

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
PENSION FUNDS
AMENDMENT BILL**

[B 11—2007]

*(As agreed to by the Portfolio Committee on Finance
(National Assembly))*

[B 11A—2007]

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AMENDMENTS AGREED TO

PENSION FUNDS AMENDMENT BILL

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CLAUSE 1

1. On page 3, from line 47, to omit “which has not been disallowed by the registrar or amended in accordance with the requirements of the registrar, and” and to substitute “which has been amended in accordance with the requirements of the Registrar, or which has not been disallowed by the Registrar, and”.
2. On page 3, from line 59, to omit “and the contribution payable by members”.
3. On page 4, in line 39, to omit “illegitimate child” and to substitute “[**illegitimate**] child born out of wedlock”.
4. On page 5, from line 52, to omit the definition of “non-member spouse” and to substitute:

“ **‘non-member spouse’**, in relation to a member of a fund, means a person who is no longer the spouse of that member due to the dissolution or confirmation of the dissolution of the relationship by court order and to whom the court ordering or confirming the dissolution of the relationship has granted a share of the member’s pension interest in the fund;”.

5. On page 6, in line 15, to omit “duties” and to substitute “obligations”.

CLAUSE 2

1. On page 6, after line 56, to insert the following paragraph:
 - (b) Despite any other provision of this Act, the first statutory actuarial valuation of a fund registered in accordance with paragraph (a) must be undertaken at the end of the first financial year following registration or such other date approved by the registrar.

CLAUSE 8

1. On page 10, from line 22, to omit paragraph (b) and to substitute:
 - (b) No fees or commissions of any nature, other than fees payable by the transferring member or non-member spouse personally and any fees payable to the registrar, are payable by any party to the transfer or by any agent or mandatory of such party—
 - (i) in return for the facilitation, intermediation or recommendation of the transfer; or
 - (ii) for financial services rendered by a financial services provider or representative after the transfer in respect of the transferred interest of the transferring member or non-member spouse which exceed the fees or commission that would have been permissible for such services had the transfer not been done.

2. On page 10, from line 28, to omit “and at least 75% of those members agreed to a proposed transaction contemplated in that subsection” and to substitute “of a proposed transaction”.

CLAUSE 10

1. On page 12, in line 28, to omit “that the member joined the fund” and to substitute “of payment of a contribution”.
2. On page 13, in line 27, after “accumulating” to insert “with fund return”.

CLAUSE 11

1. On page 17, from line 22 to omit the definition of “employer” and to substitute:

“ ‘employer’ means the employer or employers participating in the fund at the time of the improper utilisation of surplus, determined in accordance with this section, and whom benefited from the improper use: Provided that where a subsequent employer or employers by contract or law became liable for the employee-related liabilities of the previous employer or employers, the subsequent employer is also liable for the apportionment of surplus used improperly;”.
2. On page 18, in line 22, after “principles” to insert “prescribed”.

CLAUSE 19

1. On page 22, in line 42, to omit “or an employer who participates in a fund”.

CLAUSE 26

1. On page 25, from line 31, to omit “commence review proceedings” and to substitute “lodge an appeal in accordance with section 26 of the Financial Service Board Act, 1990 (Act No. 97 of 1990)”.

CLAUSE 27

1. On page 25, in line 44, to omit “one or more dependants” and to substitute “the spouse or child of the member”.

CLAUSE 28

1. On page 26, in line 38, to omit “or other person”.
2. On page 26, in line 41, to omit “or other person”.

CLAUSE 29

1. On page 26, in line 46, to omit “**and 40B**” and to substitute “**, 40B and 40C**”.

2. On page 27, from line 8, to omit section 40B and to substitute:

40B. The definitions in section 1(1) of “actuarial surplus”, “contingency reserve account”, “contribution holiday”, “defined benefit category of a fund”, “employer surplus account”, “fund return”, “member surplus account”, “minimum individual reserve” and “surplus apportionment date”, and sections 14A, 14B, 15B, 15C, 15E, 15F and 15K, are deemed to have come into operation on 7 December 2001, for funds whose surplus apportionment schemes have not been approved or whose nil returns referred to in section 15B(11)(b) have not been received by the registrar: Provided that—

(a) in the case of funds whose surplus apportionment schemes have been submitted but not yet approved on the effective date of this amendment;

(b) in the case of a nil return referred to in section 15B(11)(b) that has been received by or on the effective date of this amendment but in respect of which the Registrar is not satisfied that the requirements of section 15B(11) have been met,

the registrar must inform such funds of the instances where their schemes or nil returns do not comply with requirements of the Act and grant the funds a reasonable period of time to review and resubmit their schemes or returns for approval or noting.

3. On page 27, after line 19, to insert the following section:

Regulations

40C. Before regulations in terms of this Act are promulgated, the Minister must publish the draft regulations in the Government Gazette for public comment and submit the regulations to Parliament, while it is in session, for parliamentary scrutiny at least one month before their promulgation.