



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Price 20c Prys

Overseas 30c Oorsee

POST FREE—POSVRY

Vol. 156]

CAPE TOWN, 23 JUNE 1978

KAAPSTAD, 23 JUNIE 1978

[No. 6072

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1299.

23 June 1978.

No. 1299.

23 Junie 1978.

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

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

No. 90 of 1978: Judges' Pensions Act, 1978.

No. 90 van 1978: Wet op Pensioene van Regters, 1978.

Wet No. 90, 1978

WET OP PENSIOENE VAN REGTERS, 1978.

WET

Om voorsiening te maak vir die aftrede en pensioene by aftrede van regters van die Hooggeregshof van Suid-Afrika, vir die betaling van pensioene aan die weduwees van sodanige regters en vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 16 Junie 1978.)

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

Woordomskrywing.

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - (i) „inkomste” die Staatsinkomstefonds; (v) 5
 - (ii) „Minister” die Minister van Volkswelsyn en Pensioene;
 - (iii) „pensioengewende diens” enige diens as regter in ’n permanente hoedanigheid verrig, asook sodanige diens 10 in ’n waarnemende hoedanigheid verrig vir ’n ononderbroke tydperk onmiddellik voor diensaanvaarding as ’n regter in ’n permanente hoedanigheid; (iv)
 - (iv) „regter” iemand wat die amp beklee van—
 - (a) Hoofregter van Suid-Afrika; 15
 - (b) appèlregter van die Appèlafdeling van die Hooggeregshof van Suid-Afrika; of
 - (c) regter-president, adjunk-regter-president of regter van ’n provinsiale of plaaslike afdeling van daardie hof; (ii) 20
 - (v) „salaris” die salaris ingevolge ’n wetsbepaling op die besoldiging van regters aan ’n regter betaalbaar; (vi)
 - (vi) „vasgestelde datum” die datum van inwerkingtreding van hierdie Wet; (i)
 - (vii) „weduwee” nie ook die weduwee nie van iemand met 25 wie sy getrou het nadat hy opgehou het om ’n regter te wees. (vii)

Aftrede van regters.

2. ’n Regter wat sy amp in ’n permanente hoedanigheid beklee—
 - (a) moet aftree by bereiking van die ouderdom van sewentig 30 jaar;
 - (b) kan aftree indien hy die ouderdom van vyf-en-sestig jaar bereik het en minstens agt jaar pensioengewende diens voltooi het;
 - (c) kan te eniger tyd met die toestemming van die 35 Staatspresident aftree indien hy aangetas raak deur ’n permanente geeste- of liggaamswakheid wat hom ongeskik maak om sy ampspligte behoorlik te vervul of indien daar ’n ander rede bestaan wat die Staatspresident voldoende ag. 40

JUDGES' PENSIONS ACT, 1978.

Act No. 90, 1978

ACT

To provide for the retirement from office and pensions on retirement of judges of the Supreme Court of South Africa, for the payment of pensions to the widows of such judges and for matters connected therewith.

(Afrikaans text signed by the State President.)

(Assented to 16 June 1978.)

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

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

Definitions.

- 5 (i) "fixed date" means the date of commencement of this Act; (vi)
- (ii) "judge" means any person holding the office of—
 - (a) Chief Justice of South Africa;
 - 10 (b) judge of appeal of the Appellate Division of the Supreme Court of South Africa; or
 - (c) judge president, deputy judge president or judge of any provincial or local division of the said court;
 - (iv)
 - 15 (iii) "Minister" means the Minister of Social Welfare and Pensions; (ii)
 - (iv) "pensionable service" means any period of service as a judge in a permanent capacity, as well as such service in an acting capacity for any continuous period immediately prior to assuming office as a judge in a permanent capacity; (iii)
 - 20 (v) "revenue" means the State Revenue Fund; (i)
 - (vi) "salary" means the salary payable to a judge in terms of any law relating to the remuneration of judges; (v)
 - 25 (vii) "widow" shall not include the widow of a person whom she married after he ceased to be a judge. (vii)

2. Any judge who holds office in a permanent capacity—

Retirement of judges.

- (a) shall retire from office on attaining the age of seventy years;
- 30 (b) may retire from office if he has attained the age of sixty-five years and has completed at least eight years pensionable service;
- (c) may at any time with the approval of the State President retire from office if he becomes afflicted with a permanent infirmity of mind or body which disables him from the proper discharge of his duties of office or if any other reason exists which is deemed sufficient by the State President.
- 35

Wet No. 90, 1978

WET OP PENSIOENE VAN REGTERS, 1978.

Pensioen betaalbaar
aan regters na aftrede
of ontheffing van amp
weens 'n swakheid.

3. (1) Aan iemand wat die amp van regter beklee het en voor die vasgestelde datum—

- (a) afgetree het nadat hy die ouderdom van vyf-en-sestig jaar bereik het en in so 'n amp onafgebroke gedien het vir 'n tydperk van minstens tien jaar, hetsy in 'n 5 waarnemende of permanente hoedanigheid;
- (b) by bereiking van die ouderdom van sewentig jaar afgetree het;
- (c) toegelaat is om af te tree as gevolg van 'n permanente geeste- of liggaamswakheid wat hom ongeskik gemaak 10 het om sy ampspligte behoorlik te vervul; of
- (d) kragtens artikel 10 (7) van die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959), van sy amp onthef is op grond van onbekwaamheid wat voortgespruit het uit 'n permanente geeste- of liggaamswakheid wat hom 15 ongeskik gemaak het om sy ampspligte behoorlik te vervul.

word, indien hy aldus afgetree het of aldus van sy amp onthef is gedurende 'n tydperk in die eerste kolom van paragraaf 3 van die Bylae vermeld, maandeliks 'n pensioen betaal teen die skaal in die 20 tweede kolom van genoemde paragraaf 3 teenoor sodanige tydperk vermeld.

(2) Daar word aan 'n regter wat op of na die vasgestelde datum ingevolge artikel 2 afgetree het of aftree of kragtens artikel 10 (7) van die Wet op die Hooggeregshof, 1959, van sy amp onthef is of 25 word op grond van onbekwaamheid wat voortspruit uit 'n permanente geeste- of liggaamswakheid wat hom ongeskik maak om sy ampspligte behoorlik te vervul, 'n pensioen betaal wat ten opsigte van elke amp deur hom tydens sy pensioengewende diens beklee ooreenkomstig die formule— 30

$$\frac{A}{B} \times C$$

bereken word, in welke formule—

- (a) A die jaarlikse salaris voorstel wat ten tyde van so 'n regter se aftrede aan die betrokke amp verbonde is; 35
- (b) B 15 voorstel;
- (c) C die tydperk in jare van pensioengewende diens van so 'n regter in die betrokke amp voorstel.

(3) (a) Die totaal van die pensioene ingevolge subartikel (2) van hierdie artikel betaalbaar aan 'n regter wat ingevolge 40 artikel 2 (a) of (c) afgetree het of aftree of van sy amp onthef is of word onder die omstandighede in genoemde subartikel (2) bedoel, bedra nie minder as veertig persent van sy hoogste salaris gedurende die tydperk van sy pensioengewende diens en nie meer as sodanige 45 salaris nie.

(b) Die totaal van die pensioene ingevolge subartikel (2) van hierdie artikel betaalbaar aan 'n regter wat ingevolge artikel 2 (b) afgetree het of aftree, bedra nie minder nie as veertig persent van sy hoogste salaris 50 gedurende die tydperk van sy pensioengewende diens en nie meer nie as tagtig persent van daardie salaris, plus vier persent van daardie salaris vir elke volle jaar van pensioengewende diens, as daar is, wat hy verrig na bereiking van die ouderdom van vyf-en-sestig jaar. 55

(4) Indien 'n regter aan wie 'n pensioen ingevolge hierdie artikel betaalbaar is, te sterwe kom, word die betaling van die pensioen gestaak met ingang van die eerste dag van die maand wat volg op die maand waarin hy te sterwe kom.

(5) By die toepassing van subartikel (2), word die tydperk van 60 pensioengewende diens in 'n bepaalde amp by die jaar en die maand bereken en word breukdele van 'n maand buite rekening gelaat.

Pensioen betaalbaar
aan weduwee van
regter.

4. (1) Aan die weduwee van 'n regter wat voor 1 Junie 1956 afgetree of te sterwe gekom het, word 'n pensioen van R3 960 per 65 jaar betaal.

(2) Aan die weduwee van 'n regter wat ingevolge 'n wet herroep deur hierdie Wet bydraes aan inkomste betaal het en wat voor 1 April 1972 te sterwe gekom het of van iemand wat aldus

JUDGES' PENSIONS ACT, 1978.

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3. (1) Any person who held office as a judge and before the fixed date—
- (a) retired from office after attaining the age of sixty-five years and serving continuously, whether in an acting or a permanent capacity, in such an office for a period of not less than ten years;
- (b) retired from office on attaining the age of seventy years;
- (c) was allowed to retire from office consequent on a permanent infirmity of mind or body disabling him from the proper discharge of the duties of his office; or
- (d) was removed from office under section 10 (7) of the Supreme Court Act, 1959 (Act No. 59 of 1959), on the grounds of incapacity arising out of a permanent infirmity of mind or body disabling him from the proper discharge of the duties of his office,
- shall, if he so retired from office or was so removed from office during any period specified in the first column of paragraph 3 of the Schedule, be paid monthly a pension at the rate specified in the second column of the said paragraph 3 opposite such period.
- (2) Any judge who on or after the fixed date retired or retires from office in terms of section 2 or was or is removed from office under section 10 (7) of the Supreme Court Act, 1959, on the grounds of incapacity arising out of a permanent infirmity of mind or body disabling him from the proper discharge of the duties of his office, shall be paid a pension which in respect of each office held by him during his pensionable service shall be calculated in accordance with the formula—
- $$\frac{A}{B} \times C$$
- in which formula—
- (a) A represents the annual salary applicable to the office concerned at the time of such judge's retirement from office;
- (b) B represents 15;
- (c) C represents the period in years of pensionable service of such a judge in the office concerned.
- (3) (a) The total of the pensions payable in terms of subsection (2) of this section to a judge who retired or retires from office in terms of section 2 (a) or (c) or was or is removed from office in the circumstances referred to in the said subsection (2), shall not be less than forty per cent of his highest salary during the period of his pensionable service and shall not exceed such salary.
- (b) The total of the pensions payable in terms of subsection (2) of this section to a judge who retired or retires from office in terms of section 2 (b), shall not be less than forty per cent of his highest salary during the period of his pensionable service and shall not exceed eighty per cent of that salary, plus four per cent of that salary for every full year of pensionable service, if any, after attainment of the age of sixty-five years.
- (4) If a judge to whom a pension is payable in terms of this section, dies, the payment of the pension shall cease with effect from the first day of the month following the month in which he died.
- (5) For the purposes of subsection (2), the period of pensionable service in any specific office shall be calculated by the year and the month and fractions of a month shall be disregarded.
4. (1) To the widow of any judge who retired from office or died before 1 June 1956, there shall be paid a pension of R3 960 per annum.
- (2) To the widow of a judge who in terms of any law repealed by this Act paid contributions to revenue and who died before 1 April 1972 or of any person who so contributed and who retired

Pensions payable to judges after retirement or removal from office on grounds of infirmity.

Pension payable to widow of judge.

Wet No. 90, 1978

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	bydraes betaal het en wat voor daardie datum as regter afgetree het of van sy amp as regter onthef is en voor 1 Julie 1974 te sterwe gekom het, word 'n pensioen van R4 356 per jaar betaal. (3) Aan die weduwee van iemand wat ingevolge 'n wet herroep deur hierdie Wet bydraes aan inkomste betaal het en wat op of na 1 April 1972 maar voor die vasgestelde datum te sterwe gekom het of as regter afgetree het of van sy amp as regter onthef is, uitgesonderd iemand wat voor 1 April 1972 as regter afgetree het of van sy amp as regter onthef is en voor 1 Julie 1974 te sterwe gekom het, word 'n pensioen betaal van R2 819,30 per jaar, plus R281,93 per jaar ten opsigte van elke voltooide jaar ten opsigte waarvan bydraes aldus betaal is: Met dien verstande dat die pensioen waarop so 'n weduwee kragtens hierdie subartikel geregtig is, nie minder as R4 356 en nie meer as R5 638,60 per jaar bedra nie. (4) Aan die weduwee van iemand wat op of na die vasgestelde datum ingevolge artikel 2 afgetree het of aftree of van sy amp onthef is of word onder die omstandighede in artikel 3 (2) bedoel of te sterwe gekom het of kom terwyl hy die amp van regter beklee, word met ingang van die eerste dag van die maand wat onmiddellik volg op die maand waarin hy te sterwe kom 'n pensioen betaal wat— (a) in die geval van die weduwee van iemand wat aldus afgetree het, of aldus van sy amp onthef is, gelykstaan met die helfte van die pensioen wat ingevolge artikel 3 by sy afsterwe aan so iemand betaalbaar was; (b) in die geval van die weduwee van iemand wat te sterwe gekom het terwyl hy die amp van regter beklee, gelykstaan met die helfte van die pensioen waarop so iemand ingevolge artikel 3 geregtig sou gewees het indien hy op die datum van sy afsterwe ingevolge artikel 2 (c) afgetree het.	5 10 15 20
Regte ten opsigte van pensioen nie sedeerbaar of aan eksekusie onderhewig nie.	5. (1) Geen reg ten opsigte van 'n pensioen kragtens hierdie Wet betaalbaar, kan gesedeer of verhipotekeer word nie, en so 'n reg is nie vatbaar vir beslaglegging of onderhewig aan enige vorm van eksekusie ingevolge 'n uitspraak of bevel van 'n hof nie. (2) Indien iemand 'n poging aanwend om enige reg ten opsigte van so 'n pensioen waarop hy kragtens hierdie Wet geregtig is, te sedeer of te verhipotekeer, kan uitbetaling van dié pensioen, indien die Minister dit gelas, teruggehou, opgeskort of gestaak word: Met dien verstande dat die Minister kan gelas dat dié pensioen of 'n gedeelte daarvan aan een of meer van die afhanklikes van so iemand of aan 'n kurator ten behoeve van so iemand of sy afhanklikes betaal word gedurende die tydperk wat hy bepaal.	25 30 35 40 45
Gevolge van insolvensie.	6. Indien die boedel van iemand wat kragtens hierdie Wet 'n pensioen ontvang, gesekwestreer word, maak dié pensioen nie deel uit van die bates in sy insolvente boedel nie.	50
Uitvoering van Wet.	7. Die Sekretaris van Volkswelsyn en Pensioene word, onderhewig aan die beheer van die Minister, met die algemene uitvoering van die bepalinge van hierdie Wet belas.	55
Wyse van betaling van pensioene.	8. Pensioene kragtens hierdie Wet betaalbaar, word in maandelikse paaiemente uit inkomste en op die datums en wyse wat die Minister van tyd tot tyd bepaal, betaal.	60
Toepassing van Wet in Suidwes-Afrika.	9. Hierdie Wet en enige wysiging daarvan is ook in die gebied Suidwes-Afrika van toepassing.	65
Herroeping van wette.	10. Die Wet op Besoldiging en Pensioene van Regters, 1975 (Wet No. 14 van 1975), uitgesonderd artikels 1 en 4 daarvan en Bylae 1 daarby, die Wysigingswet op Besoldiging en Pensioene van Regters, 1976 (Wet No. 75 van 1976), uitgesonderd artikel 2 daarvan, en artikel 9 van die Wysigingswet op die Pensioenwette, 1975 (Wet No. 50 van 1975), word hierby herroep.	70 75 80
Kort titel en inwerkingtreding.	11. Hierdie Wet heet die Wet op Pensioene van Regters, 1978, en word geag op 1 Januarie 1978 in werking te getree het.	85

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from office as a judge or was removed from office as a judge before that date and died before 1 July 1974, there shall be paid a pension of R4 356 per annum.

(3) To the widow of any person who in terms of any law repealed by this Act paid contributions to revenue and who died or who retired from office as a judge or was removed from office as a judge on or after 1 April 1972 but before the fixed date, other than any person who retired from office as a judge or was removed from office as a judge before 1 April 1972 and who died before 1 July 1974, there shall be paid a pension of R2 819,30 per annum, plus R281,93 per annum in respect of each completed year in respect of which contributions were so paid: Provided that the pension to which such widow shall be entitled under this section shall amount to not less than R4 356 and not more than R5 638,60 per annum.

(4) To the widow of any person who on or after the fixed date retired or retires from office in terms of section 2 or was or is removed from office in the circumstances referred to in section 3 (2) or died or dies whilst holding office as a judge, there shall be paid with effect from the first day of the month immediately following upon the month in which he died a pension—

- (a) in the case of the widow of any person who so retired or was so removed from office, equal to one-half of the pension which was in terms of section 3 payable to him on the date of his death;
- (b) in the case of the widow of any person who died whilst holding office as a judge, equal to one-half of the pension to which such person would have been entitled in terms of section 3 if he retired from office in terms of section 2 (c) on the date of his death.

5. (1) No right in respect of a pension payable under this Act shall be capable of being ceded or of being hypothecated, and any such right shall not be liable to be attached or be subject to any form of execution under a judgment or order of court.

Rights in respect of pension not cedeable or subject to execution.

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

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

Effect of insolvency.

7. The Secretary for Social Welfare and Pensions shall, subject to the control of the Minister, be charged with the general administration of this Act.

Administration of Act.

8. Pensions payable under this Act shall be paid from revenue in monthly instalments and on such dates and in such manner as the Minister may from time to time determine.

Method of payment of pensions.

9. This Act and any amendment thereof shall apply also in the territory of South West Africa.

Application of Act in South West Africa.

10. The Judges' Remuneration and Pensions Act, 1975 (Act No. 14 of 1975), except sections 1 and 4 thereof and Schedule 1 thereto, the Judges' Remuneration and Pensions Amendment Act, 1976 (Act No. 75 of 1976), except section 2 thereof, and section 9 of the Pension Laws Amendment Act, 1975 (Act No. 50 of 1975), are hereby repealed.

Repeal of laws.

11. This Act shall be called the Judges' Pensions Act, 1978, and shall be deemed to have come into operation on 1 January 1978.

Short title and commencement.

Wet No. 90, 1978

WET OP PENSIOENE VAN REGTERS, 1978.

Bylae

1. In hierdie Bylae beteken—

- (a) „basiese pensioen” twintig persent van die jaarlikse salaris, plus vier persent van daardie salaris vir elke volle jaar, as daar is, waarmee iemand se tydperk van ononderbroke diens as 'n regter wat sy aftrede of ontheffing van sy amp onmiddellik voorafgegaan het, hetsy in 'n waarnemende of permanente hoedanigheid, vyf jaar oorskry het;
- (b) „jaarlikse salaris” die salaris per jaar wat ten tyde van iemand se aftrede of ontheffing van sy amp verbonde was aan die amp wat hy toe in 'n permanente hoedanigheid beklee het.

2. 'n Pensioen bereken ooreenkomstig paragraaf 3 is onderhewig aan 'n minimum van R8 712 per jaar.

3.

Tydperk	Pensioen per jaar
(a) Voor 1 April 1964	R8 712.
(b) 1 April 1964 tot 31 Desember 1970	(i) Die basiese pensioen, maar hoogstens 60% van die jaarlikse salaris; plus (ii) 66,98% van die bedrag in item (i) bedoel.
(c) 1 Januarie 1971 tot 31 Maart 1972	(i) Die basiese pensioen, maar hoogstens 60% van die jaarlikse salaris; plus (ii) 39,15% van die bedrag in item (i) bedoel.
(d) 1 April 1972 tot 30 Junie 1974	(i) Die basiese pensioen, maar hoogstens 80% van die jaarlikse salaris; plus (ii) 39,15% van die bedrag in item (i) bedoel.
(e) 1 Julie 1974 tot 30 Junie 1976	(i) Die basiese pensioen, maar hoogstens 80% van die jaarlikse salaris; plus (ii) 21% van die bedrag in item (i) bedoel.
(f) 1 Julie 1976 tot 31 Desember 1977	(i) Die basiese pensioen, maar hoogstens 80% van die jaarlikse salaris; plus (ii) 10% van die bedrag in item (i) bedoel.

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Schedule

1. In this Schedule—

- (a) "annual salary" means the salary per annum which at the time of any person's retirement or removal from office was attached to the office which he then held in a permanent capacity;
- (b) "basic pension" means twenty per cent of the annual salary, plus four per cent of that salary for every full year, if any, by which any person's period of continuous service as a judge immediately preceding his retirement or removal from office, whether in an acting or a permanent capacity, exceeded five years.

2. Any pension calculated in accordance with paragraph 3 shall be subject to a minimum of R8 712 per annum.

3.

Period	Pension per Annum
(a) Prior to 1 April 1964.	R8 712.
(b) 1 April 1964 to 31 December 1970	(i) The basic pension, but not exceeding 60% of the annual salary; plus (ii) 66,98% of the amount referred to in item (i).
(c) 1 January 1971 to 31 March 1972	(i) The basic pension, but not exceeding 60% of the annual salary; plus (ii) 39,15% of the amount referred to in item (i).
(d) 1 April 1972 to 30 June 1974	(i) The basic pension, but not exceeding 80% of the annual salary; plus (ii) 39,15% of the amount referred to in item (i).
(e) 1 July 1974 to 30 June 1976	(i) The basic pension, but not exceeding 80% of the annual salary; plus (ii) 21% of the amount referred to in item (i).
(f) 1 July 1976 to 31 December 1977	(i) The basic pension, but not exceeding 80% of the annual salary; plus (ii) 10% of the amount referred to in item (i).

1. In the Schedule—
 (a) "annual salary" means the salary for annum which at the time of any person's removal or removal from office was attached to the office which he then held in a permanent capacity;
 (b) "basic pension" means twenty per cent of the annual salary, plus half per cent of the salary for each full year, if any, by which any person's period of continuous service as a public servant immediately preceding his retirement or removal from office, exceeds in an actual or a pensionable capacity, exceeded five years.
 2. Any pension calculated in accordance with paragraph 1 shall be subject to a minimum of R8 712 per annum.

Period	Provision for Annuity
(a) From 1 April 1964 to 31 December 1970	(i) The basic pension, but not exceeding 60% of the annual salary; (ii) 10% of the amount referred to in item (i).
(b) 1 January 1971 to 31 March 1973	(i) The basic pension, but not exceeding 60% of the annual salary; (ii) 10% of the amount referred to in item (i).
(c) 1 April 1973 to 30 June 1974	(i) The basic pension, but not exceeding 60% of the annual salary; (ii) 10% of the amount referred to in item (i).
(d) 1 July 1974 to 30 June 1975	(i) The basic pension, but not exceeding 60% of the annual salary; (ii) 10% of the amount referred to in item (i).
(e) 1 July 1975 to 31 December 1977	(i) The basic pension, but not exceeding 60% of the annual salary; (ii) 10% of the amount referred to in item (i).