

REPUBLIC OF SOUTH AFRICA

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**GOVERNMENT EMPLOYEES  
PENSION LAW  
AMENDMENT BILL**

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*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill  
published in Government Gazette No. 24196 of 18 December 2002)  
(The English text is the official text of the Bill)*

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(MINISTER OF FINANCE)

[B 4—2003]

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**GENERAL EXPLANATORY NOTE:**

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 recognition of service rendered in a non-statutory military force or service by a member of the Fund as pensionable service; and to provide for matters connected therewith.

**B**E 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 the insertion, after the definition of “fixed date”, of the following definition: 5

“former member of a non-statutory force or service’ means—

- (a) any former member of Umkhonto we Sizwe or the Azanian People’s Liberation Army—
  - (i) who joined either of those forces on or before 31 December 1990; and 10
  - (ii) who entered into an agreement for appointment with the Department of Defence or the South African Police Service on or before 31 March 2002; and
  - (iii) whose name, in the case where a person entered into an agreement for appointment with the Department of Defence, appears in the certified personnel register or personnel list contemplated in section 224(2)(c) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993); 15
- (b) any former member of Umkhonto we Sizwe or the Azanian People’s Liberation Army or of the former Department of Intelligence and Security of the African National Congress or of the former Pan Africanist Security Services of the Pan Africanist Congress of Azania—
  - (i) who joined any of those forces or services on or before 31 December 1990; and
  - (ii) who entered into an agreement for appointment with the National Intelligence Agency or the South African Secret Service between 1 January 1995 and 31 March 2004; and 25
  - (iii) whose name appears on the certified personnel register or personnel list contemplated in section 224(2)(c) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), or the personnel list defined in section 1 of the Intelligence Services Act, 2002 (Act No. 65 of 2002). 30

- (c) any former member of Umkhonto we Sizwe or the Azanian People's Liberation Army or of the former Department of Intelligence and Security of the African National Congress or of the former Pan Africanist Security Services of the Pan Africanist Congress of Azania—
- (i) who joined any of those forces or services on or before 31 December 1990; and
  - (ii) who entered into an agreement for appointment with any component of the employer other than those referred to in paragraphs (a) and (b) on or before 31 March 2002;
- (d) notwithstanding section 5, any former member of Umkhonto we Sizwe or the Azanian People's Liberation Army or of the former Department of Intelligence and Security of the African National Congress or of the former Pan Africanist Security Services of the Pan Africanist Congress of Azania who was never admitted as a member of the Fund by virtue of the fact that that person concluded a short-term employment contract with the employer; and
- (e) any person contemplated in paragraph (a), (b) or (c) who has been paid the benefits owing to that person by the Fund upon cessation of his or her membership, but who would have been entitled to an additional or greater benefit had his or her service as a member of a non-statutory force or service been taken into account.”

#### Insertion of section 30A in Proclamation 21 of 1996

2. The following section is hereby inserted in the Government Employees Pension Law, 1996, after section 30:

#### “Recognition of pensionable service of former members of non-statutory forces or services

30A. (1) Any former member of a non-statutory force or service may in accordance with the rules apply to the Fund to have any service as a member of a non-statutory force or service recognised as pensionable service.

(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), other than a benefit received as a dependant, the benefit payable by the Fund shall be reduced in accordance with the rules.”

#### Short title and commencement

3. This Act is called the Government Employees Pension Law Amendment Act, 2003, and comes into effect on a date fixed by the President by notice in the *Gazette*.

## **MEMORANDUM ON THE OBJECTS OF THE GOVERNMENT EMPLOYEES PENSION LAW AMENDMENT BILL, 2003**

Section 224 (2) of the Interim Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), provides for the integration of seven former forces constituting the SANDF. (In terms of item 24(1) of Schedule 6 to the new Constitution, 1996 (Act No. 108 of 1996), the said section 224 continues in force as if the Interim Constitution had not been repealed.) Former members of non-statutory forces (NSF members) did not have the opportunity to obtain membership and contribute to a pension fund prior to the integration. This created disparity between members of the former Statutory Forces and former NSF members regarding the recognition of pensionable service. The aim of this Bill is to place former NSF members who are members of the Government Employees Pension Fund in a similar position to that of the former Statutory Force members regarding the recognition of previous service for pension purposes.

### **FINANCIAL IMPLICATIONS**

An existing collective agreement of the Public Service Co-ordinating Bargaining Council, PSCBC Resolution 7/98, provides for the matters this Bill seeks to achieve. In terms of the agreement, the GEPF set aside an amount of approximately R1.5 billion to fund the additional cost. The abovementioned disparity between former Statutory and Non-Statutory Force members in respect of the calculation of pension benefits falls within the ambit of resolution 7/98.

The total cost amounts to R766 million of which the employer's portion amounts to R501 million and that of the members to R265 million. R501 million of the funds set aside under the PSCBC Resolution 7/98 will be used to finance the employer's responsibility. Affected employees will be responsible for a part of the additional cost. For members who are unable to pay their share of the cost, additional pensionable service granted will be reduced accordingly.

### **COMMUNICATION IMPLICATIONS**

The Department of Defence and other affected government departments will communicate the contents of the changes brought about by the Bill, to the relevant persons.

### **OTHER PARTIES/BODIES CONSULTED**

Department of Public Service and Administration  
Department of Defence  
The South African Police Service  
National Intelligence Agency

### **PARLIAMENTARY PROCEDURE**

The State Law Advisers and the National Treasury are of the opinion that the Bill must be dealt in accordance with the procedure established by 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.