

NO. 197 OF 1993: CLOSED PENSION FUND ACT, 1993.

STATE PRESIDENT'S OFFICE

No. 10.

5 January 1994

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ACT

To provide for the termination of the pension scheme established by the Members of Parliament and Political Officebearers Pension Scheme Act, 1984; and the establishment of a Closed Pension Fund and to provide for matters connected therewith.

(English text signed by the State President.) (Assented to 22 December 1993.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:

Definitions

1. In this Act, unless the context otherwise indicates

- (i) "board" means the Board of Trustees mentioned in section 4; (ix)
- (ii) "Constitution" means the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983); (iii)
- (iii) "dependant", in relation to a member of the fund, means any person who in terms of the pension provision which applied in respect of such member immediately prior to the commencement of this Act would have been a dependant of that member had that pension provision applied in respect of the member at the time of that member's death; (i)
- (iv) "fund" means the fund established by section 2; (ii)
- (v) "Minister" means the Minister of Finance; (iv)
- (vi) "pensionable service" means pensionable service as defined in the Pension Act; (vi)
- (vii) "Pension Act" means the Members of Parliament and Political Officebearers Pension Scheme Act, 1984 (Act No. 112 of 1984); (viii)
- (viii) "pension provision" means:
 - (a) section 15 or 15A of the previous Constitution, read with section 101(2) of the Constitution, or section 13 of the Constitution;
 - (b) the relevant provision of
 - (i) the Proclamation relating to the Pension Scheme for Members of the President's Council, 1980 (Proclamation No. 63 of 1981);

- (ii) the Members of the Coloured Persons Representative Council Pensions Act, 1974 (Act No. 97 of 1974);
 - (iii) the Members of the South African Indian Council Pensions Act, 1974 (Act No. 86 of 1974);
- (c) the relevant provision of
- (i) the Provincial Council Service Pensions Ordinance, 1973 (Ordinance No. 19 of 1973), of the Cape of Good Hope
 - (ii) the Provincial Council Service Pensions Ordinance, 1973 (Ordinance No. 11 of 1973), of the Orange Free State
 - (iii) the Provincial Council Service Pensions Ordinance, 1973 (Ordinance No. 21 of 1973), of Natal
 - (iv) the Provincial Council and Executive Committee Members' Pensions Ordinance, 1973 (Ordinance No. 20 of 1973), of the Transvaal; and
- (d) the Pension Act; (v)
- (ix) "Pension Scheme" means the Members of Parliament and Political Officebearers Pension Scheme established by section 2 of the Pension Act; (vi)
 - (x) "previous Constitution" means the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (xi)
 - (xi) "rules" means the rules referred to in section 10. (x)

Establishment of fund

2. (1) There is hereby established a fund to be called the Closed Pension Fund.

(2) The fund shall be a juristic person.

Membership of fund

3. (1) Every person who receives a pension in terms of a pension provision or who on the termination of membership of the Pension Scheme or on the vacation of the office mentioned in section 13 of the Constitution or on the death of such person becomes entitled to the payment of a pension, shall be a member of the fund.

(2) Any person who is a member of the fund in terms of subsection (1) shall with effect from 1 February 1994 cease to be a member of the Pension Scheme.

Management of affairs of fund

4. (1) The affairs of the fund shall, subject to the provisions of subsection (3), be managed by a Board of Trustees.

(2) The members of the board shall be elected by the members of the fund from their own number.

(3) The Minister shall appoint a committee in order to perform in respect of the fund the functions of the board until the first meeting of the board.

Pensions payable from fund to persons

already in receipt of pension

5. (1) Every person who on 31 January 1994 receives a pension in terms of a pension provision shall with effect from 1 February 1994 receive a pension from the fund, calculated in accordance with that provision.

(2) The pension paid in terms of a pension provision to a person mentioned in subsection (1) shall be discontinued with effect from 1 February 1994.

Pensions payable out of fund to member of
Pension Scheme and occupier of office

6. To a person who on 31 January 1994 is a member of the Pension Scheme, or who is the occupier of the office referred to in section 13 of the Constitution, there shall be paid out of the fund

(a) in the case of a person who is such a member and has at least five years pensionable service to his credit, with effect from the date following the first general election under the Constitution of the Republic of South Africa, 1993, a pension calculated in accordance with section 8 of the Pension Act and, if applicable to him, section 9 of the Pension Act;

(b) in the case of the person who is the occupier of that office, with effect from the date following the day upon which that person vacates that office a pension calculated in accordance with subsection (1)(a) of the said section 13.

Gratuities payable out of fund to members of Pension Scheme

7. To any person who is a member of the Pension Scheme there shall, notwithstanding the duration of such person's pensionable service, be paid out of the fund a gratuity calculated in accordance with section 11 of the Pension Act with reference to such person's pensionable service as at 31 January 1994.

Pensions and benefits payable to widows
or widowers and other dependants of deceased members

8. On the death of a member of the fund there shall be paid to the widow or widower or other dependants of that member the same pension or other benefit as would have been payable to the widow, widower or dependants of such a member in terms of the pension provision which immediately prior to the commencement of this Act applied in respect of that member.

Payment of certain moneys to fund

9. (1) (a) Money required for meeting the fund's obligation with regard to the payment of any pension, gratuity or benefit in terms of this Act shall be paid over to the fund either from the State Revenue Fund as provided in subsection (2) or in the form of public stock issued in terms of section 19 of the Exchequer Act, 1975 (Act No. 66 of 1975).

(b) Money which is to be paid over from the State Revenue Fund in terms of paragraph (a), shall be deemed to have been appropriated by Parliament for the purpose mentioned in that paragraph.

(2) Money referred to in subsection (1) shall be paid over as follows:

(a) In respect of the fund's immediate obligations relating to the payment of pensions, gratuities and benefits in terms of sections 5(1), 6, 7

and

8, an amount of R440 million in the form of public stock before or on 1 February 1994

(b) in respect of the remaining obligations of the fund as at 31 January 1994, in regular instalments over a period not exceeding nine years from 31 January 1994.

(3) The obligations referred to in subsection (2)(b) shall be as established by actuaries nominated by the Transitional Executive Council, and specified in a report of such actuaries approved by that Council.

(4) No amounts other than those referred to in subsection (2) shall form a charge against the State Revenue Fund in respect of the fund.

(5) All obligations of the State relating to the payment of pensions, gratuities and benefits in terms of any pension provision are hereby transferred to the fund.

Rules

10. (1) The board or, until the first meeting of the board, the committee referred to in section 4(3), may, subject to the approval of the Minister, make rules not inconsistent with any provision of this Act and, which are necessary for the proper management of the affairs of the fund, including rules relating to the investment of money of the fund not required for immediate use.

(2) After the final amount referred to in section 9(2)(b) has been paid over, the board may make such rules without reference to the Minister.

Application of certain provisions of Act 24 of 1956

11. The provisions of sections 37A, 37B and 37C of the Pension Funds Act, 1956 (Act No. 24 of 1956), shall apply mutatis mutandis in respect of any pension which is or will become payable in terms of this Act.

Audit

12. The financial statements of the fund shall be audited annually by an auditor registered in terms of section 15 of the Public Accountants' and Auditors Act, 1991 (Act No. 80 of 1991), as a public accountant and auditor and who is engaged in public practice as such, and audited copies of such statements shall within six months of the end of the financial year be submitted to the Minister and the Auditor General.

No pension, gratuity or benefit payable in terms of pension provision

13. To any person who receives or has received any pension, gratuity or benefit in terms of section 5(1), 6, 7 or 8, no pension, gratuity or benefit shall be payable in terms of any pension provision.

Short title

14. This Act shall be called the Closed Pension Fund Act, 1993.