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PUBLISHED BY AUTHORITY

# PART A

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## THE MEMBERS OF PARLIAMENT AND DESIGNATED OFFICE BEARERS PENSION FUND (AMENDMENT) BILL, 2002

(To be presented by the Hon. Minister of Finance)  
BILL NO. 1 OF 2002

### MEMORANDUM OF OBJECTS AND REASONS

The object of the bill is to amend the Members of Parliament and Designated Office Bearers Pension Fund Order, 1993, with a view, while ensuring that the beneficiaries are not put in a worse off position with regard to accrued benefits, to improving the funding level and sustainability of the fund through:

- (a) revision of members' and Government's contribution to the Fund;
- (b) revision of the formula used to calculate members annual pension;
- (c) introducing a retirement age;
- (d) setting maximum pension relative to salary;
- (e) protecting members' accrued benefits from subsequent adverse changes to the Order; and
- (f) other matters incidental to the proposed legislation.

P.M. DLAMINI  
*Attorney-General*

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### A BILL Entitled

An Act to amend the Members of parliament and Designated Office Bearers Pension Fund Order, 1993.

ENACTED by the King and the Parliament of Swaziland.

#### ***Short title and Commencement.***

1. This Act shall be cited as the Members of Parliament and Designated Office Bearers Pension Fund (Amendment) Act, 2002, and shall be read as one with the Members of Parliament and Designated Office Bearers Pension Fund Order, 1993 (hereinafter referred to as "the principal Act"), and shall come into operation on a date as the Minister may, by Notice in the Gazette, appoint.

#### ***Amendment of section 9.***

2. Section 9 of the principal Act is amended-

- (a) in subsection (1) by replacing the words "ten (10) percent" with the words "fifteen (15) percent"; and,

- (b) in subsection (3) by replacing the words "twenty (20) percent" with the words "thirty-five point seven-five (35.75) percent".

***Amendment of section 10.***

3. Section 10 of the principal Act is amended -

(a) in subsection 10 (2) by -

- (i) replacing the words "of the following formula" with the words "of either or both of the following formulae";
- (ii) replacing the formula  $A = \frac{B}{17} \times C$  with the formulae  $A = \frac{B}{17} \times C$  and  $A = \frac{B}{20} \times C$ ;  
and
- (iii) adding the following two provisos at the end thereof -

"Provided that at any one time, the maximum pension shall be restricted to 90 percent of the annual pensionable salary.

Provided further that the formula  $A = \frac{B}{17} \times C$  shall apply only to the portion of a member's pension earned prior to 1<sup>st</sup> July, 2001, and the formula  $A = \frac{B}{20} \times C$  shall apply only to the portion of a member's pension earned after 30<sup>th</sup> June, 2001"; and,

(b) by adding the following new sub-section (5) at the end thereof-

- "(5) Notwithstanding the provisions of this Order, the benefit payable to a member or his estate shall not be less than five years of annual pension."

***Addition of new Section 10 bis.***

4. The principal Act is amended by inserting the following new section 10 bis-

"Retirement age.

10. bis. (1) A member may retire from the Fund on attaining the age of 55 years:

- (2) Where the term of office of a member ends before that member attains the age of 55 years, that member's pension benefits shall be preserved within the Fund until he attains the age of 55 years in which case the provisions of section 13 (1) shall apply"

***Amendment of section 13.***

5. Section 13 of the principal Act is amended by adding the following new subsection (3) -

- "(3) Where a member re-enters the Fund and had previously commuted a portion of his or her pension benefit, the previous commutation shall be deducted from pension benefits on subsequent retirement with suitable adjustment for interest."

*Addition of new Section 15 bis.*

6. The principal Act is amended by inserting the following new section 15 bis-

“Protection of benefits.

15. bis. (1) Notwithstanding anything to the contrary in any law, unless specifically provided therein a change to this Order shall not be construed so as to adversely affect the benefits to which a member was entitled prior to that change.”

(2) Unless specifically provided otherwise therein, where there is a change in –

- (a) the rate of pension contributions;
- (b) the pensionable salary;
- (c) the retirement benefits;
- (d) the formula used to calculate the annual pension;
- (e) the retirement age; or
- (f) other condition for membership to, or retirement from, the Fund;

a member’s pension benefits shall be calculated in a manner so that:

- (g) any change referred to in paragraphs (a) to (f) affects only that portion of pensionable salary received by that member during the time period over which any such change was in force; and
- (h) any change referred to in paragraphs (a), (c), (d), (e) or (f) affects only the difference between what the pensionable salary would have been prior to the change and what it is after the change.