

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

Government Gazette Staatskoerant

Vol. 410

CAPE TOWN, 6 AUGUST 1999
KAAPSTAD, 6 AUGUSTUS 1999

No. 20364

**GENERAL NOTICE
NOTICE 1786 OF 1999
DEPARTMENT OF FINANCE**

**ALGEMENE KENNISGEWING
KENNISGEWING 1786 VAN 1999
DEPARTEMENT VAN FINANSIES**

**PUBLICATION OF CLOSED PENSION FUND
AMENDMENT BILL [B 39—99]**

The abovementioned legislation, which the Minister of Finance intends introducing in the National Assembly before 13 August 1999, is hereby published in terms of Rule 241 of the National Assembly.

Interested persons and institutions are invited to submit written representations on the Bill by not later than 30 August 1999 to:

Mr André Hermans
Committee Section
Parliament
P.O. Box 15
Cape Town
8000
Fax: (021) 461 7961
Tel: (021) 403 3776

**PUBLIKASIE VAN CLOSED PENSION FUND
AMENDMENT BILL [B 39—99]**

Bogenoemde wetgewing, wat die Minister van Finansies voornemens is om, voor 13 Augustus 1999, in die Nasionale Vergadering in te dien, word hierby ingevolge in Reël 241 van die Nasionale Vergadering gepubliseer.

Belanghebbendes word versoek om, voor 30 Augustus 1999, skriftelike kommentaar te rig aan:

Mnr André Hermans
Komitee-afdeling
Parlement
Posbus 15
Kaapstad
8000
Faks: (021) 461 7961
Tel: (021) 403 3776

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:

“(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 instalments 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.”.

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 R189 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.

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