice 1967 in Government Gazette 7788, dated 18 September 1981. Commencement date: **18 September 1981, unless otherwise indicated.**

Pension Laws Amendment Act 81 of 1982 - Government Notice 1122 in Government Gazette 8239, dated 9 June 1982. Commencement date: **9 June 1982, unless otherwise indicated.**

Pension Laws Amendment Act 96 of 1983 - Government Notice 1523 in Government Gazette 8809, dated 13 July 1983. Commencement date: **13 July 1983.**

Members of Parliament and Political Office-bearers Pension Scheme Act 112 of 1984 - Government Notice 1690 in Government Gazette 9362, dated 15 August 1984. Commencement date: **1 July 1984.**

Pension Laws Amendment Act 123 of 1984 - Government Notice 1784 in Government Gazette 9381, dated 29 August 1984. Commencement date: **29 August 1984.**

Pension Laws Amendment Act 106 of 1986 - Government Notice 1963 in Government Gazette 10452, dated 19 September 1986. Commencement date: **19 September 1986, unless otherwise indicated.**

Pension Laws Amendment Act 89 of 1988 - Government Notice 1391 in Government Gazette 11411, dated 15 July 1988. Commencement date: **15 July 1988.**

Pension Laws Amendment Act 117 of 1990 - Government Notice 1619 in Government Gazette 12639, dated 13 July 1990. Commencement date: **13 July 1990.**

Prepared by:

Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996) – Proclamation 21 in Government Gazette 17135, dated 19 April 1996. Commencement date: 1 May 1996.

Public Service Laws Amendment Act 47 of 1997 - Government Notice 1353 in Government Gazette 18366, dated 13 October 1997. Commencement date: 1 July 1999.

Maintenance Act 99 of 1998 - Government Notice 1534 in Government Gazette 19513, dated 27 November 1998. Commencement date: 26 November 1999.

Publisher's Note:

The Act has been amended by section 21 of Act 96 of 1983 by the substitution for the words "Health, Welfare and Pensions", wherever they occur, of the words "Health and Welfare".

It is hereby notified that the State President has assented to the following Act which is hereby published for general information: --

ACT

To consolidate certain laws relating to pensions generally; to further regulate pension matters generally; and to provide for incidental matters.

(Long title substituted by section 12 of Act 100 of 1979)

(Afrikaans text signed by the State President.)

(Assented to 26 March 1979.)

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

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1. Definitions

In this Act, unless the context otherwise indicates —

"annuity" means an amount which is payable each year and includes a pension or an allowance;

"benefit" means an amount of money;

"Director-General" means the Director-General: Finance;

"Minister" means the Minister of Finance;

"pension fund" means a pension or provident fund or scheme established by or under any pension law;

"pension law" means any law, including this Law, relating to a pension fund administered by or under the control of the Minister, and includes any regulation made under any such law, but excluding the Government Employees Pension Law, 1996;

(Section 1 amended by section 17 of Act 97 of 1980)

(Section 1 amended by section 15 of Act 89 of 1988)

(Section 1 substituted by section 34(2) of Proc. 21 of 1996)

CHAPTER 1 GENERAL PROVISIONS

2. Prohibition on cession and attachment of annuities and benefits.

- (1) No annuity or benefit or right in respect of an annuity or benefit payable under a pension law shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated or, save as is provided in section 26 or 40 of the Maintenance Act, 1998, be liable to be attached or subjected to any form of execution under a judgment or order of a court of law.

(Section 2(1) substituted by section 45 of Act 99 of 1998)

- (2) If any person attempts to assign or transfer or otherwise cede or to pledge or hypothecate any annuity or benefit to which he is entitled under any pension law or any right in respect of such annuity or benefit, payment of such annuity or benefit may be withheld, suspended or discontinued if the Minister so directs: Provided that the Minister may direct that such annuity or benefit or a part thereof be paid to one or more of the dependants of such person or to a trustee for such person or his dependants during such period as the Minister may determine.

- (3) Notwithstanding the provisions of subsection (1) or of any other law —

- (a) any amount which is payable to the Government, a provincial administration or a pension fund by any person in the employ of the Government or a provincial administration on the date of his retirement or discharge, or which the Government or a provincial administration is liable to pay in respect of such person;

- (b) any amount which has been paid to any person in accordance with the provisions of a pension law and to which such person was not entitled;
- (c) the amount of any loss certified by the Auditor-General or a provincial auditor to have been sustained by the Government or a provincial administration through theft, fraud, negligence or any misconduct on the part of any person,

may be deducted from the annuity or benefit payable to such person under any pension law in a lump sum or in such instalments as the Secretary may determine.

- (4) Where a person in the employ of the Government or a provincial administration dies before the last day of a period in respect of which any salary or allowance was paid to him prior to his death, a *pro rata* part of the amount so paid may be recovered in respect of the unexpired portion of that period by deducting it in a lump sum, or in such instalments as the Secretary may determine, from the annuity or benefit payable to the estate or to a dependant of the deceased under a pension law.

3. Benefit not asset in insolvent estate.

Any benefit received under any pension law by any person whose estate is sequestrated shall not form part of the assets in his insolvent estate.

(Section 3 substituted by section 10 of Act 100 of 1979 with effect from 23 May 1979)

4. Cessation date of annuities

An annuity payable under a pension law shall, notwithstanding anything to the contrary in any law contained, be payable until the last day of the month in which the pensioner concerned dies.

5. Payment of annuities and benefits to persons other than persons entitled thereto.

If the Secretary is satisfied that it is undesirable for any reason to pay the whole amount of any annuity or benefit payable to any person under a pension law, directly to such person, the Secretary may order that such annuity or benefit or a portion thereof be paid to some other person on such conditions as to its administration for the benefit of such first-mentioned person or his dependants as the Secretary may determine.

6.

(Section 6 repealed by section 19 of Act 96 of 1983)

7. Application of annuities and benefits for payment of certain debts.

- (1) If the Minister or, if authorized thereto by the Minister, the Secretary is satisfied that —

- (a) any contributions or moneys due or payable by a pensioner to any registered medical aid fund or medical aid society recognized by the Minister for the Public Service and Administration have not been paid; or

(Section 7(1)(a) substituted by section 35 of Act 47 of 1997)

- (b) any judgment or order for the payment of money given or made before or after the commencement of this Act by a court of law against a pensioner in any judicial proceedings for the dissolution of the marriage between such pensioner and his spouse, has not been satisfied in full,

the Minister or the Secretary, as the case may be, may, notwithstanding anything to the contrary in any law contained, at his discretion direct that so much of any annuity or benefit payable to such pensioner under any pension law as does not exceed the amount of the contributions or moneys which have not been paid or the amount of the judgment or order which has not been satisfied, shall be paid to such fund or such spouse, as the case may be, in such instalments or otherwise and at such times, in such circumstances and on such conditions as the Minister or the Secretary, as the case may be, may from time to time determine.

- (2) The payment of any annuity or benefit or of any part thereof in terms of a direction under subsection (1), shall be a complete discharge of any liability to pay such annuity, benefit or part to the pensioner concerned.
- (3) For the purposes of this section "pensioner" means any person to whom any annuity or benefit is payable, but does not include a person to whom any annuity or benefit is payable as the widow or dependant of any person.

8. Increase of certain annuities and payment of allowances and bonuses to certain pensioners.

- (1) Notwithstanding anything to the contrary in any law contained but subject to the provisions of this section, the Minister may from time to time with the concurrence of the Minister of Finance —
 - (a) authorize the increase of any annuity payable under any pension law or from the State Revenue Fund or from moneys appropriated by Parliament for the service of the Department administered by the Minister;
 - (b) authorize the payment of any allowance or bonus to any person who is in receipt of an annuity referred to in paragraph (a),

in accordance with such rates or scales and in such circumstances and on such conditions and with effect from such date, which may be a date in the past, as the Minister may determine with the concurrence of the Minister of Finance.

- (2) Different rates, scales, circumstances and conditions may be determined in terms of subsection (1) in respect of different classes or categories of annuities or in respect of different classes or categories of persons.
- (3) Any increase of any annuity and any allowance or bonus payable under subsection (1) shall —
 - (a) if such annuity is payable from moneys appropriated by Parliament, be paid from revenue;
 - (b) if such annuity is payable from a pension fund or partly from a pension fund and partly from moneys appropriated by Parliament, be paid from revenue or from such pension fund or partly from revenue and partly from such pension fund in accordance with such ratio and in such manner and at such times and on such conditions as the Minister, with the concurrence of the Minister of Finance, may from time to time determine: Provided that any part of an allowance payable under this section from revenue to or in respect of any person who has retired or has been retired or discharged from the service of the Department of Posts and Telecommunications, or to any dependant of such a person, shall, if such person or dependant is a male person of or over the age of 65 years, or if such person or dependant is a female person of or over the age of 60 years, be charged to the State Revenue Fund to the extent determined by the Minister.
- (4) If the Minister, or an officer in the Department of Social Welfare and Pensions designated by the Minister for the purpose of this section, is satisfied that any allowance which is being paid to any person under subsection (1)(b), should be cancelled, reduced or increased, he may, with due regard to the circumstances of such person and to the rates, scales, circumstances and conditions determined in terms of subsection (1), cancel, reduce or increase such allowance with effect from such date, which may be a date in the past, as he may determine.
- (5) For the purposes of this section "revenue" means the State Revenue Fund or, in respect of any person who has retired or who has been retired or discharged from service under —
 - (i) the Department of Posts and Telecommunications, the Post Office Fund;
 - (ii) a provincial administration, the provincial revenue fund in question.

8A. Civil Pensions Stabilization Account.

- (1) The Director-General shall cause to be kept an account to be known as the Civil Pensions Stabilization Account (hereinafter called the account), which shall be credited with —
 - (a) any moneys contributed to the account by members of pension funds;
 - (b) any moneys as may be appropriated by Parliament for the account;

- (c) any interest as may be acquired from the investment of moneys in the account; and
 - (d) such other moneys as may accrue to the account from any other source.
- (2) The Director-General may from time to time direct that an amount determined by him be paid out of the account to a pension fund so as to assist such pension fund in meeting its additional liabilities resulting from an increase in annuities, allowances or bonuses referred to in section 8.
- (3) Moneys standing to the credit of the account and which are not immediately required for the purpose mentioned in subsection (2), shall be invested with the Public Debt Commissioners.
- (4) The account shall be audited by the Auditor-General.

(Section 8A inserted by section 18 of Act 97 of 1980 with effect from 1 April 1980)

9. Period regarding payment of benefits

Notwithstanding anything to the contrary in any law contained, a benefit payable in terms of any pension law shall be paid to the person entitled to such benefit within a period of 60 days after the date on which the Secretary receives a duly completed statement in such form as he may determine for the purposes of this section or, if he receives such statement before the date on which a benefit is payable to the person concerned in terms of a pension law, the date on which such benefit is so payable.

CHAPTER 2 PENSION RIGHTS OF SPECIFIED PERSONS

10. Regulations for payment of pension benefits to specified officers and their dependants.

- (1) Notwithstanding anything to the contrary in any law contained, the Minister may, with the concurrence of the Minister of Finance, make regulations providing for the payment, subject to such conditions as may be prescribed in such regulations, of pension benefits —
- (a) to any specified officer who retires or is retired or discharged on pension in terms of any law relating to his retirement or discharge on pension, or who so retires or is so retired or discharged —
 - (i) on account of continued ill-health which has not been occasioned by his own default;
 - (ii) owing to the abolition of his office or post or to any reduction in or reorganization or readjustment of the department or office in which he is employed;

- (iii) on the ground that his discharge will for reasons other than his own unfitness or incapacity, promote efficiency or economy in the department or office in which he is employed;
 - (iv) on account of unfitness for his duties or incapacity to carry them out efficiently;
 - (b) to the dependants of any specified officer who dies before his retirement or discharge or within five years after the date of his retirement or discharge.
- (2) Any pension benefit payable in terms of any regulation made under subsection (1) or deemed to have been made thereunder, shall be paid from the State Revenue Fund.
- (3) Any regulation referred to in subsection (1) may be made with retrospective effect, and different regulations may be made in respect of different classes or categories of persons.
- (4) For the purposes of this section "specified officer" means an officer as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957), who is not a White person as defined in section 1 of the Population Registration Act, 1950 (Act No. 30 of 1950), and whose period of service as such an officer includes a period of service in respect of which he has not contributed to a pension fund and which is not pensionable service for the purposes of any such fund.

11. Regulations relating to payment of compensation and rendering of medical treatment

- (1) Notwithstanding anything to the contrary in any law contained, the Minister may, with the concurrence of the Minister of Finance, the Minister for Posts, Telecommunications and Broadcasting and the Premiers, and after consultation with the Minister of Justice, the Minister for the Public Service and Administration, the Minister of Defence, the Minister for Safety and Security and the Minister of Correctional Services, make regulations which provide –

(Words preceding section 11(1)(a) substituted by section 35 of Act 47 of 1997)

- (a)
- (i) for the payment of compensation to or in respect of, or to a dependant of, an employee who dies or is retired or discharged as a result of injury or ill-health, not occasioned by his own fault, arising out of and in the course of his employment; and
 - (ii) 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 any officer or employee in respect of injury or ill-health, not occasioned by his own fault, arising out of and in the course of his employment by the Government or by any provincial administration;

(Section 11(1)(a) substituted by section 34(2) of Proc. 21 of 1996)

- (b) for the payment of annuities or benefits to or in respect of, or to a dependant of, any employee referred to in paragraph (a)(i) according to the degree of any such employee's permanent disablement as determined by the Compensation Commissioner in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);

(Section 11(1)(b) substituted by section 34(2) of Proc. 21 of 1996)

- (c) for the exercise and the performance by the Director-General of such powers and duties as the Minister may deem necessary for the effective carrying out of the regulations.

(Section 11(1) substituted by section 19(a) of Act 97 of 1980 with effect from 5 April 1979)

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

- (a) any military service as defined in section 1 of the Military Pensions Act, 1976 (Act No. 84 of 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 provincial administration in whose service he was during the time he rendered such military service;

- (b)

(Section 11(3)(b) deleted by section 34(2) of Proc. 21 of 1996)

- (4)

- (a) For the purposes of section [sic] (1)(a)(i) —

"employee" means any member of the Police Reserve established under section 48 of the South African Police Service Act, 1995 (Act No 68 of 1995).

- (b) For the purposes of section [sic] (1)(a)(ii) —

"officer or employee" means any member of the Police Reserve established under section 48 of the South African Police Service Act, 1995, (Act No 68 of 1995), and also any member of the Government Employees Pension Fund in the employ of the Government or any provincial administration.

(Section 11(4) substituted by section 19(b) of Act 97 of 1980 with effect from 5 April 1979)

(Section 11(4) substituted by section 34(2) of Proc. 21 of 1996)

- 12.

(Section 12 amended by section 6 of Act 117 of 1990)

(Section 12 amended by section 6 of Act 81 of 1982)
(Section 12 repealed by section 34(2) of Proc. 21 of 1996)

13. Pension benefits for officers and employees of Parliament and their widows and dependants.

- (1) The annuity, gratuity or other benefit to which an officer of Parliament as defined in section 1 of the Powers and Privileges of Parliament Act, 1963 (Act No. 91 of 1963), or the widow or dependant of any such officer becomes entitled, as calculated in terms of the provisions of the Pension Scheme for Officers of Parliament (hereinafter in this section referred to as the Scheme), shall be paid to the beneficiary from moneys appropriated by Parliament for that purpose, and a certificate duly signed by the Speaker, as defined in section 1 of that Act, to the effect that any such officer or his widow or dependant, as the case may be, has become entitled to be paid benefits under the relevant provisions of the Scheme, and setting out particulars of such benefits and of the terms and conditions, if any, subject to which they are payable, shall constitute the requisite authority for the payment of such benefits.
- (2) Any annuity, gratuity or other benefit as determined by the Speaker, payable to an employee who was full-time in the Parliamentary service, but who was not on the fixed establishment of Parliament, or to the widow or any other dependant of such person, shall be paid to the beneficiary from moneys appropriated by Parliament for the purpose, and a certificate, duly signed by the Speaker, that such employee or his widow or other dependant, as the case may be, has become entitled to be paid such benefits, and setting out particulars of such benefits and of the terms and conditions, if any, to which the payment thereof is subject, shall constitute the requisite authority for the payment of such benefits.
- (3) An employee referred to in subsection (2) shall for the purpose of the application of the provisions of that subsection be deemed not to be an "officer of Parliament" within the meaning of subsection (1).
- (4) The provisions of sections 2, 3, 4 and 9 shall apply *mutatis mutandis* to any annuity, gratuity or benefit referred to in this section, and any reference in those provisions to the Minister or Secretary shall be construed as a reference to the Speaker.

13A. Pension contributions by Secretary to Parliament.

- (1) Pension contributions at the prescribed rate shall be deducted from the pensionable emoluments of the Secretary to Parliament with effect from 1 April 1980 and be paid to the State Revenue Fund.
- (2) For the purposes of subsection (1) –

'pensionable emoluments' means the amount of the salary and allowances of the Secretary to Parliament which the Speaker determines;

'prescribed rate' means the rate of contributions prescribed under section 17(2)(b) of the Government Service Pension Act, 1973 (Act No. 57 of 1973).

(Section 13A inserted by section 20 of Act 97 of 1980)

14. Payment of special pensions to members who previously held certain offices.

- (1) If any member, who became a member prior to the fixed date as defined in section 1(1) of the Members of Parliament and Political Office-bearers Pension Scheme, 1984, was, before the date on which he became a member, subject to a pensions ordinance and held an office referred to in that pensions ordinance, but no special pension is payable to him in terms of the provisions of the applicable pensions ordinance in respect of his service in such office, there shall, notwithstanding anything to the contrary in any law contained, be paid to him with effect from the day following the date of the termination of his service in such office, a special pension in terms of the applicable pensions ordinance in respect of the period of his service in such office as if he was entitled with effect from the said day to such special pension in terms of that ordinance, irrespective of whether or not that ordinance has been repealed.

(Section 14(1) substituted by section 20 of Act 112 of 1984)

- (2) Unless the context otherwise indicates, any word or expression in subsection (1) to which a meaning has been assigned in the Parliamentary Service and Administrators' Pensions Act, 1971 (Act No. 81 of 1971), bears, notwithstanding the repeal of that Act by the Members of Parliament and Political Office-bearers Pension Scheme Act, 1984, the same meaning.

(Section 14(2) substituted by section 20 of Act 112 of 1984)

14A. Cancellation of certain pensions payable to members of President's Council

- (1) If any member elects under paragraph 2 of the Schedule to the Pension Proclamation to be subject to the Pension Proclamation, any pension payable to him under a pension law shall be deemed to have been cancelled as from the date on which he became a member, and he shall refund any amount which was paid to him by way of such pension in respect of any period after the said date to be deposited in the fund from which it was paid.
- (2) Any member to whom a pension was payable under a pension law when he became a member and who before the amendment of the Pension Proclamation by Proclamation No. 142 of 1981 elected to be subject to the Pension Proclamation, shall be deemed to have made such election under paragraph 2 of the Schedule to the Pension Proclamation, as amended by Proclamation No. 142 of 1981.
- (3) No benefit shall be payable under a pension law to any person to whom subsection (1) applies, or on the death of such person, to his widow, child, dependants or estate, in respect of such person's pensionable service under such law prior to his appointment as a member.

- (4) For the purpose of this section –

'member' means a member of the President's Council;

'pension law' means the Parliamentary Service and Administrators' Pensions Act, 1971 (Act No. 81 of 1971), the Members of the Coloured Persons Representative Council Pensions Act, 1974 (Act No. 79 of 1974), the Members of the South African Indian Council Pensions Act, 1974 (Act No. 86 of 1974), or any ordinance in force under the Provincial Powers Extension Act, 1980 (Act No. 82 of 1980);

'Pension Proclamation' means the Proclamation relating to the Pension Scheme for Members of the President's Council, 1981 (Proclamation No. R.63 of 1981).

(Section 14A inserted by section 2 of Act 67 of 1981 with effect from 5 September 1980)

15. Preservation of pension rights of certain persons

- (1) If the membership of a member of a pension fund is on account of any reason terminated before he attains the age at which he would have the right to retire on pension, the Director-General may –

- (a) with the concurrence of such member, declare him a dormant member of such pension fund with effect from the date on which his membership was so terminated if he deems it expedient that his pensionable service as such member should be retained for him; or
- (b) at any time before the date referred to in paragraph (a), on the written application of such member made through his intended employer, in his discretion, approve that such member shall for all purposes remain a member of such pension fund as if members, or persons in the service, of that employer were members of that pension fund, if the employer concerned undertakes to contribute to that pension fund in respect of that member to the same extent that an employer is, in terms of the laws on that pension fund, required to contribute to that pension fund in respect of a member.

(Section 15(1) substituted by section 8(a) of Act 123 of 1984)

(Section 15(1) substituted by section 7(a) of Act 106 of 1986)

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

- (a) no contributions in respect of a dormant member shall be payable to the pension fund of which he is a dormant member for the period during which he is a dormant member;
- (b) no pension benefit shall be payable to a dormant member before the fixed date;
- (c) a dormant member shall, with effect from the fixed date, be entitled to an annuity and a gratuity which shall be calculated in accordance with the formula;

(Section 15(2)(c) substituted by section 3(a) of Act 67 of 1981 with effect from 1 July 1980)

- (d) the widow or dependant or estate of a dormant member who has died before the fixed date shall, with effect from the date of his death, be entitled to an annuity and a gratuity which shall be calculated in accordance with the formula;

(Section 15(2)(d) substituted by section 3(a) of Act 67 of 1981 with effect from 1 July 1980)

- (e) a member referred to in subsection (1)(b) shall, notwithstanding anything to the contrary contained in any law, not be competent to become a member of, or to contribute to, a pension or provident fund or scheme in relation to which members, or persons in the service, of the employer concerned are or may be required to become members and to contribute as members.

(Section 15(2)(e) added by section 8(b) of Act 123 of 1984)

(Section 15(2)(e) substituted by section 7(b) of Act 106 of 1986)

- (3) If a dormant member becomes or again becomes a contributing member of a pension fund he shall, with effect from the date on which he so becomes or again becomes a contributing member, cease to be a dormant member and his pensionable service shall be deemed not to have been interrupted by the period during which he was a dormant member and the aggregate of all the periods of his pensionable service shall be taken into account for the purposes of the applicable pension law.

- (4) For the purposes of this section —

- (a) "applicable pension law", in relation to —

- (i) a dormant member or the widow, dependant or estate of a dormant member who has died, means the laws, regulations and rules relating to the pension fund of which he is or, immediately before the date of his death, was a dormant member;
 - (ii) a member who in terms of subsection (3) has ceased to be a dormant member, means the laws, regulations and rules relating to the pension fund of which such member has become or again become a contributing member as contemplated in that subsection;

- (b) "contributing member" means any member contributing to a pension fund;

- (c) "dormant member" means any person declared a dormant member under subsection (1);

- (cA) "employer" includes any board, institution, establishment or body established under any law or a government or legislative body of a country or area in Africa in respect of which Parliament had previously exercised legislative powers.

(Section 15(4)(cA) inserted by section 7(c) of Act 106 of 1986)

- (d) "fixed date" means —

- (i) the date on which a dormant member (excluding a member referred to in subparagraph (ii)) attains the age at which he, immediately before the date on which his membership was terminated as contemplated in subsection (1), would have had the right to retire on pension; or
- (ii) the date determined by the Director-General in the case of a dormant member who has not yet attained the age referred to in subparagraph (i) and whose circumstances are in the opinion of the Director-General of such a nature that he would have retired or would have been retired or discharged on pension on the ground of continued ill-health which has not been occasioned by his own default or any other prescribed reason had he been a contributing member of the pension fund of which he is a dormant member;

(Section 15(4)(d) substituted by section 7 of Act 81 of 1982 with effect from 5 April 1979)

(Section 15(4)(d) substituted by section 7(d) of Act 106 of 1986)

(Section 15(4)(d) substituted by section 7 of Act 117 of 1990)

- (e) 'the formula', in relation to an annuity or a gratuity to be calculated in accordance with the formula, means—

$$A \times 1,10^n$$

in which –

A represents –

- (i) in the case of an annuity or a gratuity referred to in subsection (2)(c), the annual amount of the annuity or the amount of gratuity, as the case may be, to which the dormant member concerned would have been entitled in terms of the pension law concerned if he had on the fixed date been a contributing member of the pension fund of which he was a dormant member;
- (ii) in the case of the annuity or a gratuity referred to in subsection (2)(d), the annual amount of the annuity or the amount of the gratuity, as the case may be, to which such widow, dependant or estate would have been entitled in terms of the applicable pension law if the dormant member concerned had been a contributing member at the time of his death of the pension fund of which he was a dormant member;

- n represents the number of years (including any portion of a year expressed as a fraction of a year) during which a member concerned was a dormant member.

(Section 15(4)(e) substituted by section 3(b) of Act 67 of 1981 with effect from 1 July 1980)

(Section 15(4)(e) amended by section 16 of Act 89 of 1988)

15A. Transfer of pensionable service of dormant member to another pension fund.

- (1) If a dormant member becomes a member of another pension fund, the Director-General may, with the concurrence of the dormant member, approve that the dormant member's pensionable service at an appropriate pension fund be transferred to the other pension fund.
- (2) There shall be paid to the other pension fund in respect of pensionable service so transferred such amount as may be determined by the Director-General.
- (3) Any amount payable in terms of subsection (2) shall be paid from the appropriate pension fund or, with the concurrence of the Minister of Finance, from the State Revenue Fund or partly from the pension fund and partly from the State Revenue Fund.
- (4) Any amount owed by a dormant member to an appropriate pension fund shall be set off against any amount payable in terms of subsection (2), and all rights to the amount owing shall be transferred from the appropriate pension fund to the other pension fund.
- (5) For the purposes of this section –
 - (a) 'appropriate pension fund' means the pension fund of which a dormant member is a dormant member;
 - (b) 'dormant member' means any person who has been declared a dormant member of a pension fund under a pension law;
 - (c) 'other pension fund' means any pension fund which the Director-General may approve for the purposes of this section on such terms and conditions as may be agreed upon between the Director-General and the management of the pension fund concerned.

(Section 15A inserted by section 8 of Act 106 of 1986)

16. Presumptions and definitions for the purposes of laws relating to social pensions.

- (1) For the purposes of any law relating to social pensions in the case of a White person or a Coloured person who is a South African citizen or an Indian who immediately before 26 October 1976 complied with all the requirements of such law relating to citizenship or residence in the Republic, and who is resident in any country or area which, immediately before such date, was a part of the Republic and which has been designated by the Minister by notice in the *Gazette* for the purposes of this section –
 - (a) such person shall be deemed to be resident in the Republic;

- (b) any application for a pension or grant by such person in terms of any such law, which has been submitted to the Secretary for Social Welfare and Pensions or the Secretary for Coloured, Rehoboth and Nama Relations or the Secretary for Indian Affairs, as the case may be, shall be deemed to have been submitted to a district pension officer;
 - (c) "attesting officer" includes a person who in such country or area occupies a post which has been so designated by the Minister for the purposes of this section;
 - (d) "medical officer" or "district surgeon" includes any person who practises as a medical officer or who carries on the profession of a medical practitioner in such country or area and who has been so designated by the Minister as a medical officer or a district surgeon, as the case may be, for the purposes of this section.
- (2) For the purposes of this section, unless the context otherwise indicates —
- (a) "Coloured person" means a person classified as a member of the Cape Coloured, Malay or Griqua group or the Other Coloured group in terms of the Population Registration Act, 1950 (Act No. 30 of 1950);
 - (b) "Indian" means a person classified as a member of the Indian group in terms of the Population Registration Act, 1950;
 - (c) "law relating to social pensions" means the Aged Persons Act, 1967 (Act No. 81 of 1967), the War Veterans' Pensions Act, 1968 (Act No. 25 of 1968), the Blind Persons Act, 1968 (Act No. 26 of 1968), the Disability Grants Act, 1968 (Act No. 27 of 1968), the Social Pensions Act, 1973 (Act No. 37 of 1973), or the regulations made under any such Act;
 - (d) "White person" means a White person as defined in section 1 of the Population Registration Act, 1950,

and any word to which any meaning has been assigned in the applicable law with reference to social pensions, shall have that meaning.

17. Pensions payable in respect of former State President

There shall be paid from the State Revenue Fund —

- (a) to any person who at any time before 1 April 1968 occupied the office of State President, in lieu of any pension payable to him under any law in respect of such office so occupied, a pension at the rate of R25 000 per annum;

- (b) to the widow of such person a pension equal to three-fourths of the pension payable to him immediately prior to his death.

(Section 17(b) substituted by section 21 of Act 97 of 1980)

18. Pension rights of certain members of the National Road Board Provident Fund.

- (1) If a person in the public service who in accordance with section 14(1)(a) of the Transport (Co-ordination) Act, 1948 (Act No. 44 of 1948), has retained his membership of the National Road Board Provident Fund established under the regulations made under section 16(1)(d) of the National Roads Act, 1935 (Act No. 42 of 1935), does not retire or is not retired or discharged on attaining the age of 60 years, any insurance policy or policies taken out in respect of him in accordance with the said regulations, shall, notwithstanding anything to the contrary in such regulations or the said section 14 contained, not be ceded or delivered to him, and —

- (a) on maturity such policy or policies shall be realized and the full amount of the proceeds thereof shall be placed to his credit in the Government Employees' Provident Fund;
- (b) if for any reason thereafter he ceases to be employed in the public service, such amount, together with interest at the rate of 5% per annum, compounded annually as at 31 March and calculated from the date such amount was placed to his credit in the Government Employees' Provident Fund and until the date upon which payment is made, shall, notwithstanding anything to the contrary contained in any regulation relating to the Government Employees' Provident Fund, be paid from the last-mentioned fund to him or his legal representative or his estate, as the case may be.

- (2) Notwithstanding anything to the contrary contained in any regulation relating to the Government Employees' Provident Fund, any person referred to in subsection (1) may, if he so wishes, elect to contribute to the Government Employees' Provident Fund as from the date upon which he ceased to be a member of the said National Road Board Provident Fund, and if he so elects, he shall in respect of his service from that date be deemed to be a person who is required to contribute to the Government Employees' Provident Fund in terms of any such regulation.

19.

(Section 19 repealed by section 34(2) of Proc. 21 of 1996)

20. Pension benefits of persons whose service [sic] are terminated in certain circumstances.

- (1) If the service of a person who is a member of a pension fund on the fixed establishment of any employer, is terminated by himself or his employer before that person attains the retirement age, and the Minister is satisfied that the underlying reason for that termination of service was —

- (a) that the employer, if it was a university, wanted to appoint a member of the national unit served by that university in the place of that person;
- (b) that the university institution referred to in section 17 of the Vista University Act, 1981 (Act No. 106 of 1981), through no fault of the person concerned has made it impossible for that person to remain seconded to that university institution; or
- (c) that it became impossible for that person to remain in that service on account of threats of force against him, his family or his property,

such person shall, subject to subsection (2), for the purposes of the relevant pension law be deemed with effect from the date determined by the Minister to have been discharged from his service on attaining the retirement age.

(2) Subsection (1) shall not apply to a person referred to in that subsection who –

- (a)
 - (i) within a reasonable time after the termination of his service has been offered employment elsewhere; or
 - (ii) within a period of six months from the termination of his service in the opinion of the Minister is likely to obtain employment elsewhere,

at a salary not less than that which the person concerned received immediately before the termination of his service, and in terms of which employment he will be obliged to contribute to a pension fund; or

- (b) has been declared a dormant member under section 15.

(3) In the calculation of the benefit to which a member of a pension fund who in terms of subsection (1) is deemed to have been discharged from his service is entitled, there shall be added to his pensionable service a period equal to –

- (a) one-third of his pensionable service;
- (b) the period from the date on which he is in terms of subsection (1) deemed to have been discharged from his service up to the date on which he attains the retirement age; or
- (c) a period of five years,

whichever is the shortest period.

- (4) There shall be recovered from the employer from whose service the member is deemed to have been discharged, or from the State Revenue Fund in the case of a member referred to in subsection (1)(b) –
- (a) the amount of any annuity paid in terms of the relevant pension law to or in respect of such member up to the last day of the month in which he attains the retirement age;
 - (b) with effect from the first day of the month following upon the month referred to in paragraph (a), the amount by which such annuity is increased by reason of the period which is added in terms of subsection (3) to the pensionable service of the member concerned;
 - (c) the amount by which any gratuity is increased by reason of the period so added to the pensionable service of the member concerned; and
 - (d) if the member concerned has died, the amount by which any benefit in favour of his widow, dependant or estate is increased by reason of the period so added to the pensionable service of that member.
- (5) For the purpose of this section –
- (a) 'Minister', in relation to a member of a pension fund who is in the service of a council, an institution, an establishment or a body established by or under any law, means the Minister acting after consultation with the Minister responsible for the administration of the relevant law;
 - (b) 'national unit' means a national unit referred to in section 2(1) of the Promotion of Black Self-government Act, 1959 (Act No. 46 of 1959);
 - (c) 'retirement age', in relation to a member, means the age at which he is entitled to retire on pension under the relevant pension law;
 - (d) 'university' means a university established by the University of Zululand Act, 1969 (Act No. 43 of 1969), the University of the North Act, 1969 (Act No. 47 of 1969), the Medical University of Southern Africa Act, 1976 (Act No. 78 of 1976), or the Vista University Act, 1981 (Act No. 106 of 1981).

(Section 20 amended by section 20 of Act 96 of 1983)

(Section 20 substituted by section 9 of Act 106 of 1986 with effect from 1 June 1986)

20A. Employees of local authorities becoming employees of water board.

- (1) If any scheme referred to in section 110(1)(a) of the Water Act, 1956 (Act No. 54 of 1956), is acquired by a water board and the Minister with the concurrence of the Minister of Finance in respect of a specified local authority agrees thereto, then, notwithstanding anything to the contrary in any law contained, but subject to the provisions of subsections (2), (3) and (4), the period of previous

pensionable service of any affected officer of such local authority who becomes or is obliged to become a member of the Pension Fund with effect from the fixed date in terms of any law, shall be reckoned as pensionable service for the purpose of the Pension Fund.

- (2) If the previous pensionable service of an affected officer is reckoned as pensionable service in terms of subsection (1) for the purposes of the Pension Fund, there shall, notwithstanding anything to the contrary in any law contained or the rules or regulations governing the applicable pension fund, be paid by the last-mentioned pension fund to the Pension Fund in respect of such previous pensionable service –
 - (a) an amount which is equal to the amount of the transfer value which would have been payable in terms of the provisions of the laws or the rules or regulations relating to the applicable pension fund, if the affected officer concerned was transferred, and directly appointed, to the service of another local authority having a different pension fund or associated with a different pension fund or, if no amount would have been so payable, an amount which the Minister or an officer of the Department of Social Welfare and Pensions authorized thereto by the Minister determines after consultation with the management of the applicable pension fund concerned, with due regard to the circumstances of a specified case or category of cases;
 - (b) interest calculated at 5,5% a year on the amount referred to in paragraph (a), compounded annually as at 31 March, and calculated from the fixed date to the date on which the said amount is paid to the Pension Fund in terms of this subsection.
- (3) If the total of the amounts to be paid to the Pension Fund in terms of paragraphs (a) and (b) of subsection (2) –
 - (a) is less than the amount to be paid in terms of the regulations governing the Pension Fund in respect of the previous pensionable service of the affected officer concerned in order to reckon such previous pensionable service for the purposes of the Pension Fund, the deficiency shall be paid by the water board concerned to the Pension Fund;
 - (b) exceeds the amount referred to in paragraph (a), the surplus shall be paid to the affected officer concerned by the applicable pension fund.
- (4) If an affected officer prior to the fixed date notifies the Secretary for Social Welfare and Pensions in writing that he desires that his previous pensionable service should not be reckoned as pensionable service in terms of subsection (1), such previous pensionable service shall not be reckoned as pensionable service in terms of that subsection.
- (5) For the purpose of this section –

'affected officer' means any person who immediately prior to the fixed date was in the employment of a local authority in or in connection with a scheme referred to in subsection (1) and who immediately prior to the fixed date was a member of an applicable pension fund;

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

'Pension Fund' means the Associated Institutions Pension Fund established under section 2 of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963);

'local authority' means an institution or a body contemplated in section 84(1)(f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961);

'applicable pension fund', in relation to a particular affected officer, means a superannuation, pension or provident fund or scheme established by or under any law or otherwise for the benefit of the employees of the local authority in whose service such affected officer was immediately prior to the fixed date, or for the benefit of the employees of such local authority and of any other local authority or local authorities and to which such affected officer contributed immediately prior to the fixed date and which has been approved by the Minister for the purposes of this section;

'fixed date' means the date on which any scheme referred to in section 110(1)(a) of the Water Act, 1956 (Act No. 54 of 1956), is acquired by a water board or the date on which any person in the service of a local authority is, with a view to such acquisition and with the approval of the Minister, appointed in the service of a water board;

'previous pensionable service' means pensionable service in terms of the provisions of the laws or the rules or regulations governing any applicable pension fund;

'water board' means a board established under section 108(2) of the Water Act, 1956

(Section 20A inserted by section 11 of Act 100 of 1979 with effect from 23 May 1979)

20B. Payment of gratuity to beneficiaries designated by member of pension fund.

(1)

- (a) If a pension law enacts that a gratuity is payable on the death of any member of a pension fund to the dependants of such a member or to his estate, that member may, on such form and subject to such conditions as the Director-General may determine, notify the Director-General of his wish that the said gratuity on his death be paid to the beneficiaries mentioned in that form and be divided among such beneficiaries in the proportion mentioned in that form.
- (b) A member may with the concurrence of the Director-General withdraw any such notification or substitute a new notification therefor.

- (2) Notwithstanding anything to the contrary in any law contained the Director-General may on the death of a member who so notified him pay at his discretion the gratuity concerned in accordance with the member's wish.
- (3) For the purposes of this section –

'beneficiary' means any dependant of the member concerned and includes the estate of such member and also any person who is not a dependant of such member;

'member' means a member of a pension fund and includes a pensioner who was such a member.

(Section 20B inserted by section 22 of Act 97 of 1980)

CHAPTER 3

MISCELLANEOUS PROVISIONS

21. Payment from State Revenue Fund in terms of laws relating to pensions.

Any provision in any law relating to pensions, except section 15 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), requiring or authorizing the payment of any amount from the State Revenue Fund shall be construed as a provision requiring or authorizing the payment of such amount from moneys appropriated by Parliament for that purpose.

22. Certain pensions not property for estate duty purposes.

Notwithstanding anything to the contrary in any law contained, any pension or any right to a pension due and payable on or as a result of or after the death of a member of a pension fund to the widow, child or other dependant of such member, in terms of the pension law in question, shall for the purposes of the Estate Duty Act, 1955 (Act No. 45 of 1955), be deemed not to be property as defined in section 3(2) of that Act.

22A. Financial management of and control over pension funds, and auditing

- (1) The Minister may, after consultation with the Minister of Finance, make regulations providing for the management of and control over pension funds.
- (2) The accounting records of a pension fund shall be audited by the Auditor-General.
- (3) For the purpose of this section 'pension fund' includes the Stabilization Account for Civil Pensions referred to in section 8A, but does not include a pension scheme.

- (4) The regulations contemplated in subsection (1) may provide for the exercise or performance by the Director-General and the Treasury of such powers or duties as the Minister, with the concurrence of the Minister of Finance, may deem necessary for the achievement of the objects of this Act.

(Section 22A(4) added by section 17 of Act 89 of 1988)

- (5) Regulations contemplated in this section may be made with restrospective *[sic]* effect.

(Section 22A(5) added by section 17 of Act 89 of 1988)

(Section 22A inserted by section 10 of Act 106 of 1986)

22B. Delegation

- (1) The Minister may delegate any of the powers conferred upon him by this Act, excluding the power to make regulations, to the Director-General or any other officer in the Department of National Health and Population Development, and may authorize the Director-General or such an officer to perform any of the duties assigned to the Minister by this Act.
- (2) The Director-General may delegate to any officer in his Department any of the powers conferred upon the Director-General by this Act, and may authorize such an officer to perform any of the duties assigned to the Director-General by this Act.

(Section 22B inserted by section 18 of Act 89 of 1988)

23. Repeal of laws, and savings.

- (1) Subject to the provisions of subsections (2) and (3) the laws specified in the Schedule are hereby repealed to the extent set out in the third column thereof.
- (2) Anything done or deemed to have been done in terms of a provision of any law repealed by subsection (1) shall be deemed to have been done in terms of the corresponding provision of this Act.
- (3) If in terms of a provision of any law repealed by subsection (1) any annuity or portion thereof was payable from a pension fund or from revenue as defined in section 8(5), that provision shall remain applicable in respect of the payment of such annuity or portion.

24. Short title.

This Act shall be called the General Pensions Act, 1979.

Schedule
Laws repealed

Number and year of law	Title of law	Extent of repeal
Act No. 29 of 1912	Public Service and Pensions Act, 1912	The whole
Act No. 49 of 1926	Republican Officials' and Other Persons' Pensions Act, 1926	The whole
Act No. 34 of 1935	Reformatories Service Act, 1935	Section 3
Act No. 45 of 1941	War Pensions Act, 1941	The whole
Act No. 44 of 1942	War Pensions Act, 1942	The whole
Act No. 48 of 1944	Pension Laws Amendment Act, 1944	The whole
Act No. 41 of 1948	Pension Laws Amendment Act, 1948	The whole
Act No. 47 of 1951	Pension Laws Amendment Act, 1951	The whole
Act No. 49 of 1952	Pension Laws Amendment Act, 1952	The whole
Act No. 44 of 1953	Pension Laws Amendment Act, 1953	The whole
Act No. 52 of 1954	Pension Laws Amendment Act, 1954	The whole
Act No. 41 of 1955	Pension Laws Amendment Act, 1955	The whole
Act No. 56 of 1956	Pension Laws Amendment Act, 1956	Sections 8 and 36
Act No. 62 of 1957	Pension Laws Amendment Act, 1957	Sections 2 and 3
Act No. 67 of 1959	Pension Laws Amendment Act, 1959	Sections 9, 10, 11, 51, 56 and 58(1), (2), (3), (5) and (6)
Act No. 61 of 1960	Pension Laws Amendment Act, 1960	Section 16
Act No. 78 of 1961	Pension Laws Amendment Act, 1961	The whole
Act No. 92 of 1962	Pension Laws Amendment Act, 1962	Sections 3, 4, 33, 35 to 41, 50, 52, 54 and 56
Act No. 41 of 1963	Associated Institutions Pension Fund Act, 1963	Sections 3 <i>bis</i> (1) and 3 <i>ter</i>
Act No. 95 of 1963	Pension Laws Amendment Act, 1963	Sections 35 and 37
Act No. 84 of 1964	Pension Laws Amendment Act, 1964	Sections 9 to 12, 27 and 32
Act No. 62 of 1965	Government Service Pensions Act, 1965	Sections 21 and 22
Act No. 102 of 1965	Pension Laws Amendment Act, 1965	The whole
Act No. 26 of 1966	Pension Laws Amendment Act, 1966	The whole
Act No. 91 of 1967	Pension Laws Amendment Act, 1967	The whole
Act No. 79 of 1968	Pension Laws Amendment Act, 1968	The whole
Act No. 98 of 1969	Pension Laws Amendment Act, 1969	Sections 1 to 6, 11 to 13 and 15 to 17
Act No. 20 of 1970	Pension Laws Amendment Act, 1970	The whole
Act No. 86 of 1970	Second Pension Laws Amendment Act, 1970	The whole
Act No. 81 of 1971	Parliamentary Service and Administrators' Pensions Act, 1971	Sections 20(1) and (2) and 21
Act No. 93 of 1971	Pension Laws Amendment Act, 1971	The whole

Number and year of law	Title of law	Extent of repeal
Act No. 97 of 1972	Pension Laws Amendment Act, 1972	Sections 1 to 5, 8 and 10
Act No. 57 of 1973	Government Service Pension Act, 1973	Sections 9, 10, 12, 13 and 14
Act No. 73 of 1973	Pension Laws Amendment Act, 1973	Sections 1 to 4, 5(1), (2), (3), (7) and (8) and 6
Act No. 15 of 1974	Pension Laws Amendment Act, 1974	Sections 1 and 2(1), (2), (3), (5) and (6)
Act No. 77 of 1974	Second Pension Laws Amendment Act, 1974	Sections 1 to 5, 6(1), 7 to 16 and 18 to 20
Act No. 50 of 1975	Pension Laws Amendment Act, 1975	Sections 1, 2(1), 3 to 8 and 10
Act No. 83 of 1976	Pension Laws Amendment Act, 1976	Sections 1 to 4, 6, 8 to 10 and 11(a) to (d)
Act No. 84 of 1976	Military Pensions Act, 1976	Sections 17, 18 and 19(1)
Act No. 26 of 1977	Pension Laws Amendment Act, 1977	Sections 1 to 13 and 15
Act No. 40 of 1978	Pension Laws Amendment Act, 1978	Sections 1 to 6, 8 and 9(a) to (d)
Act No. 105 of 1978	Second Pension Laws Amendment Act, 1978	The whole