



# GOVERNMENT GAZETTE

OF THE

# REPUBLIC OF NAMIBIA

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## Government Notice

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### OFFICE OF THE PRIME MINISTER

No. 87

1990

### PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

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

- No. 23 of 1990: Medical Scheme for Members of the National Assembly, Judges and other Office-bearers Act, 1990.
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Act No. 23, 1990

**MEDICAL SCHEME FOR MEMBERS OF THE  
NATIONAL ASSEMBLY, JUDGES AND  
OTHER OFFICE-BEARERS ACT, 1990**

**ACT**

**To extend membership of the medical aid scheme established for the public service under the Public Service Act, 1980, to members and former members of the National Assembly, judges and former judges of the Supreme Court and the High Court, certain other office-bearers and other persons and to their surviving spouses; to repeal section 1 of the Medical Aid Scheme for the Government Service Extension Act, 1982; and to provide for matters connected therewith.**

*(Signed by the President on 3 December 1990)*

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

Definitions.

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

“Minister” means the Minister of Finance;

“Permanent Secretary” means the Permanent Secretary: Finance;

“scheme” means the medical aid scheme established for the public service by the regulations; and

“the regulations” means the regulations relating to the establishment of a medical aid scheme made under section 28(1)(b) of the Public Service Act, 1980 (Act 2 of 1980), and promulgated by Government Notice AG. 28 of 1981.

Extension of membership of scheme.

2. (1) Notwithstanding anything to the contrary in any other law contained, any person who -

(a) is a member of the National Assembly of the Republic of Namibia;

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- (b) is an office-bearer as defined in section 1 of the Members of the National Assembly and other Office-bearers Pensions Act, 1990, or is declared as an office-bearer under subsection (2) for the purposes of this Act;
- (c) is a judge of the Supreme Court or the High Court of Namibia in a permanent capacity;
- (d) ceases to be a judge referred to in paragraph (c) and who was a member of the scheme on the date when he or she ceased to hold office as such a judge;
- (e) ceases to be a member or office-bearer referred to in paragraph (a) or (b) and who was a member of the scheme on the date when he or she ceased to be such a member or office-bearer;
- (f) is the widow or widower of any person referred to in paragraph (a), (b), (c), (d) or (e) or subsection (3) who was a member of the scheme on the date of such person's death,

shall be entitled to become a member of the scheme.

(2) The Minister may by notice in the *Gazette* declare any person who by or under any law holds an office in the service of the Republic of Namibia as an office-bearer for the purposes of this Act, with effect from a date specified in such notice, which may be a date prior to the date of such notice, but not prior to the date of the person's appointment to the office concerned.

(3) Notwithstanding the provisions of subsection (1), any person who -

- (a) upon the vacation of his or her seat -
  - (i) on 1 March 1989, as a member of the National Assembly established by the South West Africa Legislative and Executive Authorities Establishment Proclamation, 1985 (Proclamation R.101 of 1985), pursuant to the promulgation of Proclamation R.13 of 1989 under section 6(1)f of the said Proclamation R.101 of 1985;

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(ii) on 1 April 1989, as a member of a legislative authority or an executive authority, referred to in section 1 of the Representative Authorities Powers Transfer Proclamation, 1989 (Proclamation AG. 8 of 1989), pursuant to the commencement of that Proclamation; or

(iii) on 1 July 1989, as Kaptein or a member of the Kaptein's Council or the Legislative Council, as defined in section 1 of the Government of Rehoboth Powers Transfer Proclamation, 1989 (Proclamation AG. 32 of 1989), pursuant to the commencement of that Proclamation,

applied for membership, and was admitted as a member, of the scheme by virtue of the provisions repealed by section 5 of this Act;

(b) by virtue of the provisions repealed by section 5 of this Act, was a member of the scheme immediately before the commencement of this Act,

shall, with effect from the date of commencement of this Act, continue to be a member of the scheme.

(4) The provisions of the regulations shall, subject to the provisions of subsection (5) of this section and sections 3 and 4, *mutatis mutandis* apply in relation to a person referred to in subsection (1) or (3) of this section, as if such person were an officer in the public service who is a member of the Government Institutions Pension Fund.

(5) In the application of the regulations in accordance with the provisions of subsection (4) -

(a) any reference to a pensioner shall be construed as a reference to a person referred to in paragraph (d), (e) or (f) of subsection (1) and, in the case of any provision in relation to the suspension of membership to the scheme, also to a person referred to in paragraph (a), (b) or (c), of that subsection or subsection (3);

(b) any provision requiring a recommendation by the Public Service Commission, except in re-

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lation to the determination of the percentage payable in respect of any medical claim and the conditions and limitations whereunder any such claim shall be payable, shall be construed as requiring the approval of, or a determination by, the Minister of Finance, whichever is appropriate;

(c) any provision prohibiting -

(i) that a person who has attained the age of 60 years may become a member;

(ii) the voluntary termination of membership of the scheme,

shall not apply.

Retrospective application  
of the regulations in re-  
spect of certain persons.

3. (1) If any application for membership of the scheme is received from a person referred to in section 2(1) and such person could have become a member of the scheme on 21 March 1990, or any later date prior to the date of commencement of this Act, had this Act been in operation, such person's application shall, subject to the provisions of subsection (2), be deemed to have been received on the date on which such person could have so become a member, and the regulations, as applied by this Act, shall apply in respect of such application and such person, as if this Act had come into operation on 21 March 1990.

(2) The provisions of subsection (1) shall not apply in respect of an application in which the person applying for membership has stated that he or she elects not to avail himself or herself of the provisions of that subsection.

(3) If, by virtue of the provisions of subsection (1) any person is -

(a) liable to pay contributions to the scheme in respect of any period prior to the date on which he or she applies for membership, such contributions shall be paid or be deducted from any emoluments payable to him or her from the State Revenue Fund, in such manner as the Minister may determine;

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(b) entitled to lodge a medical claim in respect of any service rendered to such person or a dependant of such person during the period contemplated in paragraph (a), such service shall for the purposes of lodging such medical claim, be deemed to have been rendered on the date of commencement of this Act.

Payment of contributions  
by certain persons.

4. (1) Where any person referred to in paragraph (d), (e) or (f) of section 2(1) who has become a member of the scheme, or any person referred to in subsection 2(3), is not paid any monthly pension, allowance or other remuneration from the State Revenue Fund from which such person's contributions can be deducted in accordance with the provisions of the regulations, such person shall be liable to pay his or her contributions to the Permanent Secretary within 14 days of the last day of the month in respect of which such contribution is payable.

(2) If any person referred to in subsection (1) is in arrear with the payment of any contribution, the Permanent Secretary may by registered letter addressed to such person at the address stated in his or her application for membership to the scheme, demand payment of such arrear contributions within such period, which shall not be less than 10 days, as may be specified in the letter.

(3) If such person fails to pay the arrear contributions within the period so specified, the Permanent Secretary may, with the approval of the Minister, remove such person's name from the list of members of the scheme, whereupon such person shall be deemed to have voluntarily terminated his or her membership.

(4) The termination of a person's membership in accordance with the provisions of subsection (3), shall not exempt such person from liability from any arrear contributions accrued till the date of such termination.

(5) If any person is in arrear with the payment of any contribution and a medical claim is lodged by such person or by a person who rendered a service to such person or his or her dependant, the Permanent Secretary may refuse to pay such claim until such arrear contributions have been paid, or may deduct from the amount payable in respect of such a claim, the amount of such arrear contributions.

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Repeal of laws.

5. Section 1 of the Medical Aid Scheme for the Government Service Extension Act, 1982 (Act 13 of 1982), is hereby repealed.

Short title.

6. This Act shall be called the Medical Scheme for Members of the National Assembly, Judges and other Office-bearers Act, 1990.

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