

REPUBLIC OF SOUTH AFRICA

**GOVERNMENT EMPLOYEES
PENSION LAW AMENDMENT
BILL**

*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill
published in Government Gazette No 26676 of 16 August 2004)
(The English text is the official text of the Bill)*

(MINISTER OF FINANCE)

[B 15—2004]

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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 Government Employees Pension Law, 1996, so as to provide for the correction of errors that occurred at the time of proclamation of the Government Employees Pension Law, 1996; to provide for amendments to the benefit structure; and to provide for matters connected therewith.

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

Amendment of section 1 of Proclamation 21 of 1996

1. Section 1 of the Government Employees Pension Law, 1996, is hereby amended by— 5

- (a) the deletion in subparagraph (i) of paragraph (b) of the definition of “dependant” of the word “moment”; and
- (b) the substitution for the definition of “matters of mutual interest” of the following definition:

“matters of mutual interest” means matters of mutual interest [as defined in the Public Service Labour Relations Act, 1994 (Proclamation No. 105 of 1994), and in the Education Labour Relations Act, 1993 (Act No. 146 of 1993), and all matters dealt with in this Law and the rules] contemplated in the Labour Relations Act, 1995 (Act No. 66 of 1995), and specifically excludes non-benefit matters;” 10
15

Amendment of section 21 of Proclamation 21 of 1996

2. Section 21 of the Government Employees Pension Law, 1996, is hereby amended by the addition to subsection (3) of the following paragraph:

“(d) any amount, plus interest at the rate determined by the Board after consultation with the actuary, due to the Fund in respect of an amount for which the Fund becomes liable under a guarantee furnished in respect of a member for a loan granted by some other person to that member in terms of the rules,”. 20

Amendment of section 22 of Proclamation 21 of 1996

3. Section 22 of the Government Employees Pension Law, 1996, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If a gratuity is payable on the death of any member to the dependants of such a member or to his or her estate, that member may, on the **[prescribed]** applicable form of the Fund and subject to the prescribed conditions, notify the Board of his or her wish that the said gratuity be paid on his or her death to the beneficiaries mentioned in that form and be divided among such beneficiaries in the proportion mentioned in that form.”. 5

Amendment of section 23 of Proclamation 21 of 1996 10

4. Section 23 of the Government Employees Pension Law, 1996, is hereby amended by substitution for section 23 of the following section:

“Benefit not asset in insolvent estate

23. Any benefit under this Law payable to or received **[under this Law]** by any member, pensioner or beneficiary whose estate is sequestrated shall not form part of the assets in his or her insolvent estate.”. 15

Amendment of section 25 of Proclamation 21 of 1996

5. Section 25 of the Government Employees Pension Law, 1996, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Notwithstanding anything to the contrary in any law contained but subject to the provisions of this section, the Board shall within the financial constraints of the Fund, and acting on the advice of the actuary, regularly—
(a) authorize the increase of any annuity payable under this Law in order to ensure that the value of annuities is maintained by means of fair adjustments; and
(b) authorize the payment of any allowance or bonus to any person who is in receipt of an annuity referred to in paragraph (a), in accordance with such rates or scales, in such circumstances, on such conditions and with effect from such date, which may be a date in the past, as the Board may determine, in terms of its pension increase policy.” 20 25 30

Amendment of section 26 of Proclamation 21 of 1996

6. Section 26 of the Government Employees Pension Law, 1996, is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:
“(1) Notwithstanding anything to the contrary in any law contained, a benefit payable in terms of this Law shall be paid to the member, pensioner or beneficiary entitled to such benefit within a period of 60 days **[after the date on which the Board receives a duly completed statement in the prescribed form or, if the Board receives such statement before the date on which a benefit is payable to the member or pensioner concerned in terms of this Law, within a period of 60 days after the date on which such benefit is so payable]** from the benefit becoming payable to the member, pensioner or beneficiary, which 60 days shall be calculated from the day following the date on which the benefit becomes payable: Provided that a benefit shall become payable to a member, pensioner or beneficiary on the last day of service at the employer of that member or pensioner or the death of that pensioner.”; 35 40 45

- (b) the substitution for subsection (2) of the following subsection:
 “(2) **[If a benefit is not paid within the period referred to in subsection (1) interest,]** Interest shall be paid by the Fund to the member, pensioner or beneficiary on any part of the amount of the benefit not paid within a period of 60 days referred to in subsection (1) from the date on which the benefit became payable, at the rate prescribed, which interest shall be calculated from the day following the date on which the benefit became payable.”; and 5
- (c) the addition of the following subsection:
 “(4) Notwithstanding subsection (2), interest is not payable on funeral benefits.”. 10

Amendment of section 27 of Proclamation 21 of 1996

7. Section 27 of the Government Employees Pension Law, 1996, is hereby amended by the substitution for section 27 of the following section:

“Declaration of certain former members as dormant members of the Fund 15

27. If the membership of a member is for any reason terminated before he or she attains the age at which he or she would have had the right to retire on pension, the Board may at the request or with the consent of the member, if the Board deems it expedient that his or her accrued pension interest in the Fund be retained for him or her, declare him or her to be a dormant member of the Fund with effect from the date on which his or her membership was so terminated: Provided that his or her membership has been terminated on or before 1 April 2003.”. 20

Amendment of section 30A of Proclamation 21 of 1996, as inserted by section 2 of Act No. 35 of 2003 25

8. (1) Section 30A of the Government Employees Pension Law, 1996, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) If a person contemplated in subsection (1) receives or has received any benefit in terms of the Special Pensions Act, 1996 (Act No. 69 of 1996), or the Demobilisation Act, 1996 (Act No. 99 of 1996), other than a benefit received as a dependant, the benefit payable by the Fund shall be reduced in accordance with the rules.”. 30

(2) This amendment has retrospective effect to 31 March 2004.

Short title and commencement 35

9. This Act is called the Government Employees Pension Law Amendment Act, 2004.

**MEMORANDUM ON THE OBJECTS OF THE GOVERNMENT
EMPLOYEES PENSION LAW AMENDMENT BILL, 2004**

The purpose of the Government Employees Pension Law Amendment Bill is to make provision for the correction of errors that occurred at the time of the proclamation of the Government Employees Pension Law, Proclamation 21 of 1996 (the Law) and to provide for amendments to the benefit structure negotiated in the Public Service Coordinating Bargaining Council (hereinafter referred to as PSCBC) reflected in PSCBC Resolution Numbers 12 of 2002 and 7 of 2003.

The proposed amendments ensure alignment of the Law with the amended rules reflected in PSCBC Resolution Numbers 12 of 2002 and 7 of 2003 that were concluded in the PSCBC during November 2002 and November 2003, respectively.

FINANCIAL IMPLICATIONS FOR STATE

The Bill has no financial implications for the State.

COMMUNICATION IMPLICATIONS

The Department of Public Service and Administration, in cooperation with the Government Employees Pension Fund, will communicate the content of the changes brought about by the Bill to the members of the Fund.

CONSTITUTIONAL IMPLICATIONS

The Bill has no constitutional implications.

OTHER PARTIES/BODIES CONSULTED

The amendments are in accordance with PSCBC Resolution Numbers 12 of 2002 and 7 of 2003 negotiated in the PSCBC.

PARLIAMENTARY PROCEDURE

The National Treasury and the State Law Advisers are of the view that this Bill must be dealt with considered in accordance with the procedure set out in section 75 of the Constitution since it does not contain any provision to which the procedure set out in section 74 or 76 of the Constitution applies.

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