



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 192

2014

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 6 of 2014: Pension Funds Amendment Act, 2014.

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PENSION FUNDS AMENDMENT ACT, 2014

EXPLANATORY NOTE:

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Pension Funds Act, 1956, to authorise pension funds to grant loans to pension fund members in respect of customary land rights or rights of leasehold; and to provide for incidental matters.

(Signed by the President on 19 September 2014)

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:-

Amendment of section 19 of Act No. 24 of 1956

1. Section 19 of the Pension Funds Act, 1956 (hereinafter referred to as “the principal Act”) is amended by:

- (a) the deletion of the word “or” at the end of subparagraph (ii) of paragraph (a) of subsection (5);
- (b) the deletion of the full-stop at the end of subparagraph (iii) of paragraph (a) of subsection (5);
- (c) insertion of a semicolon at the at the end of subparagraph (iii) of paragraph (a) of subsection (5);
- (d) the insertion after subparagraph (iii) of paragraph (a) of subsection (5) of the following subparagraphs:

“(iv) to redeem a loan granted to the member by a person other than the fund which loan was granted by such other person to the member for the purposes of erecting a dwelling on a portion of land in respect of which a valid customary land right or right of leasehold has been allocated or granted to the member in terms of the Communal Land Reform Act, 2002 (Act No. 5 of 2002) or any other applicable legislation and which dwelling is occupied or will be occupied by the member or a dependant of the member;

(v) to erect a dwelling on a portion of land in respect of which a valid customary land right or right of leasehold has been allocated or granted to the member in terms of the Communal Land Reform Act, 2002 (Act No. 5 of 2002) or any other applicable legislation and which dwelling is occupied or will be occupied by the member or a dependant of the member; or

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- (vi) to make additions or alterations to or to maintain or repair a dwelling which is erected on a portion of land in respect of which a valid customary land right or right of leasehold has been allocated or granted to the member in terms of the Communal Land Reform Act, 2002 (Act No. 5 of 2002) or any other applicable legislation and which dwelling is occupied or will be occupied by the member or a dependant of the member.”;
- (e) the substitution for paragraph (b) of subsection 5 of the following paragraph:
- “(b) A loan contemplated in paragraph (a) shall not be granted **[after the commencement of the Financial Institutions Amendment Act, 1986] -**
- (i) unless secured in full by -
- (aa) a first mortgage on **[the] any** immovable property **[in respect of which it is granted] of which the member or his or her spouse or both have ownership; [or]**
- (bb) a pledge of the benefits to which the member is entitled in terms of the rules of the fund; or
- (cc) both the [such] mortgage and the [such] pledge contemplated in sub-subparagraphs (aa) and (bb);
- (ii) **[in respect of immovable property]** if the member concerned is already liable to the fund in respect of **[a] any other** loan granted to him **[in respect of other immovable property];**
- (iii) at a lower rate of interest than that which may from time to time be prescribed by regulation; and
- (iv) unless the capital sum is redeemable over a period not exceeding **[30 years] the remainder of the member’s employable years until retirement or the duration of the right of leasehold or the customary land right, where applicable, whichever is the shorter period, in equal weekly or monthly instalments, which shall include the interest on the capital sum outstanding.”;**
- (f) the substitution for paragraph (c) of subsection 5 of the following paragraph:
- “(c) A loan contemplated in paragraph (a) shall not exceed, where it is secured in accordance with -
- (i) paragraph (b)(i)(aa), 90 per cent of the market value of the hypothecated property concerned;

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- (ii) paragraph (b)(i)(bb), 90 per cent of the amount of the benefit which the member would receive if he were to terminate his membership of the fund voluntarily**[or the market value of the immovable property concerned, whichever is the lesser amount]** as at the time of the taking up of the loan; or
- (iii) paragraph (b)(i)(cc), the amount equal to the aggregate of 90 per cent of the market value of the hypothecated property concerned and 90 per cent of the amount of the benefit which the member would receive if he were to terminate his membership of the fund voluntarily **[or the market value of the property, whichever is the lesser amount]** as at the time of the taking up of the loan.”;
- (g) the substitution for paragraph (cA) of subsection 5 of the following paragraph:
 - “(cA) The percentages referred to in subparagraphs (i), (ii) 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 as may exceed 90 per cent.”;
- (h) the deletion of paragraph (d) of subsection 5; and
- (i) the deletion of the words “after the commencement of the Financial Institutions Amendment Act, 1986” at the end of the introductory paragraph to subsection (5B).

Amendment of section 37D of Act No. 24 of 1956

2. Section 37D of the principal Act is amended by the substitution for paragraph (a) of the following paragraph:

- “(a) deduct any amount due to the fund in respect of -
 - (i) a loan granted to a member in terms of section 19(5)(a) from the benefit to which the member or a beneficiary is entitled in terms of the rules of the fund; or
 - (ii) any amount for which the fund is liable under a guarantee furnished in respect of a loan by some other person to a member for any purpose referred to in section 19(5)(a), but the fund is not liable to such other person in an amount greater than the amount of benefit which the member would receive if he were to terminate his membership of the fund voluntarily as at the time the guarantee is called up and notwithstanding that the amount originally guaranteed might be greater

[from the benefit to which the member or a beneficiary is entitled in terms of the rules of the fund to an amount not exceeding the amount which in

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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].”

Short title

- 3.** This Act is called the Pension Funds Amendment Act, 2014.
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