



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 427 Cape Town, 24 January 2001
Kaapstad, 24 Januarie 2001

No. 22021



AIDS HELPLINE: 0800-123-22 Prevention is the cure

CONTENTS

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
	GENERAL NOTICE		
	National Treasury, Department of		
	<i>General Notice</i>		
248	Publication of the Pension Funds Second Amendment Bill in terms with Rule 241(c) of the Rules of the National Assembly	4	22021

GENERAL NOTICE

NOTICE 248 OF 2001

NATIONAL TREASURY

PUBLICATION OF THE PENSION FUNDS SECOND AMENDMENT BILL, 2001

The Minister of Finance intends tabling the Pension Funds Second Amendment Bill, 2001 in Parliament during February 2001. The Bill is published in the Government Gazette in accordance with Rule 241(c) of the Rules of the National Assembly.

Interested persons and institutions are invited to submit written representation on the bill to the Secretary to Parliament by no later than 31 March 2001.

All submissions must be addressed to:

**The Secretary to Parliament
c/o Mr A Hermans
Committee Section
Parliament of the RSA
P.O. Box 15
8000**

You can contact Mr Hermans at:

Fax: (021) 461 7969

Tel: (021) 403 3776

Email: ahermans@parliament.gov.za

PENSION FUNDS SECOND AMENDMENT BILL, 2001

To amend the Pensions Fund Act, 1956, to make new provision for the apportionment of actuarial surpluses and for minimum benefits, and for matters related thereto.

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

Amendment of section 1 of Act 24 of 1956, as amended by section 21 of Act 101 of 1976, section 9 of Act 94 of 1977, section 10 of Act 80 of 1978, section 38 of Act 99 of 1980, section 20 of Act 54 of 1989, section 29 of Act 97 of 1990, section 14 of Act 83 of 1992, section 21 of Act 104 of 1993, and sections 1 and 6 of Act 22 of 1996 5

1. Section 1 of the Pensions Fund Act, 1956 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the insertion in subsection (1) immediately prior to the definition of “actuary” of the following definition: 10
 - “ ‘**actuarial surplus**’, in relation to a fund, means—
 - (a) in the case of a fund subject to actuarial valuation, the difference between—
 - (i) the value that the valuator has placed on the assets of the fund less the value of such contingency reserve accounts, established or to be established, as the board of the fund deems prudent on the advice of the valuator; and 15
 - (ii) the value that the valuator has placed on the liabilities of the fund in respect of pensionable service accrued by members prior to the valuation date; 20
 - (b) in the case of a fund which is exempt from actuarial valuation, the difference between—
 - (i) the fair value of the assets of the fund less the values of any investment reserve account set up to facilitate the smoothing of investment returns credited to member accounts and such contingency reserve accounts as the board of the fund deems prudent; and 25
 - (ii) the sum of the values of all the accounts held for individual members, whether contributory or paid-up, plus any outstanding benefits payable by the fund;”;
- (b) by the insertion in the said subsection (1) after the definition of “board” of the following definition: 30
 - “ ‘**commencement date**’ means the date of commencement of this Amendment Act;
- (c) by the insertion in the said subsection (1) after the definition of “complaint” of the following definitions: 35
 - “ ‘**contingency reserve account**’ in relation to a fund, means an account of the fund to which shall be credited or debited such amounts as the board of the fund concerned shall determine, on the advice of the valuator where the fund is not exempt from actuarial valuations, in order to provide for contingencies defined in the rules of the fund; 40
 - “ ‘**contribution holiday**’, in relation to a fund, means payment by the employer of less than—
 - (a) in the case of a defined benefit fund, the difference between the standard contribution rate as defined in generally accepted actuarial practice and the contribution payable by members; or 45
 - (b) in the case of a defined contribution fund, the employer contribution rate defined in the rules prior to application of any credit balance in the employer reserve account.
 - “ ‘**conversion**’, in relation to a fund, means the change of the basis of funding of the retirement benefit from defined benefit to defined contribution, or vice versa;”;
- (d) by the insertion in the said subsection (1) after the definition of “court” of the following definitions: 50

- “**‘deferred pensioner’** means a member who has not yet retired but has left the service of the employer concerned prior to normal retirement age, as defined in the rules of the fund, leaving in the fund the member’s rights to such benefits as may be defined in the rules;
- ‘defined benefit fund’** means a fund other than a defined contribution fund; 5
- ‘defined contribution fund’** means a fund in respect of which any benefits payable on leaving service for a reason other than death or disability have a value equal to or less than the value of the contributions paid by and/or on behalf of the member accumulated with such investment returns as the board of the fund determines;” 10
- (e) by the insertion in the said subsection (1) after the definition of “dependant” of the following definitions:
- “**‘employer’**, in relation to a fund, means an employer participating in the fund;
- ‘employer surplus account’**, in relation to a fund, means an account of the fund to which shall be credited— 15
- (a) amounts allocated by the board of the fund in terms of section 15A for use by the employer;
- (b) such contributions as are specified in the rules to be credited to this account; and 20
- (c) investment return on the balance in the account from time to time at a rate determined by the board of the fund after taking account of the earnings of the fund,
- and to which shall be debited any surplus utilised by the employer;
- ‘fair value’**, in relation to the assets of a fund, means the fair value of the assets of the fund determined in accordance with South African Statements of Generally Accepted Accounting Practice; 25
- (f) by the insertion in the said subsection (1) after the definition of “fund” of the following definitions:
- “**‘investment reserve account’**, in relation to a fund which is a defined contribution fund, means an account of the fund to which shall be credited the gross investment earnings of the fund, and to which shall be debited the investment returns credited to individual member accounts and such expenses as the board of the fund determines are best levied against the gross investment earnings, including any tax payable on the investment buildup of the fund; 30 35
- ‘Labour Relations Act, 1995’** means the Labour Relations Act, 1995 (Act No 66 of 1995)”;
- (g) by the insertion in the said subsection (1) after the definition of “member” of the following definition: 40
- “**‘member surplus account’**, in relation to a fund, means an account of the fund to which shall be credited—
- (a) amounts allocated by the board of the fund in terms of section 15A to be used for the benefit of members;
- (b) investment return on the balance in the account from time to time at a rate determined by the board after taking account of the earnings of the fund, and to which account shall be debited— 45
- (i) the cost of any benefit improvements funded from this account; and
- (ii) any expenses which would otherwise reduce benefits payable to members;” 50
- “**‘minimum contribution accumulation’** means the value of the member’s contributions accumulated with a rate of interest which is reasonable in relation to the investment return earned by the fund, nett of such expenses as the board of the fund determines should be offset against the investment return: Provided that the board of the fund may elect to smooth these interest rates over a period which should not exceed ten (10) years;” 55
- “**‘minimum individual reserve’** means
- (a) in relation to a member of a defined benefit fund, the present value of the benefit payable from the member’s normal retirement age in terms of the rules of the fund assuming that the member’s pensionable remuneration remains constant from the effective date of the calculation to normal retirement age and pensionable service is fixed at the amount accrued at the effective date of the calculation: Provided that the present value will 60