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THE PRESIDENCY

No. 1332 6 December 2001

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

No. 65 of 2001: Pension Funds Amendment Act, 2001.

DIE PRESIDENSIE

No. 1332 6 Desember 2001

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 65 van 2001: Wysigingswet op Pensioenfondse, 2001.



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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 5 December 2001.)

ACT

To amend the Pension Funds Act, 1956, so as to define "fair value"; to clarify the position of a registered pension fund to furnish guarantees in respect of housing loans granted to members by persons other than the fund; to extend the concept of ownership; to further regulate the amount of loans and guarantees; to extend the Minister's powers to make regulations; to provide for the deduction from deemed benefits in cases of default and transfers to other pension funds; and to provide for matters incidental 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 section 1 of Act 22 of 1996 5

1. Section 1 of the Pension Funds Act, 1956 (hereinafter referred to as the principal Act), is hereby amended by the insertion in subsection (1) after the definition of 'dependent' of the following definition:

"'fair value', in relation to an asset of a fund, means the fair value of that asset determined in accordance with South African Statements of Generally Accepted Accounting Practice;" 10

Amendment of section 19 of Act 24 of 1956, as amended by section 13 of Act 80 of 1959, section 9 of Act 58 of 1966, section 1 of Act 80 of 1969, section 2 of Act 23 of 1970, section 7 of Act 91 of 1972, section 23 of Act 101 of 1976, section 11 of Act 94 of 1977, section 11 of Act 80 of 1978, section 14 of Act 103 of 1979, section 39 of Act 99 of 1980, section 14 of Act 82 of 1982, section 20 of Act 46 of 1984, section 17 of Act 86 of 1984, section 11 of Act 50 of 1986, section 5 of Act 51 of 1988, section 8 of Act 53 of 1989 and section 11 of Act 64 of 1990 15

2. Section 19 of the principal Act is hereby amended— 20

(a) by the substitution for subsection (5) of the following subsection:

"(5) (a) A registered fund may, if its rules so permit and subject to the regulations, grant a loan to a member by way of investment of its funds or furnish a guarantee in favour of a person other than the fund in respect of a loan granted or to be granted by such other person to a member to enable the member— 25

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 5 Desember 2001.)

WET

Tot wysiging van die Wet op Pensioenfondse, 1956, ten einde billike waarde te omskryf; die posisie op te helder van 'n geregistreerde pensioenfonds; om waarborge te verstrek ten opsigte van behuisinglenings toegestaan aan lede deur ander persone as die fonds; die begrip van eienaarskap uit te brei; die bedrag van lenings en waarborge verder te reël; die Minister se bevoegdhede uit te brei om regulasies uit te vaardig; voorsiening te maak vir die aftrekking van veronderstelde voordele in gevalle van versuim en oordragte aan ander pensioenfondse; en om voorsiening te maak vir bykomstige aangeleenthede.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 24 van 1956, soos gewysig deur artikel 21 van Wet 101 van 1976, artikel 9 van Wet 94 van 1977, artikel 10 van Wet 80 van 1978, artikel 38 van Wet 99 van 1980, artikel 20 van Wet 54 van 1989, artikel 29 van Wet 97 van 1990, artikel 14 van Wet 83 van 1992, artikel 21 van Wet 104 van 1993 en artikel 1 van Wet 22 van 1996 5

1. Artikel 1 van die Wet op Pensioenfondse, 1956 (hieronder die Hoofwet genoem), word hierby gewysig deur die invoeging in subartikel (1) na die omskrywing van "Beregtter" van die volgende omskrywing: 10

"'billike waarde', met betrekking tot die bates van 'n fonds, die billike waarde van die bates van die fonds soos bepaal ooreenkomstig Suid-Afrikaanse Standpunte van Algemeen Aanvaarde Rekeningkundige Praktijk;"

Wysiging van artikel 19 van Wet 24 van 1956, soos gewysig deur artikel 13 van Wet 80 van 1959, artikel 9 van Wet 58 van 1966, artikel 1 van Wet 80 van 1969, artikel 2 van Wet 23 van 1970, artikel 7 van Wet 91 van 1972, artikel 23 van Wet 101 van 1976, artikel 11 van Wet 94 van 1977, artikel 11 van Wet 80 van 1978, artikel 14 van Wet 103 van 1979, artikel 39 van Wet 99 van 1980, artikel 14 van Wet 82 van 1982, artikel 20 van Wet 46 van 1984, artikel 17 van Wet 86 van 1984, artikel 11 van Wet 50 van 1986, artikel 5 van Wet 51 van 1988, artikel 8 van Wet 53 van 1989 en artikel 11 van Wet 64 van 1990 15 20

2. Artikel 19 van die Hoofwet word hierby gewysig—

(a) deur subartikel (5) deur die volgende subartikel te vervang:

"(5) (a) 'n Geregistreerde fonds kan, indien sy statute dit toelaat en behoudens die regulasies, by wyse van belegging van sy fondse 'n lening aan 'n lid toestaan of 'n waarborg verstrek ten gunste van 'n ander 25

- (i) to redeem a loan granted to the member **[by a person other than the fund]** against security of, either a pledge by the member concerned to the fund of the benefit contemplated in paragraph (c)(ii), or immovable property which either belongs to the member or his or her spouse or the member and his or her spouse and on which a **[dwelling]** residence has been or will be erected which is occupied or, as the case may be, will be occupied by the member or a dependant of the member; 5
- (ii) to **[purchase a dwelling, or to purchase land and erect a dwelling on it]** acquire immovable property on which a residence has been or will be erected, or to erect a residence on immovable property in respect of which, either the member or his or her spouse, or the member and his or her spouse, has or have obtained ownership or the right to ownership through a right of occupation, for occupation by the member or a dependant of the member; or 10 15
- (iii) to make additions or alterations to or to maintain or repair a **[dwelling which belongs to]** residence of which ownership or the right to ownership was obtained through a right of occupation by either the member or his or her spouse or the member and his or her spouse and which is occupied or will be occupied by the member or a dependant of the member, 20
- if the right of occupation of the immovable property or residence is secured by virtue of the operation of any custom or law, other than an agreement of lease or similar temporary measure, entitling such member, or his or her dependants, to the right of occupation of such immovable property or residence or any specified portion thereof. 25
- (b) A loan or guarantee by a fund, contemplated in paragraph (a), shall not be granted or furnished, respectively, after the commencement of the **[Financial Institutions Amendment Act, 1986]** Pension Funds Amendment Act, 2001— 30
- (i) unless secured by—
- (aa) a first mortgage on the immovable property in respect of which **[it]** the loan is granted; or
- (bb) a pledge by the member concerned to the fund of the benefits to which the member is entitled in terms of the rules of the fund; or 35
- (cc) both such mortgage and such pledge;
- (ii) in respect of immovable property if the member concerned is liable to the fund in respect of a loan or guarantee granted **[to him]** or furnished in respect of the member in respect of other immovable property; 40
- (iii) **[at a lower rate of interest than that]** unless, in the case of a loan granted by the fund, the rate of interest on the loan is equal to or exceeds the rate of interest which may from time to time be prescribed by regulation; 45
- (iv) in the case of a loan granted to the member by some other person in respect of which a guarantee has been furnished by the fund, or in respect of a loan by the fund to the member, unless the capital sum in respect of any such loan together with interest thereon, is redeemable over a period not exceeding 30 years in equal weekly or monthly instalments **[which shall include the interest on the capital sum outstanding]**: Provided that if such period in a particular case extends beyond the normal retirement date of the member concerned, the outstanding balance of the loan on that date must be able to be repaid out of no more than one third of the total value of the benefit due to the member at that date. 50 55
- (c) A loan or guarantee contemplated in paragraph (a) shall not exceed, at the time it is granted or furnished, where it is secured in accordance with—

persoon as die fonds ten opsigte van 'n lening toegestaan of toegestaan te word deur so 'n ander persoon aan 'n lid ten einde die lid in staat te stel—

- (i) om 'n lening af te los wat **[deur iemand anders as die fonds]** aan die lid toegestaan is teen sekuriteit van óf, 'n pand deur die betrokke lid aan die fonds van die voordeel beoog in paragraaf (c)(ii), óf onroerende eiendom wat óf aan die lid **[of sy eggenote of haar eggenoot]** of sy of haar gade óf aan die lid en sy of haar gade behoort en waarop 'n woning opgerig is of sal word wat deur die lid of 'n afhanklike van die lid bewoon word of sal word, na gelang van die geval; 5
 - (ii) om **['n woning aan te koop, of om grond aan te koop en 'n woning daarop op te rig]** onroerende eiendom te verkry waarop 'n woning opgerig is of sal word, of om 'n woning op te rig op onroerende eiendom ten opsigte waarvan óf die lid en sy of haar gade, óf die lid of sy of haar gade, eiendomsreg of die reg tot eiendomsreg deur 'n reg van bewoning verkry het, vir bewoning deur die lid of 'n afhanklike van die lid; of 10
 - (iii) om aanbouings of veranderings aan te bring aan 'n woning of 'n woning in stand te hou of te herstel **[wat aan 'n]** waarvan eiendomsreg of die reg tot eiendomsreg deur 'n reg van bewoning verkry is deur óf die lid **[of sy eggenote of haar eggenoot behoort]** en sy of haar gade of die lid of sy of haar gade en wat deur die lid of 'n afhanklike van die lid bewoon word of bewoon sal word, indien die reg van bewoning van die onroerende eiendom of woning verseker is uit hoofde van die werking van enige gewoonte of wet, uitgesonderd 'n huurooreenkoms of soortgelyke tydelike maatreël, wat so 'n lid, of sy of haar afhanklikes, geregtig maak op die reg van bewoning van sodanige onroerende eiendom of woning of enige bepaalde gedeelte daarvan. 15
- (b) 'n Lening of 'n waarborg deur 'n fonds in paragraaf (a) beoog, word nie na die inwerkingtreding van die **[Wysigingswet op Finansiële Instellings, 1986,]** Wysigingswet op Pensioenfondse, 2001, onderskeidelik toegestaan of verstrekkend nie— 20
- (i) tensy verseker deur—
 - (aa) 'n eerste verband op die onroerende eiendom ten opsigte waarvan **[dit]** die lening toegestaan word; of 25
 - (bb) 'n pand deur die betrokke lid aan die fonds van die voordele waarop die lid kragtens die statute van die fonds geregtig is; of
 - (cc) sowel daardie verband as daardie pand;
 - (ii) ten opsigte van 'n onroerende eiendom, indien die betrokke lid teenoor die fonds aanspreeklik is ten opsigte van 'n lening **[aan hom]** of 'n waarborg toegestaan of verstrekkend ten opsigte van die lid ten opsigte van ander onroerende eiendom; 30
 - (iii) **[teen 'n laer rentekoers as dié]** tensy, in die geval van 'n lening toegestaan deur die fonds, die rentekoers op die lening gelyk is aan of die rentekoers oorskry wat van tyd tot tyd by regulasie voorgeskryf word; 35
 - (iv) in die geval van 'n lening toegestaan aan die lid deur 'n ander persoon ten opsigte waarvan 'n waarborg verstrekkend is deur die fonds, of ten opsigte van 'n lening deur die fonds aan die lid, tensy die kapitaalbedrag ten opsigte van enige sodanige lening tesame met rente daarop, oor 'n tydperk van hoogstens 30 jaar aflosbaar is in gelyke weeklikse of maandelikse paaieimente **[wat die rente op die uitstaande kapitaalbedrag insluit]**; Met dien verstande dat indien sodanige tydperk in 'n bepaalde geval verby die normale aftredingsdatum van die betrokke lid strek, die uitstaande balans van die lening op daardie datum uitbetaal moet kan word uit nie meer nie as een derde van die totale waarde van die voordeel verskuldig aan die lid op daardie datum. 40
- (c) 'n Lening of waarborg in paragraaf (a) beoog, oorskry nie, op die tydstip wanneer dit toegestaan of verleen word, waar dit verseker is ooreenkomstig— 45

- (i) paragraph (b)(i)(aa), 90 per cent of the **[market]** fair value of the hypothecated immovable property concerned;
- (ii) paragraph (b)(i)(bb), the lesser of the amount of—
 (aa) the lowest benefit in terms of the rules which the member would receive **[if he were to terminate]** on termination of his or her membership of the fund **[voluntarily]**, nett of income tax as envisaged in section 37D(a); or
 (bb) the **[market]** fair value of the immovable property concerned **[, whichever is the lesser amount];** or
- (iii) paragraph (b)(i)(cc), the lesser amount of—
 (aa) the amount equal to the aggregate of 90 per cent of the **[market]** fair value of the hypothecated immovable property concerned and the amount of the lowest benefit in terms of the rules which the member would receive **[if he were to terminate]** on termination of his or her membership of the fund **[voluntarily]**, nett of income tax as envisaged in section 37D(a); or
 (bb) the **[market]** fair value of the hypothecated immovable property concerned **[, whichever is the lesser amount].**
- [(cA)](d) The percentages referred to in subparagraphs (i) and (iii) of paragraph (c) may be increased to 100 per cent, subject to the furnishing to the fund by the employer of the member of an irrevocable guarantee in respect of so much of the loan or the amount of the guarantee as may exceed 90 per cent.
- [(d)](e) For the purposes of this section 'immovable property' includes a **[surveyed site in respect of which a right of leasehold is registered in terms of section 6A of the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945)]** land tenure right as defined in section 1 of the Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991).";
- (b) by the substitution for subsection (5A) of the following subsection:
 "(5A) **[For the purposes of subsection (5) 'market value' means the price which would be obtained on a sale in the Republic between a willing seller and a willing purchaser (between whom there is no other direct or indirect connection), as estimated by a person appointed by the registered fund concerned for that purpose: Provided that—**
 (a) **[where]** Where a transaction for the purchase of an immovable property **[(other than vacant land upon which a dwelling is in the course of erection or about to be erected)]** is pending and a purchase price has already been agreed upon, or where such an immovable property was acquired by purchase not more than six months before the date on which the estimate is made, the **[market]** fair value of the property shall not be fixed at an amount higher than the true purchase price of the property, as declared or to be declared by the parties concerned for transfer duty purposes **[plus, in the last-mentioned case, one hundred rand];** and
 (b) where a transaction for the erection of, or additions or alterations to, or to maintain or repair a residence is contemplated, the estimate of the fair value of the immovable property shall not be fixed at an amount higher than the fair value contemplated in paragraph (a) plus an amount equal to the cost of such erection, additions, alterations, maintenance or repairs, as the case may be."; and
- (c) by the substitution in subsection (5B) for the words preceding paragraph (a) and for paragraph (a), of the following words and paragraph, respectively:
 "Notwithstanding anything to the contrary contained in the rules of a registered fund, such a fund shall not, directly or indirectly after the commencement of the **[Financial Institutions Amendment Act, 1986]** Pension Funds Amendment Act, 2001—

- (i) paragraaf (b)(i)(aa), 90 persent van die **[markwaarde]** billike waarde van die betrokke verhipotikeerde onroerende eiendom nie;
- (ii) paragraaf (b)(i)(bb), die mindere van die bedrag van—
- (aa) die laagste voordeel ingevolge die reëls wat die lid sou ontvang **[indien hy sy]** by beëindiging van **[die lid]** sy of haar lidmaatskap van die fonds **[vrywillig sou beëindig]** netto van inkomstebelasting soos beoog in artikel 37D(a); of
- (bb) die **[markwaarde]** billike waarde van die betrokke onroerende eiendom nie **[, watter bedrag ook al die kleinste is]**; of
- (iii) paragraaf (b)(i)(cc), die mindere van—
- (aa) die bedrag gelykstaande aan die totaal van 90 persent van die **[markwaarde]** billike waarde van die betrokke verhipotikeerde onroerende eiendom en die bedrag van die laagste voordeel ingevolge die reëls wat die lid sou ontvang **[indien hy sy]** by beëindiging van **[die lid]** sy of haar lidmaatskap van die fonds **[vrywillig sou beëindig]** netto van inkomstebelasting soos beoog in artikel 37D(a); of
- (bb) die **[markwaarde]** billike waarde van die betrokke onroerende eiendom nie **[, watter bedrag ook al die kleinste is]**.
- [(cA)](d)** Die persentasies bedoel in subparagrafe (i) en (iii) van paragraaf (c), kan tot 100 persent verhoog word, onderworpe aan die verskaffing aan die fonds van 'n onherroeplike waarborg deur die werkgewer van die lid, ten opsigte van soveel van die lening of die bedrag van die waarborg as wat 90 persent te bowe gaan.
- [(d)](e)** By die toepassing van hierdie artikel sluit 'onroerende eiendom' 'n **[opgemete perseel in ten opsigte waarvan 'n reg van huurpag ingevolge artikel 6A van die Swartes (Stadsgebiede) Konsolidasiewet, 1945 (Wet No. 25 van 1945), geregistreer is]** grondbesitreg soos omskryf in artikel 1 van die Wet op die Opgradering van Grondbesitregte, 1991 (Wet No. 112 van 1991), in.”;
- (b) deur subartikel (5A) deur die volgende subartikel te vervang—
- “(5A) **[By die toepassing van subartikel (5) beteken [markwaarde] billike waarde die prys wat by 'n verkoping in die Republiek tussen 'n gewillige verkoper en 'n gewillige koper (tussen wie daar geen ander regstreekse of onregstreekse verband bestaan nie) verkry sou word, soos beraam deur 'n persoon wat deur die betrokke geregistreerde fonds vir daardie doel aangestel is: Met dien verstande dat—]**
- (a) **[waar]** Waar 'n transaksie vir die aankoop van 'n onroerende eiendom **[(behalwe onbeboude grond waarop 'n woning opgerig word of staan te word)]** hangende is en daar reeds omtrent 'n koopsom ooreengekom is, of waar so 'n onroerende eiendom hoogstens ses maande voor die datum waarop die beraming gemaak word, deur aankoop verkry is, die **[markwaarde]** billike waarde van die eiendom nie op 'n groter bedrag as die ware koopsom van die eiendom, soos deur die betrokke partye vir die doeleindes van hereregte aangegee of aangegee moet word **[plus, in laasbedoelde geval, eenhonderd rand]**, gestel mag word nie; en
- (b) waar 'n transaksie vir die oprigting van, of aanbouings of veranderings aan, 'n woning, of om dit in stand te hou of te herstel, beoog word, die beraming van die billike waarde van die onroerende eiendom nie gestel word op 'n bedrag hoër as die billike waarde beoog in paragraaf (a), plus 'n bedrag gelyk aan die koste van sodanige oprigting, aanbouings, veranderings, onderhoud of herstelwerk, na gelang van die geval, nie.”;
- (c) deur in subartikel (5B) die woorde wat paragraaf (a) voorafgaan, en paragraaf (a), deur onderskeidelik die volgende woorde en paragraaf te vervang:
- “Ondanks andersluidende bepalings van die statute van 'n geregistreerde fonds, mag so 'n fonds nie regstreeks of onregstreeks, na die datum van inwerkingtreding van die **[Wysigingswet op Finansiële Instellings, 1986]** Wysigingswet op Pensioenfondse, 2001—

- (a) grant a loan to, or furnish a guarantee in respect of, a member or make any of its funds available, whether by way of an investment or otherwise, to be utilised in any manner by the fund or someone else for a loan to a member or a guarantee on behalf of a member, other than—
- (i) a loan **[for a purpose mentioned in paragraph (a) of]** contemplated in subsection (5) and which complies with the provisions of [paragraphs (b) and (c) of] that subsection; and
 - (ii) a guarantee contemplated in subsection (5) and which complies with the provisions of that subsection; or”.

Amendment of section 36 of Act 24 of 1956, as amended by section 18 of Act 103 of 1979, section 18 of Act 86 of 1984, section 9 of Act 53 of 1989, section 27 of Act 83 of 1992 and section 2 of Act 7 of 1993

3. Section 36 of the principal Act, is hereby amended by the insertion in subsection (1) after paragraph (bC) of the following paragraph:

“(bD) prescribing additional conditions under which a fund may grant a loan to a member or furnish a guarantee in favour of a person other than the fund in respect of a loan granted or to be granted by such other person for the purposes contemplated in section 19(5);”.

Amendment of section 37D of Act 24 of 1956, as inserted by section 14 of Act 94 of 1977 and amended by section 14 of Act 80 of 1978

4. Section 37D of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of the following paragraph:

“(a) deduct any amount due on the benefit in question by the member in accordance with the Income Tax Act, 1962 (Act No. 58 of 1962), and any amount due to the fund in respect of—

- (i) a loan granted to a member in terms of section 19(5)[(a)]; or
- (ii) any amount for which the fund **[is] becomes** liable under a guarantee furnished in respect of a member for a loan granted by some other person to **[a] the member [for any purpose referred to]** in terms of section 19(5)[(a)], from—

(aa) the amount of the benefit to which the member or a beneficiary [is] becomes entitled in terms of the rules of the fund [to an amount not exceeding the amount which in terms of the Income Tax Act, 1962 (Act No. 58 of 1962), may be taken by a member or beneficiary as a lump sum benefit as defined in the Second Schedule to that Act]; or

(bb) in the case of a transfer of the member to another fund, the amount of the benefit which the fund is so entitled to transfer, if the board of the transferor fund is satisfied that it is not otherwise reasonably possible to negotiate the repayment or to transfer the loan or the guarantee; or

(cc) in the case of default on the repayment of any such loan by the member concerned in circumstances where his or her membership of the fund is not terminated, the amount of the benefit which the member would have received on termination of membership on the date of default, if such a deduction is only effected as a last resort after the board of the fund is satisfied that no other arrangement for the required repayment can be made;” and

(b) by the addition of the following subsection, the existing section becoming subsection (1):

“(2) For the purposes of paragraph (a)(ii)(bb) and (cc) of subsection (1), the amounts so deducted shall be deemed to be a benefit to which the member becomes entitled on termination of his or her membership of the

- (a) 'n lening aan 'n lid toestaan, of 'n waarborg ten opsigte van 'n lid verstrek nie of van sy fondse beskikbaar stel, hetsy by wyse van 'n belegging of andersins, om op enige wyse deur die fonds of iemand anders aangewend te word vir 'n lening aan 'n lid of 'n waarborg ten opsigte van 'n lid nie, behalwe— 5
- (i) 'n lening [vir 'n doel vermeld in paragraaf (a) van] beoog in subartikel (5) en wat aan die bepalings van [paragrafe (b) en (c) van] daardie subartikel voldoen; en
- (ii) 'n waarborg beoog in subartikel (5) en wat aan die bepalings van daardie subartikel voldoen; of". 10

Wysiging van artikel 36 van Wet 24 van 1956, soos gewysig deur artikel 18 van Wet 103 van 1979, artikel 18 van Wet 86 van 1984, artikel 9 van Wet 53 van 1989, artikel 27 van Wet 83 van 1992 en artikel 2 van Wet 7 van 1993

3. Artikel 36 van die Hoofwet word hierby gewysig deur die invoeging in subartikel (1) na paragraaf (bC) van die volgende paragraaf: 15
- “(bD) wat bykomende voorwaardes voorskryf waaronder 'n fonds 'n lening aan 'n lid kan toestaan of 'n waarborg verstrek ten gunste van 'n persoon anders as die fonds ten opsigte van 'n lening toegestaan of toegestaan te word deur sodanige ander persoon vir die doeleindes beoog in artikel 19(5);”.

Wysiging van artikel 37D van Wet 24 van 1956, soos ingevoeg deur artikel 14 van Wet 94 van 1977 en gewysig deur artikel 14 van Wet 80 van 1978 20

4. Artikel 37D van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (a) deur die volgende paragraaf te vervang:
- “(a) enige bedrag aftrek wat verskuldig is op die betrokke voordeel deur die lid ingevolge die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), en enige bedrag wat verskuldig is aan die fonds ten opsigte van— 25
- (i) 'n lening aan 'n lid kragtens artikel 19(5)[(a)] toegestaan; of
- (ii) ['n enige bedrag waarvoor die fonds aanspreeklik [is] word ingevolge 'n waarborg verstrek ten opsigte van 'n lid vir 'n lening toegestaan deur iemand anders aan ['n] die lid [vir 'n doel in] ingevolge artikel 19(5)[(a) bedoel], van— 30
- (aa) die bedrag van die voordeel waarop die lid of 'n bevoordeelde ingevolge die statute van die fonds geregtig [is, aftrek tot 'n bedrag van hoogstens die bedrag wat ingevolge die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), deur 'n lid of bevoordeelde as 'n enkelbedragvoordeel soos omskryf in die Tweede Bylae by daardie Wet geneem mag] word; of 35
- (bb) in die geval van 'n oordrag van die lid na 'n ander fonds, die bedrag van die voordeel wat die fonds aldus geregtig is om oor te dra, indien die raad van die oordraggewende fonds oortuig is dat dit nie andersins redelikerwys moontlik is om oor die terugbetaling te onderhandel of om die lening of waarborg oor te dra nie; of 40
- (cc) in die geval van versuim van terugbetaling van enige sodanige lening deur die betrokke lid in omstandighede waar die lid se lidmaatskap van die fonds nie beëindig word nie, die bedrag van die voordeel wat die lid by beëindiging van lidmaatskap op die datum van versuim sou ontvang het, indien so 'n aftrekking slegs as 'n laaste uitweg bewerkstellig word nadat die raad van die fonds oortuig is dat geen ander reëling vir die vereiste terugbetaling getref kan word nie;”; en 45
- (b) deur die volgende subartikel by te voeg terwyl die bestaande artikel subartikel (1) word: 50
- “(2) By die toepassing van paragrafe (a)(ii)(bb) en (cc) van subartikel (1), word die bedrae aldus afgetrek, geag 'n voordeel te wees waarop die lid geregtig word by beëindiging van sy of haar lidmaatskap 55

fund for reasons other than as a result of retirement or death arising at the date of the transfer or the default.”.

Short title and commencement

5. This Act is called the Pension Funds Amendment Act, 2001, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

van die fonds om ander redes as voortspruitend uit aftreding of dood wat ontstaan op die datum van die oordrag of die versuim.”.

Kort titel en inwerkingtreding

5. Hierdie Wet heet die Wysigingswet op Pensioenfondse, 2001, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

