

UNION OF SOUTH AFRICA.

Disability Pensions Bill.

(To be read a Second Time on Monday, 1st August, 1938.)

BILL

TO

Provide for the payment of pensions to persons who are physically or mentally unfit.

(Introduced by the MINISTER OF SOCIAL WELFARE.)

UNIE VAN SUID-AFRIKA.

Pensioene vir Gebrekkiges Wetsontwerp.

(Vir die tweede maal gelees te word op Maandag, 1 Augustus 1938.)

WETSONTWERP

OM

Voorsiening te maak vir die betaling van pensioene aan liggaamlik- of geestelik-gebrekkiges.

(Ingedien deur die MINISTER VAN VOLKSWELSYN.)

[A.B. 17—'38.]

No. of Copies, 900.
Cost of Printing, £9 11s. 10d.

BILL

To provide for the payment of pensions to persons who are physically or mentally unfit.

(Introduced by the MINISTER OF SOCIAL WELFARE.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa as follows:—

Secretary for Social Welfare charged with administration of this Act.

1. The Secretary for Social Welfare (hereinafter referred to as the Secretary) shall, subject to the control of the Minister, be charged with the administration of the provisions of this Act. 5

Persons entitled to pensions.

2. Subject to the provisions of this Act, every person who satisfies the Secretary that he is— 10

- (1) a white or coloured person ;
- (2) not less than sixteen years of age ;
- (3) domiciled in the Union ;
- (4) resident in the Union at the date of application ;
- (5) a Union national or has been ordinarily resident in the Union for ten out of the fifteen years immediately preceding the date of application ; and 15
- (6) by reason of physical or mental disability, permanently unfit to earn a livelihood,

shall be entitled to receive a pension : Provided that— 20

- (a) no woman who, but for her marriage with an alien, would have been qualified to receive a pension, shall in consequence only of such marriage be or become disqualified to receive a pension ;
- (b) for the purposes of this section, residence in the Union shall not be deemed to have been interrupted by any period spent outside the Union during which the person concerned has maintained his domicile in the Union, or during which he has been in a territory administered by the Union ; 25
- (c) no pension under this Act shall be payable to any person— 30
 - (i) who earns more than the maximum amount per annum which could be paid under sub-section (1) of section *three* ; or 35
 - (ii) who receives a pension under the Old Age Pensions Act, 1928, or the Blind Persons Act, 1936, or any other pension or allowance of whatsoever nature (other than an allowance by way of pauper relief) in excess of the said maximum amount ; or 40
 - (iii) who receives a pension granted before the commencement of this Act under the scheme for assisting needy physically unfit white persons, administered by the Minister ; 45
 - (iv) who is a lessee under the laws relating to land settlement, or a lessee or person liable to make payments as a purchaser under any law relating to the disposal of Crown lands, or a " bywoner ", who has at any time during the five years immediately preceding the date of application for a pension, received assistance under the scheme known as the rural rehabilitation and housing scheme, and is still resident upon the farm where he received the assistance ; 50
 - (v) who is cared for under the Children's Act, 1937 ; 55
 - (vi) in respect of any period during which he is being detained and maintained at the public expense in a leper institution, mental hospital, hospital, prison or other state institution ; 60
 - (vii) who is a married woman, unless her husband receives a pension under the Old Age Pensions

WETSONTWERP

Om voorsiening te maak vir die betaling van pensioene aan liggaamlik- of geestelik-gebrekkiges.

(Ingedien deur die MINISTER VAN VOLKSWELSYN.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. Die Sekretaris van Volkswelsyn (hierna die Sekretaris
5 genoem) is, onder toesig van die Minister, belas met die uitvoering van die bepalings van hierdie Wet. Sekretaris van Volkswelsyn belas met uitvoering van hierdie Wet.
2. Met inagneming van die bepalings van hierdie Wet, is
10 elke persoon wat die Sekretaris oortuig dat hy—
 (1) 'n blanke of 'n kleurling is;
 (2) nie jonger is as sestien jaar nie;
 (3) in die Unie gedomisileer is;
 (4) op die tydstip waarop hy aansoek doen, in die Unie
15 woon;
 (5) 'n Unie-staatsburger is, of gedurende tien uit vyftien jaar wat die dag van aansoek onmiddellik voorafgaan, gewoonlik in die Unie gewoon het; en
 (6) weens liggaams- of geestesgebrek blywend onbekwaam is om 'n bestaan te maak,
20 geregtig om 'n pensioen te ontvang: Met dien verstande dat—
 (a) geen vrou wat bevoeg sou gewees het om 'n pensioen te ontvang as sy nie met 'n vreemdeling getroud was nie alleen maar tengevolge van daardie huwelik onbevoeg is of word om 'n pensioen te ontvang nie;
25 (b) woonagtigheid in die Unie, volgens die betekenis van hierdie artikel, nie geag word onderbreek te geword het nie deur 'n tydperk buite die Unie deurgebring, gedurende welke die betrokke persoon sy domisilie in die Unie behou het of in 'n gebied was wat deur die Unie beheer word;
30 (c) geen pensioen kragtens hierdie Wet betaalbaar is nie aan iemand—
 (i) wat meer verdien as die maksimum-bedrag per jaar wat kragtens sub-artikel (1) van artikel drie betaal kan word; of
35 (ii) wat 'n pensioen ingevolge die Ouderdomspensioenwet, 1928, of die Wet op Blindes, 1936, of enige ander pensioen of toelae van watter aard ook al ontvang (uitgesonderd 'n toelae by wyse van onderstand aan armlastiges) wat meer beloop as genoemde maksimum-bedrag;
40 (iii) wat 'n pensioen ontvang wat voor die inwerking-treding van hierdie Wet toegeken is ingevolge die deur die Minister beheerde skema tot bystand van behoeftige liggaamlikgebrekkige blankes;
45 (iv) wat 'n huurder is ingevolge die wette op neder-setting, of 'n huurder of persoon wat verplig is om betalings te doen as koper ingevolge die regsbepalings betreffende die verkoop van Kroon-grond, of 'n bywoner wat te eniger tyd gedurende die vyf jaar wat die dag van aansoek om 'n pensioen onmiddellik voorafgaan, hulp ontvang het ingevolge die skema bekend as die platte-landse rehabilitasie- en behuisingskema, en nog op die plaas waar hy die hulp ontvang het woonagtig is;
50 (v) wat ingevolge die Kinderwet, 1937, versorg word;
60 (vi) ten opsigte van enige tydperk gedurende welke hy op staatskoste aangehou en onderhou word in 'n melaatsegestig, kranksinnigegestig, hospitaal, gevangenis of ander staatsinrigting;
55 (vii) wat 'n gehude vrou is, tensy haar eggenoot 'n pensioen ingevolge die Ouderdomspensioenwet, 1928,
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Act, 1928, the Blind Persons Act, 1936, or this Act, or unless she satisfies the Secretary that her husband is by reason of physical or mental disability permanently unfit to earn a livelihood and that his income or means does not exceed 5 double the maximum amount of the pension which could be paid to her under section *three*;

Amount of pensions.

3. (1) The pension to be granted to any person under this Act shall be of such amount as, having regard to the circumstances of such person, the Secretary deems reasonable and 10 sufficient, but shall not exceed—

- (a) in an area designated as a city under section *six*, the rate of thirty pounds per annum in the case of a white person, or of twenty-one pounds per annum in the case of a coloured person; or 15
- (b) in an area designated as a town under the said section, the rate of twenty-seven pounds per annum in the case of a white person, or of fifteen pounds per annum in the case of a coloured person; or
- (c) in any other area, the rate of twenty-four pounds 20 per annum in the case of a white person, or of twelve pounds per annum in the case of a coloured person, and shall not be at such a rate as will make such person's income or means together with the pension exceed the maximum amount per annum of the pension which could be paid 25 to such person under this sub-section.

(2) The Secretary shall—

- (a) in assessing the income or means of any person for the purposes of this section, not take into account the earnings of such person up to an amount equal 30 to the said maximum amount; and
- (b) if the applicant is the husband, assess his income or means at one half thereof after deduction of the earnings referred to in paragraph (a), together with one half of his wife's income or means after deduction 35 of so much of her earnings as does not exceed forty-two pounds per annum in the case of a white person or twenty-one pounds per annum in the case of a coloured person, and of the amount of any pension granted to her under the Old Age Pension Act, 1928, 40 the Blind Persons Act, 1936, or this Act;
- (c) if the applicant is the wife, assess her income or means at one half thereof after deduction of the earnings referred to in paragraph (a), together with one half of her husband's income or means after deduction 45 of the said earnings and the amount of any pension granted to him under the Old Age Pension Act, 1928, the Blind Persons Act, 1936, or this Act.

(3) In determining whether any person should be granted a pension or the amount of any pension, or whether a pension 50 should or should not be discontinued or increased or reduced, the Secretary shall take into account—

- (a) the ability of the parents or children (not being step-parents or step-children) of an applicant or pensioner to support him or contribute to his support; and 55
- (b) the ability and opportunities of an applicant or pensioner to support himself or to contribute towards his support by his own exertions.

Date of accrual of pension.

4. Any pension granted under this Act shall accrue as from the date on which the application is made or as from the date 60 upon which the applicant becomes qualified in terms of section *two* to receive a pension, whichever is the later date.

Application of Act 22 of 1928.

5. The provisions of sub-sections (2) and (3) of section *two*, sections *three* to *five*, *eight* to *fourteen* and paragraph (b) of section *seventeen* of the Old Age Pensions Act, 1928, shall, 65 *mutatis mutandis*, apply with reference to pensions under this Act: Provided that any reference in any of the said provisions as so applied to "the Commissioner" and any reference in section *nine*, *ten* or *twelve* of the said Act as so applied to "the Minister", shall be deemed to be a reference to the Secretary. 70

Minister may designate areas as cities or towns.

6. The Minister may by notice in the *Gazette* designate any area as a city or as a town for the purposes of this Act, and may cancel or amend any such notice.

Exemption from stamp duty.

7. No stamp duty shall be payable in respect of any affidavit in support of an application for a pension or in respect of any 75 receipt given for the payment of a pension.

of die Wet op Blindes, 1936, of hierdie Wet ontvang, of tensy sy die Sekretaris oortuig dat haar eggenoot weens liggaams- of geestesgebrek blywend onbekwaam is om 'n bestaan te maak, en dat sy inkomste of middele nie meer bedra nie as dubbel die maksimumbedrag van die pensioen wat ingevolge artikel *drie* aan haar betaal kan word.

3. (1) Die pensioen wat ingevolge hierdie Wet aan iemand toegeken word, beloop so 'n bedrag as wat die Sekretaris, met inagneming van die omstandighede van so iemand, redelik en voldoende ag, maar beloop nie meer nie as die skaal van—

(a) dertig pond per jaar in die geval van 'n blanke, of een-en-twintig pond per jaar in die geval van 'n kleurling, in 'n gebied wat ingevolge artikel *ses* as 'n stad aangewys is; of

(b) sewe-en-twintig pond per jaar in die geval van 'n blanke, of vyftien pond per jaar in die geval van 'n kleurling, in 'n gebied wat ingevolge genoemde artikel as 'n dorp aangewys is; of

(c) vier-en-twintig pond per jaar in die geval van 'n blanke, of twaalf pond per jaar in die geval van 'n kleurling, in enige ander gebied,

en mag ook nie van so 'n bedrag wees nie dat so iemand se inkomste of middele tesame met die pensioen, meer bedra as die maksimum-bedrag per jaar van die pensioen wat aan so iemand ingevolge hierdie sub-artikel betaal kan word.

(2) Die Sekretaris moet—

(a) by die skatting van iemand se inkomste of middele vir die toepassing van hierdie artikel, sy verdienste tot 'n bedrag gelykstaande met bedoelde maksimum-bedrag, nie in aanmerking neem nie;

(b) indien die aansoeker die eggenoot is, sy inkomste of middele skat op die helfte daarvan na aftrekking van die in paragraaf (a) bedoelde verdienste, tesame met die helfte van sy eggenote se inkomste of middele na aftrekking van soveel van haar verdienste as wat, in die geval van 'n blanke, twee-en-veertig pond, en in die geval van 'n kleurling, een-en-twintig pond per jaar nie te bowe gaan nie, en van die bedrag van 'n pensioen aan haar toegeken ingevolge die Ouderdomspensioenwet, 1928, of die Wet op Blindes, 1936, of hierdie Wet;

(c) indien die aansoeker die eggenote is, haar inkomste of middele skat op die helfte daarvan na aftrekking van dié in paragraaf (a) bedoelde verdienste, tesame met die helfte van haar eggenoot se inkomste of middele na aftrekking van bedoelde verdienste en die bedrag van 'n pensioen aan hom toegeken ingevolge die Ouderdomspensioenwet, 1928, of die Wet op Blindes, 1936, of hierdie Wet.

(3) Wanneer die Sekretaris beslis of aan een of ander persoon 'n pensioen behoort toegeken te word, of die bedrag van 'n pensioen vasstel, of beslis of 'n pensioen al dan nie behoort gestaak of vermeerder of verminder te word, moet hy in aanmerking neem—

(a) die vermoë van die ouers of kinders (wat nie stiefouers of stiefkinders is nie) van 'n aansoeker of pensioentrekker om hom te onderhou of om tot sy onderhoud by te dra; en

(b) die vermoë en geleenthede van 'n aansoeker of pensioentrekker om homself te onderhou of om tot sy onderhoud deur sy eie inspanning by te dra.

4. 'n Pensioen ingevolge hierdie Wet toegeken, is verskuldig vanaf die dag waarop aansoek gedoen is of vanaf die dag waarop die aansoeker ingevolge artikel *twee* bevoeg word om 'n pensioen te ontvang, na gelang die een of die ander later is.

5. Die bepalinge van sub-artikels (2) en (3) van artikel *twee*, artikels *drie* tot en met *vyf*, *agt* tot en met *veertien*, en paragraaf (b) van artikel *seventien* van die Ouderdomspensioenwet, 1928, is *mutatis mutandis* van toepassing met betrekking tot pensioene ingevolge hierdie Wet: Met dien verstande dat 'n verwysing na „die Kommissaris” in enige van genoemde bepalinge soos aldus toegepas, en 'n verwysing na „die Minister” in artikel *nege*, *tien* of *twaalf* van genoemde Wet soos aldus toegepas, geag word 'n verwysing na die Sekretaris te wees.

6. Die Minister kan by kennisgewing in die *Staatskoerant* enige gebied as 'n stad of as 'n dorp aanwys vir die doeleinde van hierdie Wet, en kan so 'n kennisgewing intrek of wysig.

7. Geen seëlregte is betaalbaar ten opsigte van 'n beëdigde verklaring tot staving van 'n aansoek om 'n pensioen of ten opsigte van 'n kwitansie gegee vir die betaling van 'n pensioen.

Bedrag van pensioen.

Dag waarop pensioen verskuldig word.

Toepassing van Wet 22 van 1928.

Minister kan gebiede as stede of dorpe aanwys.

Vrystelling van seëlregte.

Regulations.

8. The Minister may make regulations as to—

- (a) the form in which an application for a pension shall be made, and the evidence and information to be submitted with such application ;
- (b) the form of medical certificate required to be completed 5 in support of an application for a pension ;
- (c) the registration, investigation and determination of of claims for pensions ;
- (d) the manner in which and time within which an appeal under section *eleven* of the Old Age Pensions Act, 10 1928, as applied with reference to pensions under this Act by section *five*, may be noted against any decision of the Secretary ;
- (e) the method of payment of pensions ;
- (f) the circumstances in which pensions may be paid 15 for the benefit of persons supported or under treatment in institutions ;
- (g) the payment of pensions to persons other than the pensioners themselves ; and
- (h) generally all matters which he considers it necessary 20 or expedient to prescribe in order that the purposes of this Act may be attained.

Definitions.

9. In this Act—

- “ coloured person ” has the meaning assigned to it in section *twenty* of the Old Age Pensions Act, 1928 ; 25
- “ Minister ” means the Minister of Social Welfare or any other Minister of State acting in his stead ;
- “ this Act ” includes any regulation made thereunder.

Short title and commencement.

10. This Act shall be called the Disability Pensions Act, 1938, and shall come into operation upon a date to be fixed 30 by the Governor-General by proclamation in the *Gazette*.

8. Die Minister kan regulasies uitvaardig wat betref— Regulasies.
- (a) die vorm waarin 'n pensioen aangevra moet word, en die bewyse en gegewens wat met so 'n aansoek voorgelê moet word;
- 5 (b) die vorm van die geneeskundige sertifikaat wat tot stawing van 'n aansoek om 'n pensioen ingevul moet word;
- (c) die registrasie, ondersoek en beslissing van aansprake op pensioene;
- 10 (d) die wyse waarop en die tyd binne welke 'n beroep ingevolge artikel *elf* van die Ouderdomspensioenwet, 1928, soos deur artikel *vyf* met betrekking tot pensioene ingevolge hierdie Wet toegepas, teen 'n beslissing van die Sekretaris aangeteken kan word;
- 15 (e) die manier van uitbetaling van pensioene;
- (f) die omstandighede waaronder pensioene uitbetaal mag word ten bate van persone wat in inrigtings onderhou word of onder behandeling is;
- 20 (g) die betaling van pensioene aan ander persone as die pensioentrekkers self; en
- (h) oor die algemeen alle sake wat hy nodig of raadsaam ag om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.
9. In hierdie Wet—
- 25 het „kleurling” die betekenis daaraan toegeskryf in artikel *twintig* van die Ouderdomspensioenwet, 1928; Wordbepaling.
- beteken „Minister” die Minister van Volkswelsyn of enige ander Staatsminister wat namens hom optree;
- 30 omvat „hierdie Wet” 'n regulasie ingevolge daarvan uitgevaardig.
10. Hierdie Wet heet die Wet op Pensioene vir Gebrekkiges, Kort titel en
1938, en tree in werking op 'n dag deur die Goewerneur-inwerkingtreding.
generaal by proklamasie in die *Staatskoerant* vasgestel.

Collection Number: AD1715

SOUTH AFRICAN INSTITUTE OF RACE RELATIONS (SAIRR), 1892-1974

PUBLISHER:

Collection Funder:- Atlantic Philanthropies Foundation

Publisher:- Historical Papers Research Archive

Location:- Johannesburg

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