



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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No. 2211

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### Government Notice

#### OFFICE OF THE PRIME MINISTER

No. 213 1999

#### PROMULGATION OF ACT OF PARLIAMENT

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

No. 16 of 1999: War Veterans Subvention Act, 1999.

# ACT

- To** provide for the establishment of the War Veterans Trust Fund; to provide for the management and control of the said Fund; to provide for the establishment and constitution of the War Veterans Subvention Administration Board; to define the powers, duties and functions of the said Board; to provide for the registration of war veterans and dependants of deceased war veterans; to provide for the payment of subventions to war veterans and dependants of deceased war veterans; to provide for the establishment of the War Veterans Subvention Appeal Board; and to provide for incidental matters.

*(Signed by the President on 30 September 1999)*

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**BE IT ENACTED** by the Parliament of the Republic of Namibia, as follows:-

**PART I****PRELIMINARY****Definitions**

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

“Appeal Board” means the War Veterans Subvention Appeal Board established by section 37(1);

“applicant” means -

- (a) in relation to an application for registration as a war veteran or dependant of a deceased war veteran, any person who applies for registration as such;
- (b) in relation to an application for the granting of a subvention, a war veteran or dependant of a deceased war veteran who applies for such a subvention;

“application date” means the date on which a subvention is applied for;

“Board” means the War Veterans Subvention Administration Board established by section 12;

“child”, in relation to a deceased war veteran, means a child -

- (a) who is a child for whose maintenance such war veteran was legally liable at the time of his or her death;
- (b) who is a stepchild of such war veteran;

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- (c) who is a legally adopted child of such war veteran;
- (d) who is a posthumous child of such war veteran;

“colonial forces” means the armed forces of any country which before 21 March 1990 occupied Namibia in violation of international law;

“component” means an organisational component as defined in section 1(1) of the Public Service Act, 1995 (Act No. 13 of 1995);

“deceased war veteran” means any war veteran who, of whatever cause, died during or after the war up to and including 21 March 1990;

“dependant”, in relation to a deceased war veteran, means -

- (a) a spouse or child of such war veteran;
- (b) a person, other than a person mentioned in paragraph (a), in respect of whom such war veteran was at the time of his or her death legally liable for maintenance;
- (c) a person in respect of whom such war veteran was at the time of his or her death not legally liable for maintenance, if such person was, in the opinion of the Board, at the time of the death of such war veteran in fact dependent on such war veteran for maintenance;
- (d) a person in respect of whom such war veteran would have become legally liable for maintenance, had such war veteran not died;

“employed” means to do any work or to render any services or to carry on any trade or occupation for the purposes of receiving or becoming entitled to receive any remuneration;

“financial institution” means a banking or like institution authorised or registered in terms of the appropriate laws of Namibia to conduct business as such;

“Fund” means the War Veterans Trust Fund established by section 2(1);

“liberation force” means the armed forces, consisting of Namibian citizens and allies, which waged war in order to bring about the independence of Namibia;

“liberation struggle” means the struggle against colonialism, racism and apartheid waged in Namibia and other countries during the period 1963 to 1989 by Namibian citizens and allies, and which struggle resulted in the attainment of the independence of Namibia on 21 March 1990;

“marriage”, in relation to a dependant of a deceased war veteran, includes a customary union;

“Minister” means the Minister of Health and Social Services;

“permanent disability” means any physical or mental condition that renders a person unable to provide adequately for his or her own maintenance;

“prescribed” means prescribed by regulation made under section 39;

“registered” means registered under section 24(2)(a) as a war veteran or dependant of a deceased war veteran, and “registration” shall have a corresponding meaning;

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“spouse”, in relation to a deceased war veteran, includes a party to a customary union;

“staff member” means a staff member as defined in section 1(1) of the Public Service Act, 1995 (Act No. 13 of 1995);

“subvention” means a war veterans subvention payable to a war veteran or dependant of a deceased war veteran in terms of section 28;

“this Act” includes the regulations made under section 39;

“war” means the armed struggle waged in Namibia and other countries during the period 1963 to 1989 by the liberation force against the colonial forces, and which struggle resulted in the attainment of the independence of Namibia on 21 March 1990;

“war veteran” means any person who is a Namibian citizen and -

- (a) who, during the war, performed military service in Namibia or in any other country as a member of the liberation force; or
- (b) who, owing to his or her participation in the liberation struggle, was convicted, whether in Namibia or elsewhere, of any offence closely connected with such struggle and sentenced in respect thereof to such long period of imprisonment that he or she was as a result of such imprisonment unable to perform, during the war, military service as contemplated in paragraph (a),

but does not include a person who at any time during the war deserted the liberation force.

## **PART II WAR VETERANS TRUST FUND**

### **Establishment of Fund**

2. (1) There is hereby established a trust fund to be known as the War Veterans Trust Fund.

(2) The Fund shall be a juristic person and shall be represented by the chairperson or the deputy chairperson or any other member of the Board designated by the Board in general or for a specific purpose.

### **Object of Fund**

3. The object of the Fund is to pay subventions to war veterans and dependants of deceased war veterans in accordance with the provisions of this Act.

### **Revenue of Fund**

4. The Fund shall consist of-

- (a) moneys appropriated by Parliament for the Fund for the achievement of its object;
- (b) domestic and foreign donations or grants made to the benefit of the Fund;
- (c) interest derived from the investment of moneys referred to in section 7; and
- (d) moneys accruing to the Fund from any other source.

**Management and control of Fund**

5. The affairs of the Fund shall be managed and controlled by the Board, which shall exercise the powers and perform the duties and functions conferred or imposed upon the Board by or under this Act.

**Banking account**

6. (1) The Board shall open and maintain a banking account in the name of the Fund with a financial institution -

- (a) into which shall be deposited all moneys accruing to the Fund in terms of this Act or any other law; and
- (b) from which shall be defrayed all expenditure in connection with the administration of the Fund (including expenditure in connection with the performance of the functions of the Board) and be paid any amounts with which the Fund is charged in terms of this Act.

(2) No payment contemplated in paragraph (b) of subsection (1) shall be made as a charge to the Fund except by authority of the Board and in the prescribed manner.

(3) The Board shall apply any donation or grant contemplated in paragraph (b) of section 4 in accordance with the conditions, if any, imposed by the donor or grantor concerned.

**Investment of balances**

7. Notwithstanding the provisions of section 6, moneys standing to the credit of the Fund which are not required for immediate use or as a reasonable working balance, may be invested by the Board in the name of the Fund in such manner as the Board in consultation with the Minister and the Minister of Finance may determine.

**Financial year of Fund**

8. The financial year of the Fund shall end on 31 March in each year.

**Bookkeeping and accounting, and unexpended balances**

9. (1) The Board shall keep or cause to be kept proper accounts and records of all moneys accrued to or paid from the account of the Fund so as to at all times present fairly or reflect correctly all the financial transactions and the financial position of the Fund.

(2) Any unexpended balance in the account of the Fund at the close of any financial year, including accrued interest on investment balances and other receipts, shall be carried forward as a credit in such account to the next ensuing financial year.

**Annual statements and auditing**

10. (1) The Board shall as soon as practicable, but not later than six months after the end of each financial year referred to in section 8, prepare and submit, subject to the provisions of subsection (2), to the Minister -

- (a) annual financial statements in respect of the financial year in question;
- (b) a statement of the estimated income and expenditure during the next ensuing financial year; and

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- (c) a report on its activities during that financial year.
- (2) The statements referred to in subsection (1) shall -
  - (a) be prepared in such form and contain such particulars as the Minister may determine after consultation with the Auditor-General; and
  - (b) be examined and audited by the Auditor-General before being submitted to the Minister.
- (3) The Minister shall lay upon the Table of the National Assembly -
  - (a) all the statements and the report received by him or her in terms of subsection (1); and
  - (b) the report of the Auditor-General relating to such statements,

within 30 days from the date of receipt thereof, if the National Assembly is then in ordinary session, or, if the National Assembly is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.

**Exemption from certain taxes, duties and levies**

11. No income tax or any other tax or duty or levy shall be payable by the Fund in terms of any law.

**PART III****WAR VETERANS SUBVENTION ADMINISTRATION BOARD****Establishment of Board**

12. There is hereby established a board to be known as the War Veterans Subvention Administration Board.

**Constitution of Board**

13. (1) The Board shall consist of nine members appointed by the Minister, subject to the provisions of subsections (2), (3), (4) and (6), of whom -
- (a) one shall be a person who in the opinion of the Minister possesses the necessary expertise to make a substantial contribution towards the functions of the Board, who shall be the chairperson;
  - (b) one shall be a staff member of the Ministry of Health and Social Services;
  - (c) two shall be staff members of the Ministry of Finance, nominated by the Minister of Finance;
  - (d) two shall be staff members of the Ministry of Defence, nominated by the Minister of Defence;
  - (e) one shall be a staff member of the National Planning Commission, nominated by the Director-General of that Commission; and
  - (f) two shall be representatives of organisations representing war veterans, nominated by those organisations as contemplated in subsection (3).

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(2) Four of the members appointed by the Minister in terms of subsection (1) (b), (c), (d), (e) and (f), shall be female.

(3) Before an appointment is made in terms of subsection (1)(f), the Minister shall by written notice to organisations representing war veterans invite those organisations to nominate in writing, within a period specified in that notice, persons for appointment as members of the Board.

(4) Upon the expiry of the period referred to in subsection (3), the Minister shall appoint as members of the Board two of the persons -

- (a) who have been nominated for appointment; and
- (b) who in the opinion of the Minister possess the necessary expertise to represent the interests of war veterans.

(5) If no nominations, as contemplated in subsection (3), have been made, or if no person so nominated for appointment satisfies the requirement of paragraph (b) of subsection (4), the Minister may, notwithstanding the provisions of subsection (1)(f) but having regard to the requirement of subsection (2), appoint two persons, who in his or her opinion are capable of representing the interests of war veterans, as members of the Board.

(6) No person shall be qualified for appointment as, or to be, a member of the Board, if he or she -

- (a) is not a Namibian citizen resident in Namibia;
- (b) is an unrehabilitated insolvent;
- (c) has been convicted, whether in Namibia or elsewhere, of any offence involving fraud or dishonesty and sentenced to imprisonment without the option of a fine;
- (d) is a member of the National Assembly or the National Council.

(7) The members of the Board shall at their first meeting and thereafter as occasion arises, elect from among their number a deputy chairperson of the Board.

(8) When the chairperson of the Board is absent or unable to perform his or her functions as chairperson of the Board, the deputy chairperson shall act as chairperson, and shall while so acting have all the powers and perform all the duties and functions of the chairperson.

**Tenure and vacation of office**

14. (1) Subject to the provisions of subsection (2), a member of the Board shall hold office for a period of three years and shall, upon the expiry of his or her term of office, be eligible for reappointment.

- (2) A member of the Board shall vacate his or her office, if he or she -
  - (a) by notice in writing addressed and delivered to the Minister, resigns as such member;
  - (b) becomes subject to any disqualification contemplated in section 13(6);
  - (c) is absent from three consecutive meetings of the Board without leave of the Board;



- (d) is convicted, whether in Namibia or elsewhere, of any offence and sentenced to imprisonment without the option of a fine;
  - (e) is in terms of any law detained as a mentally disordered person;
  - (f) in the case of a member appointed in terms of -
    - (i) paragraph (b), (c), (d) or (e) of section 13(1), ceases to be a staff member referred to in that paragraph (b), (c), (d) or (e), whichever may be applicable;
    - (ii) paragraph (f) of section 13(1), ceases to be a representative referred to in that paragraph;
  - (g) is removed from office under subsection (3) by the Minister.
- (3) The Minister may at any time, after having afforded a member of the Board an opportunity to be heard, remove such a member from office, if the Minister is satisfied that he or she -
- (a) is for whatever reason incapable of efficiently performing his or her functions as such a member;
  - (b) has conducted himself or herself in a manner that is unbecoming to such a member or is prejudicial to the interests of the Fund or the Board;
  - (c) has failed to comply with any provision of this Act.

#### **Filling of casual vacancies on Board**

15. Any casual vacancy on the Board caused by the death of any member of the Board, or the removal from or vacation of office of any such member shall, with due regard to the provisions of section 13(1), be filled for the unexpired portion of the period of office of the member who has died, or has been removed from or has vacated his or her office, as the case may be.

#### **Remuneration and allowances of members of Board and committees**

16. A member of the Board, and any person appointed as a member of a committee of the Board in terms of section 19(2)(b), who are not in the full-time employment of the State shall be paid from the Fund -

- (a) such remuneration, if any, as the Minister in consultation with the Minister of Finance may from time to time determine; and
- (b) such allowances as the Board in consultation with the Minister may from time to time determine to defray any reasonable expenses incurred by any such member in connection with the performance of the functions of the Board or such committee, as the case may be.

#### **Meetings and decisions of Board**

17. (1) The first meeting of the Board shall be held at such time and place as the Minister may determine and thereafter meetings of the Board shall, subject to the provisions of subsection (2), be held at such times, but not less than once every three months, and such places as the Board may fix.

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(2) The chairperson of the Board may at any time, and shall when requested in writing to do so by the Minister or at least three members of the Board, convene a special meeting of the Board, to be held at such time, but not less than seven days and not more than thirty days from the date of receipt of such request, and such place as the chairperson may direct.

(3) A request contemplated in subsection (2) shall state the reasons for which a special meeting is to be convened.

(4) The chairperson of the Board or, in his or her absence, the deputy chairperson shall preside at the meetings of the Board at which he or she is present.

(5) If both the chairperson of the Board and the deputy chairperson are absent from, or for whatever reason are unable to preside at, any meeting of the Board, the members present thereat shall elect one of their number to preside at such meeting, and the member so presiding shall have all the powers and perform all the duties and functions of the chairperson.

(6) The majority of the members of the Board shall constitute a quorum for any meeting of the Board.

(7) The decision of a majority of the members of the Board present at any meeting of the Board shall constitute a decision of the Board, and, in the event of an equality of votes in regard to any matter, the chairperson or other member presiding at the meeting of the Board shall have a casting vote in addition to his or her deliberative vote.

(8) No decision or act of the Board or act performed by authority of the Board shall be invalid by reason only -

- (a) of the existence of a vacancy on the Board; or
- (b) of the fact that a person who was not entitled to sit as a member of the Board sat as such a member at the time when the decision was taken or the act was performed or authorised, if the decision was taken or the act was performed or authorised by the requisite majority of the members who were present at the time and entitled to sit as members.

(9) The Board shall cause proper record to be kept of the proceedings at its meetings, and the Minister may at any time request that such record be submitted to him or her by the Board for inspection.

(10) The Board may, in consultation with the Minister, make rules not inconsistent with the provisions of this Act relating to the holding of and procedure at meetings of the Board.

**Powers, duties and functions of Board**

18. (1) The Board may -

- (a) investigate or conduct an inquiry into any matter referred to in section 34(1);
- (b) subject to the provisions of this Act, do or cause to be done all or any of such things which -
  - (i) are necessary to achieve its object and to effectively perform its functions in terms of this Act; and

- (ii) are in the best interest of the Fund.
- (2) The Board shall -
  - (a) be accountable and responsible for the proper administration of the Fund;
  - (b) consider every application for registration or for the granting of a subvention submitted to it in terms of section 23(2) or 27(2), as the case may be, and dispose of any such application in accordance with the provisions of this Act;
  - (c) advise or make recommendations to the Minister on any matter relating to the application of this Act referred to it by the Minister; and
  - (d) perform such other functions entrusted from time to time to it by the Minister.

### Committees of Board

19. (1) The Board may appoint one or more committees, which shall, subject to the directions of the Board, conduct any investigation into, and advise or make recommendations to the Board on, any matter relating to the functions of the Board.

- (2) A committee appointed under subsection (1) shall consist of -
  - (a) one or more members of the Board, nominated by the Board for that purpose, of whom one shall be designated by the Board as chairperson of the committee; and
  - (b) such other person or persons not being members of the Board as may be appointed by the Board subject to the provisions of subsection (4).
- (3) The Board may in its discretion dissolve or reconstitute a committee.
- (4) The provisions of section 13(6) shall apply *mutatis mutandis* in respect of a member of a committee of the Board.

### Secretariat to Board, accommodation and facilities

20. (1) The Minister shall establish a component in the Ministry of Health and Social Services to be known as the Secretariat to the War Veterans Subvention Administration Board (hereinafter in this section referred to as the Secretariat), consisting of -

- (a) one staff member of that Ministry, designated by the Minister, who shall be the secretary of the Board; and
- (b) such other staff members of that Ministry as the Minister on the recommendation of the Board may consider necessary to designate to assist the secretary to perform any function of the Secretariat.
- (2) The functions of the Secretariat are -
  - (a) to perform, subject to the control and directions of the Board, such administrative functions, including the receipt and payment of and accounting for moneys, in connection with the exercise of the powers and the performance of the functions of the Board as may from time to time be assigned to the Secretariat by the Board in consultation with the Minister; and

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- (b) to provide all technical support required by the Board or any committee of the Board.
- (3) The secretary shall attend every meeting of the Board, but may not cast a vote in respect of any matter which is being put to the vote.
- (4) Whenever the secretary is unable to attend any meeting of the Board or to act as secretary, the Board shall designate any other staff member referred to in subsection (1)(b) to act as secretary in the place of the secretary, and such staff member shall while so acting have all the powers and perform all the duties and functions of the secretary.
- (5) The accommodation and facilities required by the Board (including the Secretariat) for the performance of the functions of the Board shall be provided by the Ministry of Health and Social Services.

**Disclosure of interest**

- 21. (1) A member of the Board who in any way, whether directly or indirectly -
  - (a) has or intends to acquire an interest in any agreement entered into or to be entered into by the Board shall, at the meeting of the Board at which such agreement or proposed agreement is first taken into consideration, in writing declare to the Board the nature and extent of his or her interest;
  - (b) acquires an interest in any agreement entered into or to be entered into by the Board after it has been taken into consideration by the Board shall, at the first meeting of the Board after he or she acquired such interest, in writing declare to the Board the nature and extent of his or her interest.
- (2) A member of the Board shall not take part in any consideration of, or cast his or her vote on, a matter in which he or she has an interest as contemplated in subsection (1).
- (3) A declaration made in terms of subsection (1) shall be recorded in the minutes of the meeting of the Board at which the declaration is made.
- (4) Any member of the Board who contravenes or fails to comply with a provision of subsection (1) or (2) shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

**Limitation of liability**

- 22. No liability shall attach to the Fund, or, in his or her personal capacity, any member of the Board, any member of a committee of the Board or any staff member referred to in section 20(1) in respect of anything done or omitted in the *bona fide* performance of any function in terms of this Act.

**PART IV**  
**REGISTRATION OF WAR VETERANS AND DEPENDANTS OF**  
**DECEASED WAR VETERANS AND PAYMENT OF**  
**WAR VETERANS SUBVENTION**

**Application for registration of war veterans and dependants of deceased war veterans**

- 23. (1) Any person who intends to claim a subvention shall, before applying for such a subvention, apply, subject to the provisions of subsection (2), to the Board for registration as a war veteran or dependant of a deceased war veteran.

- (2) An application for registration contemplated in subsection (1) shall -
  - (a) within the prescribed period, be submitted to the Board in the prescribed manner and form; and
  - (b) be accompanied by the prescribed documents and information.

**Registration of war veterans and dependants of deceased war veterans**

**24.** (1) No person shall be registered as a war veteran or dependant of a deceased war veteran unless he or she qualifies as such in terms of this Act.

(2) The Board shall, subject to the provisions of section 23(2), consider every application for registration submitted to it in terms of that section, and may -

- (a) subject to the provisions of subsection (1), grant such application and, in the prescribed manner, register the applicant as a war veteran or dependant of a deceased war veteran;
- (b) refuse such application and furnish the applicant with reasons in writing for the refusal; or
- (c) request the applicant in writing to furnish the Board with such additional information relating to his or her application as the Board may reasonably require.

(3) If an application for registration is granted under subsection (2)(a), the Board shall in writing notify the applicant accordingly.

**War veterans entitled to subvention**

**25.** A registered war veteran shall, subject to the provisions of this Act, be entitled to receive a subvention, if he or she satisfies the Board that he or she is a person -

- (a) who is resident in Namibia; and
- (b) who -
  - (i) on or before the application date has attained the age of 55 years; or
  - (ii) before the application date suffered a permanent disability arising out of his or her service as a member of the liberation force; and
- (c) who -
  - (i) is not employed and who -
    - (aa) does not receive any income whatsoever from any source, including a national pension under the National Pensions Act, 1992 (Act No. 10 of 1992); or
    - (bb) receives an income of whatever nature, but which income is less than the maximum amount of a basic state pension payable under the National Pensions Act, 1992; or
  - (ii) is employed, but whose income is less than the maximum amount of a basic state pension referred to in subparagraph (i)(bb).

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**26.** (1) Subject to the provisions of subsections (2) and (3), a registered dependant of a deceased war veteran shall, notwithstanding that such war veteran was at the time of his or her death not receiving a subvention, be entitled to receive a subvention, if he or she satisfies the Board that he or she qualifies in terms of this Act for such a subvention.

(2) In the application of subsection (1), a registered dependant of a deceased war veteran -

(a) who is a person other than a spouse of such war veteran, shall be entitled to receive a subvention only until such date as he or she -

(i) attains the age of 18 years: Provided that the provision of this subparagraph shall not apply to an unmarried child over the age of 18 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 adequately for his or her own maintenance and was regularly maintained by such war veteran at the time of his or her death; or

(ii) marries; or

(iii) becomes self-sufficient; or

(iv) dies; or

(v) becomes subject to any other disqualification contemplated in this Act,

whichever date is earliest;

(b) who is a spouse of such war veteran, shall be entitled to receive a subvention only until such date as he or she -

(i) remarries; or

(ii) dies; or

(iii) becomes subject to any other disqualification contemplated in this Act,

whichever date is earliest.

(3) The amount of subvention payable to a registered dependant of a deceased war veteran shall in the aggregate not exceed the total amount of subvention which would have become payable to such war veteran in terms of this Act, had he or she not died.

**Application for subvention**

**27.** (1) Any war veteran or dependant of a deceased war veteran who claims a subvention shall, subject to the provisions of section 23(1) and of subsection (2) of this section, apply to the Board for the granting of such a subvention.

(2) An application for subvention contemplated in subsection (1) shall -

- (a) within the prescribed period, be submitted to the Board in the prescribed manner and form; and
  - (b) be accompanied by the prescribed documents and information.
  - (3) The Board shall consider every application for subvention submitted to it in terms of subsection (2) and -
    - (a) if the Board is satisfied that -
      - (i) the application complies with the requirements of subsection (2); and
      - (ii) the war veteran or dependant of a deceased war veteran -
        - (aa) is registered as such; and
        - (bb) is entitled to a subvention in terms of this Act,
- the Board shall grant such application and permit, subject to such conditions as it may deem necessary, payment to the war veteran or dependant of a deceased war veteran of the subvention to which he or she is entitled;
- (b) if the Board is satisfied that -
    - (i) the application does not comply with the requirements of subsection (2); or
    - (ii) the war veteran or dependant of a deceased war veteran is for whatever reason (including non-compliance with registration requirements) not entitled to a subvention in terms of this Act,
- the Board may -
- (aa) refuse such application and furnish the applicant with reasons in writing for the refusal; or
  - (bb) request the applicant in writing to furnish the Board with such additional information relating to his or her application as the Board may reasonably require.

#### **Payment of subventions**

28. (1) The Minister shall, on the recommendation of the Board and in consultation with the Minister of Finance, prescribe the amount of any war veterans subvention to which war veterans and dependants of deceased war veterans may be entitled in terms of this Act.

(2) Subventions granted to war veterans and dependants of deceased war veterans in terms of section 27(3)(a) shall, in the prescribed manner, be paid from the Fund.

#### **Suspension, administration and stopping of payment of subventions**

29. (1) The Board may -

- (a) if a war veteran or dependant of a deceased war veteran without sufficient reasons fails to collect his or her subvention for a continuous period of six months or longer, suspend payment of such subvention;

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- (b) if there is reasonable cause to believe that a war veteran or dependant of a deceased war veteran is unable to properly apply his or her subvention, by written order designate a competent person to receive and administer such subvention on behalf of the war veteran or dependant of a deceased war veteran and to apply it, subject to such conditions as the Board may determine, for the benefit of the war veteran or dependant of a deceased war veteran.
- (2) The Board shall -
  - (a) if a war veteran who is in receipt of a subvention -
    - (i) dies; or
    - (ii) ceases to -
      - (aa) be a Namibian citizen; or
      - (bb) be resident in Namibia; or
    - (iii) by reason of any change in his or her financial status becomes disqualified in terms of paragraph (c) of section 25 from being entitled to a subvention; or
  - (b) if a dependant of a deceased war veteran who is in receipt of a subvention becomes subject to any disqualification contemplated in section 26(2),

stop payment of such subvention.

(3) The Board may, if it is, for sufficient reasons advanced by a war veteran or dependant of a deceased war veteran, satisfied that the war veteran or dependant of a deceased war veteran will continue to collect, or will be capable of properly applying, his or her subvention, as the case may be, rescind or withdraw a suspension or an order contemplated in paragraphs (a) and (b), respectively, of subsection (1) and, in the case of a suspension, permit payment to the war veteran or dependant of a deceased war veteran of any subvention withheld from him or her by reason of such a suspension.

**Subvention not assignable or executable**

30. (1) No subvention, and no right in respect of any such subvention, shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated or be liable to be attached or be subject to any form of execution under a judgment or order of a court of law.

(2) If a war veteran or dependant of a deceased war veteran attempts to assign or transfer or otherwise cede or to pledge or hypothecate any subvention to which he or she is entitled, or any right in respect of such subvention, the Board may -

- (a) suspend payment of such subvention; or
- (b) by written order designate a competent person to receive and administer such subvention on behalf of the war veteran or dependant of a deceased war veteran and to apply it, subject to such conditions as the Board may determine, for the benefit of the war veteran or dependant of a deceased war veteran.
- (3) The Board may, if it is, for sufficient reasons advanced by a war veteran or



dependant of a deceased war veteran, satisfied that it is just and equitable to do so in any particular case, rescind or withdraw a suspension or an order contemplated in paragraphs (a) and (b), respectively, of subsection (2) and, in the case of a suspension, permit payment to the war veteran or dependant of a deceased war veteran of any subvention withheld from him or her by reason of such a suspension.

(4) In any civil proceedings against a war veteran or dependant of a deceased war veteran, his or her means shall be deemed not to include any subvention received by him or her.

(5) If the estate of a war veteran or dependant of a deceased war veteran who is in receipt of a subvention, is sequestrated or surrendered, the subvention of the war veteran or dependant of a deceased war veteran shall not form part of the assets in his or her insolvent estate.

### **Repayment of subventions**

31. (1) If any person has received a subvention to which he or she was not entitled, such person or, if he or she is deceased, his or her estate shall be liable to repay to the Fund the amount of such subvention.

(2) The Board may, subject to the provisions of subsection (3), recover an amount repayable in terms of subsection (1) by way of legal proceedings or in such other manner as the Board may deem expedient.

(3) The Board may in consultation with the Minister remit the whole or a portion of an amount owing by a person in terms of subsection (1), if the Board is satisfied that it would be uneconomical to recover such amount or that recovery thereof would cause undue hardship.

### **Offence relating to false statements and improper receipt of subventions**

32. Any person who, for the purposes of being registered as a war veteran or dependant of a deceased war veteran or of obtaining or retaining a subvention in terms of this Act, whether for himself or herself or for any other person, or for the purposes of obtaining such a subvention for himself or herself or for any other person at a higher rate than that appropriate to the particular case -

- (a) makes any false statement or representation, knowing such statement or representation to be false or not believing it to be true; or
- (b) accepts in respect of any such subvention payment of any amount of money which he or she is not entitled to receive, knowing that he or she is not so entitled,

shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$8 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

### **Exemption from stamp duty**

33. No stamp duty shall be payable in respect of any power of attorney given by -

- (a) an applicant to any person to apply on his or her behalf for registration or for the granting of a subvention; or
- (b) a war veteran or dependant of a deceased war veteran to any person to receive payment of any subvention on his or her behalf.

**Inquiry by Board**

34. (1) The Board may conduct an inquiry into any matter relating to -

- (a) an application for registration or for the granting of a subvention; or
- (b) the payment, suspension or stopping of payment of any such subvention.

(2) For the purposes of an inquiry under subsection (1), the chairperson of the Board or, if authorised thereto in writing by the chairperson, the secretary of the Board may -

- (a) subpoena any person who in his or her opinion may furnish information of material importance concerning the matter under investigation, or who he or she suspects or believes has in his or her possession or custody or under his or her control any book, document or thing that may have a bearing on the inquiry, to appear before the Board at the time and place specified in the subpoena, to be examined or to produce such book, document or thing;
- (b) call upon and administer an oath to or accept an affirmation from any person present at the inquiry who was or might have been subpoenaed in terms of paragraph (a);
- (c) examine any person referred to in paragraph (b) or require him or her to produce at the inquiry any book, document or thing referred to in paragraph (a).

(3) A subpoena referred to in paragraph (a) of subsection 2 shall -

- (a) be in the prescribed form;
- (b) be signed by the chairperson or the secretary of the Board, as the case may be; and
- (c) be served on the person concerned by the chairperson or the secretary of the Board, as the case may be, or by any other person authorised thereto in writing by the Board, or by registered post addressed to his or her last known address, or in any other prescribed manner.

(4) The law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce a book, document or thing before a court of law, shall apply *mutatis mutandis* in relation to the examination of a person or the production of any book, document or thing under subsection (2)(c).

(5) Any person who, having been subpoenaed under subsection (2)(a), attends an inquiry shall be entitled to receive from the Fund such compensation in respect of expenses incurred by him or her in connection with such attendance as he or she would be entitled to receive if he or she were a witness attending criminal proceedings before a magistrate's court.

(6) Any person who -

- (a) having been duly subpoenaed in terms of subsection (2)(a), without sufficient cause fails -
  - (i) to attend at the time and place specified in the subpoena; or

- (ii) to remain in attendance until excused by the person presiding at the inquiry from further attendance; or
- (b) having been called upon in terms of subsection (2)(b) -
  - (i) refuses to be sworn or to affirm as a witness; or
  - (ii) without sufficient cause fails to answer fully and satisfactorily to the best of his or her knowledge all questions lawfully put to him or her or to produce any book, document or thing in his or her possession or custody or under his or her control which he or she has been required to produce; or
- (c) prevents another person from obeying a subpoena issued under subsection (2)(a) or from giving evidence or producing a book, document or thing which he or she is in terms of this section required to give or produce,

shall, subject to the provisions of subsection (4), be guilty of an offence and on conviction be liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(7) Any person who, after having been sworn or after having affirmed as a witness in terms of this section, gives a false answer to any question lawfully put to him or her or who makes a false statement on any matter, knowing that answer or statement to be false, shall be guilty of an offence and on conviction be liable to the penalties prescribed by law for the crime of perjury.

#### **Information to be furnished to Board**

35. Notwithstanding anything to the contrary in any law contained, the Registrar of Births and Deaths, the Registrar of Companies, the Registrar of Deeds or any other staff member shall, at the written request of the Board, furnish the Board with such information relating to an applicant as the Board may reasonably require.

### **PART V WAR VETERANS SUBVENTION APPEAL BOARD**

#### **Right of appeal**

36. (1) Any person who is aggrieved by a decision or an act of the Board relating to -

- (a) an application for registration or for the granting of a subvention; or
- (b) the payment, suspension or stopping of payment of any such subvention,

may, within 90 days after the date on which he or she was notified in writing by the Board of such decision or act, appeal, subject to the provisions of subsection (2), to the Appeal Board against such decision or act.

(2) An appeal in terms of subsection (1) shall be lodged with the Appeal Board in the form of a written statement and -

- (a) shall contain the complete grounds of appeal; and
- (b) may be accompanied by such documents as the appellant desires to submit in support of the appeal.

**Appeal Board**

37. (1) There is hereby established a board to be known as the War Veterans Subvention Appeal Board for the hearing of appeals noted under section 36.

(2) The Appeal Board shall consist of three members appointed by the Minister, of whom -

(a) one shall be a magistrate, nominated by the Minister of Justice, who shall be the presiding officer; and

(b) two shall be persons who in the opinion of the Minister possess the necessary expertise to make a substantial contribution towards the functions of the Appeal Board.

(3) A member of the Appeal Board -

(a) shall hold office for such period as the Minister may determine and shall be eligible for reappointment upon the expiry of his or her term of office;

(b) may at any time, after having been afforded an opportunity to be heard, be removed from office by the Minister, if the Minister is of the opinion that there are sufficient reasons for doing so.

(4) A person appointed as a member of the Appeal Board in terms of subsection (2)(b) who is not in the full-time employment of the State shall be paid from the Fund such remuneration and allowances as the Minister in consultation with the Minister of Finance may from time to time determine.

(5) The Appeal Board hearing an appeal in terms of this section -

(a) shall deal with the appeal with due regard to -

(i) the circumstances which were considered in taking the decision or performing the act appealed against;

(ii) the grounds of appeal;

(iii) the documentary or oral evidence submitted or given by any person at the request or with the permission of the Appeal Board; and

(iv) any other information at the disposal of the Appeal Board;

(b) may confirm, vary or set aside the decision or act to which the appeal relates.

(6) The Appeal Board shall in writing notify the appellant of its decision.

(7) The Appeal Board shall keep proper record of its proceedings.

(8) Meetings of the Appeal Board shall be held at such times and places as the presiding officer may direct.

(9) The decision of a majority of the members of the Appeal Board shall be the decision of such Board, but the presiding officer alone shall decide any question of law, and whether any matter constitutes a question of law or a question of fact.

(10) The Appeal Board shall determine its own rules of procedure not inconsistent with the provisions of this Act.

## PART VI GENERAL PROVISIONS

### Delegation of powers and assignment of duties

38. (1) The Minister may, subject to such conditions as he or she may determine, in writing delegate any power, excluding the power conferred upon him or her by section 39, or assign any duty entrusted to him or her by or under this Act to the Permanent Secretary: Health and Social Services or any other staff member in that Ministry.

(2) A delegation or an assignment under subsection (1) shall not divest or relieve the Minister of the power or duty so delegated or assigned.

### Regulations

39. (1) The Minister may, on the recommendation of the Board and subject to the provisions of subsections (3) and (4), make regulations not inconsistent with the provisions of this Act relating to -

- (a) the form of any application, consent, order, process or subpoena which shall or may be made, granted, given or issued in terms of this Act, or of any other document required in the administration of the provisions of this Act;
- (b) the payment of subventions, including the determination of the amount to be paid in any particular case, the method of payment, payment to any person other than a war veteran or dependant of a deceased war veteran and the suspension or stopping of payment of subventions;
- (c) the qualifications, requirements or conditions, in addition to those prescribed by this Act, to be complied with by an applicant in order to be entitled to a subvention;
- (d) applications for registration of war veterans or dependants of deceased war veterans or for the granting of subventions, including the period within which such applications are to be submitted to the Board and the particulars and information to be furnished by applicants;
- (e) the consideration, granting or refusal of any application made in terms of section 23(2) or 27(2);
- (f) the income and assets of an applicant to be taken into account in determining the amount of a subvention, including the value of any assets alienated in any manner within a prescribed period immediately before application is made for a subvention;
- (g) the payment of subventions to persons maintained or receiving treatment in State or State-aided institutions, including the suspension of any such payment;
- (h) the date of accrual of subventions;
- (i) the procedure at an inquiry under section 34;
- (j) the administration of subventions;
- (k) the information which may from time to time be required of any war veteran or dependant of a deceased war veteran;
- (l) the repayment of subventions in terms of section 31;
- (m) any matter which is required or permitted to be prescribed in terms of this Act; and

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- (n) generally, any matter in respect of which the Minister considers it necessary or expedient to make regulations in order to achieve the object of this Act.

(2) A regulation made under subsection (1) may prescribe a penalty, not exceeding a fine of N\$4 000 or imprisonment for a period of one year or not exceeding both such fine and such imprisonment, for any contravention of or failure to comply with any provision thereof.

(3) The Minister shall not make any regulation under subsection (1)(b) without the concurrence of the Minister of Finance.

(4) If a regulation would have the effect that the total amount of subvention to which a war veteran or dependant of a deceased war veteran has at any time been entitled in terms of this Act, is reduced, without his or her income or assets having increased, such regulation shall not be made without the approval, by resolution, of the National Assembly.

**Repeal of laws, and savings**

40. (1) Subject to the provisions of subsections (2) and (3), the laws mentioned in the Schedule are hereby repealed to the extent indicated in the third column thereof.

(2) Anything done under a provision of any law repealed by subsection (1), and which could have been done under a provision of this Act, shall be deemed to have been done under the corresponding provision of this Act.

(3) Any veteran's pension, or additional, supplementary or attendant's allowance, or other benefit which was immediately before the commencement of this Act payable in terms of any law repealed by subsection (1) to any person, and which does not in terms of a provision of this Act cease to be payable, shall with effect from such commencement not be decreased and shall, notwithstanding the repeal of such law, continue to be so payable in accordance with the provisions thereof.

**Short title and commencement**

41. This Act shall be called the War Veterans Subvention Act, 1999, and shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.

**SCHEDULE  
LAWS REPEALED**

Number and year of law	Short title	Extent of repeal
Act No. 25 of 1968	War Veterans' Pensions Act, 1968	So much as is unrepealed
Act No. 86 of 1970	Second Pension Laws Amendment Act, 1970	So much of section 9 as is unrepealed
Act No. 15 of 1971	War Veterans' Pensions Amendment Act, 1971	So much as is unrepealed
Act No. 97 of 1972	Pension Laws Amendment Act, 1972	So much of sections 6 and 7 as is unrepealed