

CHAPTER 10:16

NATIONAL HEROES ACT

Acts 13/1984, 12/1986 (s. 18), 18/1989 (s. 34), 14/1993, 22/2001 (s. 4).

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AN ACT to provide for the designation of national heroes and the rendering of State assistance to dependants of such heroes; to establish a fund to finance State assistance to such dependants; to establish the Heroes' Dependants Assistance Board; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 1st February, 1985.]

PART I

1 Short title

This Act may be cited as the National Heroes Act [*Chapter 10:16*].

2 Interpretation

In this Act—

“Board” means the Heroes’ Dependants Assistance Board established by section *four*;

“Commissioner” means the Commissioner of Heroes’ Dependants Assistance referred to in section *twentythree*;

“dependant”, in relation to a hero, means—

(a) any—

(i) child, including a step-child, legally adopted child or child born posthumously; or (ii) widow or widower; of that hero; or

(b) any person not referred to in paragraph (a) who was wholly or partly maintained by the hero at the date of his death or for a reasonable period before that date;

“Fund” means the Heroes’ Dependants Assistance Fund established by section *nineteen*; “hero” means a national, provincial or district hero designated as such in terms of section *three*.

“Minister” means the Minister of Public Service, Labour and Social Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“registered dependant” means any person who has been registered as a dependant in terms of section *thirteen*;

“State assistance” means any assistance rendered out of the Fund by the State to a dependant in terms of section *fifteen*.

PART II

HEROES

3 Designation of heroes

Where the President considers that any deceased person who was a citizen of Zimbabwe has deserved well of his country on account of his outstanding, distinctive and distinguished service to Zimbabwe, he may, by notice in the *Gazette*, designate such person as a national, provincial or district hero of Zimbabwe

PART III

HEROES’ DEPENDANTS ASSISTANCEBOARD

4 Establishment of Board

(1) There is hereby established a board to be known as the Heroes’ Dependants Assistance Board.

(2) The Board shall consist of not less than three and not more than five members appointed by the President.

(3) The President shall designate one member of the Board as chairman.

(4) A member of the Board shall hold office for such period, not exceeding five years, and on such terms and conditions as may be fixed by the President at the time of his appointment.

(5) Subject to this Act, a person ceasing to be a member of the Board shall be eligible for reappointment to the Board.

(6) A member of the Board shall be paid out of the Fund such remuneration and allowances as the President may fix for members of the Board generally.

5 Disqualifications for appointment to Board

The President shall not appoint a person as a member of the Board and no person shall be qualified to hold office as a member of the Board who— (a) is not a citizen of Zimbabwe; or

(b) has in terms of a law in force in any country—

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or

(ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside;

(c) has been convicted of an offence involving dishonesty.

6 Vacation of office by member of Board

A member of the Board shall vacate his office and his office shall become vacant—

(a) one month after the date he gives notice in writing to the President of his intention to resign his office or after the expiry of such shorter period as he and the President may agree; or

(b) if he becomes disqualified in terms of paragraph (a), (b) or (c) of section *five* to hold office as a member; or

(c) if he is required in terms of section *seven* to vacate his office; or

- (d) if he is absent from three consecutive meetings of the Board of which he has had notice, without the permission of the Board.

7 President may require member of Board to vacate office

The President may require a member of the Board to vacate his office if the President is satisfied that the member—

- (a) has been guilty of conduct which renders him unsuitable as a member; or
- (b) has failed to comply with any term or condition of his office fixed by the President in terms of subsection (4) of section *four*; or
- (c) is mentally or physically incapable of efficiently performing his duties as a member.

8 Meetings and procedure of Board

(1) The Board shall hold its first meeting on such date and at such place as the President may fix and thereafter the Board shall meet for the dispatch of business at such place and time as the chairman may direct.

(2) The chairman of the Board may himself at any time and shall, at the request in writing of not less than two members, convene a special meeting of the Board, which meeting shall be convened for a date not less than seven days or more than thirty days after the receipt of such request.

(3) If, at a meeting of the Board, the chairman is absent the members present may elect one of their number to preside at that meeting as chairman.

(4) A majority of members shall form a quorum at a meeting of the Board.

(5) All acts, matters or things authorized or required to be done by the Board may be decided by a majority vote at a meeting of the Board at which a quorum is present.

(6) At all meetings of the Board each member present shall have one vote and, in the event of an equality of votes, the person presiding shall have, in addition, a casting vote.

(7) The Board may, with the approval of the Minister, co-opt any person to the Board, but a co-opted person shall have no vote in any decision by the Board.

(8) Subject to this section, the Board may regulate its own procedure.

9 Functions of Board

The functions of the Board shall be—

- (a) to keep and maintain a register in which shall be entered—
 - (i) the names of every hero; and
 - (ii) the names of any dependant of any hero; together with such particulars of any such hero or dependant as the Board may consider necessary or desirable;
- (b) to examine and determine the claim of any person to be registered as a dependant in terms of this Act and to determine the form and amount of any State assistance which may be granted to such dependant;
- (c) to hear and determine any representations or complaints made by any registered dependant relating to the payment or delivery of any State assistance to him;
- (d) to perform any other function conferred on the Board in terms of this Act.

10 Powers of Board

For the purpose of carrying out its functions in terms of this Act the Board shall have power—

- (a) to summon witnesses to give evidence before it or to produce any document;
- (b) to administer oaths and take evidence on oath and make such investigation as the Board may consider necessary;
- (c) to examine or cause to be examined by such person as the Board may authorize in that behalf, any record or document kept by any person making any claim in terms of this Act;
- (d) to do or cause to be done all such other things as are necessary or expedient for the exercise of its functions.

11 Reports of Board The

Board—

- (a) shall, as soon as may be after the 1st July in each year, submit to the Minister a report dealing generally with the proceedings and activities of the Board during the preceding year ended on the 30th June; and
- (b) shall, where required by the Minister so to do, submit to the Minister such reports as the Minister may specify in regard to the proceedings and activities of the Board; and (c) may submit such other reports as the Board considers advisable.

PART IV

STATE ASSISTANCE

12 Application for State assistance

Any person may apply to the Board, in the prescribed form and manner—

- (a) to be registered as a dependant of a hero; and
- (b) to be considered for State assistance in terms of this Act.

13 Consideration of application by Board

After receipt of an application in terms of section *twelve*, the Board shall, as soon as may be, consider the application and shall—

- (a) if it is satisfied that the applicant is a dependant of the hero concerned, register the applicant as such; or
- (b) if it is not so satisfied, refuse to register the applicant; and shall notify its decision to the applicant in writing.

(2) If the Board registers an applicant, it shall, where the applicant has applied for State assistance, determine—

- (a) whether or not the applicant should be granted any State assistance; and (b) if so, the amount thereof.

14 Criteria for determining amount of State assistance

(1) In determining the amount of State assistance to be granted in terms of subsection (2) of section *thirteen*, the Board shall have regard to—

- (a) the reasonable needs of the applicant; and
- (b) the number of other registered dependants of the hero to be supported by the applicant; and
- (c) the resources available for meeting the reasonable needs of the applicant and any other registered dependant of the hero to be supported by him, including any compensation payable in terms of any other enactment or in terms of any other scheme by way of pension, benefit or award of whatever kind, public or private; and
- (d) whether the applicant or any other registered dependant of the hero to be supported by him is or could be gainfully employed; and
- (e) any directions of the Minister in terms of section *seventeen*.

(2) In determining the amount of State assistance under this section the Board may have regard to whether the hero in respect of whom the application is made has been designated as a national, provincial or district hero.

15 Duration and other conditions of State assistance

(1) State assistance may be granted— (a) as a single lump sum payment; or

- (b) spread over the periods specified in subsection (2); or
- (c) in any combination of the payments referred to in paragraphs (a) and (b).

(2) The period over which payments may be made in terms of paragraph (b) of subsection (1) shall be—

- (a) where the registered dependant is a child, until he attains the age of eighteen years or for such longer period as the Board may, subject to any directions by the Minister, determine in consideration of the registered dependant's further education or for any other humanitarian reason;
- (b) where the registered dependant is a widow or widower, for the rest of the life of the widow or widower;
- (c) in any other case not referred to in paragraph (a) or (b), for such period as the Board may, subject to any directions by the Minister, determine.

(3) In regard to any State assistance granted in terms of subsection (1) the Board may, subject to any directions by the Minister—

- (a) fix such conditions as it may deem necessary or desirable;
- (b) direct that payment be made to any body or person on behalf of any registered dependant, where the Board is satisfied that such body or person is capable of acting in the best interests of the registered dependant;
- (c) receive, hear and determine any application for the variation of any condition or direction fixed or made in terms of this subsection.

16 Appeals from decisions of Board

(1) Any person who is aggrieved by any decision of the Board—

- (a) refusing to register him as a dependant in terms of section *thirteen*; or
- (b) in regard to the determination of any State assistance to be granted to him in terms of section *fifteen*; may, by notice setting out his reasons, appeal to the Minister against the decision of the Board.

(2) The Minister may, on an appeal in terms of subsection (1), either confirm the decision of the Board or remit the matter to the Board for further consideration, subject to such recommendations regarding the appeal as the Minister may consider appropriate, and the decision of the Board after reconsideration of the matter in terms of this subsection shall be final.

17 Minister may give directions to Board

Subject to this Act, the Minister may, from time to time, give to the Board directions as to—

- (a) the maximum or minimum amount of State assistance to be granted to any registered dependant; and
- (b) the period during which any State assistance may be paid; and
- (c) any other matter to be taken into account in the granting of any State assistance: Provided that before giving any direction—

- (a) regarding any matter referred to in paragraph (a), the Minister shall consult the Minister responsible for finance and the Board; and
- (b) regarding any matter referred to in paragraph (b) or (c), the Minister shall consult the Board.

18 Inalienability of payments

Subject to subsection (3) of section *fifteen*, any State assistance shall be for the personal benefit of the registered dependant concerned and shall be inalienable and not be subject to attachment by any process whatever:

Provided that the Board may, upon representations made to it by the registered dependant or by or on behalf of any person to whom such dependant owes any legal obligation, order that this section shall not apply to the State assistance concerned.

PART V

HEROES' DEPENDANTS ASSISTANCE FUND

19 Establishment of Fund

- (1) There is hereby established a fund which shall be known as the Heroes' Dependants Assistance Fund.
- (2) The Fund shall consist of—
 - (a) such moneys as may be payable to the Fund from moneys appropriated by Act of Parliament for the purposes of the Fund; and
 - (b) gifts from any person; and
 - (c) any other moneys to which the Fund may be lawfully entitled.
- (3) The Fund shall be vested in the Minister and, subject to this Act, shall be administered in accordance with his directions.

20 Holding of Fund

- (1) All moneys received on behalf of the Fund shall be paid into a banking account and no money shall be withdrawn therefrom except by means of cheques signed by such persons as are authorized in that behalf by the Minister.
- (2) Moneys of the Fund not immediately required for the purpose thereof may be invested in such manner as the Minister, with the approval of the Minister responsible for finance, may determine.

21 Application of Fund

- The Minister may authorize payments from the Fund for—
- (a) the cost of any State assistance to a registered dependant; and (b) the remuneration and allowances of members of the Board; and (c) the cost of establishing and maintaining the Fund.

22 Accounts and audit of Fund

- (1) Proper books of account and other books and records in relation thereto shall be kept in which shall be recorded all the financial transactions of the Fund.
- (2) The financial year of the Fund shall be the period of twelve months ending on the 30th June in each year or on such other date as may be prescribed.
- (3) Not more than three months after the end of any financial year, an income and expenditure account and balance sheet of the Fund shall be submitted to the Comptroller and Auditor-General for audit, and in relation thereto he shall have the powers conferred upon him by the Audit and Exchequer Act [*Chapter 22:03*] in relation to the auditing of public moneys.

PART VI

GENERAL

23 Commissioner

- (1) There shall be a Commissioner of Heroes' Dependants Assistance whose office shall be a public office and form part of the Public Service.
- (2) Subject to subsection (3) of section *nineteen*, the Commissioner shall be responsible for the payment or delivery of any State assistance and shall perform such other duties in relation thereto as may be directed by the Minister.
- (3) Subject to this Act, the Commissioner shall have power to do or cause to be done all such things as are necessary or expedient for the exercise of his functions.

24 Offences and penalties

- (1) Any person who— (a)
.....

[Paragraph repealed by section 4 of Act 22 of 2001.]

- (b) in response to a request by the Board, fails or refuses to provide any information or to produce any document in his possession or under his control; or

- (c) having been summoned by the Board, fails without sufficient cause to attend at the time and place specified in the summons served on him or, having attended, leaves without the permission of the Board; or (d) having appeared before the Board—
 - (i) refuses to be sworn; or
 - (ii) after being sworn, refuses without sufficient cause to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by the Board or any person authorized by the Board to question him; or
 - (iii) insults the Board or wilfully interrupts the proceedings before the Board or otherwise wilfully disturbs the peace and order of such proceedings;

shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act 22 of 2001.]

(2) Any person who makes a false statement—

- (a) in any application to the Board in terms of section *twelve*; or
- (b) when giving evidence before the Board; which he knows to be false or which he has no reason to believe to be true shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act 22 of 2001.]

25 Regulations

The Minister may make regulations prescribing anything which in terms of this Act is to be prescribed or which, in his opinion, is necessary or convenient to be prescribed for carrying out or giving effect to this Act.