

REPUBLIC OF SOUTH AFRICA

CLOSED PENSION FUND AMENDMENT BILL

(As introduced in the National Assembly as a section 75 Bill; Bill published in Government Gazette No. 20364 of 6 August 1999) (The English text is the official text of the Bill)

(MINISTER OF FINANCE)

[B 39—99]

REPUBLIEK VAN SUID-AFRIKA

WETSONTWERP OP DIE GESLOTE PENSIOENFONDS

(Soos ingedien in die Nasionale Vergadering as 'n artikel 75-wetsontwerp; Wetsontwerp in Staatskoerant No. 20364 van 6 Augustus 1999) (Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)

(MINISTER VAN FINANSIES)

[W 39—99]

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GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Closed Pension Fund Act, 1993, so as to extend the State's remaining financial obligations to the Closed Pension Fund to include the payment of interest and to provide for an alternative method of payment; and to provide for matters connected therewith.

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

Amendment of section 9 of Act 197 of 1993

1. Section 9 of the Closed Pension Fund Act, 1993, is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph: 5

“(b) in respect of the remaining obligations of the fund as at 31 January 1994, including interest at a rate determined by the Minister on the advice of the actuaries contemplated in subsection (3), in regular installments over a period not exceeding nine years from 31 January 1994 or by means of a full and final settlement in the form of public stock before or on 31 January 2003...” 10

Short title

2. This Act is called the Closed Pension Fund Amendment Act, 1999, and must be regarded as having come into operation on 5 January 1994.

**MEMORANDUM ON THE OBJECTS OF THE CLOSED PENSION
FUND AMENDMENT BILL, 1999**

1. The Bill seeks to amend the Closed pension Fund Act, 1993 (Act No. 197 of 1993) ("the Act"), in order to provide for the payment by the State of interest on the outstanding obligations of the Closed pension Fund ("the Fund.').

2. Section 9(2)(b) of the Act provides for the payment by the State of the remaining obligations of the Fund in regular instalments over a period not exceeding nine years from 31 January 1994. The Auditor-General indicated in his report for the 1995/1996 financial year that the payment of interest on the outstanding balance to the Fund is in conflict with the provisions of section 9 of the Act. Although a second opinion obtained from Senior Counsel, through the State Attorney, confirmed that in terms of the Act there was no legal obligation on the State to pay interest on its remaining obligations to the Fund, an actuary, appointed by the Department of Finance to perform an independent actuarial valuation of the Fund, was of the opinion that interest is payable on the outstanding capital obligation since the original actuarial assessment provided for the payment of interest. Clause 1 seeks to extend the State's financial obligation towards the Fund by the inclusion of an obligation to pay interest. It is proposed that the remaining obligations and interest may also be redeemed in one payment by the issue of Government stock to the Fund.

3. FINANCIAL IMPLICATIONS

The remaining capital obligation of the Fund stands at RI 89 million.

4. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Finance are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.