

REPUBLIC OF SOUTH AFRICA

SPECIAL PENSIONS AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill and prior notice of its introduction published in Government Gazette No. 54292 of 9
March 2026)*
(The English text is the official text of the Bill)

(MINISTER OF FINANCE)

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Special Pensions Act, 1996, so as to provide for the retention of benefits that have been determined before the lapsing of certain provisions; to allow persons who qualify for more than one benefit to be granted the greater benefit; to provide for the right of a survivor to a survivor's lump sum benefit under certain circumstances; to provide for a funeral benefit in line with the Government Employees Pension Law, 1996; to provide for condonation of applications submitted after the closing date; to provide for reconsideration of a determination by the designated institution under certain circumstances; to repeal a certain section; to substitute and delete certain definitions; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 6A of Act 69 of 1996, as inserted by section 5 of Act 27 of 2005

1. Section 6A of the Special Pensions Act, 1996 (hereinafter referred to as the “principal Act”), is hereby amended by the substitution for subsection (2) of the following subsection: 5

“(2) The lapsing of Part 1 shall not affect any *benefit* payable to any *pensioner* or *beneficiary* where the *designated institution* had made a determination before 31 December 2006 in terms of *this Act*.”. 10

Amendment of section 6A*bis* of Act 69 of 1996, as inserted by section 2 of Act 13 of 2008

2. Section 6A*bis* of the principal Act is hereby amended—

(a) by the substitution for subsection (3) of the following subsection:

“(3) A pensioner who qualifies for a *benefit* in terms of subsection (1) is entitled to receive a *pension*, payable monthly, commencing on 1 April [2001] 1995.”; 15

(b) by the substitution for subsection (5) of the following subsection:

“(5) A person who qualified for a *benefit* under Part 1 and a *benefit* under Part 1AA must be granted the *greater benefit*.”; and 20

(c) by the substitution for paragraph (b) of subsection (7) of the following paragraph:

“(b) The lapsing of Part 1AA of *this Act* shall not affect any *benefit* payable to any *pensioner* or *beneficiary* where the *designated institution* had made a determination in terms of section 6A*bis*, before 31 December 2010.”.

Repeal of section 6B of Act 69 of 1996, as inserted by section 6 of Act 27 of 2005 and amended by section 4 of Act 13 of 2008 5

3. Section 6B of the principal Act is hereby repealed.

Substitution of section 6C of Act 69 of 1996, as inserted by section 6 of Act 27 of 2005

4. The following section is hereby substituted for section 6C of the principal Act: 10

“Right to lump sum benefit

6C. A *survivor* has the right to a survivor’s lump sum *benefit* if that person is a surviving *spouse* or, if there is no surviving *spouse*, that person is the surviving *dependant* of a person who has died or is presumed dead in law but, had that person survived, he or she would have qualified in terms of section 1 or 6A*bis*(1).” 15

Amendment of section 6D of Act 69 of 1996, as inserted by section 6 of Act 27 of 2005 and amended by section 5 of Act 13 of 2008

5. Section 6D of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph: 20

“(b) where there is no surviving *spouse*, a *dependant* [**who becomes an orphan**] is entitled to receive a monthly *pension* equal to the 50% of the *pension* that was payable to that *pensioner* immediately before the date of his or her death— 25

- (i) until the [**orphan**] *dependant* reaches the age of 18; [**or**]
- (ii) until the [**orphan**] *dependant* reaches the age of 23, if the [**orphan**] *dependant* is a full-time student; or
- (iii) for the remainder of the [**orphan’s**] *dependant’s* life, if the [**orphan**] *dependant* suffers from a *permanent and total disability* on the date of the *pensioner’s* death.”; 30

(b) by the substitution for subsection (2) of the following subsection:

“(2) When the first monthly payment is made to a surviving *spouse* or [**orphan**] *dependant* in terms of this section, the *Minister* must include a lump sum covering all the *pension* payments due to that person from the date of the death of the *pensioner* to the date of that first payment.”; 35

(c) by the substitution for paragraph (c) of subsection (3) of the following paragraph:

“(c) where there is no surviving *spouse*, a *dependant* [**who became an orphan,**] is entitled to receive the monthly *pension* that would have been payable to a surviving *spouse* in terms of paragraph (a) or (b)— 40

- (i) until the [**orphan**] *dependant* reaches the age of 18; [**or**]
- (ii) until the [**orphan**] *dependant* reaches the age of 23, if the [**orphan**] *dependant* is a full-time student; or 45
- (iii) for the remainder of the [**orphan’s**] *dependant’s* life, if the [**orphan**] *dependant* suffers from a *permanent and total disability* on the date of [**such**] the *pensioner’s* death.” and

(d) by the substitution for subsection (4) of the following subsection:

“(4) A surviving *spouse* or [**orphan**] *dependant* who qualifies for a *benefit* in terms of subsection (3) is entitled to receive a *pension*, payable monthly, commencing on the date on which his or her *application* was made.”. 50

Amendment of section 6E of Act 69 of 1996, as inserted by section 6 of Act 27 of 2005 and substituted by section 6 of Act 13 of 2008

6. Section 6E of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) If a *pensioner* is survived by more than one *spouse* or, if there are no surviving *wives*, by more than one *dependant* [**or orphan**], each of whom qualifies for a lump sum *benefit* or a monthly *pension* or both, the *designated institution* must allocate an equal share of the lump sum *benefit* and the monthly *pension* to each qualifying *spouse*[,] or dependant [**or orphan**], as the case may be, but the total benefits for all the surviving *wives*[,] or dependants [**or orphans**] must not exceed the *benefit* that would have been payable had there been only one surviving *spouse*[,] or dependant [**or orphan**].”

(2) If a *pensioner* referred to in section 6D(3) was survived by more than one *spouse* or, if there are no surviving *wives*, by more than one [**orphan or**] *dependant*, each of whom qualifies for a monthly *pension*, the *designated institution* must allocate an equal share of the monthly *pension* to each qualifying *spouse*[,] or dependant [**or orphan**], as the case may be, but the total *benefits* for all the surviving *wives*[,] or dependants [**or orphans**] must not exceed the *benefit* that would have been payable had there been only one surviving *spouse*[,] or dependant [**or orphan**].”.

Amendment of section 6F of Act 69 of 1996, as inserted by section 6 of Act 27 of 2005 and amended by section 7 of Act 13 of 2008

7. Section 6F of the principal Act is hereby amended—

(a) by the substitution for paragraphs (c) and (d) of subsection (1) of the following paragraphs, respectively:

“(c) any *dependant* [**who becomes an orphan**] upon the death of a *pensioner* or surviving *spouse* of a deceased *pensioner*; or

(d) any *dependant* [**who becomes an orphan**] upon the death of a surviving *spouse* of a *pensioner* referred to in section 6D(3).”;

(b) by the addition after subsection (2) of the following subsection:

“(3) The Minister may, by notice in the Gazette, amend Schedule 4 to this Act to provide for funeral benefits in line with the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996).”.

Amendment of section 6G of Act 69 of 1996, as inserted by section 6 of Act 27 of 2005 and amended by section 8 of Act 13 of 2008

8. Section 6G of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) (i) The form must be submitted to the *designated institution* for approval as soon as possible after the date on which the *spouse* or *child* qualifies to apply for a *benefit* in terms of this Part, but not later than 36 months thereafter.

(ii) Notwithstanding subparagraph (i), the designated institution may con- done a late application if the designated institution is satisfied that, for reasons beyond the control of the applicant, the application could not be submitted before the expiry of the period of 36 months.”.

Amendment of section 8 of Act 69 of 1996, as amended by section 2 of Act 21 of 2003 and section 11 of Act 13 of 2008

9. Section 8 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) Notwithstanding subsection (1), the Appeal Board may condone a late application if the Appeal Board is satisfied that, for reasons beyond the control of the applicant, the written notice for appeal could not be submitted within 60 days of the date of the decision of the designated institution.”.

Amendment of section 12 of Act 69 of 1996, as substituted by section 14 of Act 13 of 2008

10. Section 12 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The *Minister* may in April of each year, by notice in the *Gazette*, 5
increase the *pensions* payable to *pensioners*, surviving *spouses*[,] or
dependants [or *orphans*] on any basis that the *Minister* considers
appropriate, subject to the appropriation by Parliament of money
required to finance any [in**ceases**] increases of such amounts.”.

Amendment of section 14A of Act 69 of 1996, as inserted by section 13 of Act 27 of 2005 and amended by section 16 of Act 13 of 2008

11. Section 14A of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) Any *benefit* paid to a surviving *spouse*[,] or *dependant* [or *orphan*] is 15
subject to reconsideration and allocation of *benefits* in accordance with
section 6E in the event that another surviving *spouse*[,] or *dependant* [or
orphan] not known at the time of the payment applies and qualifies for the
same *benefit*.

(2) The *designated institution* must on payment of a *benefit* inform the 20
surviving *spouse*[,] or *dependant* [or *orphan*] in writing of the provisions of
subsection (1).”.

Amendment of section 24 of Act 69 of 1996

12. Section 24 of the principal Act is hereby amended by the addition of the following subsection:

“(5) The *designated institution* may reconsider a determination made in 25
terms of this Act, on application, and amend or withdraw a determination, if
the *designated institution* is satisfied that a material fact exists that was not
considered by the *designated institution* at the time of making such
determination, and a consideration of such material fact may have resulted in
a different determination being made.”. 30

Amendment of section 31 of Act 69 of 1996, as amended section 9 of Act 75 of 1998, section 18 of Act 27 of 2005 and section 23 of Act 13 of 2008

13. Section 31 of the principal Act is hereby amended—

(a) by the substitution for the definition of “*child*” of the following definition: 35
“‘**child**’ has the meaning assigned to it in section 1 of the Children’s Act,
2005 (Act No. 31 of 2005);”;

(b) by the substitution for paragraph (b) in the definition of “*dependant*” of the
following paragraph:

“(b) was not legally liable for maintenance, if the applicant— 40
(i) was at the time of the death of the deceased in fact
dependant on the deceased for maintenance; or
[(ii) **is the spouse of the deceased, including a party to a
customary union or a union recognised as a marriage
under any Asian religion;**]
(iii) is a *child* of the deceased, including [a posthumous child,] 45
an adopted child [and a child born out of wedlock]” and;

(c) the deletion of the definition of “*orphan*”.

Short title and commencement

14. This Act is called the Special Pensions Amendment Act, 2026, and comes into 50
operation on a date determined by the President by proclamation in the *Gazette*.

**MEMORANDUM ON OBJECTS OF SPECIAL PENSIONS
AMENDMENT BILL, 2026**

1. PURPOSE OF BILL

The Special Pensions Act, 1996 (Act No. 69 of 1996) (the “Act”), amongst other things, makes provision for the payment of special pension to persons who made sacrifices or served the public interest in the establishment of the constitutional dispensation. In the implementation of the Act, misalignments have been identified that require amendments to the Act. The purpose of the Special Pensions Amendment Bill, 2026 (“Bill”), is to amend the Act accordingly and align the provisions in the Act with the current implementation practices.

2. OBJECTS OF BILL

The Bill aims to amend the Act in order to—

- (a) provide for the retention of benefits that have been determined before the lapsing of certain provisions;
- (b) allow persons who qualify for more than one benefit to be granted the greater benefit;
- (c) provide for the right of a survivor to a survivor’s lump sum benefit under certain circumstances;
- (d) provide for a funeral benefit in line with Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996);
- (e) provide for condonation of applications submitted after the closing date;
- (f) provide for the reconsideration of a determination by the designated institution, if material facts that were not considered at the time of making the determination are provided on application;
- (g) repeal a section in the Act;
- (h) substitute and delete certain definitions; and
- (i) provide for matters connected therewith.

3. CLAUSE-BY-CLAUSE ANALYSIS

Ad clause 1

- 3.1 Clause 1 seeks to amend section 6A of the Act by the substitution of subsection (2) to provide that the lapsing of Part 1 shall not affect any payment or benefit payable to any pensioner or beneficiary where the designated institution has made a determination in terms of the Act before 31 December 2006. The reference to section 7 has been deleted to align the Act with the most recent amendments to the Act.

Ad clause 2

- 3.2 Clause 2 seeks to amend section 6*Abis* of the Act by the substitution in subsection (3) for the year “2001” of the year “1995” to align the dates for the commencement of the entitlement to a pension benefit for a person who is 30 years of age and a person who is 35 years of age. It provides for the substitution of subsection (5) to allow a person who qualifies for a benefit under different parts of the Act to be granted the greater benefit. Furthermore, it substitutes subsection (7)(b) to provide that the lapsing of Part 1AA of the Act does not affect any benefit payable to any pensioner or beneficiary where the designated institution has made a determination in terms of section 6*Abis* before 31 December 2010.

Ad clause 3

- 3.3 Clause 3 seeks to repeal section 6B of the Act. The current section 6B is viewed as unfair by the National Treasury, since there is no justification for a surviving spouse not to receive a survivor’s lump sum benefit in respect of a deceased spouse, or for a child not to receive a survivor’s lump sum benefit, if both are receiving a special pension in their own rights.

Ad clause 4

- 3.4 Clause 4 seeks to substitute section 6C of the Act to provide that a person has the right to a survivor's lump sum benefit in terms of the Act if that person is a surviving spouse or, if there is no surviving spouse, the surviving dependent, of a person who has died or is presumed in law to be dead and who, if still alive, would have qualified in terms of section 1 or 6A*bis*(1) for a benefit.

Ad clause 5

- 3.5 Clause 5 seeks to amend section 6D of the Act by replacing the word "orphan" with "dependant" in section 6D(1)(b), (2), (3)(c) and (4) of the Act. The current wording of the provision is restrictive and, therefore, fails to include other categories of persons who may be dependent on the pensioner. The basis upon which children of a deceased veteran should be made to qualify for a monthly pension in respect of their deceased parent should not be whether a surviving parent is wealthy or indigent or whether she is deceased or alive. The only consideration should be that because the parents of the deceased were not married, a monthly pension should be paid to all the children of the deceased equally.

Ad clause 6

- 3.6 Clause 6 seeks to amend section 6E of the Act by deleting the word "orphan" in subsections (1) and (2). The current wording of the provision is restrictive and, therefore, fails to include other categories of persons who may be dependent on the pensioner. The basis upon which children of a deceased veteran should be made to qualify for a monthly pension in respect of their deceased parent should not be whether a surviving parent is wealthy or indigent or whether she is deceased or alive. The only consideration should be that because the parents of the deceased were not married, a monthly pension should be paid to all the children of the deceased equally.

Ad clause 7

- 3.7 Clause 7 seeks to amend section 6F of the Act by deleting the word "orphan" in section 6F(1)(c) and (d) of the Act. The addition of subsection (3) is intended to give the Minister a discretionary power, by notice in the *Gazette*, to amend Schedule 4 to the Act to provide for a funeral benefit in line with Government Employees Pension Law, 1996.

Ad clause 8

- 3.8 Clause 8 seeks to amend section 6G of the Act to provide for condonation of a late application by the designated institution under certain circumstances.

Ad clause 9

- 3.9 Clause 9 seeks to amend section 8 of the Act to provide that, notwithstanding subsection (1) of the Act, the Appeal Board may condone any late application if the Appeal Board is satisfied that, for reasons beyond the control of the applicant, the notice of appeal could not be submitted within 60 days of the date of the decision of the designated institution.

Ad clause 10

- 3.10 Clause 10 seeks to amend section 12 of the Act by deleting the word "orphan" in section 12(1) of the Act and correcting the spelling for the word "increases". The current wording of the provision is restrictive and, therefore, fails to include other categories of persons who may be dependent on the pensioner. The basis upon which children of a deceased veteran should be

made to qualify for a monthly pension in respect of their deceased parent should not be whether a surviving parent is wealthy or indigent or whether she is deceased or alive. The only consideration should be that because the parents of the deceased were not married, a monthly pension should be paid to all the children of the deceased equally.

Ad clause 11

- 3.11 Clause 11 seeks to amend section 14A of the Act by deleting the word “orphan” in section 14A(1) and (2) of the Act. The current wording of the provision is restrictive and, therefore, fails to include other categories of persons who may be dependent on the pensioner. The basis upon which children of a deceased veteran should be made to qualify for a monthly pension in respect of their deceased parent should not be whether a surviving parent is wealthy or indigent or whether she is deceased or alive. The only consideration should be that because the parents of the deceased were not married, a monthly pension should be paid to all the children of the deceased equally.

Ad clause 12

- 3.12 Clause 12 seeks to amend section 24 of the Act to ensure that the designated institution may reconsider its determination in respect of any application if there is a material fact that was not considered by it that may have resulted in a different determination, had the fact been considered when it made the determination.

Ad clause 13

- 3.13 Clause 13 seeks to amend section 31 of the Act by substituting the definition of “*child*”, by deleting the reference to “*spouse*” in paragraph (b) of the definition of “*dependant*” and deleting the definition of “*orphan*”.

Ad clause 14

- 3.14 Clause 14 seeks to provide for the short title and commencement of the Act.

4. ORGANISATIONS AND INSTITUTIONS CONSULTED

The Government Pension Administration Agency was consulted.

5. FINANCIAL IMPLICATIONS FOR STATE

The implementation of the proposed amendments to the Act is estimated to cost R98 133 124 in respect of back payments and R847 606 in respect of future costs (in respect of children’s pensions).

6. PARLIAMENTARY PROCEDURE

- 6.1 The Constitution of the Republic of South Africa, 1996 (the “Constitution”), regulates the manner in which legislation may be enacted by the legislature and thus prescribes the different procedures to be followed for such enactment. The national legislative process is governed by sections 73 to 77 of the Constitution.
- 6.2 It is necessary to consider the Bill against the provisions of the Constitution relating to the tagging of Bills and against the functional areas listed in Schedule 4 (functional areas of concurrent national and provincial legislative competence) and Schedule 5 (functional areas of exclusive provincial legislative competence) to the Constitution.

- 6.3 A Bill falling within a functional area listed in Schedule 4 to the Constitution must be dealt with in accordance with the procedure set out in section 76 of the Constitution. Schedule 4 lists the functional areas of concurrent national and provincial legislative competence. Schedule 5 to the Constitution lists the functional areas of exclusive provincial legislative competence. Therefore, those areas not falling within Schedule 4 or Schedule 5, fall within the exclusive national legislative competence.
- 6.4 The test for the classification of a Bill, as established in the Constitutional Court judgment of *Tongoane and Others v National Minister for Agriculture and Land Affairs and Others* 2010 (8) BCLR 741 (CC) (“*Tongoane judgment*”), is that any Bill with provisions which, in substantial measure, fall within a functional area listed in Schedule 4 to the Constitution must be classified in terms of that Schedule. The *Tongoane judgment* therefore laid down the substantial measures test for the tagging of a Bill, which requires one to determine whether, to a substantial extent, the legislation under consideration actually regulates matters falling within Schedule 4 to the Constitution. If so, the Bill must be tagged in terms of section 76 of the Constitution.
- 6.5 As indicated in the *Tongoane judgment*, “any Bill whose provisions in substantial measure” fall within a function listed in Schedule 4 to the Constitution must be classified as a section 76 Bill. The question that needs to be asked therefore is whether the provisions of the Bill, in substantial measure, fall within a functional area listed in Schedule 4 to the Constitution, or whether the Bill provides for legislation envisaged in section 76(3)(a) to (f) of the Constitution.
- 6.6 The Department have considered all the provisions of the Bill in order to establish the extent to which the provisions substantially affect any of the matters or functional areas listed in Schedules 4 and 5 to the Constitution and found that the Bill does not deal with any of those matters. The Bill deals with pensions and the beneficiaries of special pensions which areas of functional competence are not listed in Schedule 4 to the Constitution.
- 6.7 Section 7 of the Act provides that the Director-General of National Treasury is responsible for the administration of this Act. In terms of section 7 of the Act, this function is performed at national level only. There are no obligations or functions placed on the provinces. The current amendments seek to strengthen the procedure for the regulation of special pensions and there are no policy shifts from the current Act. Therefore, we are of the opinion that the draft Bill ought to be processed in terms of section 75 of the Constitution as it is an ordinary Bill that does not affect provinces.

7. REFERRAL OF BILL TO NATIONAL HOUSE OF TRADITIONAL AND KHOI-SAN LEADERS

- 7.1 The Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), provides for the referral of Bills to the National House of Traditional and Khoi-San Leaders and states as follows:

“Referral of Bills to National House

39. (1)(a) Any Parliamentary Bill—

- (i) which directly affects traditional or Khoi-San communities or pertaining to customary law or customs of traditional or Khoi-San communities; or
- (ii) pertaining to any matter referred to in section 154(2) of the Constitution,

must, in the case of a Bill contemplated in subparagraph (i) and **may**, in the case of a Bill contemplated in subparagraph (ii), before it is passed by the house of Parliament where it was introduced, be referred by the Secretary to Parliament to the National House for its comments.” (Our emphasis.)

- 7.2 Section 39(1) requires Bills pertaining to customary law or customs of traditional communities to be referred to the National House of Traditional and Khoi-San Leaders. Section 154(2) of the Constitution provides that “***[d]raft national or provincial legislation that affects the status, institutions, powers or functions of local government*** must be published for public comment before it is introduced in Parliament or a provincial legislature, in a manner that allows organised local government, municipalities and other interested persons and opportunity to make representations with regard to the draft legislation.” Furthermore, the National House of Traditional and Khoi-San Leaders will have 60 days to provide the Secretary to Parliament with its comments on Bills referred to it.
- 7.3 This Bill is considered to be national legislation and does not specifically contain any provisions that impact or affect traditional or Khoi-San communities or matters pertaining to customary law or customs of traditional or Khoi-San communities. In light of this, the State Law Advisers are of the view that the Bill does not have to be referred to the National House of Traditional and Khoi-San Leaders.

Printed by Creda Communications

ISBN 978-1-4850-1063-0