



GOVERNMENT GAZETTE
OF THE
REPUBLIC OF NAMIBIA

N\$5.60

WINDHOEK - 22 May 2008

No. 4051

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GOVERNMENT NOTICE

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 115

2008

**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. 2 of 2008: Veterans Act, 2008.

Act No. 2, 2008

VETERANS ACT, 2008

ACT

To define the responsibilities of the Minister in relation to veterans affairs; to provide for the establishment of a Veterans Fund for the provision of assistance to veterans and dependants of veterans; to provide for the registration of veterans and dependants of living or deceased veterans; to provide for the establishment of projects for the benefit of and assistance to veterans and dependants of veterans; to provide for the integration of pension benefits of veterans; to provide for the constitution and functions of the Veterans Board and Veterans Appeal Board; and to provide for matters incidental to or connected with the foregoing.

(Signed by the President on 30 April 2008)

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

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

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

“Appeal Board” means the Appeal Board established by section 41;

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“applicant” means -

- (a) in relation to an application for registration as a veteran or dependant of a living or deceased veteran, any person who applies for such registration;
- (b) in relation to any application for the grant of financial assistance or funding from the Fund, any registered veteran or dependant of a veteran who applies for such assistance or funding;

“assistance” means any payment, subvention, grant or assistance rendered out of the Fund to a veteran or dependant of a veteran in terms of section 32;

“Board” means the Veterans Board established by section 14;

“child”, in relation to a veteran, means a person aged below 18 years -

- (a) who is a biological child of such veteran;
- (b) who is a step-child of such veteran;
- (c) who is a legally adopted child of such veteran; or
- (d) who is a posthumous child of such veteran;

“deceased veteran” means any veteran who, of whatever cause, died during the war or after the war irrespective of whether the death took place before or after the commencement of this Act;

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

- (a) any child of such veteran;
- (b) any widow or widower of such veteran;
- (c) a person, other than a person included in paragraph (a), in respect of whom such veteran is, or was at the time of his or her death, legally liable for maintenance; or
- (d) a person in respect of whom such veteran is, or was at the time of his or her death, not legally liable for maintenance, if, in the opinion of the Board, such person is, or was at the time of death of a veteran, in fact dependant on such veteran for maintenance;

“dependant of a veteran” means a dependant of a deceased veteran;

“Fund” means the Veterans Fund established by section 4;

“liberation struggle” means the political, diplomatic, military or under-ground struggle waged against colonialism, racism and apartheid which struggle was waged in Namibia and other countries and resulted in the attainment of the independence of Namibia on 21 March 1990;

“member of the liberation forces” means any person who underwent military training and participated consistently and persistently in the war in order to bring about the independence of Namibia: Provided that a person is deemed to have consistently and

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persistently participated in the war of liberation notwithstanding that he or she was reallocated to other liberation struggle functions or duties;

“Minister” means the Minister responsible for veterans affairs;

“Ministry” means the Ministry responsible for veterans affairs;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

“prescribed” means prescribed by regulation made under section 46;

“project” means any project referred to in section 35;

“registered dependant” means any person who has been registered as a dependant of a living or deceased veteran under section 28;

“registered veteran” means any person registered as a veteran under section 28;

“Secretary” means the Secretary to the Board referred to in section 25;

“this Act” includes regulation made under section 46;

“veteran” means any person who -

- (a) was a member of the liberation forces;
- (b) consistently and persistently participated or engaged in any political, diplomatic or under-ground activity in furtherance of the liberation struggle; or
- (c) owing to his or her participation in the liberation struggle was convicted, whether in Namibia or elsewhere, of any offence closely connected to the struggle and sentenced to imprisonment;

but does not include a person who during the war deserted the liberation struggle unless that person subsequently rejoined the struggle; and

“war” means the armed struggle waged in Namibia and other countries by the liberation forces against the colonial forces, and which struggle resulted in the attainment of the independence of Namibia on 21 March 1990.

PART II VETERANS AFFAIRS

Responsibilities of Minister

2. (1) The Minister is responsible for the administration of this Act and the initiation, formulation and development of policies on all matters pertaining to veterans affairs and dependants of veterans registered under this Act and relating to the Fund and for that purpose he or she may, without prejudice to subsection (2), give general or specific directions to the Board.

(2) The Minister may, subject to subsection (3), give directions to the Board as to -

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- (a) the minimum or maximum assistance or funding for a project to which a registered veteran or a dependant of a veteran is entitled to under this Act;
 - (b) the period to be taken into account in the granting of any assistance or funding for a project; or
 - (c) any matter to be taken into account in granting any assistance or funding for a project.
- (3) Any direction regarding any matter referred to in subsection (2), may only be given after the Minister has consulted the Minister responsible for finance.
- (4) The Board must, with all due expedition, comply with any direction given in terms of subsection (1) or (2).
- (5) In order to effectively implement the provisions of this Act, the Minister must ensure that facilities are provided and personnel stationed in the respective regions of Namibia.

War memorial sites and honours

3. (1) Whenever the Minister considers that it is necessary that any building, burial ground, land, water, place or anything whatsoever where war or any liberation struggle or act in Namibia or elsewhere took place be declared and registered as a heritage place or object in terms of the National Heritage Act, 2004 (Act No. 27 of 2004), the Minister must make the nomination referred to in section 29 of that Act and must thereafter take such steps as are necessary to ensure such declaration and registration.
- (2) Despite any provisions to the contrary contained in the National Heritage Act, 2004 (Act No. 27 of 2004) the Minister -
- (a) may erect or install a monument or memorial site at any place referred to in subsection (1);
 - (b) may purchase, where necessary, any place, building or anything which has any historical links with the war or liberation struggle;
 - (c) may erect signs indicating that a war memorial site has been erected at any place; or
 - (d) must ensure that monument or memorial sites are properly zoned, securely preserved and maintained.
- (3) The Minister may, during each year or at any appropriate time, nominate veterans for consideration by the President to receive honours during their lifetime or posthumously for their contribution in the liberation struggle.

Act No. 2, 2008**VETERANS ACT, 2008****PART III
VETERANS FUND****Establishment of Fund**

4. (1) There is established, as contemplated by Article 125(3) of the Namibian Constitution, a juristic person known as the Veterans Fund.

(2) For the purposes of the State Finance Act, 1991 (Act No. 3 of 1991) the chairperson of the Board is the accounting officer of the Fund.

(3) The Fund consists of -

- (a) such moneys as may be payable to the Fund from moneys appropriated by Parliament for the objects of the Fund;
- (b) domestic or foreign gifts or donations made for the benefit of the Fund;
- (c) interest derived from investment of moneys referred to in section 9; and
- (d) any other moneys to which the Fund may be lawfully entitled.

Object of Fund

5. The object of the Fund is to provide assistance in terms of this Act or any other law to veterans or dependants of veterans or payment for projects beneficial to veterans or dependants of veterans in accordance with the provisions of this Act or any other law.

Application of Fund

6. (1) The Board may authorise payments from the Fund for -

- (a) assistance to a registered veteran or a registered dependant of a veteran;
- (b) the remuneration or allowances of members of the Board or Appeal Board or members of a committee of the Board but such remuneration or allowances are not payable to a person who is in the full time service of the State;
- (c) the cost of establishing and maintaining the Fund;
- (d) any assistance rendered to veterans or dependants of veterans in relation to projects;
- (e) annual grants payable to an association or organisation of veterans and dependants of veterans in terms of section 44; and
- (f) the purposes contemplated in section 37.

(2) The Board must apply any donation, gift or grant contemplated in section 4(3)(b) in accordance with the conditions, if any, imposed by the donor or grantor concerned, provided that such condition is not contrary to or in conflict with the provisions of this Act or any law.

Act No. 2, 2008**VETERANS ACT, 2008****Management of Fund**

7. (1) The affairs of the Fund are, subject to directions of the Minister, managed and controlled by the Board, which must exercise the powers and perform the duties and functions conferred or imposed upon the Board by or under this Act.

(2) The Minister may, after consultation with the Board and with the concurrence of the Minister responsible for finance, make rules relating to the administration and management of the Fund.

Banking accounts

8. (1) The Board must, at one or more banking institutions in Namibia registered in terms of the Banking Institutions Act, 1998 (Act No. 2 of 1998), open and maintain such bank accounts as are necessary for the performance of the functions of the Fund.

(2) The Board must ensure that -

- (a) all money received by or on behalf of the Fund is deposited into its bank account as soon as practicable after being received;
- (b) any payment by or on behalf of the Fund is made from its bank account; and
- (c) no money is withdrawn, paid or transferred from the Fund's bank account without the Board's authority.

(3) Cheques drawn on the Fund's bank account, or any other form or document to be completed for the withdrawal, payment or transfer of money from any of the bank accounts of the Fund, must be signed on the Fund's behalf by such persons as are authorised for that purpose by the Board.

Investment of balances

9. Any money outstanding to the credit of the Fund and that is not immediately required for expenditure by the Fund may, subject to section 27 of the State-owned Enterprises Governance Act, 2006 (Act No. 2 of 2006), be invested by the Board.

Financial year of Fund

10. The financial year of the Fund commences on 1 April and ends on 31 March in each year.

Accounts and audit of Fund

11. (1) The Board must keep or cause such records of account to be kept in accordance with general accepted accounting practices, principles and procedures as are necessary to represent fairly the state of affairs and business of the Fund and to explain the transactions and financial position of the Fund.

(2) Not later than three months after the end of each financial year of the Fund, the Secretary must prepare and submit to the Board for approval, financial statements, comprising -

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- (a) a statement reflecting, with suitable and sufficient particulars, the income and expenditure of the Fund during that financial year; and
 - (b) a balance sheet showing the state of the Fund's assets, liabilities and financial position as at the end of that financial year.
- (3) The accounting records and the financial statements of the Fund must be audited annually by the Auditor-General.

Annual statements

12. (1) The Board must submit to the Minister an annual report of the Fund's activities within six months of the end of each financial year, or such longer period as the Minister may determine, which report must be accompanied by -

- (a) the audited financial statements of the Fund referred to in section 11 for that financial year; and
- (b) the auditor's report relating to those financial statements.

(2) The Minister must table in the National Assembly the annual report and financial statements submitted to the Minister in terms of subsection (1) within 30 days from the date of their receipt or, if the National Assembly is not then in ordinary session, within 14 days after the commencement of its next ordinary session.

(3) The Board must, if the Minister at any time so requires, furnish to the Minister a report and particulars relating to the performance of the functions of the Fund in relation to any matter as the Minister may require.

Exemption from certain taxes, duties and levies

13. Notwithstanding anything to the contrary in any law -

- (a) the income of the Fund is exempt from income tax;
- (b) no transfer duty, stamp duty or any other fee payable to the Registrar of Deeds in connection with the transfer of immovable property is payable in respect of the acquisition and transfer of immovable property by the Fund; and
- (c) no stamp duty is payable in respect of any document if the stamp duty is, according to law, payable by the Fund and no stamp duty is payable in respect of the registration of the transfer of securities issued by the Fund.

**PART IV
VETERANS BOARD****Establishment of Veterans Board**

14. There is established a board to be known as the Veterans Board whose main object is the administration of the Fund.

Act No. 2, 2008**VETERANS ACT, 2008****Composition of Board**

15. (1) The Board consists of nine members appointed by the Minister, subject to the provisions of this section as follows:

- (a) the Permanent Secretary who is the chairperson of the Board;
- (b) one staff member of the Ministry responsible for finance, nominated by the Minister responsible for finance;
- (c) one staff member of the Ministry responsible for defence, nominated by the Minister responsible for defence;
- (d) one staff member of the National Planning Commission, nominated by the Director-General of the Commission;
- (e) one staff member of the Ministry responsible for safety and security, nominated by the Minister responsible for safety and security;
- (f) one staff member of the Ministry;
- (g) two representatives nominated by an organisation or association representing veterans and dependants of living or deceased veterans as recognised by the Minister in terms of section 44; and
- (h) one person who, in the opinion of the Minister, possesses necessary expertise to make a substantial contribution towards the functions of the Board.

(2) Before appointing members in terms of subsection (1)(g), the Minister must, by written notice to the organisation or association, request that organisation or association to nominate, within a specified period, four veterans or dependants of living or deceased veterans, two of whom may be appointed as members of the Board.

(3) On the expiry of the period referred to in subsection (2), the Minister may appoint as members of the Board, two of the persons nominated in terms of that subsection, who in the opinion of the Minister possess the necessary expertise to represent the interests of the veterans and dependants of living or deceased veterans.

(4) Where no nomination, as contemplated in subsection (2) is made, or persons so nominated for appointment do not satisfy the requirements of subsection (3), the Minister may, despite the provisions of subsection (1)(g), appoint two veterans or dependants of living or deceased veterans, who in his or her opinion are capable of representing the interests of veterans and dependants of living or deceased veterans, as members of the Board.

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

- (a) is a member of the National Assembly or the National Council;
- (b) is an un-rehabilitated insolvent, or

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- (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.

Tenure and vacation of office of members of Board

16. (1) A member of the Board holds office, subject to subsection (2), for a period of three years and is, upon the expiry of his or her term of office, eligible for re-appointment.

- (2) A member of the Board vacates 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 15(5);
 - (c) is absent from three consecutive meetings of the Board of which he or she had notice without leave of the Board;
 - (d) in the case of a member appointed in terms of -
 - (i) paragraph (a), (b), (c), (d), (e) and (f) of section 15(1), ceases to being a staff member;
 - (ii) paragraph (g) of section 15(1), ceases being a representative referred to in that paragraph; or
 - (e) is removed from office under subsection (3) by the Minister.

(3) The Minister may, having afforded a member of the Board an opportunity to be heard, remove such a member from office, if the Minister is satisfied that the member -

- (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 provisions of this Act.

Filling of casual vacancies on Board

17. A casual vacancy on the Board caused by death, resignation or removal from or vacation of office of any member of the Board may, with due regard to provisions of section 15, be filled for the un-expired portion of the period of office of the member who has died or resigned or been removed from office or vacated his or her office, as the case may be.

Act No. 2, 2008**VETERANS ACT, 2008****Remuneration**

18. Members of the Board, and members of a committee who are not members of the Board are, subject to section 22(2) of the State-owned Enterprises Governance Act, 2006 (Act No. 2 of 2006), entitled to be paid such remuneration and allowances or other benefits as the Minister with the concurrence of the Minister responsible for finance may, subject to section 22(1) of that Act, determine.

Conduct of members and disclosure of interest

19. (1) A member of the Board may not -

- (a) engage in an activity that may undermine the integrity of the Board;
- (b) participate in any investigation or decision concerning a matter in respect of which the member has a financial or other personal interest; or
- (c) use any confidential information obtained in the performance of his or her functions as a member to obtain, directly or indirectly, a financial or other advantage for himself or herself or any other person.

(2) A member who has or acquires any financial or other personal interest, either directly or indirectly, in any matter which is before the Board for discussion and determination must -

- (a) immediately and fully disclose the interest to the Board; and
- (b) withdraw from any further discussion or determination by the Board of that matter.

(3) A person who contravenes or fails to comply with any provision of this section commits an offence and is liable on conviction to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both the fine and imprisonment.

Meetings and decisions of the Board

20. (1) The first meeting of the Board must be held at a place and time that the Minister determines and any meeting of the Board thereafter must be held at a place and time that the chairperson of the Board determines.

(2) The members of the Board must, at their first meeting and thereafter as an occasion arises, elect from among their number a vice-chairperson of the Board.

(3) If for any reason a meeting determined by the Board cannot take place, the Secretary, with the concurrence of the chairperson, must convene the next meeting of the Board.

(4) The chairperson presides at all meetings of the Board at which he or she is present.

(5) In the absence of the chairperson from a meeting, the vice-chairperson presides if present, or in the absence of both the chairperson and vice-chairperson, the

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members present must elect one of their number to preside at that meeting and perform the functions and exercise the powers of the chairperson.

(6) The chairperson of the Board may at any time, and 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 meet at such time, but not less than seven days and not more than 30 days from the date of such request, at such place as the chairperson may determine.

(7) A request contemplated in subsection (6) must state the purpose for which the special meeting is convened.

(8) At a meeting of the Board -

(a) a majority of the members of the Board forms a quorum;

(b) all questions are decided by a majority of votes of the members present and voting; and

(c) the member presiding has a deliberative vote and, in the event of any equality of votes, also a casting vote.

(9) No decision or act of the Board or act performed by authority of the Board is invalid by reason only -

(a) of the existence of a vacancy on the Board;

(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.

(10) The Board may invite any person who has expert knowledge of a matter before the Board for determination to attend a meeting of the Board and take part in discussions in relation to that matter, but such person has no vote.

(11) As soon as possible after a meeting of the Board has taken place, the chairperson must cause a copy of the minutes of that meeting to be submitted to the Minister.

(12) The Board may, after 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 or committee of the Board.

Committees of Board

21. (1) The Board may establish one or more committees to -

(a) subject to the direction of the Board, investigate and advise or make recommendations to the Board on any matter relating to the functions of the Board;

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- (b) investigate and report to the Board on any matter which the Board may refer to the committee for the purpose; or
 - (c) exercise any power or perform any function of the Board which the Board may delegate or assign to the committee.
- (2) A committee may consist of members of the board, or members of the board and other persons, as the Board may determine but every committee must consist of at least one member of the Board.
- (3) The Board must designate a member of the board to be the chairperson of a committee.
- (4) The chairperson of the Board may attend any meeting of a committee of which he or she is not a member and may take part in the proceedings thereof as if he or she were appointed as a member thereof.
- (5) The Board may at any time dissolve or reconstitute a committee.
- (6) The Board is not divested or relieved of a power or function which has been delegated or assigned to a committee.
- (7) A decision by a committee in the exercise of a power delegated to the committee, is subject to approval by the Board, and the Board may at any time vary or set aside the decision.
- (8) Sections 15(5) and 19, with the changes required by context, apply to members of a committee who are not members of the Board.

Powers, duties and functions of the Board

22. (1) Subject to any directions issued by the Minister in terms of this Act, and the provisions of this Act, the Board must perform the following duties and functions -

- (a) be accountable and responsible for administering the Fund;
- (b) advise the Minister on policy matters in regard to the welfare of veterans and dependants of veterans;
- (c) determine applications for registration as veteran or dependant of a living or deceased veteran;
- (d) determine applications by veterans or dependants of veterans for assistance from the Fund;
- (e) determine applications by veterans or dependants of veterans for funding of projects by the Fund;
- (f) prepare the budget for the Fund;
- (g) initiate or approve projects by veterans and dependants of veterans;

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- (h) advise and make recommendations to the Minister on any matter relating to the implementation of this Act referred to the Board by the Minister or at its own initiative.
- (2) The Board may -
 - (a) investigate or conduct an inquiry into any matter referred to in section 23;
 - (b) subject to the provisions of this Act, do or cause to be done any or all of such things which -
 - (i) are necessary to achieve the objects of this Act and to effectively perform its duties and functions in terms of this Act;
 - (ii) are in the best interest of the Fund.

Board may conduct inquiry

- 23.** (1) The Board may conduct an inquiry into any matter relating to -
- (a) an application for registration as a veteran or dependant of a living or deceased veteran;
 - (b) an application for granting of assistance or funding of a project; or
 - (c) the payment, suspension or stopping of payment of any assistance or funding of a project.
- (2) For the purpose of an inquiry under subsection (1), the chairperson of the Board or, if authorised thereto in writing by the chairperson, the Secretary 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) subsection (2) must be -
- (a) in the prescribed form;
 - (b) signed by the chairperson or Secretary, as the case may be; and

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- (c) served on the person concerned by the chairperson or Secretary, 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, applies, subject to necessary changes required by context, 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 is 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 was a witness attending criminal proceedings before a magistrates' 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; 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 in terms of this section is required to give or produce;

commits an offence and on conviction is 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 affirmation 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 is false, commits an offence and on conviction is liable to the penalties prescribed by law for the crime of perjury.

Act No. 2, 2008**VETERANS ACT, 2008****Board may request for information**

24. Notwithstanding anything to the contrary contained in any law, the Registrar of Births and Deaths, the Registrar of Companies, the Registrar of Deeds or any other staff member as defined in the Public Service Act, 1995 (Act No. 13 of 1995), must, at the written request of the Board, furnish the Board with such information relating to an applicant as the Board may reasonably require.

Secretariat to Board

25. (1) The Minister must establish a component in the Ministry to be known as the Secretariat to the Veterans Board (hereinafter referred to as 'the Secretariat') consisting of -

- (a) one staff member of the Ministry, designated by the Minister, who is Secretary of the Board; and
- (b) such other staff members of the Ministry as the Minister on the recommendation of the Permanent Secretary considers necessary to assist the Secretary to perform any function of the Secretariat.

(2) Whenever it becomes necessary for the efficient functioning of the Secretariat the Minister may, after consultation with the Board and with the concurrence of the Public Service Commission, appoint to the Secretariat such other persons, other than staff members, on such conditions of service and at such remuneration and service benefits as the Minister may determine.

Limitation of liability

26. No liability attaches to the Fund, or, any member of the Board, any member of a committee of the Board, any staff member of the Ministry or any other person in respect of anything done or omitted to be done in the *bona fide* performance of any function or duty in terms of this Act.

PART V
REGISTRATION OF VETERANS AND DEPENDANTS OF
LIVING OR DECEASED VETERANS AND PROVISION OF
ASSISTANCE AND OTHER BENEFITS

Qualifications for registration as veteran or dependant of living or deceased veteran

27. No person qualifies for registration as a veteran or dependant of a living or deceased veteran unless that person -

- (a) in the case of a veteran, meets the requirements of a veteran as defined in section 1;
- (b) in the case of a dependant of a living veteran, the veteran himself or herself meets the requirements of a veteran as defined in section 1; or
- (c) in the case of a dependant of a deceased veteran, the deceased veteran himself or herself during his or her lifetime, met the requirements of a veteran as defined in section 1.

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28. (1) A person who wishes to be registered as a veteran or dependant of a living or deceased veteran must, in the prescribed form and manner, apply to the Board for registration.

(2) The Board must consider every application for registration submitted to it in terms of subsection (1) and for that purpose it may -

- (a) conduct an inquiry referred to in section 23;
- (b) 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; or
- (c) request the applicant to attend an interview by the Board.

(3) After considering an application in terms of subsection (2) the Board may -

- (a) if satisfied that the applicant meets the requirements of section 27, grant the application and, in the prescribed manner, register the applicant as a veteran or dependant of a living or deceased veteran;
- (b) refuse the application and furnish the applicant with reasons in writing for the refusal; or
- (c) grant the application subject to such conditions as are necessary and reasonable in the circumstances.

(4) Where an application for registration is granted or refused under subsection (3) the Board must in writing notify the applicant accordingly.

Registered veterans entitled to assistance from Fund

29. (1) For the purposes of this section “employed,” “employment” means to do any work or to render any services or to carry on any trade or occupation for the purpose of receiving or becoming entitled to receive any remuneration.

(2) A registered veteran is, subject to the provisions of this Act, entitled to receive assistance from the Fund if he or she satisfies the Board that he or she is a person who is not employed, or if employed, receives income which is less than the prescribed amount.

(3) The Board may refuse to authorise payment of assistance payable under subsection (1), if the Board is satisfied from evidence before it that the veteran concerned has resigned from or has otherwise left his or her employment for the sole purpose of enabling him or her to claim assistance from the Fund.

Registered dependants of veterans entitled to assistance from Fund

30. (1) Subject to the provisions of subsection (2) and (3), a registered dependant of a veteran is, notwithstanding that such veteran was at the time of his or her death not receiving assistance, entitled to receive assistance from the Fund, if he or she satisfies the Board that he or she qualifies as a dependant as defined in section 1.

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- (2) In the application of subsection (1), a registered dependant of a veteran -
- (a) who is a person, other than the widow or widower of such veteran, is entitled to receive assistance until such date that he or she -
- (i) attains the age of 18 years: Provided that this subparagraph does not apply to an unmarried child over the age 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 veteran at the time of his or her death; or
- (ii) marries;
- (iii) dies;
- (iv) becomes self-sufficient; or
- (v) becomes subject to any other disqualification contemplated in this Act,
- whichever date or event is earliest;
- (b) who is a widow or widower of such veteran, is entitled to receive assistance only until such date as he or she -
- (i) remarries;
- (ii) dies; or
- (iii) becomes subject to any other disqualification contemplated in this Act;
- whichever event or date is earliest.

(3) The assistance payable to a registered dependant of veteran may not in the aggregate exceed the total assistance which could have become payable to such veteran in terms of this Act, had he or she not died.

Application for assistance from Fund

31. (1) Any registered veteran or dependant of a veteran who wishes to claim any assistance from the Fund must, in the prescribed form and manner, apply for such assistance from the Fund.

(2) An application contemplated in subsection (1) must be submitted to the Board in the prescribed form and manner and be accompanied by any prescribed documents and information.

(3) The Board must consider every application submitted to it in terms of subsection (1) and it may -

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- (a) if satisfied that the application complies with the requirements of this section and that the veteran or dependant of the veteran is entitled to receive assistance in terms of section 29 or 30 respectively, grant the application and, in the prescribed form and manner, authorise payment of assistance to the veteran or dependant of a veteran;
 - (b) refuse the application and furnish the applicant with reasons in writing for the refusal; or
 - (c) grant the application subject to such conditions as are necessary and reasonable in the circumstances.
- (4) Where an application for assistance is granted or refused under subsection (3) the Board must in writing notify the applicant accordingly.

Payment of assistance from Fund

32. (1) The Minister must, on the recommendation of the Board and with the concurrence of the Minister responsible for finance, prescribe the amount of assistance to which veterans and dependants of veterans may be entitled in terms of this Act.

(2) When prescribing amounts of assistance under subsection (1) the Minister may prescribe different rates of assistance for different categories of veterans or dependants of veterans.

(3) Any assistance granted to veterans and dependants of veterans must, in the prescribed form and manner, be paid from the Fund.

Assistance not assignable or executable

33. (1) Payment of assistance from the Fund is for the personal benefit of the registered veteran or dependant of a veteran.

(2) No assistance or a right to such assistance, is capable of being assigned or transferred or otherwise ceded or being pledged or hypothecated or be liable to be attached or subject to any form of execution under a judgment or order of a court of law.

(3) Where a veteran or dependant of a veteran purports to assign or transfer or otherwise cede or pledge or hypothecate any assistance to which he or she is entitled, or any right in respect of such assistance, the Board may -

- (a) suspend payment of such assistance; or
- (b) by written order designate a competent person to receive and administer such assistance on behalf of the veteran or dependant of a veteran and to apply it, subject to such conditions as the Board may determine, for the benefit of the veteran or dependant of a veteran.

(4) The Board may, if it is, for sufficient reasons advanced by a veteran or dependant of a veteran, satisfied that it is just and equitable do so in any particular case, rescind or withdraw a suspension or an order contemplated in subsection (3) and, in the case of a suspension, permit payment to the veteran or dependant of a veteran of any assistance withheld from him or her by reason of such suspension.

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(5) If the estate of a veteran or dependant of a veteran who was in receipt of a assistance under this Act, is sequestrated or surrendered, the assistance of the veteran or dependant of a veteran does not form part of the assets of his or her insolvent estate.

Repayment of assistance

34. (1) Where any person receives assistance to which he or she is not entitled, such person or if he or she is deceased, his or her estate is liable to repay to the Fund the amount of such assistance.

(2) Where any person receives any payment of assistance on behalf of a veteran or dependant of a veteran due to that veteran or dependant of a veteran in terms of this Act and misuses such payment by failing to use it for the benefit of the veteran or dependant of a veteran such person or if he or she is deceased, his or her estate, is liable to repay to the Fund the amount of such assistance.

(3) The Board may recover any amount repayable in terms of subsection (1) or any assistance received in terms of subsection (2) by way of legal proceedings or in such other manner as the Board may deem expedient.

(4) Where the Board recovers any assistance received in terms of subsection (2) it may reimburse the veteran or dependant of a veteran on whose behalf the assistance has been recovered

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

Establishment of projects

35. (1) The Minister may, after consultation with the Board, by regulation -

(a) establish one or more projects; or

(b) stipulate the various economic sectors in which projects may be established,

for the provision of benefits or assistance to or in respect of any veteran or dependant of a veteran or any classes of veterans or dependants of veterans, and may in like manner suspend or abolish such projects.

(2) Regulations made under subsection (1) may provide for different benefits or projects to be granted or established to or for different categories of veterans or dependants of veterans.

(3) Any project established under subsection (1) is, subject to any conditions which may be prescribed under this section, entitled to receive funding from the Fund.

Funding of projects

36. (1) Any registered veteran or dependant of a veteran who wishes to obtain funding for a project must, in the prescribed form and manner, apply for such funding from the Fund.

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(2) An application contemplated in subsection (1) must be submitted to the Board in the prescribed form and manner and be accompanied by any prescribed documents and information.

(3) The Board must consider every application submitted to it in terms of subsection (1) and it may -

- (a) if satisfied that the intended project is one contemplated in section 35, grant the application and, in the prescribed form and manner, authorise funding for the project;
- (b) refuse the application and furnish the applicant with reasons in writing for the refusal; or
- (c) grant the application subject to such conditions as are necessary and reasonable in the circumstances.

(4) Where an application for assistance is granted or refused under subsection (3) the Board must in writing notify the applicant accordingly.

Pension integration scheme for veterans

37. (1) For the purposes of this section -

“pension integration scheme” means the scheme whereby a veteran is credited for the period that he or she spent participating in the liberation struggle for purposes of determining his or her pensionable service with a public body; and

“public body” means -

- (a) any office, Ministry or agency as defined in the Public Service Act, 1995 (Act No. 13 of 1995);
- (b) any local authority as defined in the Local Authorities Act, 1992 (Act No. 23 of 1992);
- (c) any regional council as defined in the Regional Councils Act, 1992 (Act No. 22 of 1992);
- (d) any state-owned enterprise as defined in the State-owned Enterprises Governance Act, 2006 (Act No. 2 of 2006);
- (e) any other functionary or institution exercising a power or performing a function in terms of the Namibian Constitution; and
- (f) any other functionary or institution declared by the Minister by notice in the *Gazette* to be a public body for the purposes of this Act.

(2) Despite the provisions of any law to the contrary a veteran who, at any time after the date of Namibia’s independence joined the service of any public body, is entitled to participate in the pension integration scheme.

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(3) The Minister may, with the concurrence of the Minister responsible for finance, make regulations for the purposes of implementing the pension integration scheme and such regulations may provide for -

- (a) the manner in which the pensionable service of a veteran is integrated into the pension scheme of the public body and the modalities for such integration;
- (b) the method of calculating the period spent participating in the liberation struggle for the purposes of determining the pensionable service of a veteran;
- (c) the persons, institutions or entities which are responsible for the implementation of the pension integration scheme;
- (d) the conditions for eligibility for benefiting from the pension integration scheme and the manner of applying for participation in the integration scheme;
- (e) the circumstances and manner in which any money may be paid from the Fund for the purposes of implementing the pension integration scheme; and
- (f) any other matter which the Minister considers necessary or expedient to attain the objective of this section.

(4) If in the implementation of the pension integration scheme any loss or deficit is incurred by a public body, any money or other resources which may be required to compensate for or make good such loss or deficit, must be paid out from the Fund from moneys made available for such purpose by Parliament.

Exemption from stamp duty

- 38.** No stamp is 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 granting of assistance or funding of a project; or
 - (b) a veteran or dependant of a veteran to any person to receive payment of any assistance or funding of a project on his or her behalf.

Offences and penalties

- 39.** Any person who -
- (a) for the purposes of being registered as veteran or dependant of a living or deceased veteran or obtaining or retaining assistance, funding of a project or any other benefit from the Fund makes any false statement or representation, knowing such statement or representation to be false or not believing it to be true;
 - (b) accepts in respect of any assistance, funding of a project or any other benefit any amount of money which he or she is not entitled to receive, knowing that he or she is not entitled; or

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- (c) receives any payment of assistance, funding of a project or any other benefit on behalf of a veteran or dependant of a veteran due to that veteran or dependant of veteran in terms of this Act and misuses such payment by failing to use it for the benefit of the veteran or dependant of a veteran,

commits an offence and on conviction is liable to a fine not exceeding N\$ 10 000 or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

**PART VI
VETERANS APPEAL BOARD**

Right of appeal

- 40.** (1) Any person aggrieved by a decision or an act of the Board relating to -
- (a) an application for registration as a veteran or dependant of a living or deceased veteran;
 - (b) an application for assistance, funding of a project or any other benefit, suspension or stopping of payment of any such assistance, funding or any other benefit; or
 - (c) determination of amount of assistance, funding of a project or any other benefit granted to him or her,

may, within 90 days after the date on which he or she is notified in writing by the Board of such decision or act, appeal against such decision or act, subject to the provisions of subsection (2), to the Appeal Board established under section 41.

(2) An appeal in terms of subsection (1) must be lodged with the Appeal Board in the prescribed form and manner and must -

- (a) contain the complete grounds of appeal; and
- (b) be accompanied by such documents as may be prescribed.

Establishment of Appeal Board

41. (1) There is hereby established the Veteran Appeal Board for the hearing of appeals noted in terms of section 40.

(2) The Appeal Board consists of three persons appointed by the Minister of whom -

- (a) one is a magistrate or retired magistrate, nominated by the Minister responsible for justice, who is the presiding officer;
 - (b) two are 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 -

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- (a) holds office for a period of three years and is eligible for re-appointment upon 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 is entitled to be paid from the Fund such remuneration and allowances as the Minister with the concurrence of the Minister responsible for finance may from time to time determine.

Functions of the Appeal Board

42. (1) The Appeal Board hearing an appeal in terms of this section -
- (a) must deal with the appeal with due regard to -
 - (i) the circumstances which were considered in taking the decision or performance of the act appealed against;
 - (ii) the grounds of appeal;
 - (iii) the documentary or oral evidence submitted or given by the 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.
- (2) The Appeal Board must in writing notify the appellant of its decision.
- (3) The Appeal Board must keep proper records of its proceedings.
- (4) Meetings of the Appeal Board must be held at such times and places as the presiding officer may determine.
- (5) The decision of a majority of the members of the Appeal Board is the decision of such Appeal Board, but the presiding officer alone must decide any question of law, and whether any matter constitutes a question of law or a question of fact.
- (6) The Appeal Board determines its own rules of procedure not inconsistent with the provisions of this Act.

Appeals to the High Court

43. A person aggrieved by a decision of the Appeal Board may in the prescribed form and manner appeal against that decision to the High Court.

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GENERAL PROVISIONS****Recognition of veterans association**

44. (1) Veterans and dependants of living or deceased veterans may form an association or organisation for the purposes of representing their interests.

(2) Where an association or organisation has been formed in terms of subsection (1), members of the association or organisation may, in the prescribed form and manner, apply to the Minister for recognition of such association or organisation.

(3) On receipt of an application made under subsection (2) the Minister may recognize only one association or organisation, if he or she is satisfied that -

- (a) the association or organisation is representative of such number of registered veterans and dependants of living or deceased veterans as may be prescribed;
- (b) the constitutive document of the association or organisation complies with prescribed requirements;
- (c) the objects of the organisation or association are not in conflict of any law; and
- (d) the association or organisation or its members comply with any requirements or conditions as may be prescribed.

(4) An association or organisation recognized in terms of this Act is entitled to receive from the Fund such annual grant as may be prescribed.

Delegation of powers and assignment of duties

45. (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 37 or 46, or assign any duty entrusted in him or her by or under this Act to the Permanent Secretary, or any other staff member of the Ministry.

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

(3) Anything done in terms of any power delegated or duty assigned in terms of subsection (1) is valid as if it was a decision of the Minister, but the Minister may, where he or she considers it necessary, revoke or amend such decision.

Regulations

46. (1) The Minister may, on the recommendation of the Board, make regulations not inconsistent with the provisions of this Act relating to -

- (a) the registration of veterans and dependants of living or deceased veterans generally or the registration of veterans or dependants of veterans entitled to assistance or to benefit under any project;

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- (b) the registration of dependants of veterans entitled to assistance or to benefit under any project;
- (c) any medical or dental examination required for the purposes of benefiting under any project;
- (d) the circumstances and manner in which any benefit erroneously paid to a veteran, a dependant of a veteran or to any person may be refunded;
- (e) the conditions for eligibility of a veteran for any assistance, funding or other benefit;
- (f) the conditions upon which dependants of a veteran may qualify for assistance;
- (g) the nature and amount of the benefits to be granted or paid under any project and the circumstances in which and the person to whom such benefits are or may be granted or paid and the manner in which they are granted or paid;
- (h) the provision of technical or vocational training or of any other training necessary for assisting veterans or dependants of veterans in acquiring such skills as the Minister considers appropriate;
- (i) the reduction, suspension or withdrawal of any assistance or benefit granted or paid under any project;
- (j) the maintenance of records in respect of any assistance or benefits granted or paid to a veteran or dependant of a veteran under any project;
- (k) the form of any application, consent order process or subpoena to 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;
- (l) the income and assets of an applicant to be taken into account in determining the amount of assistance, funding or other benefit, including the value of any assets alienated in any manner within a prescribed period immediately before application is made for assistance;
- (m) the payment of assistance to persons maintained or receiving treatment in State or State-aided institutions, including the suspension of any such payment;
- (n) the date of accrual of assistance, funding or other benefit;
- (o) the procedure at an inquiry under section 23;
- (p) the information which may from time to time be required of any veteran or dependant of a living or deceased veteran;
- (q) the manner or method of payment of assistance, funding or other benefit;
- (r) any matter which is required or permitted to be prescribed in terms of this Act; and

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- (s) 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\$5 000 or imprisonment for a period not exceeding one year or both such fine and imprisonment, for any contravention or failure to comply with the provisions thereof.

(3) Where any regulation made under this section involves State expenditure that regulation must be made with the concurrence of the Minister responsible for finance.

(4) Where any regulation would have the effect that the total amount of assistance, funding or other benefit to which a veteran or dependant of a veteran is at any time entitled in terms of this Act, is reduced, without his or her income or assets having increased, such regulation may not be made without the approval, by resolution of the National Assembly.

Repeal of laws and savings

47. (1) Subject to the provisions of subsections (2) and (3), the War Veterans Subvention Act, 1999 (Act No. 16 of 1999) is repealed.

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

(3) Any war veteran's subvention 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, is with effect from such commencement to be so payable in accordance with the provisions thereof.

Short title and commencement

48. (1) This Act is called the Veterans Act, 2008, and it comes into operation on a date to be determined by the Minister by notice in the *Gazette*.

(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.

(3) Any reference in any provision of this Act to the commencement of this Act must be construed as a reference to the date determined under subsection (2) in relation to that particular provision.
