

Namibia

Blind Persons Act, 1968

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Republic of Namibia
Annotated Statutes

Blind Persons Act, 1968

Act 26 of 1968

Published in [South African Government Gazette no. 2032](#) on 3 April 1968

Assented to on 18 March 1968

Commenced on 1 January 1972

[Up to date as at 17 September 2021]

[Amended by [Second Pension Laws Amendment Act, 1970 \(Act 86 of 1970\)](#) on 1 October 1968]

[Amended by [Blind Persons Amendment Act, 1971 \(Act 16 of 1971\)](#) on 1 January 1972]

[Amended by [Pension Laws Amendment Act, 1972 \(Act 97 of 1972\)](#) on 5 July 1972]

[Amended by [Social Pensions Act, 1973 \(Act 37 of 1973\)](#) on 1 October 1973]

[APPLICABILITY TO SOUTH WEST AFRICA: Section 16 of the Pension Laws Amendment Act [79 of 1968](#) (RSA GG 2119, also published in OG 2915) – which came into force on 1 October 1968 (section 17(1) of Act [79 of 1968](#)) – without amending the Act, empowered the State President to make the provisions of the Act “mutatis mutandis applicable in the territory of South-West Africa, including the Eastern Caprivi Zipfel, in respect of natives, as defined in section 25 of the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of the said territory, in so far as those provisions relate to Bantu or Bantu persons”, subject to “such conditions, amendments or exceptions as may be specified in the proclamation”. It also empowered the State President to withdraw or amend any such proclamation. Section 16(4) stated:

“With effect from the date on which any Act referred to in subsection (1) becomes applicable in the said territory in terms of a proclamation issued under that subsection, the corresponding Act which under section 45(1) of the Pension Laws Amendment Act, 1965 (Act [No. 102 of 1965](#)), was declared to be applicable in the said territory, shall cease to be applicable therein: Provided that anything done in terms of the relevant corresponding Act and which could be done in terms of the relevant Act referred to in subsection (1) which becomes applicable in the territory on the said date, shall be deemed to have been done in terms of the last-mentioned Act.”

(The corresponding Act cited in section 45(1) of the Pension Laws Amendment Act [102 of 1965](#) (RSA GG 1171) was the Blind Persons Act [39 of 1962](#) (RSA GG 231).)

Pursuant to this authority, RSA Proc. R.293/1968 (RSA GG 2182) provided that the provisions of the Act were brought into force on 1 October 1968 “in the Territory of South-West Africa, including the Eastern Caprivi Zipfel, in respect of

Natives, as defined in section 25 of the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of the said Territory, in so far as those provisions relate to Bantu”.

The Act was brought into force generally in South West Africa only when the amendments made by Act 16 of 1971 came into force on 1 January 1972. Section 18A (inserted by Act 16 of 1971) states “This Act and any amendment thereof shall, save in so far as it has already been declared to be applicable in the territory in terms of section 16(1) of the Pension Laws Amendment Act, 1968 (Act No. 79 of 1968), also apply in the territory, including the Eastern Caprivi Zipfel.” Section 1 (as inserted by Act 16 of 1971) also defines “Republic” to include “the territory”, which is defined as “the territory of South-West Africa”.]

[TRANSFER TO SOUTH WEST AFRICA: Section 18 of the Act gives the State President the power to assign the administration of the Act to one or more Ministers and to vary this assignment from time to time. (See RSA Proc. No. R.285/1968 (RSA GG 2176), as amended by RSA Proc. R.153/1985 (RSA GG 9917) and RSA Proc. R. 273/1971 (RSA GG 3327), repealed by RSA Proc. 219/1973 (RSA GG 4030).) Therefore it is not clear which transfer proclamation, if any, was applicable. However, the issue of transfer is not relevant to the content of the Act since there were no amendments to the Act in South Africa after 1976 (the date of the earliest transfer proclamation) and before Namibian independence.]

[The Act is repealed by section 21 of Act 37 of 1973, read together with the Schedule of Act 37 of 1973, “in so far as it relates to pension matters”.]

ACT

To consolidate and amend the laws relating to the payment of pensions and allowances to blind persons, and of contributions towards the promotion of the welfare of such persons and matters incidental thereto.

(Afrikaans text signed by the Acting State President)

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

1. Definitions

In this Act, unless the context otherwise indicates -

“**allowance**” means any additional, supplementary or attendant’s allowance referred to in section 2(a);

[definition of “Bantu” deleted by Act 16 of 1971]

[definition of “Chinese” deleted by Act 16 of 1971]

[definition of “Coloured person” deleted by Act 16 of 1971]

“**district pension officer**” means a district pension officer as defined in the Aged Persons Act, 1967 (Act No. 81 of 1967);

[definition of “Indian” deleted by Act 16 of 1971]

“**Minister**”, in relation to any power conferred or a function assigned by any provision of this Act, and in relation to persons belonging to any race or class, means the Minister to whom the administration of that provision in relation to that power or function and in relation to those persons has been assigned in terms of section 18;

“**pension**” means a pension referred to in section 2(a);

“**pensioner**” means a person receiving a pension;

“**prescribed**” means prescribed by regulation made under this Act;

“**Republic**” includes the territory;

[definition of “Republic” inserted by Act 16 of 1971]

“**Secretary**”, in relation to a power conferred or a function assigned by any provision of this Act, and in relation to persons belonging to any class or population group, means the head of the department of State in question administered by the Minister to whom the administration of that provision in relation to that power or function and in relation to those persons has been assigned in terms of section 18;

[definition of “Secretary” substituted by Act 97 of 1972]

“**the territory**” means the territory of South-West Africa;

[definition of “the territory” inserted by Act 16 of 1971]

“**this Act**” includes the regulations made thereunder;

[The definition of “white person” is deleted by Act 16 of 1971. The definition of “this Act” should now end with a full stop instead of a semicolon.]

[RSA Proc. R.293/1968 (RSA GG 2182) provided for some definitions of terms in respect of the Act as it applied to “Bantu”, but these definitions presumably became irrelevant when the Act was applied generally to South West Africa in 1971.]

2. Payment of blind persons’ pensions and of allowances and the making of contributions in respect of blind persons

- (1) The Minister may, subject to the provisions of this Act, in consultation with the Minister of Finance and out of moneys appropriated by Parliament for that purpose -
 - (a) pay blind persons’ pensions and additional or supplementary allowances to persons registered in terms of section 3, and pay an attendant’s allowance to or on behalf of a person to whom such a pension is paid and who is in such a physical or mental condition that he requires the regular attendance of any person;
 - (b) make contributions to a welfare organization registered under the National Welfare Act, 1965 (Act No. 79 of 1965), towards the provision or maintenance by such organization of hostels, homes, workshops or other places for the reception, readjustment, rehabilitation, training or employment of persons who are totally or partially blind, or the remuneration of persons employed by such organization for the purpose of conducting any such hostel, home, workshop or other place;
 - (c) make contributions towards the augmentation of the earnings of persons registered under section 3, who are employed in any such hostel, home, workshop or other place, or are working in any place approved by the Minister;
 - (d) make contributions towards the payment of board and lodging of persons registered under section 3, who are working in a district in which no such hostel, home or other place for the reception of persons who are totally or partially blind exists;
 - (e) make contributions towards the expenditure incurred in the training at their homes of persons who are totally or partially blind, in so far as such expenditure represents the remuneration of persons employed by any welfare organization aforesaid, to train such persons.
- (2) The provisions of the Apprenticeship Act, 1944 (Act No. 37 of 1944), the Industrial Conciliation Act, 1956 (Act No. 28 of 1956), and the Wage Act, 1957 (Act No. 5 of 1957), shall not apply to any person registered under section 3 while at work or employed in any hostel, home, workshop or other place maintained or controlled by any welfare organization referred to in subsection (1) or towards the maintenance of whom periodical payments are made by any such organization.

[Act 16 of 1971 provided the following rule of construction in respect of South West Africa:

“8. Construction of section 2(2) of Act 26 of 1968 in its application to the territory of South-West Africa For the purposes of the application of section 2(2) of the principal Act in the territory of South-West Africa, the reference to the Apprenticeship Act, 1944 (Act No. 37 of 1944), shall be construed as a reference to the Apprenticeship Ordinance, 1938 (Ordinance No. 12 of 1938), of such territory and the reference to the Industrial Conciliation Act, 1956 (Act No. 28 of 1956), and the Wage Act, 1957 (Act No. 5 of 1957), shall be construed as a

reference to the Wage and Industrial Conciliation Ordinance, 1952 (Ordinance No. 35 of 1952), of such territory.”

The Apprenticeship Ordinance 12 of 1938 was repealed by the National Vocational Training Act 18 of 1994, which was repealed in turn by the Vocational Education and Training Act 1 of 2008.

The Wage and Industrial Conciliation Ordinance 35 of 1952 was repealed by the Labour Act 6 of 1992, which has been replaced by the Labour Act 11 of 2007.]

3. Registration of blind persons

- (1) On the application of any person for registration as a blind person, the Secretary shall cause him to be examined by a medical practitioner selected from the list referred to in section 4.
[subsection (1) substituted by Act 16 of 1971]
- (2) If after such examination the medical practitioner is satisfied that the applicant is blind according to the criteria prescribed, he shall forward to the Secretary a certificate to that effect, and upon receipt thereof the Secretary shall record the name of the applicant in a register to be kept by the Secretary.
- (3) The Secretary may at any time require any person registered under this section to submit himself to a further examination by such a medical practitioner, and if after such examination the medical practitioner is satisfied that such person is not blind according to the criteria prescribed, he shall forward to the Secretary a certificate to that effect, and upon receipt thereof the Secretary shall remove the name of such person from the register.

4. List of medical practitioners

- (1) The Minister shall, after consultation with the South African Medical and Dental Council established by the Medical, Dental and Pharmacy Act, 1928 (Act No. 13 of 1928), frame a list of medical practitioners registered under the said Act, to carry out any examination referred to in section 3.

[Medical practitioners are now registered under the Medical and Dental Act 10 of 2004.]

- (3) The Minister may, from time to time after like consultation, add or delete from the said list the name of any medical practitioner.

[There is no subsection (2) in section 4; the second subsection has been incorrectly numbered.]

5. Persons entitled to blind persons' pensions

- (1) Subject to the provisions of this Act, every person registered under section 3, shall be entitled to receive a pension if the Secretary is satisfied -
 - (a) that he has attained the age of nineteen years;
 - (b) that he was resident in the Republic at the time of making application for the pension; and
 - (c) that he -
 - (i) is a South African citizen; or
 - (ii) has been ordinarily resident in the Republic for not less than ten out of the fifteen years immediately preceding the date of his application; or
 - (iii) has entered the Republic from Angola or any other territory or country specified by the Minister, and complies with such conditions as the Minister may, in consultation with the Minister of Finance, determine.

[subparagraph (iii) substituted by Act 16 of 1971]

- (2) *[subsection (2) deleted by Act 16 of 1971]*
- (3) *[subsection (3) deleted by Act 16 of 1971]*
- (4) *[subsection (4) deleted by Act 16 of 1971]*
- (5) The payment of a pension to a person who, after the commencement of this Act, has been absent from the Republic for a continuous period exceeding six months, shall be suspended as from the first day of the seventh month following upon the month in which he last left the Republic: Provided that if the Secretary is, for reasons advanced by such person, of the opinion that it is just that payment of that pension be continued or resumed, the Secretary may permit payment thereof to be continued or resumed for such period or periods and subject to such conditions as he may determine.
- (6) The Secretary may direct that the provisions of subsection (5) shall not apply in respect of any continuous period of absence of any particular pensioner between any date prior to and any date after the commencement of this Act.

6. Application for a blind person's pension

- (1) Any person who claims a pension shall apply to a district pension officer on the form determined by the Secretary, and shall furnish such particulars and information in support of his application as may be prescribed or as the district pension officer may require.
- (2) The district pension officer shall, after such enquiry as he may consider necessary, transmit the application to the Secretary together with all relevant particulars and information at his disposal and his report thereon.
- (3) The Secretary shall, after consideration of the application and the said particulars, information and report, determine the amount of any pension and allowance to which the applicant may be entitled.

7. Powers of Secretary and district pension officers to take evidence

- (1) The Secretary or a district pension officer may take powers of evidence for the purpose of enquiring into any matter falling within his functions in terms of this Act relating to pensions or allowances, and for that purpose may subpoena witnesses, require the production of any book, record or document relevant to the enquiry, administer an oath or an affirmation to any witness and examine him, and examine any such book, record or document.
- (2) A subpoena to appear before the Secretary or a district pension officer or to produce any book, record or document, shall correspond as far as may be practicable to the form prescribed for the purpose, shall be signed by the Secretary or the district pension officer concerned, and shall be served on the person subpoenaed, either by registered letter sent through the post or by delivery by a person authorized by the Secretary or the district pension officer so to serve it, or in the same manner as it would be served if it were subpoena in a criminal case issued by a magistrate's court.

[The phrase "served as if it were a subpoena" should be "served as if it were a subpoena".]

- (3) Any person who, without lawful excuse (the onus of proving which shall be upon him) fails to attend at the time and place specified in a subpoena served upon him in terms of subsection (2), or to produce any book, record or document in terms of any such subpoena, or refuses to be sworn or to make an affirmation when called upon in terms of subsection (1) to do so, or when being examined in terms of that subsection, refuses to answer fully and satisfactorily any question lawfully put to him, shall be guilty of an offence: Provided that any person so subpoenaed shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provincial division of the Supreme Court of South Africa is entitled.
- (4) Any witness who, after having been sworn or having made an affirmation, gives false evidence before the Secretary or a district pension officer on any matter relevant to the enquiry, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

8. Suspension or administration of pensions

- (1) If in the opinion of the Secretary a pensioner misuses his pension the Secretary may suspend payment thereof or order that it be administered subject to such conditions as he may determine.
- (2) If the Secretary is of the opinion that it is for any reason inadvisable to pay a pension to the pensioner direct, he may order that such pension shall be paid to some other person on behalf of such pensioner subject to such conditions as to its administration as the Secretary may determine.

9. Repayment of sums overpaid

- (1) If any person has in terms of this Act received any sum of money which was paid to him by virtue of the fact that he is a pensioner, and to which he was not entitled, he or, if he dies, his estate, shall be liable to repay that sum to the Minister, unless the Minister is satisfied that he received it without any knowledge that he was not entitled thereto.
- (2) Such sum may, in the discretion of the Secretary and without prejudice to any other remedy, be recovered by means of deductions from any pension or allowance due to the person liable to repay it.
- (3) The provisions of this section shall apply with the necessary modifications in the case of a person to whom such a sum of money was paid for or for the benefit of any other person.
- (4) The Treasury or any person authorized thereto by the Treasury may in its or his discretion write off the whole or any portion of any sum repayable in terms of this section, if satisfied that it would be uneconomical to recover such sum or that recovery thereof would cause undue hardship.

10. Appeal to the Minister

- (1) Any decision or action relating to pensions or allowances by the Secretary in the administration of this Act shall be subject to an appeal to the Minister.
- (2) In any question arising out of any provision of this Act relating to pensions or allowances the decision of the Minister shall be final: Provided that the Minister may at any time reconsider and vary or reverse his decision.

11. Pensions or allowances not assignable or executable

- (1) No pension or allowance or right to any pension or allowance shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated, nor shall it be liable to attachment or any form of execution under a judgment or order of a court of law, and if a pensioner attempts to assign, transfer or otherwise cede or to pledge or hypothecate his pension or allowance or right to any pension or allowance, payment of the pension and allowance may by order of the Minister be withheld, suspended or entirely discontinued.
- (2) In any proceedings for civil imprisonment against a pensioner his means shall be deemed not to include any sum received by him by virtue of this Act.
- (3) If the estate of any pensioner is sequestrated, any sum of money payable to him in terms of this Act by virtue of the fact that he is a pensioner, shall not form part of the assets in his insolvent estate.

12. False statements and improper receipt of pensions

Any person who, for the purpose of obtaining or retaining any pension or allowance, whether for himself or for any other person, or for the purpose of obtaining any pension or allowance for himself or for any other person at a higher rate than that appropriate to the case, makes any statement or representation which he knows to be false, and any person who receives in respect of any pension or allowance payment of any sum which he is to his knowledge not entitled to receive, shall be guilty of an offence.

13. Exemption from stamp duty

No stamp duty shall be payable in respect of -

- (a) any power of attorney given by an applicant to any person to apply for any pension or allowance on his behalf or any power of attorney given by a pensioner to any person to receive payment of any pension or allowance on his behalf; or
- (b) any receipt given in respect of the payment of any pension or allowance.

14. Information to be furnished to the Secretary

Notwithstanding anything to the contrary in any law contained, any registrar of births and deaths, registrar of deeds or prescribed officer shall upon application by the Secretary furnish him with such information relating to any applicant for a pension as may be prescribed or as may in any particular case be determined by the Secretary.

15. Delegation of powers

- (1) The Minister may delegate to the Secretary or any other officer in the department of State of which the Secretary is the head, and, with the approval of the Minister in question, to any officer in any other department of State, any power conferred upon him by this Act, not being a power conferred by section 17.
- (2) The Secretary may, with the approval of the Minister, authorize any officer in the department of State of which he is the head to exercise on his behalf any power conferred upon him by this Act and may, with such approval and with the approval of the Minister of any other department of State, authorize any officer in such other department so to exercise any such power.

16. Penalties

Any person convicted of any offence under this Act for which no penalty is provided, shall be liable to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment.

17. Regulations

- (1) The Minister may, subject to the provisions of sub-sections (2) and (3), make regulations as to -
 - (a) the payment of pensions or allowances, including the maximum amount to be paid, the determination of the amount to be paid in any particular case, the method of payment, payment to persons other than the pensioner himself and the suspension of payment;
 - (b) the making of contributions under section 2;
 - (c) the registration of blind persons, applications for such registration, the criteria according to which a medical practitioner shall determine whether any person is blind for the purposes of such registration and any certificate required in connection with such registration;
 - (d) the requirements or conditions, in addition to any specified in section 5, to be complied with by any person in order to qualify for any pension or allowance and the circumstances in which any person shall cease so to qualify;
 - (e) applications for pensions or allowances, including the particulars and information to be furnished by applicants or any category of applicants;
 - (f) the consideration, granting or refusal of any application for any pension or allowance;
 - (g) the income or assets to be taken into account in determining the amount of any pension or allowance;

[paragraph (g) substituted by Act 16 of 1971]

- (h) the circumstances in which pensions or allowances may be paid to persons maintained or receiving treatment in State or State-aided institutions;
 - (i) the date of accrual of any pension or allowance;
 - (j) the cancellation or lapsing of any pension or allowance and variation of the amount thereof;
 - (k) the procedure to be adopted at any enquiry under this Act and the form of any subpoena to appear at such an enquiry;
 - (l) the administration of pensions or allowances;
 - (m) information which may from time to time be required of any pensioner;
 - (n) the repayment of sums overpaid;
 - (o) the manner in which and period within which an appeal may be lodged against a decision of the Secretary;
 - (p) information to be furnished in terms of section 14;
 - (q) any other matter which shall or may be prescribed in terms of any provision of this Act, or in respect of which, in the opinion of the Minister, it is necessary or expedient to make regulations for achieving the objects of this Act.
- (2) No regulation by virtue of which the aggregate amount of the pension and allowances to which any pensioner whose income (including assets) has not increased, has at any time been entitled, will be reduced, shall be made without the approval, by resolution, of the Senate and of the House of Assembly.
- (3) Different regulations may under subsection (1) be made in respect of different areas or in respect of persons belonging to different classes or population groups.
- [subsection (3) substituted by Act 16 of 1971]*
- (4) Regulations under subsection (1) may be made with retrospective effect from a date not earlier than the date of commencement of this Act.
- [subsection (4) inserted by Act 86 of 1970, with the insertion deemed to be effective as of 1 October 1968 (section 10(2) of Act 86 of 1970)]*

18. Administration of Act

- (1) The State President may by proclamation in the Gazette assign the administration of the provisions of this Act, either generally or in respect of persons belonging to a specified class or population group defined in the proclamation, to any Minister or partly to one Minister and partly to another Minister or other Ministers, and may in such proclamation specify the powers or functions which shall be exercised or performed by the several Ministers, and provide that any power or function assigned to the Minister by this Act, shall be exercised or performed by one Minister acting in consultation with another Minister.
- [subsection (1) substituted by Act 16 of 1971]*
- (2) The State President may from time to time by like proclamation vary or amend any such proclamation.

18A. Application of Act in the territory

This Act and any amendment thereof shall, save in so far as it has already been declared to be applicable in the territory in terms of section 16(1) of the Pension Laws Amendment Act, 1968 (Act No. 79 of 1968), also apply in the territory, including the Eastern Caprivi Zipfel.

[Section 18A is inserted by Act 16 of 1971. See the note in the heading of this Act on the Act's initial partial applicability to South West Africa under the authority of Act 79 of 1968.]

19. Repeal of laws

- (1) Subject to the provisions of subsection (2) the laws specified in the Schedule are hereby repealed to the extent shown in the third column thereof.
- (2) Anything done in terms of a law repealed by subsection (1) which could be done in terms of any provision of this Act, shall be deemed to have been done in terms of that provision.

[Act 16 of 1971 provides for the following additional repeals in South West Africa:

"7. Repeal of Ordinance 2 of 1965 of the territory of South-West Africa in certain respects

(1) Subject to subsection (2) the Social Pensions Ordinance, 1965 (Ordinance No. 2 of 1965), of the territory of South-West Africa is hereby repealed in so far as it relates to pensions for blind persons and matters incidental thereto.

(2) Anything done in terms of the ordinance repealed by subsection (1) which could be done in terms of any provision of the principal Act [Act 26 of 1968], shall be deemed to have been done in terms of the corresponding provisions of that Act.

(3) For the purposes of subsection (2) any person who immediately prior to the commencement of this Act received a pension or allowance under the ordinance repealed by this Act shall be deemed at the time of making application for such pension or allowance to have complied with the residential requirements referred to in section 5 of the principal Act."

20. Short title and commencement

This Act shall be called the Blind Persons Act, 1968, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.

[Act 16 of 1971 provides the following transitional provision:

"Registration of blind persons in the territory of South-West Africa. 9. The name of any person in the territory of South-West Africa who, immediately prior to the commencement of this Act, was in receipt of a pension for blind persons awarded to him in terms of the Social Pensions Ordinance, 1965, or any ordinance repealed in terms thereof, shall be entered by the Secretary for Social Welfare and Pensions in the register referred to in section 3 of the principal Act, and such person shall be deemed to have been registered as a blind person in terms of that section with effect from such commencement."

Schedule

Laws Repealed

No. and year of Law.	Title.	Extent of Repeal.
Act No. 39 of 1962.	Blind Persons Act, 1962.	The whole.
Act No. 92 of 1962.	Pension Laws Amendment Act, 1962.	Sections 44 and 45 and section 51 in so far as it relates to blind persons' pensions.
Act No. 95 of 1963.	Pension Laws Amendment Act, 1963.	Sections 27 and 28
Act No. 84 of 1964.	Pension Laws Amendment Act, 1964.	Sections 17,18 and 19.

Act No. 102 of 1965.	Pension Laws Amendment Act, 1965.	Sections 35 and 36.
Act No. 26 of 1966.	Pension Laws Amendment Act, 1966.	Section 13 in so far as it relates to blind persons' pensions.
Act No. 91 of 1967.	Pension Laws Amendment Act, 1967.	Sections 6, 7, 8 and 14.