

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



# Government Gazette

**REPUBLIC OF SOUTH AFRICA**

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## THE PRESIDENCY

No. 1060

14 December 2011

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 19 of 2011: Government Employees Pension Law Amendment Act, 2011.**



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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.

*(English text signed by the President)*  
*(Assented to 12 December 2011)*

# ACT

To amend the Government Employees Pension Law, 1996, so as to amend a definition and insert a definition; to provide for the payment of a pension interest to a former spouse of a member on divorce or the dissolution of a customary marriage; to amend the powers of the Board to make rules; to amend the provisions providing for the recognition of pensionable service of former members of non-statutory forces or services; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the the Republic of South Africa, as follows:—

**Amendment of section 1 of Proclamation 21 of 1996, as amended by section 1 of Act 35 of 2003 and section 1 of Act 21 of 2004**

1. Section 1 of the Government Employees Pension Law, 1996 (hereinafter referred to as the Proclamation), is hereby amended—

(a) by the substitution for the definition of “employer” of the following definition:

“ ‘employer’ means—

(a) for purposes of the collection and payment to the Fund of the contributions referred to in section 17(1) and other amounts owing by members to the Fund, the payment to the Fund of the contributions referred to in section 17(2), the administration of membership matters and the payment of benefits to members and their beneficiaries[:];—

(i) a department or administration referred to in Schedule 1 or 2 of the Public Service Act, 1994 (Proclamation No. 103 of 1994), or [an organisational] a government component referred to in Schedule [2] 3 of that Act, or any other body or institution which employs persons referred to in section 8 of that Act;

(ii) the Public Service Commission established by section [209 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993)] 196 of the Constitution of the Republic of South Africa, 1996;

(iii) a Provincial Service Commission established by a provincial legislature in terms of section 213 of the Constitution of the Republic of South Africa, 1993[, ] (Act No. 200 of 1993),

- except where the legislation establishing such a commission specifically excludes its members from membership of the Fund;
- (iv) the Auditor-General referred to in **[section 191]** sections 181 and 188 of the Constitution of the Republic of South Africa, **[1993 (Act No. 200 of 1993)]** 1996; 5
  - (v) the Office of the Auditor-General **[established in terms of the Audit Arrangements Act, 1992 (Act No. 122 of 1992)]** contemplated in the Public Audit Act, 2004 (Act No. 25 of 2004); or 10
  - (vi) any other institution or body, determined by the Board as an employer for the purposes of this Law; and
- (b) for all other purposes of this Law in relation to members in the service of the departments, administrations, **[organisational] government** components, bodies and institutions referred to in paragraph (a), the Government;” and 15
- (b) by the insertion after the definition of “negotiations” of the following definition:
- “ **‘pension interest’**, in relation to a member of the Fund who is a party to an action for divorce or for the dissolution of a customary marriage, means the benefits to which that member would have been entitled in terms of the rules of the Fund if the member’s membership of the Fund were to be terminated on the date of the divorce or the dissolution of a customary marriage on account of the member’s resignation from the service of the employer;” 20  
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**Amendment of section 21 of Proclamation 21 of 1996, as amended by section 45 of Act 99 of 1998 and section 2 of Act 21 of 2004**

2. Section 21 of the Proclamation is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) Subject to section 24A, **[No]** no benefit or right in respect of a benefit payable under this Act shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated or, save as is provided in section 26 or 40 of the Maintenance Act, 1998 and section 7(8) of the Divorce Act, 1979 (Act No. 70 of 1979), be liable to be attached or subjected to any form of execution under a judgment or order of a court of law.” 30  
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**Insertion of section 24A in Proclamation 21 of 1996**

3. The following section is hereby inserted in the Proclamation after section 24:

**“Payment of pension interest upon divorce or dissolution of customary marriage**

**24A.** (1) The Board shall direct the Fund to reduce a member’s pension interest by any amount assigned from the member’s pension interest to the member’s former spouse in terms of a decree of divorce granted under section 7(8)(a) of the Divorce Act, 1979 (Act No. 70 of 1979), or a decree for the dissolution of a customary marriage. 40

(2) (a) Subject to paragraph (j), for purposes of section 7(8)(a) of the Divorce Act, 1979 (Act No. 70 of 1979), the portion of a member’s pension interest assigned to the member’s former spouse in terms of a decree of divorce or a decree for the dissolution of a customary marriage is deemed to accrue to the member on the date on which the decree of divorce or the decree for the dissolution of a customary marriage is granted. 45  
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(b) The amount of the member’s pension interest in the Fund shall be determined and the amount of the member’s pension interest that is assigned to the former spouse shall be calculated by the Fund in accordance