

REPUBLIC OF SOUTH AFRICA

NATIONAL HEALTH LABORATORY SERVICE AMENDMENT BILL

*(As introduced in the National Council of Provinces as a section 76 Bill; explanatory
summary of Bill published in Government Gazette No 22293 of 14 May 2001) (The English
text is the official text of the Bill)*

(SELECT COMMITTEE ON SOCIAL SERVICES ON REQUEST OF MINISTER OF HEALTH)

[B 56—2001]

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GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the National Health Laboratory Service Act, 2000, so as to provide for pension options to employees of bodies that are to be replaced by the National Health Laboratory Service; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Addition of item 8 to Schedule to Act 37 of 2000

1. The following item is hereby added to the Schedule to the National Health Laboratory Service Act, 2000:

“Pension options

- 8. (1) An employee contemplated in item 2 who is a member of—**
- (a) a pension scheme registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956), must transfer to a pension scheme to be established by the Service and such a transfer takes place in terms of section 14 of that Act;
 - (b) the Government Employees Pension Fund may—
 - (i) become a dormant member of such Fund;
 - (ii) remain an active member of such Fund; or
 - (iii) become a member of a pension scheme to be established by the Service.
- (2) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), no change of employer is deemed to have taken place when an employee’s pension choice changes in terms of this item.”.

Short title and commencement

2. This Act is called the National Health Laboratory Service Amendment Act, 2001, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE NATIONAL HEALTH LABORATORY SERVICE AMENDMENT BILL, 2001

The Bill seeks to amend the National Health Laboratory Service Act, 2000 (Act No. 37 of 2000) (“the Act”), by inserting provisions in the Act that will enable employees who are currently employed by bodies that are to be replaced by the National Health Laboratory Service (“the Service”) to choose between two pension schemes, the pension scheme to be established by the Service or the Government Employees Pension Fund (“the Fund”).

1. BACKGROUND

The Act was passed by Parliament in 2000. The Act seeks to replace the following bodies with a single public entity that will be responsible for providing laboratory services, mainly to the public health sector:

- (a) South African Institute for Medical Research;
- (b) National Institute for Virology;
- (c) National Centre for Occupational Health;
- (d) forensic chemistry laboratories owned by the State; and
- (e) all provincial health laboratory services.

During the negotiations for the transfer of persons currently employed by the bodies referred to in paragraphs (a) to (e) to the Service, it became clear that some of the employees would like to remain members of the Fund and not transfer to a pension scheme to be established by the Service.

The Department of Health was also advised that unless provision is made in law for a person to remain a member of the Fund while that person is no longer employed by the State, the Fund is not obliged to accept continued membership. The Fund may therefore terminate membership and thereby prejudice the person financially.

As stated above, the Bill seeks to provide pension options for persons currently employed by the bodies referred above. Provision for that is made by adding item 8 to the Schedule that provides for transitional provisions.

The provision to be added provides that employees of the bodies to be replaced by the Service who belong to—

- (a) a pension scheme other than the Fund, must transfer to a pension scheme to be established by the Service;
- (b) the Fund, may choose to become dormant members or remain active members of the Fund or transfer to a pension scheme to be established by the Service.

2. FINANCIAL IMPLICATIONS FOR STATE

The Bill has no direct financial implications for the State

3. ORGANISATIONS AND BODIES CONSULTED

- (a) All the bodies referred to in paragraph 1, i.e. bodies to be replaced by the Service;
- (b) The Department of Finance, in particular the Fund;
- (c) The Department of State Expenditure; and
- (d) The South African Revenue Services.

4. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Health are of the opinion that the Bill must be dealt with in accordance with the parliamentary procedure established by section 76 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), because the Bill falls within a functional area listed in Schedule 4 to the Constitution, namely “Health services”.

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