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Government Notice

DEPARTMENT OF GOVERNMENTAL AFFAIRS

No. 127 1985

PROMULGATION OF ACT OF NATIONAL ASSEMBLY

The following Act, which has been adopted by the National Assembly and signed by the Administrator-General in terms of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985), is hereby published in terms of section 18 of that Proclamation:—

No. 19 of 1985: Consitutional Council Amendment Act, 1985

Goewermentskennisgewing

DEPARTEMENT VAN OWERHEIDSAKE

No. 127 1985

AFKONDIGING VAN WET VAN NASIONALE VERGADERING

Die volgende Wet, wat ingevolge die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985), deur die Nasionale Vergadering aangeneem en deur die Administrateur-generaal onderteken is, word hierby afgekondig ingevolge artikel 18 van daardie Proklamasie:—

No. 19 van 1985: Wysigingswet op die Konstitusionele Raad, 1985

EXPLANATORY NOTE:

_______ Words underlined with solid line indicate insertions proposed.

[ ] Words in bold typing in square brackets indicate omissions proposed.

ACT

To amend the Constitutional Council Act, 1985, so as to further regulate the qualifications of members of the Constitutional Council; to make other provision for the continuing membership of the Statutory Institutions Pension Fund of members of that Council who were members of that Fund immediately before their nomination; and to provide for the appointment in the government service of members of that Council who cease to be such members and who were in the employment of the government service immediately before their nomination; and to provide for incidental matters.

(Afrikaans text signed by the Administrator-General on 25 November 1985)

BE IT ENACTED by the National Assembly, as follows:-

Amendment of section 7 of Act 8 of 1985.

1. Section 7 of the Constitutional Council Act, 1985 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

" (a) who is of or over the age of **[30]** 25 years;".

Amendment of section 17 of Act 8 of 1985.

2. Section 17 of the principal Act is hereby amended by the addition of the following subsection:

" (4) (a) A member who was a member of the Statutory Institutions Pension Fund established by section 2 of the Statutory Institution Pensions Act, 1980 (Act 3 of 1980), immediately before his nomination under section 6(2) may, upon a request in writing by any such member addressed to the Secretary of Finance within 30 days after the publication of the Constitutional Council Amendment Act, 1985, or, in the case of a member nominated after the said publication, within 30 days after he has been so nominated, be declared by the Secretary of Finance to be a dormant member of the said Statutory Institutions Pension Fund.

VERDUIDELIKENDE NOTA:

______ Woorde met 'n volstreep daaronder dui aan invoegings voorgestel.

[ ] Woorde in vet druk tussen vierkantige hake dui aan skrappings voorgestel.

WET

Tot wysiging van die Wet op die Konstitusionele Raad, 1985, ten einde die kwalifikasies van lede van die Konstitusionele Raad verder te reël; ander voorsiening te maak vir die voortgesette lidmaatskap van die Statutêre Instellingspensioenfonds van lede van daardie Raad wat onmiddellik voor hul benoeming lede van daardie Fonds was; en voorsiening te maak vir die aanstelling in die regeringsdiens van lede van daardie Raad wat ophou om sodanige lede te wees en wat onmiddellik voor hul benoeming in diens van die regeringsdiens was; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Administrateur-generaal onderteken op 25 November 1985)

DAAR WORD BEPAAL deur die Nasionale Vergadering, soos volg:-

Wysiging van artikel 7 van Wet 8 van 1985.

1. Artikel 7 van die Wet op die Konstitusionele Raad, 1985 (hieronder die Hoofwet genoem), word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

" (a) wat **[30]** 25 jaar oud of ouer is;".

Wysiging van artikel 17 van Wet 8 van 1985.

2. Artikel 17 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

" (4) (a) 'n Lid wat onmiddellik voor sy benoeming kragtens artikel 6(2) 'n lid van die Statutêre Instellingspensioenfonds ingestel by artikel 2 van die Wet op Pensioene vir Statutêre Instellings, 1980 (Wet 3 van 1980), was, kan deur die Sekretaris van Finansies, op 'n skriftelike versoek deur so 'n lid gerig aan die Sekretaris van Finansies binne 30 dae na die afkondiging van die Wysigingswet op die Konstitusionele Raad, 1985, of, in die geval van 'n lid wat na bedoelde afkondiging benoem word, binne 30 dae nadat hy aldus benoem is, tot rustende lid van genoemde Statutêre Instellingspensioenfonds verklaar.

(b) Notwithstanding anything to the contrary contained in any law -

(i) no contributions by or in respect of any dormant member shall be payable to the said Statutory Institutions Pension Funds for the period during which he is a dormant member;

(ii) any dormant member or his widow or his dependants designated by the Secretary of Finance shall be entitled, with effect from the date on which he or his widow or his dependants, as the case may be, would have been entitled to a pension or gratuity if he continued to be a member of the said Statutory Institutions Pension Fund, to any such pension or gratuity as if he had retired from the employment of the statutory institution concerned or had died on the date on which he became a member of the Council.

(c) (i) A member who was in the employment of the government service immediately before his nomination under section 6(2) may, within a period of three months after he ceased to be a member, request the Cabinet in writing that he be offered, subject to the provision of the Government Service Act, 1980 (Act 2 of 1980), an appointment in the government service at a salary and on conditions which are not less favourable than the salary and conditions which were applicable to him when he resigned from the government service to become such a member.

(ii) If an appointment referred to in subparagraph (i) is not offered to such a member within 30 days after the said request or if the Cabinet is of the opinion that a suitable appointment will not be offered to the member within the said period or that it will because of the member's age not be practicable to offer him such an appointment, he shall, for the purposes of the provisions of the Statutory Institutions Pensions Act, 1980, be entitled, with effect from the date on which he made the request referred to in subparagraph (i), to a pension or gratuity as if he had been discharged from the government service on account of the re-organization of the government service.

(iii) If an appointment referred to in subparagraph (i) is offered to such a member and he is appointed in the government service, the period during which he served as a member of the Council may, on a request in writing by any such member and in the disc etion of the Secretary of Finance, be reckoned as pensionable service in accordance with the provisions of the Statutory Institutions Pensions Act, 1980, as if his pensionable service had not been interrupted.

(b) Ondanks andersluidende bepalings van die een of ander wet -

(i) is geen bydraes deur of ten opsigte van 'n rustende lid aan genoemde Statutêre Instellingspensioenfonds betaalbaar nie vir die tydperk waartydens hy 'n rustende lid is;

(ii) is 'n rustende lid of sy weduwee of sy afhanklikes wat die Sekretaris van Finansies aanwys, met ingang van die datum waarop hy of sy weduwee of sy afhanklikes, na gelang van die geval, op 'n pensioen of gratifikasie geregtig sou wees indien hy 'n lid van genoemde Statutêre Instellingspensioenfonds gebly het, geregtig op so 'n pensioen of gratifikasie asof hy op die datum waarop hy 'n lid van die Raad geword het uit die diens van die betrokke statutêre instelling getree het of gesterf het.

(c) (i) 'n Lid wat onmiddellik voor sy benoeming kragtens artikel 6(2) in diens van die regeringsdiens was, kan binne 'n tydperk van drie maande nadat hy opgehou het om 'n lid te wees, die Kabinet skriftelik versoek dat 'n aanstelling in die regeringsdiens teen 'n salaris en op voorwaardes wat nie minder gunstig is as die salaris en voorwaardes wat op hom van toepassing was toe hy uit die regeringsdiens bedank het om so 'n lid te word, hom, behoudens die bepalings van die Regeringsdienswet, 1980 (Wet 2 van 1980), aangebied word.

(ii) Indien 'n aanstelling in subparagraaf (i) bedoel nie binne 30 dae na bedoelde versoek aan so 'n lid aangebied word nie of indien die Kabinet van mening is dat 'n gepaste aanstelling nie binne genoemde tydperk die lid aangebied sal word nie of dit weens die lid se ouderdom nie doenlik sal wees om hom so 'n aanstelling aan te bied nie, is hy by die toepassing van die Wet op Pensioene vir Statutêre Instellings, 1980, vanaf die datum waarop hy die versoek in subparagraaf (i) bedoel, gerig het, geregtig op 'n pensioen of gratifikasie asof hy op daardie datum uit die regeringsdiens ontslaan is as gevolg van die reorganisasie van die regeringsdiens.

(iii) Indien 'n aanstelling in subparagraaf (i) bedoel aan so 'n lid aangebied word en hy in die regeringsdiens aangestel word, kan die tydperk waartydens hy as lid van die Raad gedien het op skriftelike aansoek deur so 'n lid en na goeddunke van die Sekretaris van Finansies ooreenkomstig die bepalings van genoemde Wet op Pensioene vir Statutêre Instellings, 1980, as pensioengewende diens gereken word asof sy pensioengewende diens nie onderbreek was nie.

(d) A dormant member shall cease to be a dormant member -

(i) on a date four months after he ceased to be member of the Council; or

(ii) on the date on which he again becomes a contributing member of the said Statutory Institutions Pension Fund.

(e) When a dormant member ceases to be a dormant member under paragraph (d) a benefit shall be paid to him as if he had not been declared to be a dormant member, unless the period during which he served as a member of the Council is reckoned as pensionable service under subparagraph (iii) of paragraph (c).".

Short title and commencement.

3. This Act shall be called the Constitutional Council Amendment Act, 1985, and shall be deemed to have come into operation on 30 September 1985.

(d) 'n Rustende lid hou op om 'n rustende lid te wees -

(i) op 'n datum vier maande nadat hy opgehou het om 'n lid van die Raad te wees; of

(ii) op die datum waaorp hy weer 'n bydraende lid van genoemde Statutêre Instellingspensioenfonds word.

(e) Wanneer 'n rustende lid kragtens paragraaf (d) ophou om 'n rustende lid te wees word 'n voordeel aan hom betaal asof hy nie tot 'n rustende lid verklaar was nie, tensy die tydperk waartydens hy as lid van die Raad gedien het kragtens subparagraaf (iii) van paragraaf (c) as pensioengewende diens gereken word.".

Kort titel en inwerkingtrede.

3. Hierdie Wet heet die Wysigingswet op die Konstitusionele Raad, 1985, en word geag op 30 September 1985 in werking te getree het.