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THE PRESIDENCY

No. 1659

12 November 2003

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

No. 35 of 2003: Government Employees Pension Law Amendment Act, 2003.

DIE PRESIDENSIE

No. 1659

12 November 2003

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

No. 35 van 2003: Wysigingswet op die "Government Employees Pension Law", 2003.



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Act No. 35, 2003

GOVERNMENT EMPLOYEES PENSION LAW
AMENDMENT ACT, 2003**GENERAL EXPLANATORY NOTE:**

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

(English text signed by the President.)
(Assented to 7 November 2003.)

ACT

To amend the Government Employees Pension Law, 1996, so as to provide for the recognition of service rendered in a non-statutory military force or service by a member of the Fund as pensionable service; and to provide for matters connected therewith.

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

Amendment of section 1 of Proclamation 21 of 1996

1. Section 1 of the Government Employees Pension Law, 1996, is hereby amended by the insertion, after the definition of “fixed date”, of the following definition:

“ ‘former member of a non-statutory force or service’ means—

- (a) any former member of Umkhonto we Sizwe or the Azanian People’s Liberation Army—
 - (i) who entered into an agreement for appointment with the Department of Defence or the South African Police Service on or before 31 March 2002; and
 - (ii) whose name, in the case where a person entered into an agreement for appointment with the Department of Defence, appears in the certified personnel register or personnel list contemplated in section 224(2)(c) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993);
- (b) any former member of Umkhonto we Sizwe or the Azanian People’s Liberation Army or of the former Department of Intelligence and Security of the African National Congress or of the former Pan Africanist Security Services of the Pan Africanist Congress of Azania—
 - (i) who entered into an agreement for appointment with the National Intelligence Agency or the South African Secret Service between 1 January 1995 and 31 March 2004; and
 - (ii) whose name appears on the certified personnel register or personnel list contemplated in section 224(2)(c) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), or the personnel list defined in section 1 of the Intelligence Services Act, 2002 (Act No. 65 of 2002);
- (c) any former member of Umkhonto we Sizwe or the Azanian People’s Liberation Army or of the former Department of Intelligence and Security of the African National Congress or of the former Pan Africanist Security Services of the Pan Africanist Congress of Azania who entered into an agreement for appointment with any component of the employer other than those referred to in paragraphs (a) and (b) on or before 31 March 2002;

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PENSION LAW", 2003 **Wet No. 35, 2003**

ALGEMENE VERDUIDELIKENDE NOTA:

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 7 November 2003.)*

WET

Tot wysiging van die "Government Employees Pension Law, 1996", ten einde voorsiening te maak vir die erkenning van diens wat deur 'n lid van die Fonds gelewer is in 'n niestatutêre militêre mag of diens as pensioendraende diens; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Wysiging van artikel 1 van Proklamasie 21 van 1996

1. Artikel 1 van die "Government Employees Pension Law, 1996", word hierby
5 gewysig deur die volgende woordskrywing in te voeg:

“ ‘voormalige lid van 'n niestatutêre mag of diens’ beteken—

- (a) enige voormalige lid van Umkhonto we Sizwe of die Azanian People's Liberation Army—
 - (i) wat op of voor 31 Maart 2002 'n aanstellingsooreenkoms met die Departement van Verdediging of die Suid-Afrikaanse Polisiediens aangegaan het; en
 - (ii) wie se naam, in die geval van 'n persoon wat 'n aanstellingsooreenkoms met die Departement van Verdediging aangegaan het, in die gesertifiseerde personeelregister of personeellys beoog in artikel 224(2)(c) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), verskyn;
- (b) enige voormalige lid van Umkhonto we Sizwe of die Azanian People's Liberation Army of van die voormalige Departement van Intelligensie en Sekuriteit van die African National Congress of van die voormalige Pan Africanist Security Services van die Pan Africanist Congress of Azania—
 - (i) wat tussen 1 Januarie 1995 en 31 Maart 2004 'n aanstellingsooreenkoms met die Nasionale Intelligensie-agentskap of die Suid-Afrikaanse Geheime Diens aangegaan het; en
 - (ii) wie se naam op die gesertifiseerde personeelregister of personeellys beoog in artikel 224(2)(c) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), of die personeellys soos omskryf in artikel 1 van die Wet op Intelligensiedienste, 2002 (Wet No. 65 van 2002), verskyn.
- (c) enige voormalige lid van Umkhonto we Sizwe of die Azanian People's Liberation Army of van die voormalige Departement van Intelligensie en Sekuriteit van die African National Congress of van die voormalige Pan Africanist Security Services van die Pan Africanist Congress of Azania wat op of voor 31 Maart 2002 'n aanstellingsooreenkoms met enige van die komponente van die werkgewer, behalwe dié bedoel in paragrawe (a) en (b), aangegaan het;

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- (d) notwithstanding section 5, any former member of Umkhonto we Sizwe or the Azanian People's Liberation Army or of the former Department of Intelligence and Security of the African National Congress or of the former Pan Africanist Security Services of the Pan Africanist Congress of Azania who was never admitted as a member of the Fund by virtue of the fact that that person concluded a short-term employment contract with the employer; and 5
- (e) any person contemplated in paragraph (a), (b) or (c) who has been paid the benefits owing to that person by the Fund upon cessation of his or her membership, but who would have been entitled to an additional or greater benefit had his or her service as a member of a non-statutory force or service been taken into account.”. 10

Insertion of section 30A in Proclamation 21 of 1996

2. The following section is hereby inserted in the Government Employees Pension Law, 1996, after section 30: 15

“Recognition of pensionable service of former members of non-statutory forces or services

30A. (1) Any former member of a non-statutory force or service may in accordance with the rules apply to the Fund to have any service as a member of a non-statutory force or service recognised as pensionable service. 20

(2) If a person contemplated in subsection (1) receives or has received any benefit in terms of the Special Pensions Act, 1996 (Act No. 69 of 1996), other than a benefit received as a dependant, the benefit payable by the Fund shall be reduced in accordance with the rules.”. 25

Short title and commencement

3. This Act is called the Government Employees Pension Law Amendment Act, 2003, and comes into effect on a date fixed by the President by notice in the *Gazette*.

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- 5 (d) ondanks artikel 5, enige voormalige lid van Umkhonto we Sizwe of die Azanian People's Liberation Army of van die voormalige Departement van Intelligensie en Sekuriteit van die African National Congress of van die voormalige Pan Africanist Security Services van die Pan Africanist Congress of Azania wat nooit as lid van die Fonds toegelaat is nie op grond van die feit dat daardie persoon 'n korttermyn dienskontrak met die werkgewer aange- gaan het; en
- 10 (e) enige persoon beoog in paragraaf (a), (b) of (c) wat die voordele wat deur die Fonds aan daardie persoon verskuldig was by beeëindiging van sy of haar lidmaatskap betaal is, maar wat op 'n bykomstige of groter voordeel geregtig sou gewees het indien sy of haar diens as lid van 'n niestatutêre mag of diens in berekening gebring is."

Invoeging van artikel 30A in Proklamasie 21 van 1996

- 15 2. Die volgende artikel word hierby na artikel 30 van die "Government Employees Pension Law, 1996" ingevoeg:

"Erkenning van pensioendraende diens van voormalige lede van niestatutêre magte of dienste

- 20 **30(A).** (1) Enige voormalige lid van 'n niestatutêre mag of diens kan ooreenkomstig die reëls by die Fonds aansoek doen om enige diens as 'n lid van 'n niestatutêre mag of diens as pensioendraende diens te laat erken.
- 25 (2) Indien 'n persoon beoog in subartikel (1) enige voordeel ontvang of ontvang het ingevolge die Wet op Spesiale Pensioene, 1996 (Wet No. 69 van 1996), behalwe 'n voordeel wat as afhanklike ontvang is, word die voordeel wat deur die Fonds betaalbaar is, verminder in ooreenstemming met die reëls."

Kort titel en inwerkingtreding

3. Hierdie Wet heet die Wysigingswet op die "Government Employees Pension Law", 2003, en tree in werking op 'n datum deur die President by kennisgewing in die *Staatskoerant* bepaal.

