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PROCLAMATION

by the

ADMINISTRATOR-GENERAL FOR THE
TERRITORY OF SOUTH WEST AFRICA

*(Approved by the State President
on 12 October 1989)*

No. AG. 56 1989

TERMINATION OF STATUTORY INSTITUTIONS PENSION FUND AND PROVISION FOR PENSIONS AND OTHER FINANCIAL BENEFITS TO OR IN RESPECT OF PERSONS EMPLOYED BY CERTAIN GOVERNMENT INSTITUTIONS

Under the powers vested in me by Proclamation 181 of 19 August 1977, I hereby make the laws set out in the Schedule.

L.A. Pienaar

Administrator-General

Windhoek, 13 October 1989

PROKLAMASIE

van die

ADMINISTRATEUR-GENERAAL VIR DIE
GEBIED SUIDWES-AFRIKA

*(Deur die Staatspresident goedgekeur
op 12 Oktober 1989)*

No. AG. 56 1989

BEËINDIGING VAN STATUTÊRE INSTELLINGSPENSIOENFONDS EN VOORSIENING VIR PENSIOENE EN ANDER GELDELIKE VOORDELE AAN OF TEN OPSIGTE VAN PERSONE IN DIENS VAN SEKERE OWERHEIDSINSTELLINGS

Kragtens die bevoegdheid my verleen by Proklamasie 181 van 19 Augustus 1977, maak ek hierby die wette in die Bylae vervat.

L.A. Pienaar

Administrateur-generaal

Windhoek, 13 Oktober 1989

SCHEDULE

BYLAE

Definitions

1. In this Proclamation, unless the context indicates otherwise –

“Commission” means the Government Service Commission established by section 4(1) of the Government Service Act, 1980 (Act 2 of 1980);

“fixed date” means the first day of October 1989;

“Fund” means the Government Institutions Pension Fund referred to in section 2(b);

“previous fund” means the Statutory Institutions Pension Fund established by section 2 of the Statutory Institutions Pensions Act, 1980 (Act 3 of 1980).

Termination of previous fund and transfer of assets, liabilities, rights and obligations to Government Institutions Pension Fund

2. With effect from the fixed date –

(a) the previous fund shall cease to exist;

(b) all assets, liabilities, rights and obligations of the previous fund shall become the assets, liabilities, rights and obligations of the Government Institutions Pension Fund which, in terms of a recommendation made by the Commission on 6 June 1989 under section 6(1)(a)(i)(aa) of the Government Service Act, 1980 (Act 2 of 1980), shall come into being on the fixed date for the benefit of officers and employees, as defined in section 1 of the Government Service Act, 1980, and former officers and employees, and their dependants, and such other persons who, in terms of this Proclamation, shall become members thereof or may, in accordance with the rules of the Fund, be permitted to become members thereof;

Woordomskrywings

1. In hierdie Proklamasie, tensy uit die samehang anders blyk, beteken –

“Fonds” die Owerheidsinstellingspensioenfonds bedoel in artikel 2(b);

“Kommissie” die Regeringsdienskommissie ingestel by artikel 4(1) van die Regeringsdienswet, 1980 (Wet 2 van 1980);

“vasgestelde datum” die eerste dag van Oktober 1989;

“vorige fonds” die Statutêre Instellingspensioenfonds ingestel by artikel 2 van die Wet op Pensioene vir Statutêre Instellings, 1980 (Wet 3 van 1980).

Beëindiging van vorige fonds en oordrag van bates, laste, regte en verpligtinge aan die Owerheidsinstellingspensioenfonds

2. Met ingang van die vasgestelde datum –

(a) word die vorige fonds ontbind;

(b) word alle bates, laste, regte en verpligtinge van die vorige fonds, die bates, laste, regte en verpligtinge van die Owerheidsinstellingspensioenfonds wat, ingevolge 'n aanbeveling wat deur die Kommissie op 6 Junie 1989 kragtens artikel 6(1)(a)(i)(aa) van die Regeringsdienswet, 1980 (Wet 2 van 1980), gedoen is, op die vasgestelde datum tot stand kom tot voordeel van beamptes en werknemers, soos omskryf in artikel 1 van die Regeringsdienswet, 1980, en voormalige beamptes en werknemers, en hulle afhanklikes en die ander persone wat ingevolge hierdie Proklamasie lede daarvan word of ooreenkomstig die reglement van die Fonds toegelaat kan word om lede daarvan te word;

- (c) the rules of the Fund shall govern all matters in connection with the management and functioning of the Fund;
- (d) any reference in any law to the previous fund shall be construed as a reference to the Fund.

Election in relation to accrued benefit in previous fund

3. (1) Notwithstanding the provisions of section 2 and the rules of the Fund, any person who was a member of the previous fund or who, as a pensioner of that fund, was entitled to the payment of an annuity from the said fund, immediately before the fixed date, and who, with effect from the fixed date became a member or pensioner of the Fund in terms of section 4, shall have the right, at any time up to and including 30 September 1990, to elect that his accrued benefit in the previous fund as at 30 September 1989, as well as any interest which may have accrued thereon after that date, be, by means of a lump sum payment from the Fund and for his benefit and in his name —

- (a) transferred, in the case of such a member, to a retirement annuity fund of; or
- (b) appropriated, in the case of such a pensioner, to purchase an annuity with,

any of the life insurance companies which have been approved by the Administrator-General for such purpose.

(2) Any person who wishes to exercise the election referred to in subsection (1), shall exercise it by delivering a written notice to that effect to the trustees of the Fund not later than 30 September 1990, and he shall in such notice indicate the relevant life insurance company selected by him from the life insurance companies contemplated in subsection (1).

(3) The trustees of the Fund shall as soon as possible after the receipt of a written notice referred to in subsection (2), give effect thereto.

- (c) reël die reglement van die Fonds alle aangeleenthede in verband met die bestuur en funksionering van die Fonds;

- (d) word 'n verwysing in enige wet na die vorige fonds uitgê as 'n verwysing na die Fonds.

Keuse met betrekking tot opgeloopte voordeel in vorige fonds

3. (1) Ondanks die bepalinge van artikel 2 en die reglement van die Fonds, het iemand wat onmiddellik voor die vasgestelde datum 'n lid van die vorige fonds was of as 'n pensioentrekker van daardie fonds op die betaling van 'n jaargeld uit die bedoelde fonds geregtig was, en wat ingevolge artikel 4 met ingang van die vasgestelde datum 'n lid of pensioentrekker van die Fonds geword het, die reg om te enige tyd tot en met 30 September 1990 te kies dat sy opgeloopte voordeel in die vorige fonds soos op 30 September 1989 asook enige rente wat na daardie datum daarop mag toegeval het, by wyse van 'n enkelbedragbetaling uit die Fonds ten behoeve van hom en in sy naam —

- (a) oorgedra word, in die geval van so 'n lid, in 'n uittredingsannuïteitsfonds van; of
- (b) aangewend word, in die geval van so 'n pensioentrekker, om 'n annuïteit te koop by,

enigene van die lewensversekeringsmaatskappye wat deur die Administrateur-generaal vir dié doel goedgekeur is.

(2) Iemand wat die in subartikel (1) bedoelde keuse wil uitoefen, moet dit uitoefen deur nie later nie as 30 September 1990, 'n skriftelike kennisgewing te dien effekte aan die trustees van die Fonds te oorhandig en hy moet in sodanige kennisgewing die betrokke lewensversekeringsmaatskappy aanwys wat deur hom vanuit die in subartikel (1) beoogde lewensversekeringsmaatskappye gekies word.

(3) Die trustees van die Fonds moet so gou doenlik na die ontvangs van 'n skriftelike kennisgewing in subartikel (2) bedoel, uitvoering daaraan gee.

(4) For the purposes of this section "accrued benefit" means the amount computed by the actuary of the previous fund to have been the interest of the member or pensioner concerned in that fund as on 30 September 1989.

Membership of the Fund and continuation of payment of annuities

4. (1) Any person who would have been a member of the previous fund on the fixed date if that fund had not ceased to exist on that date in terms of section 2, shall, with effect from the said date, be a member of the Fund and contribute thereto.

(2) Any person to whom, as a pensioner of the previous fund, an annuity was payable from that fund immediately before the fixed date, shall with effect from that date be a pensioner of the Fund and be paid an annuity from the Fund: Provided that if the election referred to in section 3 is exercised by such a person, he shall cease to be a pensioner of the Fund and to receive an annuity from the Fund with effect from the date on which his accrued benefit is paid to a life insurance company in accordance with his election for the purchase of an annuity as contemplated in that section: Provided further that any annuity paid to such a pensioner from the Fund after the fixed date up to and including the date referred to in the first proviso, shall be set off against his accrued benefit.

Binding force of the rules of the Fund

5. Notwithstanding anything to the contrary in any law contained, the rules of the Fund shall be binding on every employer, including the State, of persons who in terms of this Proclamation are members of the Fund or are allowed by the Fund to become members thereof.

(4) By die toepassing van hierdie artikel beteken "opgeloopte voordeel" die bedrag wat deur die aktuaris van die vorige fonds bereken is om die belang van die betrokke lid of pensioentrekker in daardie fonds soos op 30 September 1989 te gewees het.

Lidmaatskap van Fonds en voortsetting van betaling van annuïteite

4. (1) Iemand wat op die vasgestelde datum 'n lid van die vorige fonds sou gewees het indien daardie fonds nie ingevolge artikel 2 op daardie datum opgehou het om te bestaan nie, is met ingang van daardie datum 'n lid van die Fonds en dra daartoe by.

(2) Iemand aan wie, as 'n pensioentrekker van die vorige fonds, 'n jaargeld betaalbaar was uit daardie fonds onmiddellik voor die vasgestelde datum, is met ingang van daardie datum 'n pensioentrekker van die Fonds en word 'n jaargeld betaal uit die Fonds: Met dien verstande dat indien die in artikel 3 bedoelde keuse deur so iemand uitgeoefen word, hy ophou om 'n pensioentrekker van die Fonds te wees en om 'n jaargeld uit die Fonds te ontvang met ingang van die datum waarop sy opgeloopte voordeel ooreenkomstig sy keuse aan 'n lewensversekeringsmaatskappy vir die aankoop van 'n annuïteit oorbetal word soos in daardie artikel beoog: Met dien verstande voorts dat enige jaargeld wat aan sodanige pensioentrekker na die vasgestelde datum tot en met die datum in die eerste voorbehoudsbepaling bedoel, uit die Fonds betaal is, teen sy opgeloopte voordeel verreken word.

Bindende krag van reglement van die Fonds

5. Ondanks enige andersluidende wetsbepalings bind die reglement van die Fonds elke werk-gewer, met inbegrip van die Staat, van persone wat ingevolge hierdie Proklamasie lede van die Fonds is of deur die Fonds toegelaat word om lede daarvan te word.

Amendment of section 6 of Act 2 of 1980, as amended by section 5 of Proclamation AG. 39 of 1984

6. Section 6 of the Government Service Act, 1980, is hereby amended by the addition to subparagraph (aa) of paragraph (a)(i) of subsection (1) of the following words:

“including a recommendation relating to the establishment of a pension fund for the benefit of such officers and employees and their dependants whether exclusively or such a pension fund of which other persons may also be members;”.

Repeal of laws

7. The Statutory Institutions Pensions Act, 1980 (Act 3 of 1980), is hereby repealed.

Short title and commencement

8. (1) This Proclamation shall be called the Pension Matters of Government Institutions Proclamation, 1989, and shall, subject to the provisions of subsection (2), be deemed to have come into operation on 30 September 1989.

(2) Section 6 shall be deemed to have come into operation on 1 June 1989.

Wysiging van artikel 6 van Wet 2 van 1980, soos gewysig deur artikel 5 van Proklamasie AG. 39 van 1984

6. Artikel 6 van die Regeringsdienswet, 1980, word hierby gewysig deur die volgende woorde by subparagraaf (aa) van paragraaf (a)(i) van subartikel (1) te voeg:

“met inbegrip van ’n aanbeveling in verband met die instelling van ’n pensioenfonds tot voordeel van sodanige beamptes en werknemers en hulle afhanklikes, hetsy uitsluitlik of so ’n pensioenfonds waarvan ook ander persone lede kan wees;”.

Herroeping van wette

7. Die Wet op Pensioene vir Statutêre Instellings, 1980 (Wet 3 van 1980), word hierby herroep.

Kort titel en inwerkingtreding

8. (1) Hierdie Proklamasie heet die Proklamasie op Pensioenaangeleenthede van Owerheidsinstellings, 1989, en word, behoudens die bepalinge van subartikel (2), geag op 30 September 1989 in werking te getree het.

(2) Artikel 6 word geag op 1 Junie 1989 in werking te getree het.