



SWAZILAND
GOVERNMENT GAZETTE
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MBABANE, Monday, September 21st, 1992

[No. 902

CONTENTS

No.

Page

PART A - BILLS

21. The Members of Parliament and Designated Office Bearers Pension Fund Bill, 1992	S1
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PUBLISHED BY AUTHORITY

SUPPLEMENT TO
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Page

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MEMBERS OF PARLIAMENT AND DESIGNATED OFFICE

BEARERS PENSION FUND BILL, 1992

(Bill No. 21 of 1992)

(To be presented by the Minister for Finance)

MEMORANDUM OF OBJECTS AND REASONS.

The object of this Bill is to provide for the establishment of a pension fund for Members of Parliament and designated office bearers and for matters connected herewith.

A.F.M. THWALA

Attorney General

A BILL

entitled

An Act to provide for the establishment of Members of Parliament and Designated Office Bearers Pension Fund.

ENACTED by the King and the parliament of Swaziland.

Short Title.

1. This Act may be cited as the Members of Parliament and Designated Office Bearers Pension Fund Act and shall come into operation on such date as the Minister may, by Notice in the Gazette, fix.

Interpretation.

2. In this Act, unless the context otherwise requires -

"designated office" means the office of -

- (a) Indvuna YeTinkhundla;
- (b) Regional Administrator; or
- (c) Any other office the appointment to which depends upon the election or nomination of the holder by proper authority and which has been designated for the purpose of this Act by the Minister by Notice in the Gazette.

"Board" means the supervisory Board established in terms of Section 6;

"Fund" means the Members of Parliament and Designated Office Bearers Pension Fund established in terms of section 3 of this Act;

"Member" means any person who becomes a member of the Fund in terms of section 7;

"Member of Parliament" means a member of either house of Parliament.

"Retirement" means -

- (a) in the case of a member of Parliament the termination of his membership of Parliament;
- (b) in the case of a person who is a holder of a designated office, the termination of his appointment to that office.

Establishment of Members of Parliament and Designated Office Bearers Pension Fund.

3. (1) There is hereby established a pension fund to be known as the Members of Parliament and Designated Office Bearers Pension Fund with perpetual succession and common seal which may sue and be sued in its corporate name.

(2) The Fund may acquire, hold and dispose off any movable or immovable property or enter into such contract as may be necessary for the purposes of the Fund.

Powers of the Fund.

4. The Fund may -

- (a) invest any monies not immediately required for the conduct of its business in such manner as may from time to time be determined by the Minister and may realize, alter or re-invest such investment in such manner as may from time to time be determined by the Minister;
- (b) subject to the approval of the Minister, borrow money and secure the payment in such manner as it may deem fit; and
- (c) do all such other things as are incidental or conducive to the exercise of its powers or the performance of its duties.

Monies and Audit of the Fund.

5. (1) The monies of the Fund shall consist of contributions by the Government and members as provided in section 8.

(2) The monies of the Fund shall be exempt from income tax.

(3) The Fund shall keep proper records of all its assets and liabilities.

(4) The books of accounts and other related records of the Fund shall be audited annually by an Auditor appointed by the Board.

(5) After each audit under sub-section (4), the Supervisory Board shall as soon as possible, but not later than three months, submit to the Minister the audited balance sheets and report of the auditor in respect of such audit.

Administration and Management of the Fund.

6. (1) The Minister shall establish a Supervisory Board which shall supervise the operations and management of the Fund and may, subject to any directive given by the Minister on matters of policy, decide on matters relating to -

- (a) the financial position of the Fund;
- (b) the financing of the Fund, and
- (c) any matter from time to time referred to it by the Minister.

(2) The members of the Board shall be appointed by the Minister, and shall consist of such number not exceeding nine (9), as the Minister may determine.

(3) A member of the Board shall be appointed for such period and on such conditions including such allowances, as the Minister may determine.

(4) The Board shall meet at least quarterly and shall submit a quarterly and yearly report to the Minister of the financial position of the Fund.

Membership of the Fund.

7. (1) Any person who on or after the date upon which this Act comes into force becomes -

- (a) a member of Parliament; or
- (b) a designated office bearer, shall be a member.

(2) A person shall remain a member for a period of at least five (5) years before he can benefit from the Fund.

(3) Subject to sub-section (4), a person's membership shall terminate, in the case of -

- (a) a member of Parliament, if he ceases to be a member of Parliament;
- (b) a designated office bearer, if he ceases to be a designated office bearer.

(4) Where a person ceases to be a Member of Parliament and is appointed a designated office bearer or if he is a designated office bearer, ceases to be a designated office bearer and becomes a Member of Parliament, his membership to the Fund shall not terminate.

Pension contributions by Members and the Government.

8. (1) A member shall, from the date on which he becomes a member until the end of the month in which he has five years pensionable service to his credit, contribute an amount equivalent to seven (7) percent of his annual pensionable salary to the Fund.

(2) Any amount to be contributed by a member in terms of this section shall be deducted in monthly instalments, or in such other instalments and at such other times as the Accountant-General may approve from the member's salary.

(3) The Government shall contribute as a one time lump sum payment, fourteen million, four hundred and thirteen thousand emalangeni (E14.413.000) plus one hundred (100) percent of the total annual salary of all the members to the Fund.

(4) The total annual salary of all the members referred to in sub-section (3) shall be paid into the Fund at the end of each month.

(5) The contributions by the Government under this section shall be drawn from the Consolidated Fund.

Retirement Benefits.

9. (1) Subject to sub-section (3), a member shall on normal retirement, receive a pension equal to one twelfth (1/12) of his final salary for each year of pensionable service.

(2) A member who holds or has held office of Prime Minister, shall in addition to the pension mentioned in sub-section (1), receive a gratuity of not less than one (1) times his annual salary in respect of the period during which he served in such office.

(3) Where a member is re-appointed into Parliament or into a designated office, he shall not be entitled to the pension mentioned in sub-section (1) until -

- (a) he ceases to be a member;
- (b) if he is a designated office bearer, he ceases to be such designated office bearer.

(4) The pension payable in terms of sub-section (1) shall be paid in monthly instalments.

Death before retirement.

10. (1) Notwithstanding Section (7 (2), a member who dies before retirement shall receive a life assurance benefit equal to -

- (a) two (2) times his annual salary, if he holds the office of Prime Minister or Minister;
- (b) one (1) times his annual salary, if he is a member other than the Prime Minister or Minister.

(2) If a member dies before retirement and is survived by a spouse, such spouse shall be paid an annual pension equal to fifty (50) percent of the member's pensionable salary at the time of death.

(3) Where a member is married to more than one spouse, the pension referred to in sub-section (2) shall be paid into the member's estate and the Master of the High Court shall be responsible for administering the payment of such pension.

(4) Subject to sub-section (5), if a member dies before retirement and is survived by children, such children, not exceeding five (5) in number, shall be paid a pension equal to twenty (20) percent of the spouse's annual pension payable up to the age of eighteen years.

(5) Where a child referred to in sub-section (4), is enrolled in an institution of learning and is above the age of eighteen (18) years, the pension shall be paid to such child until he completes his studies notwithstanding his age.

(6) Where a member dies before retirement and is survived by more than five (5) children, sub-section (3) shall apply.

Death after retirement.

11. (1) If a member dies after retirement and is survived by a spouse, his spouse shall receive pension of fifty (50) percent of his pension.

(2) Sub-section (1) shall apply notwithstanding that the member might have commuted a portion of his pension.

(3) Where a member is married to more than one spouse, section 10 (3) shall apply.

Retirement on grounds of ill health or termination of appointment.

12. (1) Notwithstanding section 7 (2), a member who becomes permanently incapable of discharging his duties by reason of infirmity of mind or body before the period which would have amounted to pensionable service expires, may retire from service.

(2) The member referred to in sub-section (1), shall receive his accrued pension up to the retirement date and such pension shall not be reduced.

(3) Sub-section (2) shall also apply where the tenure of office of a member is terminated by the King before such member has acquired pensionable service to his credit.

Commutation.

13. (1) Notwithstanding any provisions of this Act, a member shall commute a portion of his pension which is not less than one third (1/3) of such pension.

(2) The portion referred to in sub-section (1) shall be commuted at the time the pension is granted.

Liability to Income Tax.

14. Notwithstanding any other law, the amount of any pension payable under this Act shall be liable to tax under the Income Tax Order, 1975.

Protection of Pension from attachment etc.

15. (1) Subject to sub-section (2), no pension payable under this Act or any right thereto shall be capable of being assigned, transferred, ceded, pledged or hypothecated or liable to attachment, sequestration or any other form of execution under any circumstances whatsoever including any judgement or order of a court nor shall such right thereto be deemed to form part of the assets in the insolvent estate of any member.

(2) A pension payable under this Act or the right thereto may be assigned, transferred, ceded, pledged or hypothecated to the Government in respect of any debt owed to the Government or to a financial institution as defined in the Financial Institutions (Consolidation) Order, 1975 and any such pension or right thereto shall be deemed to form part of the assets in the insolvent estate of a member.

Gratuity.

16. (1) A gratuity shall be payable to any member who resigns as a member of Parliament or a designated office bearer before the period which would have amounted to pensionable service expires.

(2) The amount of gratuity payable to the member under sub-section (1) shall be the value of his own contribution, including interest up to the date of his separation from the Fund.

Transitional Provisions

17. (1) A person who has held a designated office during the period 1979 - 1987 shall be entitled to a gratuity at the rate of twenty five (25) percent of the annual salary received in respect of the period served in such office.

(2) A person who -

- (a) holds or has held a designated office; or
- (b) is or has been a member of Parliament,

during the period 1st December, 1987 to the date of coming into force of this Act, shall receive pension as applicable in the manner stipulated in sections 9, 10, 11 and 12.

(3) Subject to sub-section (4), a person who has held the office of Prime Minister before the coming into force of this Act, shall receive pension as applicable in the manner stipulated in sections 9, 10, 11 and 12 and such person shall be deemed to have had five (5) years of pensionable years service to his credit.

(4) The retirement benefits mentioned in sections 9, 10, 11 and 12 shall for purposes of sub-section (3), be limited to the spouse of the person mentioned in that sub-section.

(5) Where the person mentioned in sub-section (3) is married to more than one spouse, section 10 (3) shall apply.

(6) Sub-sections (2) and (3) shall apply notwithstanding that the person or member mentioned in these sub-sections has not contributed to the Fund in the manner stated in section 8.

Regulations.

18. (1) The Minister may make regulations for the purpose of

- (a) altering the amount or percentage contributed by a member to the Fund;
- (b) altering the total annual salary of all members contributed by the Government to the Fund;
- (c) altering the amount or percentage received by a member on normal retirement;
- (d) altering the portion a member should commute; and
- (e) generally giving effect to the provisions of this Act.

(2) Any regulations made in terms of sub-section (1) shall be subject to Parliamentary approval.

Repeal.

19. The Members of Parliament (Gratuity) Act, 1980 is repealed.