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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

Om voortsetting te maak van die betaling van pensioene en ander
wettigheidsverordeninge aan die blanke bevolking in die Adami-
nistrasie van spoorweg- en hawepensioene vir
daarheen in verband staan.

(Gedruk op 2 Oktober 1974)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat
en die Volksraad van die Republiek van Suid-Afrika, soos
volg:

STAATSKOERANT

Wet No. 73 van 1962, die spoorweg- en
hawepensioene administrasie en oorsake;

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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KAAPSTAD, 11 OKTOBER 1974

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1845.

11 October 1974.

No. 1845.

11 Oktober 1974.

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

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 43 of 1974: Railways and Harbours Pensions for Non-Whites Act, 1974.

No. 43 van 1974: Wet op Spoorweg- en Hawepensioene vir Nie-Blankes, 1974.

Wet No. 43, 1974

WET OP SPOORWEG- EN HAWEPENSIOENE VIR
NIE-BLANKES, 1974.

WET

Om voorsiening te maak vir die betaling van pensioene en ander uitdienstredingsvoordele aan Nie-Blanke dienaars in die Administrasie van Spoorweë en Hawens en vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 3 Oktober 1974.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Woord-
omskrywings.

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

- (i) „Administrasie” die gesag wat ingevolge die Spoorwegraadwet, 1962 (Wet No. 73 van 1962), die spoorweë en hawens van die Republiek administreer en eksploiteer;
- (ii) „aktuaris” ’n lid van die „Institute of Actuaries” van Londen of van die „Faculty of Actuaries” van Skotland of enigiemand anders wat deur die Staatspresident as ’n aktuaris erken word;
- (iii) „betaalmaand” in die geval van ’n dienaar wat ’n gesalarieerde betrekking beklee die tydperk van die eerste tot die laaste dag van ’n maand en in die geval van ’n ander dienaar die tydperk van die sestiende dag van ’n maand tot die vyftiende dag van die daaropvolgende maand;
- (iv) „bydraes” die bedrae inbetaal deur ’n lid van die Pensioenfonds, of ’n lid van enige ander fonds in hierdie Wet of die regulasies bedoel, na gelang van die samehang, maar nie ook rente nie;
- (v) „die Diens” die Administrasie van Spoorweë en Hawens;
- (vi) „dienaar” ’n Nie-Blanke dienaar wat in ’n los hoedanigheid in diens van die Administrasie werksaam is;
- (vii) „Dienswet” die Wet op Spoorweg- en Hawediens, 1960 (Wet No. 22 van 1960);
- (viii) „geneesheer” ’n geneeskundige praktisyn wat behoorlik as sodanig geregistreer is kragtens ’n wet van krag in die Republiek of in Suidwes-Afrika, met betrekking tot die registrasie van geneeskundige praktisyns, of ’n geneeskundige praktisyn wat behoorlik gekwalifiseer is om te praktiseer ingevolge die wetsbepalings van krag in enige ander land waarin daar van die dienste van so ’n praktisyn gebruik gemaak moet word;
- (ix) „Gesamentlike Komitee” die komitee saamgestel ingevolge artikel 2;
- (x) „Hoofbestuurder” die amptenaar aangestel as Hoofbestuurder van die Spoorweë en Hawens van die Republiek, of iemand wat wettig in daardie hoedanigheid waarneem, en ook ’n amptenaar wat deur die Administrasie gemagtig is om een of meer van die pligte van die Hoofbestuurder te verrig;

RAILWAYS AND HARBOURS PENSIONS FOR
NON-WHITES ACT, 1974.

Act No. 43, 1974

ACT

To provide for the payment of pensions and other retirement benefits to non-White servants in the Administration of Railways and Harbours and for matters incidental thereto.

(English text signed by the State President.)

(Assented to 3 October 1974.)

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

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

Definitions.

- (i) "actuary" means a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland or any other person recognized as an actuary by the State President; (i)
- (ii) "Administration" means the authority which, under the Railway Board Act, 1962 (Act No. 73 of 1962), administers and works the railways, ports and harbours of the Republic; (i)
- (iii) "annuity" means an annual sum payable from the date of retirement up to the end of the month in which a retired servant dies; (xii)
- (iv) "contributions" means the amounts paid in by a member of the Pension Fund, or a member of any other fund referred to in this Act or the regulations, as the context requires, but does not include interest; (iv)
- (v) "foreign Bantu" means a Bantu who was not born in the Republic of South Africa or the territory of South West Africa; (xxvii)
- (vi) "General Manager" means the officer appointed to be General Manager of the Railways and Harbours of the Republic, or any person lawfully acting in that capacity, and also an officer authorized by the Administration to perform any of the duties of the General Manager; (x)
- (vii) "intermittent casual or togt labourer" means a non-White who is engaged from day to day for one day at a time, according to labour requirements, to undertake landing and shipping work at harbours; (xvii)
- (viii) "Joint Committee" means the committee constituted under section 2; (ix)
- (ix) "medical practitioner" means a medical practitioner duly registered as such under any law in force in the Republic or in South West Africa, relating to the registration of medical practitioners, or a medical practitioner duly qualified to practise under the law in force in any other country in which it is necessary to utilize the services of such a practitioner; (viii)
- (x) "member" means any servant who is a contributor to the Pension Fund; (xiii)

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- (xi) „inkomste” die inkomste gestort in die Spoorweg- en Hawefonds ingestel kragtens artikel 99 van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet No. 32 van 1961); (xxi)
- (xii) „jaargeld” ’n jaarlikse som betaalbaar van die uitdienststreefdatum tot aan die einde van die maand waarin ’n afgetrede dienaar te sterwe kom; (iii)
- (xiii) „lid” ’n dienaar wat ’n bydraer is tot die Pensioenfonds; (x)
- (xiv) „loon” die besoldiging van ’n dienaar wat nie ’n gesalarieerde betrekking beklee nie, uitgesonderd toelaes; (xxvii)
- (xv) „Minister” die Minister van Vervoer; (xi)
- (xvi) „Nie-Blanke dienaar” ’n dienaar in die uitsluitende diens van die Administrasie, wat nie ’n Blanke soos omskryf in die Bevolkingsregistrasiewet, 1950 (Wet No. 30 van 1950), is nie, maar nie ook ’n ongereelde los- of togarbeider en ’n vreemde Bantoe nie; (xii)
- (xvii) „ongereelde los- of togarbeider” ’n Nie-Blanke wat van dag tot dag vir een dag op ’n keer in diens geneem word om, na gelang van arbeidsbehoefes, lossings- en verskepingswerk by hawens te doen; (vii)
- (xviii) „Pensioenfonds” die Spoorweg- en Hawepensioenfonds vir Nie-Blanke Dienare ingestel ingevolge artikel 2; (xvi)
- (xix) „pensioengewende emolumente” die bedrag waarop bydraes betaalbaar is; (xvii)
- (xx) „Pensioen-otoriteit” die Minister van Volkswelsyn en Pensioene of ’n amptenaar in die Departement van Volkswelsyn en Pensioene wat deur bedoelde Minister gemagtig is om enigeen van die funksies wat deur of ingevolge ’n wet op pensioene aan hom of aan die Tesourie opgedra is, te verrig; (xiv)
- (xxi) „pensioenvoordeel” enige bedrag betaalbaar kragtens die bepalinge van hierdie Wet of die regulasies; (xv)
- (xxii) „regulasie” ’n regulasie uitgevaardig en van krag ingevolge hierdie Wet of ’n ander Wet wat die bevoegdheid verleen om regulasies uit te vaardig wat op dienare van toepassing is; (xx)
- (xxiii) „salaris” die jaarlikse besoldiging van ’n dienaar wat ’n gesalarieerde betrekking beklee, uitgesonderd toelaes; (xxii)
- (xxiv) „Spoorwegraad” die Spoorweg- en Haweraad bedoel in artikel 1 van die „Spoorwegraad Wet, 1916” (Wet No. 17 van 1916), en saamgestel volgens voorskrif van artikel 102 van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet No. 32 van 1961); (xix)
- (xxv) „superannuasie” die datum van uitdienststreding weens bereiking van die leeftyd wat vir aftrede uit die Diens met ’n pensioenvoordeel vasgestel is; (xxv)
- (xxvi) „voorgeskrif” deur hierdie Wet of ’n regulasie voorgeskryf; (xviii)
- (xxvii) „vreemde Bantoe” ’n Bantoe wat nie in die Republiek van Suid-Afrika of die gebied van Suidwes-Afrika gebore is nie; (v)
- (xxviii) „weduwee”, in die geval van ’n Bantoelid, ook ’n deelgenoot van ’n gebruiklike verbinding soos in artikel 35 van die Bantoe-administrasie Wet, 1927 (Wet No. 38 van 1927), omskryf. (xxviii)

Instelling van
Pensioenfonds
en aanstelling
van komitees.

2. (1) Die Spoorweg- en Hawepensioenfonds vir Nie-Blanke Dienare word hierby ingestel.

(2) ’n Gesamentlike Komitee oor Pensioenaangeleenthede vir Nie-Blanke en ’n Uitvoerende Komitee word aangestel en gereël op die wyse wat voorgeskryf word.

Regulasies.

3. (1) Nieteenstaande andersluidende wetsbepalinge, kan die Minister in oorleg met die Spoorwegraad regulasies wat nie met

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- (xi) "Minister" means the Minister of Transport; (xv)
- (xii) "non-White servant" means a servant exclusively employed by the Administration who is not a White person as defined in the Population Registration Act, 1950 (Act No. 30 of 1950), but excluding an intermittent casual or togt labourer and a foreign Bantu; (xvi)
- (xiii) "paymonth" means, in respect of a servant who occupies a salaried position, the period from the first to the last day of a month and, in respect of another servant, the period from the sixteenth day of a month to the fifteenth day of the succeeding month; (iii)
- (xiv) "Pensions Authority" means the Minister of Social Welfare and Pensions or any officer in the Department of Social Welfare and Pensions authorized by the said Minister to perform any of the functions assigned to him or to the Treasury by or under any law relating to pensions; (xx)
- (xv) "pension benefit" means any sum payable in terms of the provisions of this Act or the regulations; (xxi)
- (xvi) "Pension Fund" means the Railways and Harbours Pension Fund for Non-White Servants established under section 2; (xviii)
- (xvii) "pensionable emoluments" means the amount on which contributions are payable; (xix)
- (xviii) "prescribed" means prescribed by this Act or by regulation; (xxvi)
- (xix) "Railway Board" means the Railways and Harbours Board referred to in section 1 of the Railway Board Act, 1916 (Act No. 17 of 1916), and constituted as provided for in section 102 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (xxiv)
- (xx) "regulation" means a regulation made and in force under this Act or any other Act conferring power to make regulations applicable to servants; (xxii)
- (xxi) "revenue" means the revenue paid into the Railway and Harbour Fund established under section 99 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (xi)
- (xxii) "salary" means the annual pay of a servant who occupies a salaried position exclusive of allowances; (xxiii)
- (xxiii) "servant" means a non-White servant who is employed by the Administration in a casual capacity; (vi)
- (xxiv) "Service Act" means the Railways and Harbours Service Act, 1960 (Act No. 22 of 1960); (vii)
- (xxv) "superannuation" means the date of retirement due to attainment of the age fixed for retirement from the Service with a pension benefit; (xxv)
- (xxvi) "the Service" means the Administration of Railways and Harbours; (v)
- (xxvii) "wages" means the pay of a servant who does not occupy a salaried position exclusive of allowances; (xiv)
- (xxviii) "widow" means, in the case of a Bantu member, also a partner of a customary union, as defined in section 35 of the Bantu Administration Act, 1927 (Act No. 38 of 1927). (xxviii)

2. (1) The Railways and Harbours Pension Fund for Non-White Servants is hereby established.

Establishment
of Pension Fund
and appointment
of committees.

(2) A Joint Committee on Pension Matters for Non-Whites and an Executive Committee shall be appointed and regulated in the manner prescribed.

3. (1) Notwithstanding anything to the contrary contained in any other law, the Minister, in consultation with the Railway Regulations.

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hierdie Wet onbestaanbaar is nie, uitvaardig ten opsigte van enigeen van of al die ondervermelde aangeleenthede—

- (a) die wyse waarop die Pensioenfonds bestuur en die vorm waarin en wyse waarop die rekenings daarvan gehou moet word;
- (b) die kategorieë persone wat lede kan word;
- (c) die skaal waarvolgens en die wyse waarop bydraes deur 'n lid betaal moet word;
- (d) die pensioengewende emolumente waarop bydraes tot die Pensioenfonds betaal moet word en waarop die voordele betaalbaar, gebaseer moet word;
- (e) die metode waarvolgens bydraes tot die Pensioenfonds bereken en verhaal word;
- (f) die vorm en die tydperk waarin kennisgewing deur 'n lid wat op pensioenvoordele geregtig is of daarop aanspraak maak, gegee moet word;
- (g) die voordele betaalbaar en metode van berekening daarvan;
- (h) die wyse waarop pensioenvoordele betaal word;
- (i) die bewys van ouderdom of huwelikstaats wat deur iemand verstrekk moet word of die bewys aangaande 'n lid se dood wat vereis kan word alreer voordele geëis kan word;
- (j) die onafgebrokenheid van diens vir die doel van lidmaatskap van die Pensioenfonds;
- (k) die prosedure wat gevolg moet word in verband met die afdanking uit die Diens van 'n lid voor superannuasie weens blywende slegte gesondheid of liggaamlike ongeskiktheid;
- (l) lidmaatskap van die Gesamentlike Komitee en die Uitvoerende Komitee;
- (m) die bevoegdhede van die Gesamentlike Komitee en die Uitvoerende Komitee in verband met die bestuur van die Pensioenfonds en die prosedure wat deur die Gesamentlike Komitee en die Uitvoerende Komitee gevolg moet word,

en oor die algemeen vir die doelmatige verwesenliking van die oogmerke en doelstellings van hierdie Wet, in dié sin dat die algemene strekking van hierdie bepaling nie beperk word deur die aangeleenthede wat bepaaldelik in hierdie subartikel vermeld word nie.

(2) Enige aangeleentheid in verband met die Pensioenfonds voorgeskryf by regulasie kragtens hierdie artikel kan deur die Minister in oorleg met die Spoorwegraad gewysig word en enige sodanige wysiging word van krag vanaf 'n datum bepaal deur die Minister. Enige regulasie wat kragtens hierdie artikel uitgevaardig word, en enige wysiging daarvan, kan met terugwerkende krag uitgevaardig word vanaf 'n datum wat nie vroeër is as die datum waarop hierdie Wet in werking tree nie.

Pensioen-
voordele.

4. 'n Pensioenvoordeel word betaal aan die voordeeltrekker bepaal in die regulasies en bedoelde betaling word bereken en geskied onderworpe aan die bepalinge van sodanige regulasies.

Pensioen-
voordele uit die
Pensioenfonds kan
nie oorgedra of
in beslag geneem
word nie.

5. Geen pensioenvoordeel uit die Pensioenfonds, of reg op so 'n pensioenvoordeel, of reg ten opsigte van bydraes deur of ten behoeve van 'n lid gestort, kan oorgedra of oorgemaak of andersins gesedeer, of verpand of met verband beswaar word nie, en dit kan ook nie ingevolge 'n vonnis of bevel van 'n geregs-
hof in beslag geneem of aan enige vorm van tenuitvoerlegging onderwerp word nie, en vir geval die voordeeltrekker poog om 'n pensioenvoordeel of reg oor te dra, oor te maak of andersins te sedeer of om dit te verpand of met verband te beswaar, kan betaling daarvan teruggehou, opgeskort of geheel en al gestaak word, indien die Hoofbestuurder daartoe besluit: Met dien verstande dat die Hoofbestuurder kan gelas dat gedurende die tydperk wat hy bepaal betaling van so 'n pensioenvoordeel of van enige voordeel uit hoofde van sodanige bydraes, of gedeelte

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Board, may make regulations not inconsistent with this Act in respect of all or any of the following matters—

- (a) The mode of administering the Pension Fund and the form and manner in which the accounts thereof shall be kept;
- (b) the classes of persons who may become members;
- (c) the rate at which and the manner in which contributions shall be paid by a member;
- (d) the pensionable emoluments on which contributions to the Pension Fund shall be paid and on which the benefits payable shall be based;
- (e) the method of calculating and collecting contributions to the Pension Fund;
- (f) the form and the period of notice to be given by a member who is entitled to or claims pension benefits;
- (g) the benefits payable and the manner of calculation thereof;
- (h) the mode of payment of pension benefits;
- (i) the evidence of age or marital state to be required from any person or the evidence that may be required as to a member's death before benefits may be claimed;
- (j) the continuity of employment for the purpose of membership of the Pension Fund;
- (k) the procedure to be followed in regard to the retirement of a member from the Service before superannuation on grounds of permanent ill-health or physical disability;
- (l) membership of the Joint Committee and the Executive Committee;
- (m) the powers of the Joint Committee and the Executive Committee in connection with the administration of the Pension Fund and the procedure to be observed by the Joint Committee and the Executive Committee, and generally for the efficient achievement of the objects and purposes of this Act, the generality of this provision not being limited by the matters specifically mentioned in this subsection.

(2) Any matter relating to the Pension Fund prescribed by regulation in terms of this section may be amended by the Minister in consultation with the Railway Board and any such amendment shall come into operation from a date to be specified by the Minister. Any regulation made in terms of this section and any amendment thereof may be made with retrospective effect from a date not earlier than the date on which this Act comes into operation.

4. A pension benefit shall be paid to the beneficiary stipulated in the regulations and such payment shall be calculated in terms of and effected subject to the provisions of such regulations. Pension benefits.

5. No pension benefit from the Pension Fund, or right to such a benefit, or right in respect of contributions made by a member or on his behalf shall be capable of being assigned or transferred, or otherwise ceded, or of being pledged or hypothecated, or be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, and in the event of the beneficiary attempting to assign, transfer, or otherwise cede or to pledge or hypothecate a pension benefit or right, payment of the same may be withheld, suspended, or entirely discontinued, if the General Manager so determines: Provided that the General Manager may direct the payment of such pension benefit or of any benefit in pursuance of such contributions or part thereof to any one or more of the depen- Pension benefits from the Pension Fund not assignable or executable.

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daarvan, aan een of meer van die afhanklikes van die voordeel-trekker of aan 'n kurator vir sodanige afhanklike of afhanklikes moet geskied.

Hoe jaargelde uit die Pensioen-fonds deur insolvensie geraak word.

6. (1) Indien die boedel van iemand wat 'n jaargeld uit die Pensioenfondse ontvang, gesekwestreer of oorgegee word, of daar ten bate van sy skuldeisers daarvan afstand gedoen word, word betaling van die jaargeld onverwyld gestaak: Met dien verstande dat in so 'n geval die jaargeld in geheel of ten dele betaal word aan of ten bate van enigeen van of al die volgende persone, naamlik die jaargeldtrekker, sy eggenote of minderjarige kind of, as daar nie 'n eggenote of minderjarige kind is nie, aan die moeder van 'n buite-egtelike kind of aan enige kind, hetsy eg of aangenome of buite-egtelik, of enige ander familiebetrekking, wat van hom afhanklik is: Met dien verstande voorts dat indien betaling aan die jaargeldtrekker geskied, dit vir sy eie persoonlike gebruik is en, ondanks andersluidende bepalings van 'n wet op insolvensie, dit op generlei wyse deur die kurator van sy insolvente boedel of deur sy skuldeisers in beslag geneem of toegeëien mag word nie.

(2) Wanneer betaling van 'n jaargeld ingevolge hierdie artikel gestaak is, herleef dit ingeval die jaargeldtrekker gerehabiliteer word of ingeval die sekwestrasie van sy boedel ter syde gestel of aan die eise van sy skuldeisers voldoen word, en ontvang hy 'n jaargeld teen dieselfde skaal en op dieselfde voorwaardes as voor die sekwestrasie, oorgawe of afstanddoening, tesame met alle agterstallige bedrae wat verskuldig mag wees.

Verhaal van sekere skulde aan Administrasie verskuldig, op voordele betaalbaar aan lede by hul ontslag of uitdiens-treding.

7. Indien 'n lid—

- (a) vanweë bedrog of oneerlikheid ontslaan word uit die Diens of beveel word om daaruit te bedank; of
- (b) uit die Diens bedank of dros ten einde ontslag of gedwonge bedanking vanweë bedrog of oneerlikheid te vermy, of in afwagting van die inbring teen hom van 'n tugaanklag of 'n strafregtelike aanklag waarby bedrog of oneerlikheid betrokke is; of
- (c) die Diens om watter rede ook al verlaat, of te sterwe kom, voordat 'n lening of voorskot (behalwe 'n lening in artikel 8 bedoel) wat op sy uitdruklike versoek aan hom toegestaan is deur die Administrasie of uit die Hulpfondse in artikel 34 van die Dienswet bedoel, ten volle terugbetaal is,

het die Administrasie die reg om die bedrag van enige verlies, soos deur die Administrasie vasgestel, wat hy ten gevolge van sodanige bedrog of oneerlikheid gely het, of die onbetaalde balans van sodanige lening of voorskot, na gelang van die geval, te verhaal op enige voordeel wat aan so 'n voormalige lid of sy boedel of aan iemand anders ten opsigte van sy dood uit die Pensioenfondse betaalbaar is: Met dien verstande dat die bewyslas om te bewys dat 'n lid bedank of gedros het om enige rede in paragraaf (b) vermeld, op die Administrasie rus.

Aanwending van pensioenfordele en ander gelde ter vereffening van skulde aan die Administrasie ten opsigte van woonhuise.

8. Indien daar in 'n ooreenkoms tussen die Administrasie en 'n lid, ingevolge waarvan die lid 'n woonhuis van die Administrasie koop of ingevolge waarvan die lid 'n lening van die Administrasie staan te ontvang ten einde grond te verkry met die doel om 'n woonhuis daarop te bou, of ten einde 'n woonhuis te verkry of te bou of ten einde 'n verband oor grond of 'n woonhuis wat aan die lid behoort, af te los, bepaal word dat—

- (a) as die lid, om watter rede ook al, met 'n jaargeld uit die Diens tree, die Administrasie so 'n gedeelte van die jaargeld in 'n kontantbedrag kan omset as wat nodig is ter vereffening van enige bedrag betaalbaar—
 - (i) ingevolge daardie ooreenkoms; of
 - (ii) ingevolge 'n versekering deur die Administrasie aangegaan in verband met die terugbetaling van enige bedrag ingevolge daardie ooreenkoms,

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dants of the beneficiary or to a trustee for such dependant or dependants during such period as he may direct.

6. (1) If the estate of any person in receipt of an annuity from the Pension Fund is sequestrated or surrendered or assigned for the benefit of his creditors, payment of the annuity shall forthwith be discontinued: Provided that in any such case all or any part of the annuity shall be paid to or for the benefit of all or any of the following persons, namely, the annuitant, his wife or minor child, or failing a wife or minor child, to the mother of an illegitimate child or any child whether legitimate or adopted or illegitimate or other relative dependent on him: Provided further that if the payment is made to the annuitant, it shall be for his own personal use and may not in any way be attached or appropriated by the trustee in his insolvency or by his creditors, anything to the contrary notwithstanding in any law relating to insolvency.

How annuities from the Pension Fund affected by insolvency.

(2) Whenever payment of an annuity has been discontinued under this section, it shall be revived on rehabilitation of the annuitant, or on the setting aside of the sequestration of his estate, or on the claims of his creditors being satisfied, and he shall receive an annuity at the same rate and under the same conditions as before the sequestration, surrender or assignment, together with any arrears that may be due.

7. If a member—

- (a) is dismissed or ordered to resign from the Service on account of fraud or dishonesty; or
- (b) resigns or absconds from the Service in order to avoid dismissal or enforced resignation on account of fraud or dishonesty, or in anticipation of a disciplinary or a criminal charge involving fraud or dishonesty being laid against him; or
- (c) leaves the Service for any reason, or dies, before any loan or advance (other than a loan referred to in section 8) which had been made to him at his specific request by the Administration or from the Benevolent Fund referred to in section 34 of the Service Act, has been repaid in full,

Recovery of certain debts due to Administration from benefits payable to members on their dismissal or retirement.

the Administration shall have the right to recover from any benefit payable from the Pension Fund to such former member or his estate or to some other person in respect of his death, the amount of any loss, as determined by the Administration, which it may have sustained by reason of such fraud or dishonesty, or the unpaid balance of such loan or advance, as the case may be: Provided that the onus of proving that a member resigned or absconded for any reason mentioned in paragraph (b) shall be on the Administration.

8. If in any agreement between the Administration and a member, in terms of which the member purchases from the Administration any dwelling-house or in terms of which the member is to receive any loan from the Administration in order to acquire land for the purpose of erecting a dwelling-house thereon or to acquire or erect a dwelling-house or to discharge any bond over any land or dwelling-house owned by the member, it is provided that—

Application of pension benefits and other moneys in liquidation of debts to Administration in respect of dwelling-houses.

- (a) if for any reason the member retires from the Service on an annuity, the Administration may commute by a cash sum such portion of the annuity as may be necessary to liquidate any amount payable—
 - (i) under such agreement; or
 - (ii) in pursuance of any insurance entered into by the Administration in connection with the repayment of any amount under such agreement,

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wat op die datum van sy uitdienststreding nog onbetaal is, kan die Administrasie, wanneer die lid aldus uit die Diens tree, sodanige omsetting doen en sodanige eersbedoelde bedrag aanwend ter vereffening van die bedrag wat aldus onbetaal is; of

- (b) as die lid, om watter rede ook al, vrywillig uit die Diens bedank of beveel word om daaruit te bedank of daaruit ontslaan of afgedank word anders as met 'n jaargeld, of as die lid voor sy uitdienststreding te sterwe kom, die Administrasie enige gelde wat ingevolge hierdie Wet verskuldig is aan hom of sy regsopvolger ten opsigte van sodanige eiendom of van sy belang in sodanige eiendom, kan aanwend ter vereffening van enige bedrag betaalbaar—

(i) ingevolge daardie ooreenkoms; of

(ii) ingevolge 'n versekering deur die Administrasie aangegaan in verband met die terugbetaling van enige bedrag ingevolge daardie ooreenkoms,

wat op die datum van sy uitdienststreding, vrywillige bedanking, afdanking, gedwonge bedanking, ontslag of dood nog onbetaal is, kan die Administrasie, wanneer die lid aldus uit die Diens tree, vrywillig bedank of beveel word om aldus te bedank of ontslaan of afgedank word, of te sterwe kom, na gelang van die geval, bedoelde gelde aldus aanwend: Met dien verstande dat die Administrasie nie aldus uit gelde wat soos voormeld aan 'n regsopvolger verskuldig is, 'n groter bedrag mag aanwend nie as die bedrag wat tot die hele som wat aldus onbetaal is, in dieselfde verhouding staan as dié waarin die waarde van so 'n regsopvolger se aandeel of belang in die eiendom na die oordeel van die Minister tot die waarde van die eiendom as geheel staan: Met dien verstande voorts dat geen pensioen-voordeel betaalbaar aan 'n weduwee aldus aangewend mag word nie.

Administrasie
van die Pensioen-
fonds.

9. (1) Die gelde van die Pensioenfonds berus by die Administrasie en word, apart van ander fondse wat deur die Administrasie belê word, by die Staatskuldkommissaris belê onderworpe aan die bepalings van hierdie Wet.

(2) Alle winste verdien of verliese gely op bedoelde beleggings word geag vir die rekening van die Pensioenfonds te wees.

Periodieke
waardering
van die
Pensioenfonds.

10. (1) Die Pensioenfonds word elke vyf jaar gewaardeer deur 'n aktuaris deur die Minister aangestel.

(2) Die aktuaris waardeer die bates en laste van die Pensioenfonds en verklaar watter oorskot of tekort daarop voorkom, en meld hoe sodanige oorskot of tekort blyk te ontstaan het.

(3) Die aktuaris doen aan die Minister verslag en meld in sy verslag die gegewens en werkwyse wat in sy ondersoek en waardering gebruik is.

(4) 'n Afskrif van genoemde verslag word in albei Huise van die Parlement ter tafel gelê binne veertien dae nadat dit deur die Minister ontvang is indien die Parlement in gewone sessie is, of indien die Parlement nie in gewone sessie is nie, binne veertien dae na die aanvang van sy eersvolgende gewone sessie.

Bydraes tot
die Pensioenfonds
deur die
Administrasie.

11. (1) Ondanks die bepalings van artikel 10, word die verwagte inkomste en uitgawe van die Pensioenfonds minstens vyfjaarliks deur die Administrasie op 'n ekonomiese grondslag bereken met die oog daarop om inkomste nader by uitgawe aan te pas, sodat die groei tot 'n realistiese koers beperk kan word.

(2) Op die laaste dag van elke maand en nadat sy bydrae in verhouding tot dié van die gesamentlike bydraes, of rente, of albei, wat gedurende die maand in die Pensioenfonds gestort is deur lede, bepaal is, dra die Administrasie tot die Pensioenfonds by en stort hy daarin die bedrae aldus bereken.

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which remains unpaid at the date of his retirement, the Administration may, upon the member so retiring, effect such commutation and apply such first-mentioned amount towards the liquidation of the amount so remaining unpaid; or

- (b) if for any reason the member resigns voluntarily or is ordered to resign or is dismissed or retired from the Service otherwise than on an annuity, or if the member dies before retirement from the Service, the Administration may apply any moneys due under this Act to him or his successor in title in respect of such property or of his interest in such property, towards the liquidation of any amount payable—

(i) under such agreement; or

- (ii) in pursuance of any insurance entered into by the Administration in connection with the repayment of any amount under such agreement,

which remains unpaid at the date of his retirement, voluntary resignation, enforced resignation, dismissal or death, the Administration may, upon the member so retiring, voluntarily resigning or being so ordered to resign, dismissed or retired or upon his death, as the case may be, so apply the said moneys: Provided that the Administration shall not so apply out of moneys so due to any such successor an amount in excess of the amount which bears to the total amount so remaining unpaid the same proportion as the value of such successor's share or interest in the property bears, in the opinion of the Minister, to the value of the whole thereof: Provided further that no pension benefit payable to a widow shall be so applied.

9. (1) The moneys of the Pension Fund shall be vested in the Administration and shall be invested, separately from other funds invested by the Administration, with the Public Debt Commissioners subject to the provisions of this Act. Administration of the Pension Fund.

(2) Any profit derived or loss incurred from the investments referred to shall be for the account of the Pension Fund.

10. (1) The Pension Fund shall be valued every five years by an actuary appointed by the Minister. Periodical valuation of the Pension Fund.

(2) The actuary shall value the assets and liabilities of the Pension Fund and shall declare what surplus or deficiency appears on the same and shall state how such surplus or deficiency appears to have arisen.

(3) The actuary shall report to the Minister and shall in his report state the data and processes used in his investigation and valuation.

(4) A copy of the said report shall be laid upon the Tables of both Houses of Parliament within fourteen days after receipt thereof by the Minister if Parliament is in ordinary session or, if Parliament is not in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

11. (1) Notwithstanding the provisions of section 10, the Administration shall at intervals of not less than five years determine the anticipated income and expenditure of the Pension Fund on an economic basis with a view to relating income more closely to expenditure in order that the growth may be limited to a realistic rate. Contributions to the Pension Fund by Administration.

(2) On the last day of each month and after determining the ratio of its contribution to the aggregate of the contributions or interest, or both, paid into the Pension Fund by members during the month, the Administration shall pay into the Pension Fund the sums so calculated.

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(3) Die Administrasie stort ook van tyd tot tyd in die Pensioenfondse die verdere bedrae wat nodig is om die gesonde finansiële stand van die Pensioenfondse te handhaaf.

Oorplasing
na en van ander
dienste.

12. (1) Indien 'n lid sonder onderbreking van sy diens oorgeplaas word na 'n ander diens ten bate van die lede waarvan 'n pensioen- of voorsorgfonds bestaan ingevolge 'n wet op pensioene wat geadminestreer word deur die Pensioen-ooriteit of deur 'n Provinsiale Administrasie of die Administrasie van die gebied Suidwes-Afrika, en hy vanaf die datum van sy oorplasing 'n lid van so 'n fonds word, en toegelaat word om daartoe by te dra ten opsigte van sy vorige pensioengewende diens by die Administrasie, is hy geregtig om vir pensioendoeleindes die hele tydperk van sy pensioengewende diens by die Administrasie te reken as aaneenlopend met dié van sy pensioengewende diens in die diens waarna hy oorgeplaas is: Met dien verstande dat daar uit die Pensioenfondse aan die Pensioen-ooriteit of aan die betrokke administrasie, na gelang van die geval, die bedrag betaal word wat deur die pensioen- of voorsorgfonds waarvan so 'n persoon lid word, vereis word, en daardie persoon het daarna geen verdere vordering teen die Pensioenfondse nie.

(2) Indien iemand wat 'n lid is van 'n pensioen- of voorsorgfonds ingestel kragtens 'n wet op pensioene wat deur die Pensioen-ooriteit of deur 'n Provinsiale Administrasie of die Administrasie van die gebied Suidwes-Afrika uitgevoer word, sonder 'n onderbreking van sy diens oorgeplaas word na die diens van die Administrasie en 'n lid word (as 'n voorwaarde van lidmaatskap word geen geneeskundige ondersoek vereis nie), is hy geregtig om vir pensioendoeleindes die hele tydperk van sy pensioengewende diens in die diens waaruit hy oorgeplaas is, as aaneenlopend te reken met dié van sy pensioengewende diens by die Administrasie: Met dien verstande dat daar uit die pensioen- of voorsorgfonds waarvan so iemand 'n lid was, aan die Administrasie ten bate van die Pensioenfondse die bedrag betaal word wat deur die Pensioenfondse vereis word, en so iemand het daarna geen verdere vordering teen die pensioen- of voorsorgfonds waarvan hy 'n lid was nie.

(3) By die toepassing van subartikel (2) word die behoeftes van die Pensioenfondse bereken teen 'n bedrag gelykstaande met die bedrag van die bydraes wat deur die oorgeplaaste persoon aan die Pensioenfondse betaalbaar sou gewees het tesame met die bedrag wat die Administrasie sou bygedra het indien hy gedurende die tydperk van sy pensioengewende diens in die diens waaruit hy oorgeplaas is, 'n lid was en tot die Pensioenfondse bygedra het ooreenkomstig die toepaslike skaal van bydraes van tyd tot tyd vasgestel deur hierdie Wet of die regulasies, en op die pensioengewende emolumente waarop hy van tyd tot tyd bygedra het tot die pensioen- of voorsorgfonds vir bedoelde diens ingestel, tesame met jaarliks saamgestelde rente teen die gemiddelde rentekoers op beleggings by die Staatskuldkommissaris, welke rentekoers gehê word vanaf die eerste dag van die maand wat volg op die datum waarop die rentekoers bekend word.

Dienaar se
reg op vergoeding
kragtens
wetgewing met
betrekking
tot skadeloos-
stelling van
werksmanne
word nie geraak
nie.

13. Geen bepaling van hierdie Wet of die regulasies doen op enigerlei wyse afbreuk nie aan die regte wat 'n dienaar of sy afhanklikes het om vergoeding te ontvang ingevolge 'n wet met betrekking tot skadeloosstelling van werksmanne of ooreenkomstig so 'n wet soos toegepas deur artikel 17 van die Dienswet, ten opsigte van 'n ongeval wat die dienaar getref het en wat uit en in die loop van sy diens, hetsy in of buite die Republiek, ontstaan het, en die bedrag wat kragtens of ooreenkomstig so 'n wet betaalbaar is, word nie verminder nie uit hoofde van 'n betaling wat aan die dienaar of sy afhanklikes uit die Pensioenfondse gedoen mag word.

Heraanstelling
van jaargeld-
trekkers.

14. (1) Aan 'n jaargeldtrekker wat 'n betrekking in die Diens beklee of in 'n betrekking in die Diens aangestel word, word die emolumente of besoldiging betaal wat gewoonlik betaal word

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(3) The Administration shall also pay into the Pension Fund from time to time any further amounts that may be necessary to maintain the Pension Fund in a sound financial condition.

12. (1) If a member is transferred without a break in his service to any other service for the benefit of the members whereof a pension or provident fund exists under any law relating to pensions administered by the Pensions Authority or by a Provincial Administration or the Administration of the territory of South West Africa, and he becomes a member of any such fund as from the date of his transfer and is permitted to contribute thereto in respect of his past pensionable employment under the Administration, he shall be entitled for pension purposes to reckon the whole period of his pensionable employment under the Administration as continuous with that of his pensionable employment in the service to which he is transferred: Provided that there shall be paid from the Pension Fund to the Pensions Authority or to the administration concerned, as the case may be, such amount as is required by the pension or provident fund of which such person becomes a member, and such person shall thereafter have no further claim on the Pension Fund.

Transfers to and from other services.

(2) If a person who is a member of a pension or provident fund established under any law relating to pensions administered by the Pensions Authority or by a Provincial Administration or the Administration of the territory of South West Africa, is transferred without a break in his service to the service of the Administration and becomes a member (as a condition of membership a medical examination shall not be required), he shall be entitled for pension purposes to reckon the whole period of his pensionable employment in the service from which he was transferred, as continuous with that of his pensionable employment under the Administration: Provided that there shall be paid from the pension or provident fund of which such person was a member, to the Administration for the benefit of the Pension Fund, such amount as is required by the Pension Fund, and thereafter such person shall have no further claim upon the pension or provident fund of which he was a member.

(3) For the purposes of subsection (2) the requirements of the Pension Fund shall be calculated at an amount equal to the amount of the contributions which would have been payable to the Pension Fund by the person transferred together with the amount which the Administration would have contributed if, during the period of his pensionable employment in the service from which he was transferred, he had been a member and had contributed to the Pension Fund in accordance with the appropriate scale of contributions from time to time in force under this Act or the regulations, and on the pensionable emoluments on which he was from time to time contributing to the pension or provident fund established for the said service, together with interest compounded annually at the average rate of interest on investments with the Public Debt Commissioners, which rate of interest shall be levied from the first day of the month following the date on which the rate of interest becomes known.

13. Nothing contained in this Act or in the regulations shall in any way affect the rights which a servant or his dependants may have to be paid compensation under any law relating to workmen's compensation, or in accordance with any such law as applied by section 17 of the Service Act in respect of an accident to the servant which arose out of and in the course of his employment, whether within or outside the Republic, and the amount payable under or in accordance with any such law shall not be reduced by reason of any payment that may be made to the servant or his dependants from the Pension Fund.

Servant's right to compensation under workmen's compensation legislation not affected.

14. (1) Any annuitant who holds an appointment in or is appointed to the Service shall be paid the emoluments or remuneration usually paid in respect of the office or post in which

Reappointment of annuitants.

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ten opsigte van die betrekking of pos waarin hy diens doen, sonder inagneming van die jaargeld deur hom ontvang, en ondanks andersluidende wetsbepalings is so 'n jaargeld nie aan korting onderhewig nie tensy die Minister in besondere omstandighede anders gelas. Sodanige jaargeldtrekker word nie tot lidmaatskap van die Pensioenfonds toegelaat nie.

(2) Indien 'n jaargeldtrekker ingevolge die Staatsdienswet, 1957 (Wet No. 54 van 1957), aangestel word in 'n betrekking in die Staatsdiens, soos in daardie Wet omskryf, is die bepaling van subartikel (1) met betrekking tot vermindering van sy jaargeld van toepassing.

(3) In hierdie artikel beteken „jaargeldtrekker” iemand wat 'n jaargeld ontvang uit inkomste of uit die Pensioenfonds.

Minister kan sekere gevalle heropen.

15. Die Minister kan gevalle waarin daar, weens 'n fout of versuim, andersins onreg sou geskied teenoor 'n dienaar wat 'n lid is of wat bevoeg was om 'n lid te word, heropen en enige nodige wysiging daarin laat aanbring.

Belegging van fondse.

16. Die gelde van die Pensioenfonds word deur die Administrasie behou ten bate van die lede, onderworpe aan die bepalinge van hierdie Wet of die regulasies, en die Administrasie betaal soveel van die gelde van genoemde fonds as wat nie onmiddellik benodig word nie, aan die Staatskuldkommissaris as deposito's beskikbaar vir belegging kragtens die Wet op die Staatskuldkommissaris, 1969 (Wet No. 2 van 1969).

Hoe die Pensioenfonds bestuur en die koste daarvan betaal word.

17. Die sake van die Pensioenfonds word bestuur deur bemiddeling van die personeel van die Administrasie, en die koste verbode aan die bestuur van daardie fonds en van aktuariële waarderinge en daarmee verbandhoudende sake word deur die Administrasie uit inkomste bestry.

Toepassing van Wet op Suidwes-Afrika.

18. Hierdie Wet en enige wysiging daarvan is ook in die gebied Suidwes-Afrika, insluitende die Oostelike Caprivi Zipfel, van toepassing.

Kort titel en inwerking-treding.

19. Hierdie Wet heet die Wet op Spoorweg- en Hawepensioene vir Nie-Blankes, 1974, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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he is employed without regard to the annuity drawn by him and notwithstanding anything in any law contained such annuity shall not be subject to abatement unless in special circumstances the Minister otherwise directs. Such annuitant shall not be admitted to membership of the Pension Fund.

(2) If any annuitant is appointed under the Public Service Act, 1957 (Act No. 54 of 1957), to a position in the Public Service, as in that Act defined, the provisions of subsection (1) as to abatement of his annuity shall apply.

(3) In this section "annuitant" means any person in receipt of an annuity from revenue or from the Pension Fund.

15. The Minister may re-open and make any necessary adjustment in cases in which through some error or omission an injustice would otherwise be done to a servant who is a member or was qualified to become a member.

Minister may re-open certain cases.

16. The moneys of the Pension Fund shall be held by the Administration on behalf of the members, subject to the provisions of this Act or the regulations, and the Administration shall pay over such moneys of the said fund as are not immediately required to the Public Debt Commissioners as deposits available for investment under the Public Debt Commissioners Act, 1969 (Act No. 2 of 1969).

Investment of funds.

17. The business of the Pension Fund shall be conducted by means of the staff of the Administration, and the cost of administering that fund and of any actuarial investigations and matters incidental thereto shall be borne by the Administration out of revenue.

How the Pension Fund shall be administered and the cost thereof paid.

18. This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.

Application of Act to South West Africa.

19. This Act shall be called the Railways and Harbours Pensions for Non-Whites Act, 1974, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Short title and commencement.

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