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PUBLISHED BY AUTHORITY

THE SWAZILAND NATIONAL PROVIDENT FUND (AMENDMENT)
BILL, 1986

(Bill No. 6 of 1986)

(To be presented by the Minister for Labour and Public Service)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to amend the Swaziland National Provident Fund Order, 1974 so as to —

- (a) enable a member of the Fund who has been paid an invalidity benefit to be entitled to further payment only after the expiry of a period of not less than two years from the date the last payment was made;
- (b) clarify that the investment committee is responsible to and acts on behalf of the Board;
- (c) make a contributing employer who goes into liquidation to be responsible for the payment of the full amount due to the Fund at the time of such employers liquidation; and
- (d) provide for matters incidental thereto.

D.P. MAKANZA
Attorney—General

A BILL
for

An Act to amend the Swaziland National Provident Fund Order, 1974.

ENACTED by the Regent and the Parliament of Swaziland.

Short title and commencement.

1. This Act may be cited as The Swaziland National Provident Fund (Amendment) Act, 1986, shall be read as one with the Swaziland National Provident Fund Order, 1974 (hereinafter referred to as "the Order").

Amendment of section 2.

2. Section 2 of the Order is amended by replacing the definition "Minister" with the following —

"Minister" means the Minister responsible for Labour and Public Service.

Addition of section 14 bis.

3. The Order is amended by adding the following section after section 14—

"Security for the payment of statutory contributions.

14. *bis.* (1) Where the executive officer has reason to believe that an employer has begun or is about to begin operating in Swaziland, he shall examine any report

he might have received in respect of the employer, or following upon the employer's submission of an application to register as a contributing employer, and shall make such other enquires as he may deem necessary to ascertain whether it is desirable to require the employer to deposit a security for the payment of statutory contributions in respect of his employees.

(2) If, as a result of the examination or enquiries made by him under subsection (1), the executive officer considers it necessary for any employer to deposit security for the payment of statutory contributions in respect of his employees, the executive officer may, by notice in writing, require the employer to deposit with him such sum of money or other form of security as may be acceptable to him up to a maximum of, or equivalent to three months' contributions for the persons employed by the employer in Swaziland.

(3) An employer referred to under subsection (2) shall comply with the notice within three working days after receiving it or within such longer period as the executive officer may allow.

(4) An employer aggrieved by a notice issued under this section may apply to the Board for the rescission of the notice and the Board may grant the application if satisfied that the executive officer did not have reasonable grounds for making the order or refuse the application.

(5) The making of an application to the Board under subsection (4) shall not suspend the employer's obligation under subsection (3) to comply with the notice".

Addition of section 15 bis.

4. The Order is amended by adding the following section after section 15—

"Power to amend schedules.

15. *bis* The Minister may, by notice in Gazette, amend any Schedule made under this Act".

Amendment of section 26.

5. Section 26 of the Order is amended by adding the following subsection after subsection (2)—

"(3) A person who has received a benefit under this section shall not be entitled to a further payment of benefit thereunder until the expiry of a period of not less than two years from the date on which an invalidity benefit was last paid, or, if the benefit is paid in instalments from the date when the first of such instalments was paid."

Amendment of section 31.

6. Section 31 of the Order is amended by adding the following subsections after section 6 —

"(7) The Investment Committee shall submit to the Board through the executive officer minutes of its meetings within twenty-one days of each meeting.

(8) The Chairman of the Board may, for such purposes as he thinks fit, require the executive officer to convene a joint meeting of the Board and the investment Committee at which the Chairman of the Board shall preside.

(9) A member of the investment committee appointed under subsection (2)(c) shall hold office for a period not exceeding three years and on such other terms and conditions as may be specified in his instrument of appointment.

Replacement of section 38.

7. Section 38 of the order is replaced with the following new section —

"Priority of payments.

38. Where an employer becomes insolvent or, if the employer is a company, where the company is wound up, any contribution, penalty or other payment due to the Fund in respect of any employee by such employer, shall be a preferent claim to the same extent as other preferent claims are treated under the Insolvency Act, 1955".