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GOVERNMENT GAZETTE

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KAAPSTAD, 30 JUNIE 1976

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1104.

30 June 1976.

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

No. 84 of 1976: Military Pensions Act, 1976.

No. 1104.

30 Junie 1976.

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

No. 84 van 1976: Wet op Militêre Pensioene, 1976.

WET

Om voorsiening te maak vir die betaling van pensioene en gratifikasies aan of ten opsigte van sekere persone ten opsigte van ongeskiktheid wat deur militêre diens veroorsaak of vererger is; vir die geneeskundige behandeling van sodanige persone; en vir die konsolidasie van voordele wat ingevolge die Wet op Spesiale Oorlogspensioene, 1962, die Oorlogspensioenwet, 1967, en artikel 15 (1) van die Wysigingswet op die Pensioenwette, 1968, betaal word; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 18 Junie 1976.)

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

Woordom-
skrywing.

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

- (i) „afgestorwe lid” ’n lid wat gedurende die verrigting van militêre diens sneuwel, of as gevolg van die verrigting van militêre diens te sterwe kom, of wat gedurende of na die verrigting van militêre diens te sterwe kom en onmiddellik voor sy afsterwe aan ’n pensioengewende ongeskiktheid gely het; (iv)
- (ii) „afhanklike”, met betrekking tot ’n lid, sy vrou of kind; (vi)
- (iii) „appeltribunaal” die militêre pensioene-appeltribunaal in artikel 16 (1) genoem; (i)
- (iv) „dienstydperk” ’n tydperk van werklike diens of opleiding in die Burgermag, ’n Kommando of die Reserwe in artikel 5 of 6 van die Verdedigingswet genoem; (xxiii)
- (v) „formule I”, met betrekking tot ’n bepaalde lid en ’n aangeleentheid wat ooreenkomstig formule I bereken moet word—

$$A \times B$$

in welke formule—

- (a) A die bedrag voorstel wat die Minister, behoudens die bepalinge van subartikel (2), met instemming van die Minister van Finansies van tyd tot tyd bepaal; en
- (b) B die persentasie waarteen die lid se pensioengewende ongeskiktheid bepaal is, voorstel; (viii)
- (vi) „formule II”, met betrekking tot ’n aangeleentheid wat ooreenkomstig formule II bereken moet word—

$$C \times D \times E$$

in welke formule—

- (a) C die bedrag wat die Minister, behoudens die bepalinge van subartikel (2), van tyd tot tyd met instemming van die Minister van Finansies bepaal, voorstel;
- (b) D die persentasie waarteen ’n bepaalde lid se pensioengewende ongeskiktheid bepaal is, voorstel; en

MILITARY PENSIONS ACT, 1976

Act No. 84, 1976

ACT

To provide for the payment of pensions and gratuities to or in respect of certain persons in respect of disablement caused or aggravated by military service; for the medical treatment of such persons; and for the consolidation of benefits which are paid in terms of the Special War Pensions Act, 1962, the War Pensions Act, 1967, and section 15 (1) of the Pension Laws Amendment Act, 1968; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 18 June 1976.)

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

1. (1) In this Act, unless the context otherwise indicates— Definitions.
 - (i) "appeal tribunal" means the military pensions appeal tribunal mentioned in section 16 (1); (iii)
 - (ii) "child", in relation to any member, means an unmarried child under the age of eighteen years—
 - (a) who is a child for whose maintenance such member is legally responsible;
 - (b) who is a stepchild of such member;
 - (c) who has been legally adopted by such member;
 - (d) any such unmarried child over the age of eighteen years who is a full-time student at any university or other educational institution or who, on account of any physical or mental disability, is not able to provide for his own maintenance and is regularly maintained by such member; (xiv)
 - (iii) "consolidated pension" means any consolidated pension mentioned in section 8 (1); (ix)
 - (iv) "deceased member" means any member who is killed during the performance of military service or who dies as a result of the performance of military service or who, during or after the performance of military service dies and suffered from a pensionable disability immediately prior to his death; (i)
 - (v) "Defence Act" means the Defence Act, 1957 (Act No. 44 of 1957); (xxvi)
 - (vi) "dependant", in relation to any member, means his wife or child; (ii)
 - (vii) "fixed date" means, subject to the provisions of section 26 (1), the date on which this Act comes into operation; (xxv)
 - (viii) "formula I", in relation to a specified member and any matter to be calculated in accordance with formula I, means—

$$A \times B$$

in which formula—

- (a) A represents the amount which the Minister, subject to the provisions of subsection (2), may with the concurrence of the Minister of Finance determine from time to time; and
- (b) B represents the percentage at which the pensionable disability of a member may have been determined; (v)

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- (c) E die aantal afhanklikes van die lid voorstel; (ix)
 (vii) „formule III”, met betrekking tot ’n aangeleentheid
 wat ooreenkomstig formule III bereken moet word—

$$\frac{F}{G} + \left(\frac{F \times H}{K} \right)$$

in welke formule—

- (a) F die bedrag wat die Minister, behoudens die
 bepalings van subartikel (2), van tyd tot tyd met
 instemming van die Minister van Finansies bepaal,
 voorstel;
 (b) G ’n getal wat die Minister behoudens die be-
 palings van subartikel (2) van tyd tot tyd met
 instemming van die Minister van Finansies bepaal,
 voorstel;
 (c) H die getal kinders van ’n bepaalde lid voorstel;
 en
 (d) K ’n getal wat die Minister, behoudens die be-
 palings van subartikel (2), van tyd tot tyd met
 instemming van die Minister van Finansies bepaal,
 voorstel; (x)
 (viii) „formule IV”, met betrekking tot ’n aangeleentheid
 wat ooreenkomstig formule IV bereken moet word—

$$\left(\frac{L \times M}{N} \right)$$

in welke formule—

- (a) L die bedrag van die maandelikse pensioen of
 gekonsolideerde pensioen wat aan ’n bepaalde
 persoon betaalbaar is, voorstel;
 (b) M die persentasie van die pensioengewende onge-
 skiktheid van die persoon soos ingevolge artikel
 8, 11 of 15 herbepaal, voorstel; en
 (c) N die persentasie van die pensioengewende onge-
 skiktheid of van die vorige pensioengewende
 ongeskiktheid van die persoon soos onmiddellik
 voor bedoelde herbepaling vasgestel, voorstel; (xi)
 (ix) „gekonsolideerde pensioen” ’n gekonsolideerde
 pensioen in artikel 8 (1) genoem; (iii)
 (x) „geneesheer” iemand wat as sodanig kragtens die
 Wet op Geneeshere, Tandartse en Aanvullende Ge-
 sondheidsdiensberoep, 1974 (Wet No. 56 van 1974),
 geregistreer is; (xv)
 (xi) „geneeskundige behandeling” geneeskundige, heel-
 kundige of hospitaalbehandeling, geskoolde ver-
 plegingsdienste en die verskaffing en herstel van enige
 kunsliggaamsdeel of enige toestel wat deur ’n pensioen-
 gewende ongeskiktheid of ’n vorige pensioengewende
 ongeskiktheid noodsaaklik gemaak is; (xvi)
 (xii) „gratifikasie” die gratifikasie in artikel 5 genoem; (xii)
 (xiii) „hierdie Wet” ook die regulasies kragtens artikel 23
 uitgevaardig; (xxviii)
 (xiv) „kind”, met betrekking tot ’n lid, ’n ongetroude kind
 onder die ouderdom van agtien jaar—
 (a) wat ’n kind is vir wie se onderhoud die lid regtens
 aanspreeklik is;
 (b) wat ’n stiefkind van die lid is;
 (c) wat wettiglik deur die lid aangeneem is;
 (d) so ’n ongetroude kind bo die ouderdom van agtien
 jaar wat ’n heeltydse student aan ’n universiteit of
 ander opvoedkundige inrigting is of wat weens
 liggaamlike of geestesongeskiktheid nie in staat
 is om in sy eie onderhoud te voorsien nie en
 gereeld deur die lid onderhou word; (ii)
 (xv) „lid” ’n lid van die Burgermag of ’n Kommando of
 die Reserwe genoem in artikel 5 of 6 van die Ver-
 dedigingswet, maar nie ook sodanige lid wat ’n be-

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- (ix) "formula II", in relation to any matter to be calculated in accordance with formula II, means—

$$C \times D \times E$$

in which formula—

- (a) C represents the amount which the Minister, subject to the provisions of subsection (2), may with the concurrence of the Minister of Finance determine from time to time;
 - (b) D represents the percentage at which the pensionable disability of a specified member may have been determined; and
 - (c) E represents the number of dependants of the member; (vi)
- (x) "formula III", in relation to any matter to be calculated in accordance with formula III, means—

$$\frac{F}{G} + \left(\frac{F \times H}{K} \right)$$

in which formula—

- (a) F represents the amount which the Minister, subject to the provisions of subsection (2), may with the concurrence of the Minister of Finance determine from time to time;
 - (b) G represents a number which the Minister, subject to the provisions of subsection (2), may with the concurrence of the Minister of Finance determine from time to time;
 - (c) H represents the number of children of a specified member; and
 - (d) K represents a number which the Minister, subject to the provisions of subsection (2), may with the concurrence of the Minister of Finance determine from time to time; (vii)
- (xi) "formula IV", in relation to any matter to be calculated in accordance with formula IV, means—

$$\left(\frac{L \times M}{N} \right)$$

in which formula—

- (a) L represents the amount of the monthly pension or consolidated pension which is payable to a specified person;
 - (b) M represents the percentage of the pensionable disability of the person as redetermined in terms of section 8, 11 or 14; and
 - (c) N represents the percentage of the pensionable disability or of the previous pensionable disability of the person as established immediately prior to that redetermination; (viii)
- (xii) "gratuity" means the gratuity mentioned in section 5; (xii)
 - (xiii) "medical appeal board" means a medical appeal board mentioned in section 15; (xvi)
 - (xiv) "medical pensions officer" means any medical practitioner designated by the Secretary as a medical pensions officer; (xvii)
 - (xv) "medical practitioner" means a person registered as such in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974); (x)
 - (xvi) "medical treatment" means medical, surgical or hospital treatment, skilled nursing services and the supply and repair of any artificial part of the body or any device necessitated by a pensionable disability or a previous pensionable disability; (xi)

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- ampte of werknemer is soos in artikel 2 (3) van die Wysigingswet op die Pensioenwette, 1974 (Wet No. 15 van 1974), omskryf nie; (xvii)
- (xvi) „mediese appèlraad” ’n mediese appèlraad in artikel 15 genoem; (xiii)
- (xvii) „mediese pensioenbeampte” ’n geneesheer wat deur die Sekretaris as ’n mediese pensioenbeampte aangewys is; (xiv)
- (xviii) „militêre diens” ook vlootdiens, lugdiens of militêre diens of opleiding, wat deur ’n lid ingevolge die bepalings van die Verdedigingswet verrig of ondergaan word; (xviii)
- (xix) „Minister” die Minister van Volkswelsyn en Pensioene; (xix)
- (xx) „ouer”, met betrekking tot ’n lid, sy wettige ouer en ook iemand wat volgens die oordeel van die Sekretaris sy pleegouer is of was en wat onmiddellik voor die lid se afsterwe vir sy onderhoud van die lid afhanklik was; (xx)
- (xxi) „pensioen” ’n pensioen in artikel 4 genoem; (xxi)
- (xxii) „pensioengewende ongeskiktheid”, met betrekking tot ’n lid, ’n ongeskiktheid wat deur militêre diens binne die bedoeling van artikel 2 veroorsaak of vererger is, mits dit volgens die oordeel van die Sekretaris nie deur die lid se eie wangedrag veroorsaak of vererger is nie, en wat ingevolge artikel 7 bepaal of herbepaal is; (xxii)
- (xxiii) „Republiek” ook die gebied Suidwes-Afrika; (xxvi)
- (xxiv) „Sekretaris” die Sekretaris van Volkswelsyn en Pensioene; (xxvii)
- (xxv) „vasgestelde datum”, behoudens die bepalings van artikel 26 (1), die datum waarop hierdie Wet in werking tree; (vii)
- (xxvi) „Verdedigingswet” die Verdedigingswet, 1957 (Wet No. 44 van 1957); (v)
- (xxvii) „voorgeskryf” by regulasie kragtens artikel 23 voorgeskryf; (xxiv)
- (xxviii) „vorige pensioengewende ongeskiktheid” ’n pensioengewende ongeskiktheid wat ingevolge ’n wet wat by hierdie Wet herroep word, bepaal is; (xxv)
- (xxix) „vrou”, met betrekking tot ’n lid, die wettige vrou van die lid en ook ’n vrou wat regtens op onderhoud vir haarself van die lid geregtig is en ook ’n vrou wat die natuurlike moeder is van ’n kind onder die ouderdom van agtien jaar wat gereeld deur die lid onderhou word, en ook ’n vrou met wie die lid vir ’n tydperk van minstens vyf jaar onmiddellik voor die aanvang van sy militêre diens, binne die bedoeling van artikel 2 (3) (c), as man en vrou saamgeleef het; (xxx)
- (xxx) „weduwee”, met betrekking tot ’n lid, iemand wat ten tyde van die lid se dood ’n vrou van die lid was. (xxix)
- (2) (a) Enige bedrag of getal wat ingevolge die omskrywing van formule I, formule II of formule III deur die Minister bepaal kan of moet word, word by kennisgewing in die *Staatskoerant* bepaal en verskillende bedrae of getalle kan aldus ten opsigte van verskillende bevolkingsgroepe of kategorieë persone bepaal word.
- (b) ’n Kennisgewing ingevolge paragraaf (a), behalwe ’n kennisgewing uit hoofde waarvan die bedrag van ’n pensioen of ’n gekonsolideerde pensioen verminder word, kan met terugwerkende krag uitgereik word.

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- (xvii) "member" means any member of the Citizen Force or any Commando or of the Reserve mentioned in section 5 or 6 of the Defence Act, but excluding such member who is an officer or employee as defined in section 2 (3) of the Pension Laws Amendment Act, 1974 (Act No. 15 of 1974); (xv)
 - (xviii) "military service" includes naval, air or military service or training being performed or undergone by a member in terms of the Defence Act; (xviii)
 - (xix) "Minister" means the Minister of Social Welfare and Pensions; (xix)
 - (xx) "parent", in relation to a member, means his lawful parent and includes any person who, in the opinion of the Secretary is or was his foster parent and who was immediately prior to the member's death, dependent on such member for his maintenance; (xx)
 - (xxi) "pension" means a pension mentioned in section 4; (xxi)
 - (xxii) "pensionable disability", in relation to a member, means a disability which was caused or aggravated by military service within the meaning of section 2, provided it was in the opinion of the Secretary not caused or aggravated by the member's own misconduct, and which has been determined or redetermined in terms of section 7; (xxii)
 - (xxiii) "period of service" means any period of actual service or training with the Citizen Force, a Commando or the Reserve mentioned in section 5 or 6 of the Defence Act; (iv)
 - (xxiv) "prescribed" means prescribed by regulation under section 23; (xxvii)
 - (xxv) "previous pensionable disability" means a pensionable disability determined in terms of any law which is repealed by this Act; (xxviii)
 - (xxvi) "Republic" includes the territory of South West Africa; (xxiii)
 - (xxvii) "Secretary" means the Secretary for Social Welfare and Pensions; (xxiv)
 - (xxviii) "this Act" includes the regulations made under section 23; (xiii)
 - (xxix) "widow", in relation to a member, means any person who was a wife of the member at the time of his death; (xxx)
 - (xxx) "wife", in relation to a member, means the lawful wife of the member and includes a woman who is legally entitled to maintenance for herself from the member, and a woman who is the natural mother of a child under the age of eighteen years who is regularly maintained by the member, and a woman with whom the member lived together as man and wife for a period of at least five years immediately prior to the commencement of his military service within the meaning of section 2 (3). (xxix)
- (2) (a) Any amount or number which is permitted or required to be determined by the Minister in terms of the definition of formula I, formula II or formula III, shall be determined by notice in the *Gazette* and different amounts or numbers may so be determined in respect of different population groups or categories of persons.
- (b) Any notice in terms of paragraph (a), other than a notice by virtue of which the amount of any pension or consolidated pension is reduced, may be issued with retrospective effect.

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WET OP MILITÊRE PENSIOENE, 1976

Hoe 'n ongeskiktheid deur militêre diens veroorsaak of vererger word.

2. (1) By die toepassing van hierdie Wet—
 - (a) word 'n ongeskiktheid geag ook deur militêre diens veroorsaak te gewees het—
 - (i) indien dit gedurende die verrigting van militêre diens buite die Republiek ontstaan of verskyn het;
 - (ii) indien dit gedurende die verrigting van militêre diens in die Republiek ontstaan of verskyn het, tensy daar volgens die oordeel van die Sekretaris redelike gronde bestaan om die teendeel te vermoed;
 - (iii) indien dit die gevolg is van 'n besering deur 'n lid opgedoen binne die grense van die kamp of kaserne waar die lid gestasioneer was, of binne die grense van enige verblyfplek buite sodanige kamp of kaserne waar die lid weens die vereistes van militêre diens verplig was om te woon, of terwyl hy met goedgekeurde verlof oor die kortste roete of die roete wat die Sekretaris onder die omstandighede redelik ag, op weg was na of van sy tuiste of bestemming;
 - (iv) indien dit die gevolg is van 'n besering deur 'n lid opgedoen terwyl hy beroepsopleiding ontvang het, en as gevolg van sodanige opleiding, of wat opgedoen is in 'n onuitgelokte aanranding wat deur sy lidmaatskap van die Suid-Afrikaanse Weermag veroorsaak is;
 - (b) word 'n ongeskiktheid geag deur militêre diens vererger te wees—
 - (i) indien dit voor die lid se vertrek uit die Republiek verskyn het en gedurende militêre diens buite die Republiek verder ontwikkel het;
 - (ii) indien dit voor die aanvang van die lid se militêre diens verskyn het en gedurende militêre diens in die Republiek verder ontwikkel het, tensy die Sekretaris om gegronde redes oortuig is dat die omstandighede waarin die lid diens gedoen het en die aard van sy militêre pligte sodanig was dat dit nie tot die ontwikkeling van die ongeskiktheid kon bygedra het nie, of dat die ongeskiktheid van toenemende aard is en waarskynlik in dieselfde mate as dié waarin dit ontwikkel het, sou ontwikkel het indien die lid nie militêre diens verrig het nie.
- (2) By die toepassing van subartikel (1) (a) (iii) beteken „goedgekeurde verlof” nie ook verlof om gereeld buite die grense van die kamp of kaserne waar die lid gestasioneer was, te woon nie, tensy die lid verplig was om vanweë die vereistes van militêre diens buite sodanige kamp of kaserne te woon.
- (3) By die toepassing van subartikel (1) (b)—
 - (a) word 'n ongeskiktheid wat nie in die verslag oor die geneeskundige ondersoek van 'n lid ten tyde van die aanvang van die lid se militêre diens aangeteken is nie, geag nie op daardie tydstip te verskyn het nie, tensy die teendeel ten genoeë van die Sekretaris bewys word;
 - (b) word 'n konstitusionele of latente swakheid wat 'n lid voor die aanvang van sy militêre diens gehad het, nie geag 'n ongeskiktheid te wees wat voor sodanige aanvang verskyn het nie tensy ten genoeë van die Sekretaris bewys word dat die toestand verder as die latente stadium ontwikkel het en werklike ongeskiktheid ten tyde van die aanvang van sy militêre diens veroorsaak het;
 - (c) word 'n lid se militêre diens geag 'n aanvang te geneem het op die datum waarop hy van sy tuiste of gewone woonplek vertrek het om hom ingevolge die bepalings van die Verdedigingswet vir militêre diens aan te meld.

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2. (1) For the purposes of this Act—

(a) a disability shall be deemed also to have been caused by military service—

How a disability is caused or aggravated by military service.

- (i) if it arose or became manifest during the performance of military service outside the Republic;
- (ii) if it arose or became manifest during the performance of military service inside the Republic unless in the opinion of the Secretary there are reasonable grounds to presume the contrary;
- (iii) if it is the result of an injury sustained by a member within the confines of the camp or barracks where the member was stationed, or, within the confines of any accommodation outside such camp or barracks, where the member was required to reside because of the exigencies of military service, or while proceeding on authorized leave to or from his home or place of destination over the direct route or the route which the Secretary may in the circumstances deem reasonable;
- (iv) if it is the result of an injury sustained by a member while undergoing vocational training and as a result of such training or which was sustained in an unprovoked assault occasioned by his membership of the South African Defence Force;

(b) a disability shall be deemed to have been aggravated by military service—

- (i) if, having manifested itself prior to the member's departure from the Republic, it progressed during military service outside the Republic;
- (ii) if, having manifested itself prior to the commencement of the military service of the member, it progressed during military service in the Republic, unless the Secretary is satisfied for sound reasons that the conditions under which the member served and the nature of his military duties were such as could not have been factors in the development of the disability or that the disability is one that is progressive and probably would have developed to the same extent as that in which it did develop if the member did not perform military service.

(2) For the purposes of subsection (1) (a) (iii), "authorized leave" does not include permission to live regularly outside the confines of the camp or barracks where the member was stationed, unless the member was required to live outside such camp or barracks on account of the exigencies of military service.

(3) For the purposes of subsection (1) (b)—

- (a) a disability which is not recorded in the report on the medical examination of a member at the time of commencement of his military service, shall be deemed not to have manifested itself at that time, unless the contrary is proved to the satisfaction of the Secretary;
- (b) a constitutional or latent weakness which a member had prior to the commencement of his military service, shall not be deemed to be a disability which manifested itself prior to such commencement, unless it is proved to the satisfaction of the Secretary that the condition had progressed beyond the latent stage and caused actual disablement at the time of commencement of his military service;
- (c) the military service of a member shall be deemed to have commenced on the date on which he departed from his home or usual residence to report for military service in terms of the provisions of the Defence Act.

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WET OP MILITÊRE PENSIOENE, 1976

Betaling van
pensioene en
gratifikasies.

3. (1) Die Minister kan, behoudens die bepalings van hierdie Wet, met instemming van die Minister van Finansies en uit geld wat die Parlement vir die doel bewillig—

- (a) aan lede wat aan 'n pensioengewende ongeskiktheid ly pensioene of gratifikasies betaal;
- (b) aan die weduwees, ouers of kinders van afgestorwe lede pensioene betaal;
- (c) die koste van enige geneeskundige behandeling of van enige ondersoek ingevolge hierdie Wet bestry;
- (d) die koste van enige opleiding wat kragtens hierdie Wet gemagtig word, bestry;
- (e) gekonsolideerde pensioene ingevolge artikel 8 betaal.

(2) Verskillende bedrae kan ten opsigte van verskillende bevolkingsgroepe of kategorieë persone aldus betaal word.

Persone wat
op pensioene
geregtig is.

4. Behoudens die bepalings van hierdie Wet—

- (a) is 'n lid wat aan 'n pensioengewende ongeskiktheid ly wat ingevolge die bepalings van hierdie Wet op minstens twintig persent vasgestel is, op 'n jaarlikse pensioen geregtig wat ooreenkomstig formule I bereken word;
- (b) is 'n lid aan wie 'n pensioen ingevolge paragraaf (a) toegeken is, op 'n jaarlikse pensioen ten opsigte van sy afhanklikes geregtig wat ooreenkomstig formule II bereken word;
- (c) is die weduwee van 'n afgestorwe lid wat onmiddellik voor sy afsterwe 'n pensioen ingevolge paragraaf (b) ontvang het, geregtig op sodanige pensioen met ingang van die eerste dag van die maand wat onmiddellik volg op die maand waarin die lid gesterf het en word sodanige pensioen met ingang van bedoelde datum aangevul met 'n bedrag wat gelykstaan met die helfte van die bedrag van die jaarlikse pensioen wat onmiddellik voor sy dood ingevolge paragraaf (a) aan die lid betaalbaar was;
- (d) is die weduwee van 'n afgestorwe lid wat op die datum van sy dood nie 'n pensioen ingevolge paragraaf (b) ontvang het nie, geregtig op die pensioen waarop die lid ingevolge daardie paragraaf geregtig sou gewees het as hy nie gesterf het nie en word laasgenoemde pensioen aangevul met 'n bedrag wat gelykstaan met die helfte van die bedrag van die jaarlikse pensioen wat onmiddellik voor sy dood ingevolge paragraaf (a) aan die lid betaalbaar was of waarop hy ingevolge daardie paragraaf geregtig sou gewees het as hy nie gesterf het nie;
- (e) is die kinders van 'n afgestorwe lid wat onmiddellik voor sy afsterwe 'n pensioen ingevolge paragraaf (a) ontvang het of wat op sodanige pensioen geregtig sou gewees het as hy nie gesterf het nie en wat nie deur 'n weduwee oorleef word nie of wie se weduwee na sy afsterwe weer in die huwelik tree of te sterwe kom, geregtig op 'n jaarlikse pensioen wat ooreenkomstig formule II bereken word;
- (f) is iedere ouer van 'n afgestorwe lid wat nie deur 'n afhanklike oorleef word nie, geregtig op 'n jaarlikse pensioen wat gelykstaan met twintig persent van die bedrag van enige pensioen wat onmiddellik voor sy dood ingevolge paragraaf (a) aan die lid betaalbaar was of waarop hy ingevolge genoemde paragraaf geregtig sou gewees het indien hy nie gesterf het nie.

Persone wat op
'n gratifikasie
geregtig is.

5. (1) Indien 'n lid aan 'n pensioengewende ongeskiktheid ly, word daar aan hom 'n gratifikasie betaal wat die Minister met die instemming van die Minister van Finansies van tyd tot tyd by kennisgewing in die *Staatskoerant* bepaal en wat, indien die lid se pensioengewende ongeskiktheid—

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3. (1) The Minister may, subject to the provisions of this Act, with the concurrence of the Minister of Finance and out of moneys appropriated by Parliament for the purpose—

Payment of pensions and gratuities.

- (a) pay pensions or gratuities to members who suffer from a pensionable disability;
 - (b) pay pensions to the widows, parents or children of deceased members;
 - (c) defray the cost of any medical treatment or investigation in terms of this Act;
 - (d) defray the cost of any training authorized under this Act;
 - (e) pay consolidated pensions in terms of section 8.
- (2) Different amounts may be so paid in respect of different population groups or categories of persons.

4. Subject to the provisions of this Act—

Persons who are entitled to pensions.

- (a) a member who suffers from a pensionable disability which has been determined at at least twenty per cent in terms of the provisions of this Act, shall be entitled to an annual pension which shall be calculated in accordance with formula I;
- (b) a member to whom a pension has been awarded in terms of paragraph (a), shall be entitled to an annual pension in respect of his dependants, which shall be calculated in accordance with formula II;
- (c) the widow of a deceased member who, immediately prior to his death, was in receipt of a pension in terms of paragraph (b), shall be entitled to such pension with effect from the first day of the month following immediately on the month in which the member died and such pension shall with effect from the said date be supplemented by an amount which shall be equal to half of the amount of the annual pension which was payable to the member in terms of paragraph (a) immediately prior to his death;
- (d) the widow of a deceased member who, on the date of his death, was not in receipt of a pension in terms of paragraph (b), shall be entitled to the pension to which the member would have been entitled in terms of that paragraph if he had not died, and the latter pension shall be supplemented by an amount which shall be equal to half of the amount of the annual pension which was payable to the member in terms of paragraph (a) immediately prior to his death or to which he would have been entitled in terms of that paragraph if he had not died;
- (e) the children of a deceased member who immediately prior to his death was in receipt of a pension in terms of paragraph (a) or who would have been entitled to such pension if he had not died and who is not survived by a widow or whose widow remarries or dies after his death, shall be entitled to an annual pension which shall be calculated in accordance with formula II;
- (f) each parent of a deceased member who is not survived by a dependant, shall be entitled to an annual pension which shall be equal to twenty per cent of the amount of any pension which was payable to the member in terms of paragraph (a) immediately prior to his death, or to which he would have been entitled in terms of the said paragraph, if he had not died.

5. (1) If any member suffers from a pensionable disability there shall be paid to him such gratuity as the Minister may with the concurrence of the Minister of Finance determine from time to time by notice in the *Gazette* and which, if the pensionable disability of the member—

Persons entitled to a gratuity.

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(a) op hoogstens tien persent vasgestel is, nie driehonderd rand te bowe gaan nie;

(b) op meer as tien persent maar minder as twintig persent vasgestel is, nie seshonderd rand te bowe gaan nie.

(2) Indien iemand aan wie 'n gratifikasie ingevolge paragraaf (a) betaal is, na sodanige betaling op 'n gratifikasie ingevolge paragraaf (b) geregtig word, word die bedrag van die gratifikasie wat ingevolge paragraaf (a) aan hom betaal is teen die bedrag van die gratifikasie waarop hy ingevolge paragraaf (b) geregtig is, verreken.

(3) Indien 'n pensioen ingevolge artikel 4 (a) aan 'n lid toegeken word binne 'n tydperk van veertig maande nadat 'n gratifikasie ingevolge subartikel (1) van hierdie artikel aan hom betaal is, word enige pensioen of pensioene wat ingevolge paragraaf (a) of paragrafe (a) en (b) van artikel 4 aan hom betaal word, verminder met een-veertigste van die bedrag van die gratifikasie wat aldus aan hom betaal is tot en met die laaste dag van die veertigste maand nadat die eerste bedoelde vermindering gedoen is of tot die datum waarop sodanige pensioen of pensioene gestaak word, watter datum ook al die vroegste is.

Aansoek om
pensioen of
gratifikasie.

6. (1) Iemand wat op 'n pensioen of gratifikasie aanspraak maak, moet by die Sekretaris daarom aansoek doen op 'n vorm deur die Sekretaris bepaal en moet ter staving van die aansoek die besonderhede, stukke en inligting verstrek wat voorgeskryf is of wat die Sekretaris vereis.

(2) Indien die Sekretaris oortuig is dat daar goeie redes daarvoor bestaan, kan hy enigiemand toelaat om 'n aansoek ingevolge subartikel (1) namens die persoon wat op 'n pensioen of gratifikasie aanspraak maak, te doen.

(3) Die Sekretaris moet na oorweging van die aansoek en al die besonderhede, stukke en inligting wat hy met betrekking tot die aansoek ingewin het, die bedrag van enige pensioen of gratifikasie waarop die aansoeker geregtig is, bepaal.

Bepaling van
pensioengewende
ongeskiktheid.

7. (1) By die oorweging van 'n aansoek om 'n pensioen of gratifikasie of van die hersiening van 'n pensioen ingevolge hierdie Wet, moet die pensioengewende ongeskiktheid van 'n lid of afgestorwe lid en die mate van sodanige ongeskiktheid van tyd tot tyd deur die Sekretaris na oorlegpleging met 'n mediese pensioenbeampte bepaal of herbepaal word.

(2) (a) By die toepassing van subartikel (1), kan die Sekretaris van 'n lid wie se pensioengewende ongeskiktheid in oorweging is, vereis dat hy deur 'n geneesheer deur die Sekretaris aangewys, ondersoek word.

(b) Die geneesheer wat die lid ondersoek, moet aan die Sekretaris 'n verslag oor die lid se liggaamlike en geestestoestand verstrek.

(3) Die mediese pensioenbeampte in subartikel (1) genoem, het insae in al die stukke wat op sodanige lid se gesondheidstoestand betrekking het.

(4) 'n Siekte of besering deur 'n lid opgedoen as 'n regstreekse gevolg van 'n pensioengewende ongeskiktheid of as 'n regstreekse gevolg van deur die Sekretaris goedgekeurde geneeskundige behandeling vir 'n pensioengewende ongeskiktheid word by die toepassing van hierdie artikel geag 'n pensioengewende ongeskiktheid te wees, tensy die Sekretaris oortuig is dat die siekte of besering te wyte is aan die weiering van die lid om geneeskundige behandeling te ondergaan of aan enige nalatige handeling of wangedrag aan die kant van die lid en dat hy nie die nodige sorg wat redelikerwys van hom met die oog op sy pensioengewende ongeskiktheid verwag kon word, gedra het nie, of dat die siekte of besering opgedoen is onder omstandighede wat die lid 'n reg op enige vergoeding ingevolge 'n ander wet of die gemene reg verleen.

(5) Behoudens die bepalinge van subartikel (6), word die mate van 'n lid se pensioengewende ongeskiktheid bepaal deur sy liggaamlike en geestestoestand met dié van 'n normale en

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- (a) has been determined at not more than ten per cent, shall not exceed three hundred rand;
- (b) has been determined at more than ten per cent but less than twenty per cent, shall not exceed six hundred rand.

(2) If any person to whom a gratuity has been paid in terms of paragraph (a), becomes entitled to a gratuity in terms of paragraph (b) after such payment, the amount of the gratuity which was paid to him in terms of paragraph (a) shall be set off against the amount of the gratuity to which he is entitled in terms of paragraph (b).

(3) If a pension is awarded to any member in terms of section 4 (a) within a period of forty months after a gratuity has been paid to him in terms of subsection (1) of this section, any pension or pensions paid to him in terms of paragraph (a) or paragraphs (a) and (b) of section 4 shall be reduced by one fortieth of the amount of the gratuity which was so paid to him up to and including the last day of the fortieth month after that reduction was first made or until the date on which such pension or pensions is or are discontinued, whichever date is the earlier.

6. (1) Any person who claims a pension or gratuity shall apply for it to the Secretary on such form as may be determined by the Secretary and shall furnish such details, documents and information as may be prescribed or as the Secretary may require in support of the application.

Application
for pension
or gratuity.

(2) If the Secretary is satisfied that there are good reasons therefor, he may allow any person to make an application in terms of subsection (1) on behalf of the person who claims a pension or gratuity.

(3) After considering the application and all the details, documents, and information which he may have obtained in relation to the application, the Secretary shall determine the amount of any pension or gratuity to which the applicant may be entitled.

7. (1) In considering an application for a pension or gratuity or in reviewing a pension in terms of this Act, the pensionable disability of a member or deceased member and the degree of such disability shall be determined or redetermined by the Secretary from time to time after consultation with a medical pensions officer.

Determination
of pensionable
disability.

(2) (a) For the purposes of subsection (1), the Secretary may require that the member whose pensionable disability is under consideration, be examined by a medical practitioner designated by the Secretary.

(b) The medical practitioner who examines the member, shall furnish the Secretary with a report on the physical and mental condition of the member.

(3) The medical pensions officer mentioned in subsection (1) may inspect all the documents relating to the state of health of such member.

(4) A disease contracted or an injury sustained by a member as a direct result of a pensionable disability or as a direct result of medical treatment authorized by the Secretary for a pensionable disability, shall for the purposes of this section be deemed to be a pensionable disability, unless the Secretary is satisfied that the disease or injury is due to the refusal of the member to undergo medical treatment or to any act of negligence or misconduct on the part of the member, and that the member has not exercised the special care which it was reasonably proper for him to take having regard to his pensionable disability, or that the disease was contracted or the injury sustained in circumstances entitling the member to compensation in terms of any other law or at common law.

(5) Subject to the provisions of subsection (6), the degree of the pensionable disability of any member shall be determined by comparison of his physical and mental condition with that

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gesonde persoon van dieselfde ouderdom en geslag as hy te vergelyk en deur die persentasie waarmee sy liggaamlike en geestes-toestand as gevolg van sy ongeskiktheid van dié van so 'n normale en gesonde persoon ooreenkomstig die Bylae verskil, so na moontlik te bepaal.

(6) By die toepassing van hierdie artikel en die Bylae—

- (a) word die mate van 'n ongeskiktheid wat ooreenstem met 'n ongeskiktheid in die tweede kolom van die Bylae vermeld, bepaal teen die persentasie van ongeskiktheid in die derde kolom van die Bylae teenoor die betrokke ongeskiktheid vermeld;
- (b) word die persentasie van die ongeskiktheid van 'n lid wat aan meer as een pensioengewende ongeskiktheid ly, bepaal deur die gesamentlike gevolg van al die ongeskikthede waaraan hy ly, bepaal ingevolge paragraaf (a), in aanmerking te neem en word die totale persentasie van al die sodanige ongeskikthede op hoogstens honderd persent bepaal;
- (c) word die mate van die ongeskiktheid van 'n lid wat die algehele gebruik van een van 'n paar ledemate of organe verloor het voordat hy 'n lid geword het en daarna die algehele gebruik van die ander lidmaat of orgaan as gevolg van militêre diens verloor, bepaal asof hy beide sodanige ledemate of organe as gevolg van militêre diens verloor het;
- (d) word die mate van die ongeskiktheid van 'n lid wat sneuwel of sterf terwyl hy militêre diens verrig, geag een honderd persent te wees;
- (e) word die mate van 'n lid se ongeskiktheid bepaal sonder inagneming van sy verdienvermoë in 'n besondere beroep;
- (f) word die mate van 'n lid se ongeskiktheid wat nie deur militêre diens veroorsaak is nie maar wel daardeur vererger is, slegs ten opsigte van bedoelde verergering van sodanige ongeskiktheid bepaal.

Konsolidasie van
sekere voordele.

8. (1) Indien iemand onmiddellik voor die vasgestelde datum 'n voordeel ingevolge of op die grondslag van die bepalings van die Wet op Spesiale Oorlogspensioene, 1962 (Wet No. 35 van 1962), of die Oorlogspensioenwet, 1967 (Wet No. 82 van 1967), of 'n bonus ingevolge die bepalings van artikel 15 (1) van die Wysigingswet op die Pensioenwette, 1968 (Wet No. 79 van 1968), ontvang het, word sodanige voordeel en bonus, behoudens die bepalings van hierdie Wet, met ingang van die vasgestelde datum in een bedrag gekonsolideer en word bedoelde gekonsolideerde bedrag met ingang van die vasgestelde datum, in die plek van sodanige voordeel en bonus as 'n gekonsolideerde pensioen aan daardie persoon betaal.

(2) Die Minister kan van tyd tot tyd met instemming van die Minister van Finansies gekonsolideerde pensioene by skriftelike kennisgewing aan die Sekretaris verhoog, en verskillende verhogings kan aldus gelas word ten opsigte van persone wat aan verskillende bevolkingsgroepe of kategorieë persone behoort.

(3) Indien iemand wat 'n gekonsolideerde pensioen ontvang, op of na die vasgestelde datum weens 'n vorige pensioengewende ongeskiktheid te sterwe kom en hy—

- (a) 'n weduwee nalaat; of
- (b) 'n weduwee en 'n kind nalaat; of
- (c) nie 'n weduwee nalaat nie maar 'n kind nalaat of indien sy weduwee na sy afsterwe weer in die huwelik tree of te sterwe kom en deur 'n kind van genoemde persoon oorleef word,

word daar met ingang van die eerste dag van die maand wat onmiddellik volg op die maand waarin dié persoon gesterf het of waarin sy weduwee weer in die huwelik tree of te sterwe kom—

- (i) in die geval van 'n persoon in paragraaf (a) genoem, 'n jaarlikse pensioen betaal wat ooreenkomstig deel 1 van formule III bereken word;

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of a normal and healthy person of the same age and sex and by determining as nearly as possible the percentage by which his physical and mental condition differ in accordance with the Schedule from that of such a normal and healthy person as a result of his disability.

(6) For the purposes of this section and the Schedule—

- (a) the degree of a disability which corresponds with a disability specified in the second column of the Schedule, shall be determined at the percentage of disability specified in the third column of the Schedule opposite the disability concerned;
- (b) the degree of the disability of a member who suffers from more than one disability, shall be determined by taking the cumulative effect of all the pensionable disabilities from which he suffers, determined in terms of paragraph (a), into consideration, and the total percentage of all such disabilities shall be assessed at not more than one hundred per cent;
- (c) the degree of the disability of a member who has lost the total function of one of a pair of limbs or organs before he became a member and thereafter loses the total function of the other limb or organ as a result of military service, shall be determined as if he had lost both such limbs or organs as a result of military service;
- (d) the degree of the disability of any member who is killed or dies while performing military service, shall be deemed to be one hundred per cent;
- (e) the degree of the disability of a member shall be determined without regard to his earning capacity in any particular occupation;
- (g) the degree of the disability of a member which was not caused by military service but aggravated thereby, shall be determined only in respect of that aggravation of such pensionable disability.

8. (1) If immediately prior to the fixed date any person was in receipt of a benefit in terms of or on the basis of the provisions of the War Special Pensions Act, 1962 (Act No. 35 of 1962), or the War Pensions Act, 1967 (Act No. 82 of 1967), or a bonus in terms of the provisions of section 15 (1) of the Pension Laws Amendment Act, 1968 (Act No. 79 of 1968), such benefit and bonus shall, subject to the provisions of this Act, with effect from the fixed date, be consolidated in one amount and such consolidated amount shall, with effect from the fixed date, be paid to that person as a consolidated pension in lieu of such benefit and bonus.

Consolidation
of certain
benefits.

(2) The Minister may from time to time with the concurrence of the Minister of Finance, increase consolidated pensions by written notice to the Secretary, and different increases may be so determined in respect of persons belonging to different population groups or categories of persons.

(3) If any person who receives a consolidated pension dies as a result of a previous pensionable disability on or after the fixed date and he—

- (a) leaves a widow; or
- (b) leaves a widow and a child; or
- (c) does not leave a widow but leaves a child or if his widow remarries or dies after his death and she is survived by a child of his,

there shall, with effect from the first day of the month following immediately on the month in which that person died or on which his widow remarries or dies, be paid—

- (i) in the case of a person mentioned in paragraph (a), an annual pension calculated in accordance with part 1 of formula III;

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- (ii) in die geval van die persone in paragraaf (b) bedoel, 'n jaarlikse pensioen betaal wat ooreenkomstig formule III bereken word;
 - (iii) in die geval van 'n persoon in paragraaf (c) bedoel, 'n jaarlikse pensioen betaal wat gelykstaan met die helfte van 'n bedrag wat ooreenkomstig deel 1 van formule III bereken is.
- (4) Indien iemand wat 'n gekonsolideerde pensioen ontvang ten opsigte van 'n vorige pensioengewende ongeskiktheid waarvan die mate op minstens veertig persent vasgestel is op of na die vasgestelde datum weens 'n ander oorsaak as daardie pensioengewende ongeskiktheid te sterwe kom en hy—
- (a) 'n weduwee nalaat; of
 - (b) 'n weduwee en 'n kind nalaat; of
 - (c) nie 'n weduwee nalaat nie maar 'n kind nalaat of indien sy weduwee na sy afsterwe weer in die huwelik tree of te sterwe kom en deur 'n kind van hom oorleef word, word daar met ingang van die eerste dag van die maand wat onmiddellik volg op die maand waarin hy gesterf het of waarin sy weduwee weer in die huwelik tree of te sterwe kom—
- (i) in die geval van 'n weduwee in paragraaf (a) genoem, 'n jaarlikse pensioen betaal wat gelykstaan met vyftig persent van die bedrag van sodanige jaarlikse gekonsolideerde pensioen;
 - (ii) in die geval van 'n weduwee en kind in paragraaf (b) genoem, 'n jaarlikse pensioen betaal wat gelykstaan met vyf-en-sewentig persent van die bedrag van sodanige jaarlikse gekonsolideerde pensioen; of
 - (iii) in die geval van 'n kind in paragraaf (c) genoem, 'n jaarlikse pensioen betaal wat gelykstaan met die helfte van 'n bedrag wat ooreenkomstig deel 1 van formule III bereken is.

(5) By die toepassing van subartikels (3) en (4) beteken „deel 1 van formule III” die faktore $\frac{F}{G}$ van formule III, en het daardie faktore die betekenis wat daaraan geheg is in die omskrywing van formule III.

(6) Die Sekretaris kan met instemming van 'n mediese pensioenbeampte en op versoek van iemand wat 'n gekonsolideerde pensioen ontvang en wat beweer dat sy vorige pensioengewende ongeskiktheid of die mate daarvan wesenlik verander het, die pensioen van sodanige persoon hersien en sy vorige pensioengewende ongeskiktheid soos voorheen bepaal of die mate daarvan verander, bekragtig, verhoog of verminder.

(7) Indien die mate van die vorige pensioengewende ongeskiktheid van iemand bedoel in subartikel (6) ingevolge genoemde subartikel of artikel 15 (4) verhoog of verminder word en die aldus verhoogde of verminderde pensioengewende ongeskiktheid op minstens twintig persent vasgestel word, word die gekonsolideerde pensioen wat hy ontvang ooreenkomstig formule IV herbereken en die aldus herberekende pensioen word met ingang van die eerste dag van die maand waarin hy 'n versoek in subartikel (6) bedoel tot die Sekretaris gerig het, as 'n gekonsolideerde pensioen in die plek van die gekonsolideerde pensioen wat hy onmiddellik voor daardie datum ontvang het, betaal.

Tydlike pensioene
aan afhanklikes
van vermiste lede.

9. (1) Indien 'n lid wat militêre diens verrig as vermis of as vermoedelik dood aangemeld word, kan die Sekretaris, met ingang van 'n datum wat nie vroeër as die datum van bedoelde aanmelding is nie, aan iemand wat op 'n pensioen geregtig sou wees as die lid op die datum van sodanige aanmelding gedurende die verrigting van militêre diens gesterf het, 'n pensioen toeken asof die lid op genoemde datum gedurende die verrigting van militêre diens gesterf het.

(2) Ondanks die bepalinge van subartikel (1), word geen pensioen ingevolge daardie subartikel toegeken nie—

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- (ii) in the case of a person mentioned in paragraph (b), an annual pension calculated in accordance with formula III;
- (iii) in the case of a person mentioned in paragraph (c), an annual pension which is equal to one half of the amount calculated in accordance with part 1 of formula III.

(4) If any person who receives a consolidated pension in respect of a previous pensionable disability of which the degree had been determined at at least forty per cent, dies, on or after the fixed date, of a cause other than that pensionable disability and he—

- (a) leaves a widow; or
- (b) leaves a widow and a child; or
- (c) does not leave a widow but leaves a child or if his widow remarries or dies after his death and she is survived by a child of his,

there shall, with effect from the first day of the month following immediately on the month in which he died or in which his widow remarries or dies, be paid—

- (i) in the case of a widow mentioned in paragraph (a), an annual pension equal to fifty per cent of such annual consolidated pension;
- (ii) in the case of a widow and a child mentioned in paragraph (b), an annual pension equal to seventy-five per cent of the amount of such annual consolidated pension; or
- (iii) in the case of a child mentioned in paragraph (c), an annual pension equal to half of an amount which is calculated in accordance with part 1 of formula III.

(5) For the purposes of subsections (3) and (4), “part 1 of formula III” means the factors $\frac{F}{G}$ of formula III, and those factors shall have the meaning assigned to them in the definition of formula III.

(6) The Secretary may with the concurrence of a pensions medical officer and at the request of any person receiving a consolidated pension who claims that his previous pensionable disability or the degree thereof has changed substantially, review the pension of such person and alter, confirm, increase or reduce his previous pensionable disability as previously determined or the degree thereof.

(7) If the degree of the previous pensionable disability of a person referred to in subsection (6), is increased or reduced in terms of the said subsection or section 15 (4) and the pensionable disability so increased or reduced is determined at at least twenty per cent, the consolidated pension which he receives shall be calculated in accordance with formula IV and the pension so recalculated shall, with effect from the first day of the month in which he submitted a request referred to in subsection (6) to the Secretary, be paid as a consolidated pension in lieu of the consolidated pension which he was receiving immediately prior to that date.

9. (1) If a member who performs military service is reported to be missing or to be presumably dead, the Secretary may, with effect from a date not earlier than the date of that report, award to any person who would be entitled to a pension if the member had, on the date of such report during the performance of military service, died, a pension as if the member had died on the said date during the performance of military service.

Temporary pensions to dependants of missing members.

(2) Notwithstanding the provisions of subsection (1), no pension shall be awarded in terms of that subsection—

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Betaling van pensioene.

- (a) ten opsigte van enige tydperk waartydens die persoon wat op die pensioen aanspraak maak, enige vergoeding ingevolge die bepalings van die Verdedigingswet uit hoofde van die lid se militêre diens ontvang het;
- (b) vir 'n langer tydperk as twaalf maande, tensy die Minister anders gelas.

10. (1) 'n Pensioen is betaalbaar met ingang van die eerste dag van die maand waarin 'n aansoek om sodanige pensioen ingevolge artikel 6 deur die Sekretaris ontvang word.

(2) Ondanks die bepalings van subartikel (1) is geen pensioen betaalbaar nie—

- (a) in die geval van 'n lid in artikel 4 (a) bedoel, met ingang van 'n datum voor die eerste dag van die maand wat onmiddellik volg op die maand waarin die dienstydperk waartydens die lid se pensioengewende ongeskiktheid verskyn het, voltooi is;
- (b) in die geval van 'n weduwee in artikel 4 (d) bedoel, voor die eerste dag van die maand wat onmiddellik volg op die maand waarin die betrokke lid gesterf het;
- (c) in die geval van die afhanklikes van 'n afgestorwe lid in artikel 4 (e) bedoel, voor die eerste dag van die maand wat onmiddellik volg op die maand waarin die betrokke lid gesterf het of voor die eerste dag van die maand wat onmiddellik volg op die maand waarin die weduwee van daardie lid weer in die huwelik getree of gesterf het, na gelang van die geval;
- (d) in die geval van 'n ouer in artikel 4 (f) bedoel, voor die eerste dag van die maand wat onmiddellik volg op die maand waarin die lid gesterf het.

Hersiening van pensioene.

11. (1) Die Sekretaris kan te eniger tyd 'n pensioen hersien indien hy 'n gegronde vermoede het—

- (a) dat daar 'n wesenlike verandering in die mate van die pensioengewende ongeskiktheid van die betrokke lid ingetree het;
- (b) dat daar na die toekenning van die pensioen 'n verandering in die huwelikstaat van die betrokke lid of van 'n afhanklike van hom of in die getal van sy afhanklikes of, in die geval van 'n weduwee, in haar huwelikstaat ingetree het;
- (c) dat 'n afhanklike van die betrokke lid te sterwe gekom het of nie meer 'n afhanklike is nie;
- (d) dat die pensioen deur bedrog of op ander onbehoorlike wyse verkry is;
- (e) dat die persoon wat die pensioen ontvang of ten opsigte van wie die pensioen betaal word, nie daarop geregtig is nie.

(2) Indien die mate van die pensioengewende ongeskiktheid van 'n lid deur die mediese appèlraad ingevolge artikel 15 verhoog of verminder word, of indien die appèltribunaal 'n beslissing ingevolge artikel 16 gee wat 'n hersiening van die betrokke pensioen noodsaaklik of wenslik maak, moet die Sekretaris dié pensioen hersien.

(3) Indien die Sekretaris by hersiening van 'n pensioen en, in 'n in subartikel (1) (a) genoemde geval, na oorlegpleging met 'n mediese pensioenbeampte, oortuig is—

- (a) dat die mate van die pensioengewende ongeskiktheid van die betrokke lid wesenlik verhoog of verminder het; of
- (b) dat die mate van die pensioengewende ongeskiktheid van die betrokke lid deur die mediese appèlraad ingevolge artikel 15 verhoog of verminder is; of
- (c) dat 'n vermoede vermeld in paragraaf (b) of (c) van subartikel (1) bevestig is;
- (d) dat 'n vermoede bedoel in paragraaf (d) of (e) van subartikel (1) bevestig is,

word—

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- (a) in respect of any period during which the person who is claiming the pension, received compensation in terms of the provisions of the Defence Act by virtue of the military service of the member;
- (b) for a period longer than twelve months, unless the Minister otherwise directs.

10. (1) A pension shall be payable with effect from the first day of the month in which an application for such pension is received by the Secretary in terms of section 6. Payment of pensions.

(2) Notwithstanding the provisions of subsection (1), no pension shall be payable—

- (a) in the case of a member referred to in section 4 (a), with effect from a date prior to the first day of the month following immediately on the month during which the period of service of the member in which his pensionable disability manifested itself, was completed;
- (b) in the case of a widow referred to in section 4 (d), prior to the first day of the month following immediately on the month in which the member concerned died;
- (c) in the case of the dependants of a deceased member referred to in section 4 (e), prior to the first day of the month following immediately on the month in which the member concerned died or prior to the first day of the month following immediately on the month in which the widow of that member remarried or died, as the case may be;
- (d) in the case of a parent referred to in section 4 (f), prior to the first day of the month following immediately on the month in which the member died.

11. (1) The Secretary may at any time review a pension if he has reasonable grounds to believe— Review of pensions.

- (a) that there has been a substantial change in the degree of the pensionable disability of the member concerned;
- (b) that, after the pension has been awarded, a change in the marital state of the member concerned or of any dependant of him or in the number of his dependants or, in the case of a widow, a change in her marital state has occurred;
- (c) that a dependant of the member concerned has died or is no longer a dependant of him;
- (d) that the pension was obtained by fraud or in any other improper manner;
- (e) that the person in receipt of the pension or in respect of whom the pension is paid, is not entitled thereto.

(2) If the degree of the pensionable disability of a member is increased or decreased by the medical appeal board in terms of section 15, or if the appeal tribunal gives a decision in terms of section 16 which renders the review of the pension concerned necessary or desirable, the Secretary shall review such pension.

(3) If the Secretary, on reviewing a pension and, in a case mentioned in paragraph (a), after consultation with a medical pensions officer, is satisfied—

- (a) that the degree of the pensionable disability of the member concerned has increased or decreased substantially; or
- (b) that the degree of the pensionable disability of the member concerned has been increased or reduced by the medical appeal board in terms of section 15; or
- (c) that the belief referred to in paragraph (b) or (c) of subsection (1) has been confirmed; or
- (d) that the belief referred to in paragraph (d) or (e) of subsection (1) has been confirmed, then—

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- (i) in 'n in paragraaf (a) bedoelde geval die mate van die pensioengewende ongeskiktheid van die betrokke lid ooreenkomstig die Sekretaris se bevinding herbepaal en word die pensioen van die betrokke lid onverwyld ooreenkomstig formule IV herbereken en word die aldus herberekende pensioen met ingang van die eerste dag van die maand waarin die pensioen aldus hersien is, as 'n pensioen betaal;
- (ii) in 'n in paragraaf (b) bedoelde geval die pensioen van die betrokke lid onverwyld ooreenkomstig formule IV herbereken en word die aldus herberekende pensioen met ingang van die eerste dag van die maand waarin die lid se pensioengewende ongeskiktheid verhoog of verminder is soos in daardie paragraaf beoog, as 'n pensioen betaal;
- (iii) in 'n in paragraaf (c) bedoelde geval, die pensioen ooreenkomstig die bepalings van hierdie Wet wat dan op die betrokke geval van toepassing is, herbereken en word die aldus herberekende pensioen met ingang van die eerste dag van die maand wat onmiddellik volg op die maand waarin die voorval in paragraaf (b) of (c) van subartikel (1) beoog, plaasgevind het, as 'n pensioen betaal;
- (iv) in 'n in paragraaf (d) bedoelde geval, die pensioen met ingang van die datum wat die Sekretaris bepaal, gestaak.

Stakingsdatum
van pensioene.

12. (1) 'n Pensioen of gekonsolideerde pensioen is betaalbaar—

- (a) in die geval van die dood van 'n lid wat 'n pensioen ontvang of van iemand wat 'n gekonsolideerde pensioen ontvang, tot en met die laaste dag van die maand waarin sodanige lid of sodanige persoon te sterwe kom;
- (b) in die geval van 'n weduwee van 'n lid, tot en met die laaste dag van die maand waarin sy te sterwe kom of weer in die huwelik tree;
- (c) in die geval van 'n weduwee wat 'n gekonsolideerde pensioen ontvang en weer in die huwelik tree, tot en met die laaste dag van die maand waarin sy aldus in die huwelik tree;
- (d) in die geval van 'n kind van 'n lid of van iemand wat 'n gekonsolideerde pensioen ontvang, tot en met die laaste dag van die maand waarin die bepalings van paragrawe (a) en (d) van die omskrywing van „kind” nie meer op hom van toepassing is nie;
- (e) in die geval van 'n ouer van 'n afgestorwe lid, tot en met die laaste dag van die maand waarin hy sterf of waarin sy finansiële omstandighede sodanig verander het dat hy, volgens die oordeel van die Sekretaris, nie meer vir sy onderhoud van die afgestorwe lid afhanklik sou gewees het indien bedoelde lid dan nog in lewe was nie;
- (f) in die geval van 'n ouer wat 'n gekonsolideerde pensioen ontvang, tot en met die laaste dag van die maand waarin hy te sterwe kom;
- (g) in die geval waar die mate van 'n lid se pensioengewende ongeskiktheid ingevolge die bepalings van hierdie Wet tot minder as twintig persent verminder word, tot en met die laaste dag van die maand waarin die Sekretaris die persoon aan wie die pensioen betaalbaar is van die staking van die pensioen skriftelik in kennis stel.

(2) Indien iemand ingevolge hierdie Wet 'n som geld ontvang het waarop hy nie geregtig was nie, is hy of, indien hy te sterwe kom, sy boedel, aanspreeklik om daardie som aan die Sekretaris terug te betaal, tensy die Sekretaris oortuig is dat hy dit ontvang het sonder die wete dat hy nie daarop geregtig was nie.

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- (i) in any case referred to in paragraph (a), the degree of the pensionable disability of the member concerned shall be redetermined in accordance with the finding of the Secretary and the pension of the member concerned shall be recalculated forthwith in accordance with formula IV and the pension so recalculated shall, with effect from the first day of the month in which the pension has been so reviewed, be paid as a pension;
- (ii) in any case referred to in paragraph (b), the pension of the member concerned shall forthwith be recalculated in accordance with formula IV and the pension so recalculated shall, with effect from the first day of the month in which the pensionable disability of the member was increased or reduced as contemplated in that paragraph, be paid as a pension;
- (iii) in any case referred to in paragraph (c), the pension shall be recalculated in accordance with the provisions of this Act which then apply to the case concerned, and the pension so recalculated, shall, with effect from the first day of the month following immediately on the month in which the event contemplated in paragraph (b) or (c) of subsection (1) took place, be paid as a pension;
- (iv) in any case referred to in paragraph (d), the pension shall be discontinued with effect from such date as the Secretary may determine.

12. (1) A pension or consolidated pension shall be payable— Cessation date
of pensions.

- (a) in the case of the death of a member receiving a pension or of any person who receives a consolidated pension, up to and including the last day of the month in which such member or such person dies;
- (b) in the case of a widow of a member, up to and including the last day of the month in which she dies or remarries;
- (c) in the case of a widow who receives a consolidated pension and who remarries, up to and including the last day of the month in which she so remarries;
- (d) in the case of a child of a member or of a person who receives a consolidated pension, up to and including the last day of the month in which the provisions of paragraphs (a) and (d) of the definition of "child" no longer apply to him;
- (e) in the case of a parent of a deceased member, up to and including the last day of the month in which he dies or in which his financial circumstances change to such an extent that he, in the discretion of the Secretary, would no longer have been dependent on the deceased member if the said member was then still alive;
- (f) in the case of a parent who is in receipt of a consolidated pension, up to and including the last day of the month in which he dies;
- (g) in the case where the degree of the pensionable disability of a member is reduced to less than twenty per cent in terms of the provisions of this Act, up to and including the last day of the month in which the Secretary notifies the person to whom the pension is payable in writing of the discontinuance of the pension.

(2) If any person in terms of this Act received any sum of money to which he was not entitled, he or, if he dies, his estate, shall be liable to repay that sum to the Secretary unless the Secretary is satisfied that he received it without knowing that he was not entitled thereto.

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(3) Die Tesourie of iemand deur die Tesourie daartoe gemagtig, kan na goeë dunks 'n som geld wat ingevolge hierdie artikel terugbetaal moet word, geheel en al of ten dele afskryf, indien hy oortuig is dat dit onekonomies sou wees om so 'n som te verhaal of dat verhaal daarvan buitensporige ontbering sou veroorsaak.

- (4) (a) Indien iemand wat 'n pensioen of 'n gekonsolideerde pensioen ontvang en geen afhanklikes het nie vir 'n onbepaalde tydperk opgeneem word in 'n inrigting wat deur die Staat beheer word en geen bydrae tot sy verblyf of versorging in sodanige inrigting maak nie, kan die Sekretaris na goeë dunks en met ingang van 'n datum wat hy bepaal, die pensioen wat aan so iemand betaal word, verminder of staak.
- (b) 'n Pensioen wat kragtens paragraaf (a) verminder of gestaak is, word, indien die betrokke persoon uit sodanige voormelde inrigting ontslaan word, met ingang van die eerste dag van die maand waarin hy aldus ontslaan is, herstel.

Mediese behandeling van lede.

13. (1) Indien die Sekretaris na oorlegpleging met 'n mediese pensioenbeampte van oordeel is dat dit nodig of wenslik is dat 'n lid, of 'n vrywilliger soos omskryf in artikel 1 van die Oorlogspensioenwet, 1967 (Wet No. 82 van 1967), in 'n hospitaal of ander inrigting opgeneem word ten einde—

- (a) 'n geneeskundige of psigologiese ondersoek te ondergaan met die doel om die mate van sy pensioengewende ongeskiktheid vir die doeleindes van hierdie Wet te bepaal;
- (b) psigiatriese of geneeskundige behandeling vir sy pensioengewende ongeskiktheid te ondergaan;
- (c) opleiding waarby hy volgens die oordeel van die Sekretaris moontlik baat kan vind, te ontvang,
- kan die Sekretaris gelas dat die lid aldus ondersoek word en kan hy die opname van die lid in 'n hospitaal of ander inrigting op koste van die Staat, vir die doeleindes van paragraaf (a), (b) of (c), magtig.

(2) Die koste van sodanige opname of van enige ondersoek, behandeling of opleiding ingevolge subartikel (1) word bestry uit geld deur die Parlement vir die doel bewillig.

(3) Indien 'n lid, nadat hy ingevolge subartikel (1) (a) daartoe gelas is, weier om hom aan 'n ondersoek ingevolge daardie subartikel te onderwerp, kan die Sekretaris gelas dat—

- (a) indien die lid se aansoek om 'n pensioen nog nie afgehandel is nie, die aansoek nie afgehandel word nie tot tyd en wyl hy hom aan sodanige ondersoek onderwerp; of
- (b) indien die lid reeds 'n pensioen ontvang, die pensioen of die gedeelte daarvan wat die Sekretaris bepaal, teruggehou word totdat hy hom aan sodanige ondersoek onderwerp.

Reg van appèl.

14. (1) Behoudens die bepalings van hierdie Wet, kan enig iemand wat 'n gekonsolideerde pensioen ontvang of op 'n pensioen of gratifikasie aanspraak maak en wat—

- (a) hom veronreg voel deur enige beslissing van die Sekretaris met betrekking tot die mate van sy pensioengewende ongeskiktheid of vorige pensioengewende ongeskiktheid, by 'n mediese appèlraad appèl teen sodanige beslissing aanteken;
- (b) hom veronreg voel deur enige ander beslissing van die Sekretaris, by die appèltribunaal teen sodanige beslissing appèl aanteken.

(2) 'n Appèl ingevolge subartikel (1) moet skriftelik aangeteken word, die volledige gronde waarop geappelleer word, verstrekkend, vergesels wees van die stukke wat die appellant wil voorlê, en moet binne 'n tydperk van drie maande nadat die appellant van die betrokke beslissing in kennis gestel is by die Sekretaris

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(3) The Treasury or any person authorized thereto by the Treasury may at its or his discretion write off the whole or any portion of any sum repayable in terms of this section, if the Treasury or such person is satisfied that it would be uneconomical to recover such sum or that recovery thereof would cause undue hardship.

- (4) (a) If any person who is in receipt of a pension or a consolidated pension and has no dependants is admitted for an indefinite period to an institution controlled by the State and makes no contribution towards his sojourn or care in such institution, the Secretary may in his discretion and with effect from such date as he may determine, reduce or discontinue the pension being paid to such person.
- (b) Any pension reduced or discontinued under paragraph (a) shall, if the person concerned is discharged from such institution aforesaid, be restored with effect from the first day of the month in which he has been so discharged.

13. (1) If the Secretary, after consultation with a medical pensions officer, is of the opinion that it is necessary or desirable that a member or a volunteer as defined in section 1 of the War Pensions Act, 1967 (Act No. 82 of 1967), be admitted to a hospital or other institution in order to—

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treatment of
members

- (a) undergo a medical or psychological examination for the purpose of determining the degree of his pensionable disability for the purposes of this Act;
- (b) undergo psychiatric or medical treatment for his pensionable disability;
- (c) receive any training whereby he may possibly benefit, in the opinion of the Secretary,

the Secretary may direct that the member be so examined and authorize that the member be admitted at the expense of the State to a hospital or other institution for the purposes of paragraph (a), (b) or (c).

(2) The cost of such admission or of any examination, treatment or training in terms of subsection (1) shall be defrayed from moneys appropriated by Parliament for the purpose.

(3) If any member, after being directed thereto in terms of subsection (1) (a), refuses to submit to an examination in terms of that subsection, the Secretary may direct that—

- (a) if the application of the member concerned for a pension has not yet been finalized, the application be not finalized until such time as he submits to such examination; or
- (b) if the member is already in receipt of a pension, the pension or such part thereof as the Secretary may determine, be withheld until he submits to such examination.

14. (1) Subject to the provisions of this Act, any person who is in receipt of a consolidated pension or lays claim to a pension or gratuity and who—

Right of appeal.

- (a) is aggrieved by a decision of the Secretary relating to the degree of his pensionable disability or previous pensionable disability, may note an appeal against such decision to a medical appeal board;
- (b) is aggrieved by any other decision of the Secretary, may note an appeal to the appeal tribunal against such decision.

(2) An appeal in terms of subsection (1), shall be noted in writing, furnish the complete grounds of appeal, be accompanied by such documents as the appellant desires to submit and shall be lodged with the Secretary for submission to the medical

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vir voorlegging aan 'n mediese appèlraad of die appèltribunaal, na gelang van die geval, ingedien word.

(3) Die Sekretaris lê die aldus vereiste besonderhede van 'n appèl ingevolge hierdie artikel deur hom ontvang so gou doenlik—

- (a) in die geval van 'n in subartikel (1) (a) genoemde appèl, aan 'n mediese appèlraad;
- (b) in die geval van 'n in subartikel (1) (b) genoemde appèl, aan die appèltribunaal,

vir oorweging voor.

Mediese appèlraad.

15. (1) Die Minister stel, wanneer nodig, 'n mediese appèlraad op die voorwaardes wat hy bepaal aan wat uit minstens drie geneeshere bestaan, ten einde enige appèl ingevolge artikel 14 (1) (a) te oorweeg.

(2) Indien die betrokke appellant dit versoek, moet een van die lede van 'n mediese appèlraad 'n geneesheer wees wat deur hom benoem is.

(3) By die oorweging van 'n appèl in subartikel (1) bedoel—

- (a) het 'n mediese appèlraad insae in al die stukke in die besit of onder die beheer van die Sekretaris wat op die appellant se pensioengewende ongeskiktheid of vorige pensioengewende ongeskiktheid betrekking het of wat die appellant met betrekking tot sy genoemde ongeskiktheid aan die raad voorlê;
- (b) kan 'n mediese appèlraad of 'n lid daarvan 'n mediese of psigologiese ondersoek op die appellant uitvoer en kan die raad die bevindinge by sodanige ondersoek by die oorweging van die appèl in aanmerking neem;
- (c) kan 'n mediese appèlraad gelas dat 'n mediese of psigologiese ondersoek op die appellant deur 'n geneesheer deur die raad benoem, uitgevoer word en die raad van 'n verslag oor sodanige ondersoek voorsien word wat by die oorweging van die appèl in aanmerking geneem moet word;
- (d) kan 'n mediese appèlraad die stappe doen wat hy goedvind om die mate van die appellant se pensioengewende ongeskiktheid of vorige pensioengewende ongeskiktheid te bepaal.

(4) 'n Mediese appèlraad wat 'n appèl ingevolge hierdie artikel oorweeg, kan die mate van die pensioengewende ongeskiktheid of vorige pensioengewende ongeskiktheid waarteen geappelleer is, bekragtig, verhoog of verminder en die beslissing van die raad is afdoende in enige besondere geval.

(5) Ondanks die bepalinge van subartikel (4), kan die Sekretaris die mate van iemand se pensioengewende ongeskiktheid of vorige pensioengewende ongeskiktheid na verstryking van 'n tydperk van ses maande na die datum van 'n mediese appèlraad se beslissing daaroor ingevolge daardie subartikel, hersien indien dit ten genoeë van hom bewys word dat daar na die datum van sodanige beslissing 'n wesenlike verandering in die mate van genoemde ongeskiktheid ingetree het.

(6) Enige beslissing van die Sekretaris ingevolge subartikel (5) is aan appèl ingevolge hierdie artikel onderhewig.

Militêre pensioene-appèltribunaal.

16. (1) Die Minister stel, op die voorwaardes wat hy met instemming van die Minister van Finansies bepaal, 'n militêre pensioene-appèltribunaal aan wat appèlle ingevolge artikel 14 (1) (b) oorweeg.

(2) Die appèltribunaal bestaan uit—

- (a) 'n advokaat van die Hooggeregshof van Suid-Afrika wat minstens vyf jaar in die praktyk staan en wat die president is; en
- (b) twee lede wat militêre diens verrig het.

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appeal board or the appeal tribunal, as the case may be, within a period of three months after the appellant has been notified of the decision concerned.

(3) The Secretary shall as soon as practicable submit the particulars so required of an appeal which has been received by him in terms of this section—

- (a) in the case of an appeal mentioned in subsection (1) (a), to a medical appeal board;
- (b) in the case of an appeal mentioned in subsection (1) (b), to an appeal tribunal,

for consideration.

15. (1) The Minister shall, whenever necessary, appoint, on such conditions as he may determine, a medical appeal board consisting of not fewer than three medical practitioners, for the purpose of considering any appeal in terms of section 14 (1) (a). Medical appeal board.

(2) One of the members of a medical appeal board shall, if the appellant concerned so requests, be a medical practitioner nominated by him.

(3) In considering an appeal referred to in subsection (1)—

- (a) a medical appeal board may inspect all the documents in the possession or under the control of the Secretary relating to the pensionable disability or previous pensionable disability of the appellant or which the appellant submits to the board with regard to his said disability;
- (b) a medical appeal board or a member thereof may carry out a medical or psychological examination on the appellant and the board may take the findings at such examination into account in considering the appeal;
- (c) a medical appeal board may direct that a medical or psychological examination be carried out on the appellant by a medical practitioner nominated by the board and that the board be furnished with a report on such examination, which shall be taken into account in considering the appeal;
- (d) a medical appeal board may take such steps as it may think fit to determine the degree of the pensionable disability or previous pensionable disability of the appellant.

(4) A medical appeal board considering an appeal in terms of this section may confirm, increase or reduce the degree of the pensionable disability or previous pensionable disability under appeal, and the decision of the board shall be final in any particular case.

(5) Notwithstanding the provisions of subsection (4), the Secretary may review the degree of the pensionable disability or previous pensionable disability of any person after expiry of a period of six months after the date of a decision by a medical appeal board thereon in terms of that subsection, if it is proved to his satisfaction that after the date of such decision a substantial change in the degree of the said disability has occurred.

(6) Any decision of the Secretary in terms of subsection (5) shall be subject to appeal in terms of this section.

16. (1) The Minister shall, on such conditions as he may determine with the concurrence of the Minister of Finance, appoint a military pensions appeal tribunal which shall consider appeals in terms of section 14 (1) (b). Military pensions appeal tribunal.

(2) The appeal tribunal shall consist of—

- (a) an advocate of the Supreme Court of South Africa of at least five years' standing, who shall be the president; and
- (b) two members who have had military service.

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- (3) By die oorweging van 'n appèl ingevolge artikel 14 (1) (b)—
- (a) het die appèltribunaal insae in al die stukke in die besit of onder die beheer van die Sekretaris wat op die appèl betrekking het;
 - (b) is die prosedure soos voorgeskryf.
- (4) Die appèltribunaal wat 'n appèl ingevolge artikel 14 (1) (b) oorweeg, kan enige beslissing van die Sekretaris waarteen geappelleer word, bekragtig of omverwerp en vervang met die beslissing wat die Sekretaris volgens die oordeel van die appèltribunaal behoort te gee het.
- (5) (a) Behoudens die bepalings van paragraaf (b) van hierdie subartikel, is 'n beslissing van die appèltribunaal kragtens subartikel (4) afdoende.
- (b) Die appèltribunaal kan by die voorlegging van nuwe relevante getuienis enige beslissing wat hy ten opsigte van 'n appèl gee het, tersyde stel en die appèl daarop heroorweeg asof geen beslissing voorheen deur die appèltribunaal daarvoor gegee was nie.
- (6) (a) Indien 'n regspraak by die oorweging van 'n appèl ontstaan, kan die appèltribunaal op aansoek van die appellante of die Sekretaris 'n saak stel ter beslissing van sodanige regspraak deur die provinsiale afdeling van die Hooggeregshof van Suid-Afrika wat regsbevoegdheid besit in die gebied waarin die sitting van die appèltribunaal plaasgevind het.
- (b) Die beslissing van bedoelde afdeling van die Hooggeregshof oor so 'n regspraak is afdoende.

Pensioene of gratifikasies kan nie gesedeer word nie en is nie vir beslaglegging vatbaar nie.

17. (1) Geen gekonsolideerde pensioen, pensioen of gratifikasie betaalbaar kragtens hierdie Wet, en geen reg ten opsigte van so 'n pensioen of gratifikasie, kan oorgemaak of oorgedra of andersins gesedeer of verpand of verhipotekeer word nie of is, behalwe soos in artikel 11 (2) van die Wet op Onderhoud, 1963 (Wet No. 23 van 1963), bepaal, vir beslaglegging vatbaar of aan enige vorm van eksekusie ingevolge 'n vonnis of bevel van 'n geregshof onderhewig nie.

(2) Indien iemand poog om so 'n pensioen of gratifikasie waarop hy geregtig is of 'n reg ten opsigte van so 'n pensioen of gratifikasie oor te maak of oor te dra of andersins te sedgeer of te verpand of te verhipotekeer, kan betaling van so 'n pensioen of gratifikasie, indien die Minister dit gelas, weerhou, opgeskort of gestaak word.

(3) Ondanks die bepalings van subartikel (1)—

- (a) kan die Minister gelas dat 'n gekonsolideerde pensioen, pensioen of gratifikasie in subartikel (1) bedoel of 'n gedeelte daarvan gedurende die tydperk wat die Minister bepaal, aan een of meer van die afhanklikes van die persoon wat daarop geregtig is of aan 'n kurator of ander persoon ten behoeve van so iemand of sy afhanklikes betaal word;
- (b) kan 'n bedrag wat deur iemand aan die Staat verskuldig is of 'n bedrag wat aan iemand betaal is waarop hy nie geregtig was nie, in 'n enkele bedrag of in die paalemente wat die Sekretaris bepaal, op 'n gekonsolideerde pensioen, pensioen of gratifikasie wat aan iemand kragtens hierdie Wet betaalbaar is, verhaal word.

Gevolge van insolvensie.

18. Indien die boedel van iemand wat kragtens hierdie Wet 'n gekonsolideerde pensioen of 'n pensioen ontvang, gesekwestreer word, maak so 'n pensioen nie deel van die bates in sy insolvente boedel uit nie.

Beheer van betaling van pensioene.

19. Indien die Sekretaris oortuig is dat dit om die een of ander rede onwenslik is om die hele bedrag van 'n pensioen wat kragtens artikel 4 of 8 betaalbaar is, regstreeks aan die persoon wat daarop geregtig is, te betaal, kan die Sekretaris gelas dat

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(3) In considering an appeal in terms of section 14 (1) (b)—

(a) the appeal tribunal may inspect all documents in the possession or under the control of the Secretary which may refer to the appeal;

(b) the procedure shall be as prescribed.

(4) The appeal tribunal considering an appeal in terms of section 14 (1) (b) may confirm or reverse any decision of the Secretary under appeal and substitute for it such decision as the Secretary, in the opinion of the appeal tribunal, should have given.

(5) (a) Subject to the provisions of paragraph (b) of this subsection, a decision of the appeal tribunal under subsection (4) shall be final.

(b) The appeal tribunal may, on the production of fresh material evidence, set aside any decision which it gave in respect of an appeal and thereupon reconsider the appeal as if no decision thereon was previously given by the appeal tribunal.

(6) (a) If a point of law arises in the consideration of an appeal, the appeal tribunal may on application by the appellant or the Secretary state a case for the determination of such question of law by the provincial division of the Supreme Court of South Africa having jurisdiction over the area within which the sitting of the appeal tribunal was held.

(b) The decision of the said division of the Supreme Court on such point of law shall be final.

17. (1) No consolidated pension, pension or gratuity payable under this Act and no right in respect of such pension or gratuity shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated or, save as is provided in section 11 (2) of the Maintenance Act, 1963 (Act No. 23 of 1963), be liable to be attached or subjected to any form of execution under a judgment or order of a court of law.

Pensions or gratuities may not be ceded and are not executable.

(2) If any person attempts to assign or transfer or otherwise cede or to pledge or to hypothecate any such pension or gratuity to which he is entitled or any right in respect of any such pension or gratuity, payment of such pension or gratuity may, if the Minister so directs, be withheld, suspended or discontinued.

(3) Notwithstanding anything contained in subsection (1)—

(a) the Minister may direct that a consolidated pension, pension or gratuity referred to in subsection (1), or part thereof be paid during such period as the Minister may determine, to one or more of the dependants of the person entitled thereto or to a trustee or other person on behalf of such person or his dependants;

(b) any amount which is owing by any person to the State or any amount which has been paid to any person to which he was not entitled, may be recovered from a consolidated pension, pension or gratuity payable to any person under this Act, in a lump sum or in such instalments as the Secretary may determine.

18. If the estate of any person who receives a consolidated pension or pension under this Act is sequestrated, such pension shall not form part of the assets in his insolvent estate.

Effect of insolvency.

19. If the Secretary is satisfied that it is undesirable for any reason to pay the whole amount of any pension payable under section 4 or 8 directly to the person entitled thereto, the Secretary

Control of payment of pensions.

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daardie pensioen of 'n gedeelte daarvan aan iemand anders betaal word op die voorwaardes wat betref die beheer daarvan ten bate van eersgenoemde persoon of sy afhanklikes wat die Sekretaris bepaal.

Vervanging van
ander regs­middel
deur voordele
kragtens hierdie
Wet.

20. Geen regsgeding tot verhaal van skadevergoeding ten opsigte van die ongeskiktheid of dood van 'n lid kan teen die Staat ingestel word nie, waar daar ingevolge hierdie Wet voorsiening vir vergoeding ten opsigte van sodanige ongeskiktheid of dood gemaak word, en geen aanspreeklikheid vir vergoeding soos voormeld ontstaan van Staatsweë nie behalwe ingevolge die bepalings van hierdie Wet.

Werking van Wet.

21. (1) Die bepalings van hierdie Wet is nie van toepassing nie—

- (a) op iemand wat ingevolge die bepalings van die Ongevallewet, 1941 (Wet No. 30 van 1941), op vergoeding ten opsigte van sy pensioengewende ongeskiktheid geregtig is;
- (b) op 'n afhanklike of ouer van iemand in paragraaf (a) bedoel;
- (c) op 'n lid of iemand wat op 'n voordeel ingevolge die regulasies uitgevaardig kragtens artikel 2 (1) van die Wysigingswet op die Pensioenwette, 1974 (Wet No. 15 van 1974), geregtig is.

(2) Die bepalings van hierdie Wet is *mutatis mutandis* van toepassing op of ten opsigte van iemand—

- (a) wat nie 'n gekonsolideerde pensioen ontvang nie; en
- (b) wat 'n vrywilliger is soos omskryf in artikel 1 van die Oorlogspensioenwet, 1967 (Wet No. 82 van 1967); of
- (c) op of ten opsigte van wie Hoofstuk IV van laasgenoemde Wet van toepassing is,

asof so iemand 'n lid is en militêre diens binne die bedoeling van die Oorlogspensioenwet, 1967, wat hy verrig het, militêre diens is soos in artikel 1 van hierdie Wet omskryf.

Uitvoering van
Wet.

22. (1) Die Minister voer hierdie Wet uit.

(2) Die Minister kan aan die Sekretaris of iemand anders in die Departement van Volkswelsyn en Pensioene enige van die bevoegdhede, uitgesonderd die bevoegdhede by artikels 16 en 23 verleen, deleger wat by hierdie Wet aan die Minister verleen word en kan die Sekretaris of so iemand magtig om enige van die werksaamhede te verrig of enige van die pligte uit te voer wat by hierdie Wet aan die Minister toevertrou of opgelê word.

(3) Die Sekretaris kan, met die goedkeuring van die Minister, aan 'n beampte in sy Departement enige van die bevoegdhede deleger wat by hierdie Wet aan hom verleen word, en so 'n beampte magtig om enige van die werksaamhede te verrig of enige van die pligte uit te voer wat by hierdie Wet aan die Sekretaris toevertrou of opgelê word.

(4) Die Sekretaris kan om gegronde redes enige beslissing van 'n beampte kragtens 'n bevoegdheid kragtens subartikel (3) aan hom gedelegeer, intrek.

Regulasies.

23. Die Minister kan regulasies uitvaardig met betrekking tot—

- (a) die samestelling, plek van byeenkoms en kworum van en die prosedure wat gevolg moet word deur 'n mediese appêlraad en die appêltribunaal;
- (b) die prosedure wat gevolg en die vorms wat gebruik moet word in verband met aansprake op voordele of enige ander aangeleenthede waaroor hierdie Wet handel;
- (c) die dagvaarding van appellante of getuies om voor 'n in paragraaf (a) genoemde raad te verskyn en die betaling aan hulle van persoonlike onkoste;

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may direct that such pension or a portion thereof be paid to some other person under such conditions as to its administration for the benefit of such firstmentioned person or his dependants as the Secretary may determine.

20. No action of law shall lie against the State to recover damages in respect of the disablement or death of a member where provision is made in this Act for compensation in respect of such death or disablement, and no liability for compensation as aforesaid shall arise on the part of the State save under the provisions of this Act.

Substitution
of benefits
under this
Act for other
legal remedy.

21. (1) The provisions of this Act shall not apply—

Operation
of Act.

- (a) to any person who is entitled under the provisions of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), to compensation in respect of his pensionable disability;
- (b) to a dependant or parent of any person referred to in paragraph (a);
- (c) to a member or any person who is entitled to a benefit under the regulations made under section 2 (1) of the Pension Laws Amendment Act, 1974 (Act No. 15 of 1974).

(2) The provisions of this Act shall apply *mutatis mutandis* to or in respect of any person—

- (a) who is not in receipt of a consolidated pension; and
- (b) who is a volunteer as defined in section 1 of the War Pensions Act, 1967 (Act No. 82 of 1967); or
- (c) to or in respect of whom Chapter IV of the last-mentioned Act applies,

as if such a person is a member and military service within the meaning of the War Pensions Act, 1967, which he may have performed, is military service as defined in section 1 of this Act.

22. (1) The Minister shall administer this Act.

Administration
of Act.

(2) The Minister may delegate to the Secretary or any other person in the Department of Social Welfare and Pensions any of the powers, except the powers conferred by sections 16 and 23, conferred upon him by this Act, and may authorize the Secretary or such a person to perform any of the functions or to carry out any of the duties which are assigned to or imposed on the Minister by this Act.

(3) The Secretary may, with the approval of the Minister, delegate to any officer of his Department any of the powers conferred upon the Secretary by this Act and authorize any such officer to perform any of the functions and carry out any of the duties assigned to or imposed on the Secretary by this Act.

(4) The Secretary may for sound reasons withdraw any decision of an officer under any power delegated to him under subsection (3).

23. The Minister may make regulations as to—

Regulations.

- (a) the constitution, venue and quorum of and the procedure to be followed by a medical appeal board and the appeal tribunal;
- (b) the procedure to be followed and the forms to be used in connection with claims for benefits or any other matters dealt with by this Act;
- (c) the summoning before a board mentioned in paragraph (a) of appellants or witnesses and the payment to them of personal expenses;

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- (d) die metode waarvolgens en die plekke waar betalings van voordele ingevolge hierdie Wet moet geskied;
- (e) die betaling van toelaes aan lede wat aan 'n pensioengewende ongesteldheid ly en behandeling daarvoor ondergaan of opleiding ingevolge hierdie Wet in 'n hospitaal of ander inrigting ondergaan;
- (f) die bestryding van begrafniskoste in die geval van 'n lid wat na die beëindiging van sy militêre diens as gevolg van 'n pensioengewende ongeskiktheid, of terwyl hy gemagtigde behandeling ten opsigte van so 'n ongeskiktheid, in 'n inrigting ondergaan, te sterwe kom;
- (g) enige aangeleentheid wat by regulasie kragtens hierdie artikel voorgeskryf kan of moet word.

Herroeping van wette.

24. Artikel 145 van die Verdedigingswet, 1957 (Wet No. 44 van 1957), die Wet op Spesiale Oorlogspensioene, 1962 (Wet No. 35 van 1962), die Oorlogspensioenwet, 1967 (Wet No. 82 van 1967) en artikel 15 van die Wysigingswet op die Pensioenwette, 1968 (Wet No. 79 van 1968), word hierby herroep.

Toepassing van Wet op Suidwes-Afrika.

25. Hierdie Wet en 'n wysiging daarvan is ook in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel, van toepassing.

Kort titel en inwerkingtreding.

26. (1) Hierdie Wet heet die Wet op Militêre Pensioene, 1976, en word, wat betref 'n ongeskiktheid op of na 1 Julie 1975 deur militêre diens veroorsaak of vererger, geag op 1 Julie 1975 in werking te getree het.

(2) 'n Voordeel of bonus in artikel 8 (1) bedoel wat van 1 Julie betaal is aan iemand wat uit hoofde van die bepalings van subartikel (1) van hierdie artikel op 'n pensioen of gratifikasie geregtig word, word teen so 'n pensioen of gratifikasie verreken.

Bylae

Item No.	Bepaalde Besering of Ongeskiktheid	Graad van Ongeskiktheid (persentasie)	
	BOONSTE LEDEMATE		
	<i>Opmerkings:</i>		
	(a) Stompmetings moet soos volg gedoen word:—		
	(i) Bo-arm: Met stomp in 'n hangende posisie langs die sy, meet in 'n reguit lyn van die punt van die akromion tot aan die end van die been wat onder die vel of littekenweefsel voelbaar is.		
	(ii) Voorarm: Met stomp gebuig tot 'n reghoek, meet in 'n reguit lyn van die punt van die olekranon tot aan die end van die been wat onder die vel of littekenweefsel voelbaar is.		
	(b) In die geval van vrywilligers wat gesertifiseer is links te wees, moet die toepaslike bepaling hieronder aangetoon vir onderskeidelik regter- en linkerarms, omgeruil word.		
1.	Verlies van albei hande of van al die vingers en albei duime	100	
		Regter-arm	Linker-arm
2.	Afsetting van arm by skouergewrig	90	80
3.	Afsetting van arm met stomp van minder as 20 sentimeter van die punt van die akromion	80	70
4.	Afsetting van arm op enige plek tussen 20 sentimeter van die punt van die akromion en 'n plek minder as 11 sentimeter weg van die punt van die olekranon	70	60
5.	Afsetting van arm op 'n plek 11 sentimeter of meer weg van die punt van die olekranon, of verlies van al die vingers en duim van een hand	60	50
6.	Verlies van al die litte van die duim of van vier vingers van een hand	40	30
7.	Verlies van al die litte van drie vingers	30	20
8.	Verlies van al die litte van twee vingers	20	20

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- (d) the method by and the places at which payments of benefits under this Act shall be made;
- (e) the payment of allowances to members who suffer from a pensionable disability and undergo treatment therefor or undergo training in a hospital or other institution in terms of this Act;
- (f) the defrayal of funeral expenses in the case of a member who dies after the termination of his military service as a result of a pensionable disability or while undergoing authorized treatment in respect of such a disability in an institution;
- (g) any matter which is permitted or required to be prescribed by regulation under this section.

24. Section 145 of the Defence Act, 1957 (Act No. 44 of 1957), the Special War Pensions Act, 1962 (Act No. 35 of 1962), the War Pensions Act, 1967 (Act No. 82 of 1967) and section 15 of the Pension Laws Amendment Act, 1968 (Act No. 79 of 1968), are hereby repealed.

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

26. (1) This Act shall be called the Military Pensions Act, 1976, and shall, as far as any disability caused or aggravated by military service on or after 1 July 1975 is concerned, be deemed to have come into operation on 1 July 1975.

(2) Any benefit or bonus referred to in section 8 (1) which was paid after 1 July 1975 to any person who by virtue of the provisions of subsection (1) of this section becomes entitled to a pension or gratuity, shall be set-off against such pension or gratuity.

Schedule

Item No.	Specific Injury or Disability	Percentage of Disablement	
UPPER LIMBS			
<i>Notes:</i>			
(a) Stump measurements shall be taken as follows:—			
(i) Upper arm: With stump hanging down by the side, measure in a straight line from tip of acromion to the end of the bone which is palpable beneath the skin or scar tissue.			
(ii) Forearm: With stump flexed to a right angle, measure in a straight line from tip of olecranon to the end of the bone which is palpable beneath the skin or scar tissue.			
(b) In the case of volunteers who are certified to be left-handed the relevant determination shown below for right and left arms, respectively, shall be transposed.			
1.	Loss of both hands or of all fingers and both thumbs	100	
		Right arm	Left arm
2.	Amputation of arm at shoulder joint	90	80
3.	Amputation of arm with stump less than 20 centimetres from tip of acromion	80	70
4.	Amputation of arm anywhere between a point 20 centimetres from tip of acromion and a point less than 11 centimetres distal to tip of olecranon	70	60
5.	Amputation of arm at point 11 centimetres or more distal to tip of olecranon, or loss of all fingers and thumb of one hand	60	50
6.	Loss of all phalanges of thumb or four fingers of one hand	40	30
7.	Loss of all phalanges of three fingers	30	20
8.	Loss of all phalanges of two fingers	20	20

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WET OP MILITÊRE PENSIOENE, 1976

Item No.	Bepaalde Besering of Ongeskiktheid	Graad van Ongeskiktheid (persentasie)
ONDERSTE LEDEMAAT		
<i>Opmerkings:</i>		
(a) Stompmetings moet soos volg gedoen word:—		
(i) Bo die knie: Meet in 'n reguit lyn oor die buitekant van die stomp van die punt van die groot trokanter tot aan die end van die been wat onder die vel of littekenweefsel voelbaar is.		
(ii) Onder die knie: Meet met die knie gebuig, in 'n reguit lyn van die voorkant van boonste gewrigsoppervlak van die tibia oor die binnekant van die stomp tot aan die end van die tibia (nie die fibula nie) wat onder die vel of littekenweefsel voelbaar is.		
(b) Ten einde die middelpunt van die dy in eensydige dyafsettings te bepaal, moet die lengte van die gesonde femur as maatstaf gebruik word.		
9.	Verlies van albei voete	100
10.	Afsetting by heup of onder die heup met 'n stomp van nie langer as 13 sentimeter nie, gemeet van die punt van die groot trokanter	80
11.	Afsetting onder die heup met 'n stomp langer as 13 sentimeter, gemeet van die punt van die groot trokanter, maar nie onder die middelpunt van die dy nie	70
12.	Afsetting op enige plek tussen die middelpunt van die dy en 10 sentimeter onder die knie	60
13.	Afsetting van been met 'n stomp van meer as 10 sentimeter onder die knie	50
14.	Gewysigde Syme-afsetting	40
15.	Verlies van al die tone van albei voete proksimaal aan die proksimale tussenlit	30
16.	Verlies van al die tone van een voet proksimaal aan die proksimale tussenlit of verlies van al die tone van albei voete weg van die proksimale tussenlit	20
GESIGSVERLIES		
17.	Algehele verlies van gesig	100
18.	Verlies van een oog	50
19.	Algehele verlies van gesig van een oog	40
<i>Let Wel:</i> —In gevalle van gedeeltelike verlies van gesig word die gesigskerpheid vasgestel na verbetering met 'n bril.		
SWAK GEHOOR		
20.	Algehele doofheid	100
21.	Algehele doofheid in een oor	20
GELAATSVERMINKING		
22.	Uiters ernstige gelaatsverminking wat dit vir die vrywilliger onmoontlik maak om met die publiek om te gaan	100
23.	Ernstige gelaatsverminking wat diens in aanraking met die publiek onmoontlik maak	80
ANDER ONGESKIKTHEDE		
24.	Wonde, beserings of siektes ten gevolge waarvan die vrywilliger blywend bedlënd of algeheel ongeskik is	100
25.	Algehele spraakverlies	80
26.	Verlies van albei teelballe	70
27.	Verlies van 'n nier	30
28.	Verlies van een teelbal	20
KOMBINASIE VAN SEKERE ONGESKIKTHEDE		
29.	Verlies van enige twee ledemate	100
30.	Verlies van 'n arm en 'n oog	100
31.	Verlies van 'n been en 'n oog	100
32.	Verlies van 'n hand en 'n voet	100

Opmerkings:

- (a) Die bepaling van die graad van ongeskiktheid ten opsigte van gebreke nie in hierdie Bylae vermeld nie geskied alleenlik op die grondslag van liggaamlike of geestesongeskiktheid, en in vergelyking met 'n normale gesonde persoon van dieselfde ouderdom en geslag, sonder inagneming van verlies van verdienvermoë in enige besondere beroep.
- (b) Geen kombinasie van gebreke word geag 100 persent ongeskiktheid te oorskry nie.

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Item No.	Specific Injury or Disability	Percentage of Disablement
LOWER LIMBS		
<i>Notes:</i>		
(a) Stump measurements shall be taken as follows:—		
(i) Above knee: Measure from tip of great trochanter in a straight line over outer aspect of stump to end of bone which is palpable beneath the skin or scar tissue.		
(ii) Below knee: With knee flexed measure from anterior edge of upper articular surface of the tibia in a straight line over inner aspect of stump to the end of the tibia (not the fibula) which is palpable beneath the skin or scar tissue.		
(b) In order to determine middle thigh level in unilateral thigh amputations, the length of the sound femur shall be the criterion.		
9.	Loss of both feet	100
10.	Amputation at hip or below hip with stump not exceeding 13 centimetres measured from tip of great trochanter	80
11.	Amputation below hip with stump exceeding 13 centimetres measured from tip of great trochanter but not beyond middle thigh	70
12.	Amputation anywhere between middle thigh and 10 centimetres below knee	60
13.	Amputation of leg with stump exceeding 10 centimetres below knee	50
14.	Modified Syme amputation	40
15.	Loss of all toes of both feet proximal to the proximal interphalangeal joint	30
16.	Loss of all toes of one foot proximal to the proximal interphalangeal joint or loss of all toes of both feet distal to the proximal interphalangeal joint	20
DEFECTIVE VISION		
17.	Total loss of sight	100
18.	Loss of one eye	50
19.	Total loss of vision in one eye	40
<i>N.B.:—In cases of partial loss of vision the visual acuity shall be determined after correction with glasses.</i>		
DEFECTIVE HEARING		
20.	Total deafness	100
21.	Total deafness in one ear	20
FACIAL DISFIGUREMENT		
22.	Very severe facial disfigurement rendering the volunteer incapable of mixing with the public	100
23.	Severe facial disfigurement rendering employment in contact with the public impossible	80
OTHER DISABILITIES		
24.	Wounds, injuries or diseases resulting in the volunteer being permanently bedridden or totally disabled	100
25.	Total loss of speech	80
26.	Loss of both testicles	70
27.	Loss of a kidney	30
28.	Loss of one testicle	20
COMBINATION OF CERTAIN DISABILITIES		
29.	Loss of any two limbs	100
30.	Loss of an arm and an eye	100
31.	Loss of a leg and an eye	100
32.	Loss of a hand and a foot	100

Notes:

- (a) The determination of the degree of disablement in respect of disabilities not specified in this Schedule shall be on the basis of physical or mental incapacitation only and shall be made by comparison with a normally healthy person of the same age and sex, without regard to loss of earning capacity in any particular occupation.
- (b) No combination of disabilities shall be deemed to exceed 100 per cent disablement.

