

Namibia

Former Presidents' Pension and Other Benefits Act, 2004

Act 18 of 2004

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Former Presidents' Pension and Other Benefits Act, 2004

Contents

1. Definitions	1
2. Pension and other benefits of former Presidents	2
3. Pension payable to spouse or dependents of deceased former President	2
4. Period for which pension is payable	3
5. Expenditure defrayed out of State Revenue Fund	3
6. Pension and other benefits not assignable	3
7. Insolvency	3
8. Exemption from income tax	4
9. Amendment of Act No. 17 of 1990	4
10. Short title	4
Schedule	4



Republic of Namibia
Annotated Statutes

Former Presidents' Pension and Other Benefits Act, 2004

Act 18 of 2004

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[\[Amended by \[Former Presidents' Pension and Other Benefits Amendment Act, 2012 \\(Act 14 of 2012\\)\]\(#\) on 18 December 2004\]](#)

ACT

To provide for the payment of pension, gratuity and other benefits to former Presidents of the Republic of Namibia and their families; and to provide for matters in connection therewith.

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

1. Definitions

In this Act, unless the context otherwise indicates -

“**dependent child**”, means a child, including an adopted child or a step-child, of a deceased former President, who is under the age of 21 years and was wholly or substantially dependent upon the deceased former President for his or her livelihood immediately preceding the death of the former President;

“**former President**” means a person who -

- (a) has held the office of President of the Republic of Namibia in terms of the Namibian Constitution; and
- (b) has died or ceased to hold that office for any other reason;

“**President**” means a person elected as President of the Republic of Namibia in terms of the Namibian Constitution; and

“**surviving spouse**” means a person who was the wife or husband of a former President upon the date of his or her death, and includes a wife or husband of a marriage under customary law.

2. Pension and other benefits of former Presidents

- (1) A former President must -
 - (a) be paid a monthly pension equal to, whichever is the greater of -
 - (i) the monthly basic salary that he or she received immediately before he or she ceased to hold office as President; or
 - (ii) eighty percent (80%) of the incumbent President's basic monthly salary;
 - (b) be paid a gratuity in an amount equal to the annual salary which was payable to him or her immediately before he or she ceased to hold office as President for each term of office that he or she served as President of the Republic of Namibia;

[paragraph (b) amended by Act 14 of 2012; not all of the changes are indicated by amendment markings]
 - (c) subject to subsection (2), be provided with the benefits set out in the Schedule to this Act.
- (2) A former President who ceased to hold office on account of having been removed from office in terms of Article 29(2) of the Namibian Constitution is not entitled to the benefits referred to in subsection (1)(c).
- (3) Despite subsection (1)(a), the first former President elected in terms of Article 134 of the Namibian Constitution must be paid, in recognition of having served three terms as President, a monthly pension equal to, whichever is the greater of -
 - (a) the monthly basic salary that he received immediately before he ceased to hold office as President; or
 - (b) the full amount of the incumbent President's basic monthly salary.

3. Pension payable to spouse or dependents of deceased former President

- (1) Upon the death of a former President -
 - (a) his or her surviving spouse; or
 - (b) if there is no surviving spouse, his or her dependent child,must be paid a monthly pension in an amount equal to seventy-five percent (75%) of the monthly pension that would have been payable to the former President in accordance with section 2.
- (2) If a former President has died during his or her term of office, there must be paid -
 - (a) to his or her surviving spouse, in addition to the pension payable in terms of subsection (1)(a); or
 - (b) if there is no surviving spouse, to his or her dependent child, if any, in addition to the pension payable in terms of subsection (1)(b),a gratuity equal to the gratuity that would have been payable to that President in terms of section 2(1)(b) had he or she ceased to hold office as President immediately before his or her death.
- (3) Upon the death or remarriage of a surviving spouse who is paid a pension under subsection (1)(a), a monthly pension must be paid to a dependent child, if any, an amount equal to the pension that would have been payable to the surviving spouse had he or she not died or remarried.

- (4) If there is more than one surviving spouse or more than one dependent child, the pension and gratuity payable under subsection (1), (2) or (3), as the case may be, must be divided and paid in equal shares to the surviving spouses or dependent children, and -
- (a) upon the death or remarriage of a surviving spouse sharing in the pension payments, his or her share of the pension must be divided and paid in equal shares to -
 - (i) any remaining surviving spouses who are entitled to share in the pension payments; or
 - (ii) if there is no remaining surviving spouse, any dependent children; or
 - (b) upon the death of, or attainment of the age of 21 years by, a dependent child sharing in the pension payments, his or her share of the pension must be divided and paid in equal shares to any remaining dependent children who are entitled to share in the pension payments.

4. Period for which pension is payable

- (1) The pension payable and other benefits to be provided to a former President in terms of section 2 must be paid and be provided to him or her with effect from the day following the day on which he or she ceases to hold the office of President until the date of his or her death.
- (2) A pension payable to a surviving spouse or dependent child in terms of section 3(1)(a) or (b) must be paid to him or her with effect from the day following the death of the former President until -
 - (a) in the case of a surviving spouse, the date of his or her death or the date on which he or she remarries, whichever event occurs first; and
 - (b) in the case of a dependent child, until the date of his or her death or the date on which he or she attains the age of 21 years, whichever event occurs first.
- (3) A pension payable to a dependent child in terms of section 3(3) following the death or remarriage of a surviving spouse, must be paid to that child with effect from the day following the day of the surviving spouse's death or remarriage until the date of that child's death or the date on which he or she attains the age of 21 years, whichever event occurs first.

5. Expenditure defrayed out of State Revenue Fund

All expenditure incidental to the payment of pension and gratuity and the provision of other benefits under this Act must be defrayed out of the State Revenue Fund from money appropriated by Parliament.

6. Pension and other benefits not assignable

A pension payable in terms of this Act is not capable of being assigned or ceded or otherwise transferred or of being pledged or hypothecated nor is it liable to be attached or subjected to any form of execution under a judgment or order of court except for the purpose of satisfying -

- (a) a debt due to the Government of Namibia; or
- (b) an order of any competent court for the payment of periodical sums of money towards the maintenance of the spouse or former spouse or minor child of the person to whom the pension is payable.

7. Insolvency

If the estate of a person entitled to a pension or other benefit in terms of this Act is sequestrated or surrendered the pension or other benefit, or the value thereof, does not form part of the assets of his or her insolvent estate.

8. Exemption from income tax

The amount of any pension or gratuity paid, and the value of any benefit provided, in terms of this Act is exempt from tax on income.

9. Amendment of Act No. 17 of 1990

The Presidential Emoluments and Pensions Act, 1990 (Act No. 17 of 1990), is amended -

- (a) by the substitution of the following for the long title:

“ACT

To provide for the salary and allowances payable to the President and the medical aid benefits for the President; and to provide for matters incidental thereto.”;

- (b) by the substitution for section 3 of the following section:

“3. Medical aid

The provisions of any law and rules of the medical aid scheme established for the Public Service under section 34(1)(d) of the Public Service Act, 1995 (Act No. 13 of 1995) apply, with the necessary changes, to the President as if the President were a member of that scheme, but the President is not liable to pay any contribution payable by the members of that scheme.”;

- (c) by the deletion of sections 4, 5, 6 and 7;
- (d) by the deletion in section 8 of the words “and any pension or gratuity”;
- (e) by the deletion in section 9 of the words “pension or gratuity”; and
- (f) by the substitution for section 10 of the following section:

“10. Short title and commencement

This Act shall be called the Presidential Emoluments Act, 1990 and shall be deemed to have come into operation on 21 March 1990.”.

[The Presidential Emoluments and Pensions Act 17 of 1990 was subsequently repealed by the Presidential Remuneration and Other Benefits Act 15 of 2012, which did not repeal these amendments to Act 17 of 1990.]

10. Short title

This Act is called the Former Presidents' Pension and Other Benefits Act, 2004

Schedule

OTHER BENEFITS

(section 2(1)(c))

1. Staff:

- (a) Security personnel: as may be determined by the Cabinet, but not less than 10, and to be increased by such number as may be determined by Cabinet whenever, and for such period, as the need arises;
- (b) three drivers;
- (c) two private secretaries;

- (d) two personal assistants; and
- (e) two office attendants.

2. Office and equipment:

- (a) Office accommodation;
- (b) telephones;
- (c) computers;
- (d) office furniture; and
- (e) such other office equipment and materials as may be determined by the Cabinet.

3. Housing and household

- (a) Residential accommodation namely -
 - (i) a furnished official residence at any place in Windhoek; or
 - (ii) in lieu of subparagraph (i), and at the request of the former President made at the time of ceasing to hold office or prior to that -
 - (aa) such housing allowance as may be determined by the Cabinet;
 - (bb) a single private residence acquired or constructed on his or her behalf at any place of his or her choice in Namibia; or
 - (cc) in lieu of items (aa) and (bb), payment of an amount which is equal or equivalent to the value of the private residence referred to in item (bb),including an allowance for telephone expenses and water and electricity charges in respect of a residence other than an official residence;
- (aA) in the case of official residence referred to in subparagraph (i), if the former President dies, his or her surviving spouse, or if there is no surviving spouse, his or her dependent child, must continue to be provided with suitable State residential accommodation until -
 - (i) in the case of a surviving spouse, the date on which he or she dies or remarries, whichever event occurs first; and
 - (ii) in the case of a dependent child, the date he or she dies or the date on which he or she attains the age of 21 years, whichever event occurs first; and
- (aB) the private residence referred to in subparagraph (ii)(bb) may be constructed on one or more erven which in total may not exceed an area of 5000 square metres and the residence itself may not exceed a reasonably sized house with five bedrooms, a guest wing with three bedrooms, a study, a swimming pool, two guardrooms and four garages.

[paragraphs (a), (aA) and (aB) inserted by Act 12 of 2012; punctuation as in Government Gazette]

- (b) three domestic workers;
- (c) two gardeners;
- (d) two cooks and two waiters; and
- (e) two laundry persons.

4. Medical:

Medical aid scheme for the former President and his or her spouse and dependent children.

The provisions of any law and the rules of any medical aid scheme established for the public service under section 34(1)(d) of the Public Service Act, 1995 (Act No. 13 of 1995), apply mutatis mutandis to a former President, his or her spouse and dependent children, as if the former President, his or her spouse and dependent children, as the case may be, were members of that medical aid scheme: Provided that the former President, his or her spouse and dependent children are not liable to pay any contributions payable by the members of that medical aid scheme.

5. Travel:

- (a) Diplomatic Passport for both the former President and his or her spouse;
- (b) first class air and rail private travel within Namibia, if available, for the former President and, if accompanied, his or her spouse, up to a maximum of six (6) trips per annum; and
- (c) first class international air private travel up to a maximum of four (4) trips per annum, including a spouse, if accompanying.

6. Transport:

- (a) Three vehicles, namely -
 - (i) one sedan (Mercedes Benz S500 Series or an equivalent or similar class of motor vehicle);
 - (ii) one four-wheel drive station wagon or an equivalent or similar type; and
 - (iii) one pick-up van.

The vehicles must be permanently at the disposal of the former President. The vehicles put at the disposal of the first former President must bear "NAM 1" official registration number plates. The vehicles put at the disposal of the second former President must bear "NAM 2" official registration number plates, and the next after him or her "NAM 3" and consecutively numbered registration plates. The vehicles mentioned in paragraphs (i), (ii) and (iii) must be replaced at the same intervals as vehicles of members of Cabinet are replaced.

- (b) Such adequate number of vehicles as may be determined by Cabinet must be put at the disposal of the security personnel and other staff serving a former President.

The cost of fuel for, and maintenance of, the vehicles must be borne by the Government.

7. Other Benefits:

- (a) Entertainment allowance as determined by the Cabinet;
- (b) defrayal of telephone expenses in respect of the office and official residence; and
- (c) defrayal of water and electricity charges in respect of the office and official residence.

[capitalisation throughout Schedule as in Government Gazette]