

**A BILL**

*intituled*

An Act to amend the Pensions Act 1980.

[ ]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Pensions (Amendment) Act 1990. Short title.

2. The Pensions Act 1980, which in this Act is referred to as the "principal Act", is amended by inserting after section 6 the following new section 6A: New section 6A. Act227.

"Exercise of option. 6A. (1) An officer appointed on or after the commencement of this section shall, before being confirmed in his appointment, be entitled to opt for the Employees Provident Fund Scheme.

(2) The option under subsection (1) shall be made to the appropriate appointing authority in such manner as may be determined by the Director General.

(3) The exercise of the option by an officer under this section shall take effect on his being confirmed in his appointment and shall thereupon be irrevocable.

(4) Where an officer opts for the Employees Provident Fund Scheme, the provisions of this Act, except this section, shall not apply to such officer.

(5) An officer who opts for the Employees Provident Fund Scheme shall retire from the public service on attaining the age of fifty-five years.

(6) The Yang di-Pertuan Agong, in the case of a federal officer or a local federal officer, or the State Authority, in the case of a state officer, may require an officer who opts for the Employees Provident Fund Scheme to retire from the public service in any of the circumstances referred to in paragraphs (a), (b), (c), (d), (e) and (f) of subsection (5) of section 10.

*Act 272.* (7) In this section "Employees Provident Fund Scheme" refers to a provident fund established under the Employees Provident Fund Act 1951, including a fund declared by the Employees Provident Fund Board under section 16 of that Act to be an approved fund."

Amendment  
of section 8.

3. Section 8 of the principal Act is amended—

- (a) by deleting the word "or" at the end of paragraph (a);
- (b) by substituting for the full stop at the end of paragraph (b) the words ";or"; and
- (c) by inserting after paragraph (b) the following new paragraph (c):

"(c) a pensionable employee under the Statutory and Local Authorities Pension Act 1980 or any other written law who is permanently transferred by appointment to the public service."

Amendment  
of section 10.

4. Section 10 of the principal Act is amended—

- (a) by deleting the word "or" at the end of paragraph (d) of subsection (5);

- (b) by substituting for the full stop at the end of paragraph (e) of subsection (5) the words "; or";
- (c) by inserting after paragraph (e) of subsection (5) the following new paragraph (f):

"(f) on the ground that the officer had, for the purpose of his appointment to the public service —

- (i) made any statement or given any information, whether orally or in writing, whether on oath or otherwise; or
- (ii) supplied any document,

which was false, erroneous, inaccurate, incomplete, or misleading or likely to mislead and his appointment to the public service was made partly or wholly in reliance on that statement, information or document:

Provided that retirement under this paragraph shall not be effected unless the officer has been given a reasonable opportunity to make representations thereon to the Yang di-Pertuan Agong or the State Authority, as the case may be."; and

- (d) by inserting after subsection (5) the following new subsection (6):

"(6) Paragraph (f) of subsection (5) shall apply only to officers appointed to the public service after the commencement of this subsection.".

5. The principal Act is amended by substituting for section 12 the following: Substitution  
of section 12.

"Optional  
retirement.

12. (1) The Yang di-Pertuan Agong, in the case of an officer other than a state officer, or the State Authority, in the case of a state officer, may, on the

officer's application, consent to the retirement of an officer on or after attaining the age of forty years.

(2) Where an officer who is appointed before the commencement of this section retires under subsection (1), such officer may be granted a pension, gratuity or other benefit only on attaining the age of—

(a) forty-five years for—

- (i) a woman officer;
- (ii) an officer of the fire service holding the rank of sub-officer and below;
- (iii) a police officer below the rank of Assistant Superintendent of Police;
- (iv) a prison officer below the rank of Superintendent; and
- (v) a male nurse of a mental hospital; or

(b) fifty years for a male officer, other than those officers referred to in subparagraphs (ii) to (v) of paragraph (a).

(3) Where an officer who is appointed after the commencement of this section retires under subsection (1), such officer may be granted a pension, gratuity or other benefit only on attaining the age of fifty-five years.

(4) Where an officer who has retired under subsection (1) dies before attaining forty-five years of age, fifty years of age or fifty-five years of age, as the case may be, the Yang di-Pertuan Agong may forthwith grant to the person prescribed in the regulations a derivative pension of not less than one-fifth of the deceased officer's last drawn salary and a derivative gratuity or a derivative gratuity only.

(5) Subject to section 16, a derivative pension granted in the circumstances of subsection (4) shall be payable for a period not exceeding twelve and a

## PENSIONS (AMENDMENT)

half years from the date immediately following the date of death of the officer; and thereafter the recipient, provided he is resident in Malaysia, shall continue to receive seventy percent of the amount granted,".

6. Section 13 of the principal Act is amended by substituting for the words "in the public interest" the words "under section 10(5)(d) or section 10(5)(f)".

Amendment  
of section 13.

7. Section 23 of the principal Act is amended —

Amendment  
of section 23.

- (a) by deleting the word "who" in subsection (2);
- (b) by substituting, in subsection (2), for the word "11(a)" the words "11(a)(i) or 11(b)(i)"; and
- (c) by inserting after subsection (2) the following new subsection (3):

"(3) In respect of retirement under section 11 (b)(i), subsection (2) shall apply only to officers appointed to the public service after the commencement of this subsection."

## EXPLANATORY STATEMENT

This Bill seeks to amend the Pensions Act 1980 (hereinafter referred to as "the Act").

2. *Clause 2* seeks to amend the Act by introducing a new section 6A to provide that new officers appointed on or after the coming into force of this Act, before being confirmed in his appointment, will be given an option to opt for the Employees Provident Fund Scheme. If such officer opts for the Employees Provident Fund Scheme, the provisions of the Act, except the provisions stated under that clause, which relates to compulsory retirement and retirement under subsection (5) of section 10 of the Act, shall not apply to him. The exercise of the option is irrevocable.

3. *Clause 3* seeks to amend section 8 of the Act by inserting a new paragraph (c) to include another category of officers who are deemed to be pensionable officers under the Act.

## BILL

4. *Clause 4 seeks to amend section 10 of the Act to include another ground for the Yang di-Pertuan Agong or the State Authority, as the case may be, to retire an officer from the public service. Any officer who, at the time of his appointment, made any statement or gave any information or supplied any document which is found to be false, erroneous, inaccurate, incomplete, or misleading or likely to mislead, may be retired under section 10 of the Act.*

5. *Clause 5 seeks to substitute section 12 of the Act to lower the optional retirement age from forty-five years of age for women and fifty years of age for men to forty years of age for women and men. However, a pension, gratuity or other benefit may only be granted to such officers on attaining the age of forty-five years, or fifty years, or fifty-five years, as the case may be, as specified under that clause.*

6. *Clause 6 seeks to amend section 13 of the Act to clearly specify the power to pay pension, gratuity or other benefit to an officer who is retired under section 10(5)(d) and to provide for power to pay pension, gratuity or other benefit to an officer who may be retired under the proposed section 10(5)(f).*

7. *Clause 7 seeks to amend subsection (2) of section 23 of the Act relating to the power of the Yang di-Pertuan Agong to suspend the pension of an officer who has been retired at the instance of the Government under section 11(a)(i) or 11(b)(i) of the Act if that officer is involved in any activity which may be in conflict with the purpose of his retirement. This amendment is necessary as a consequence of the amendment made to section 11 of the Act earlier by the Pensions (Amendment) Act 1986, but the reference to section 11 (b)(i), which is in relation to State officers, shall only apply to officers appointed to the public service after the commencement of this Bill, as there is no existing provision in the Act for the Yang di-Pertuan Agong to suspend the pension of such officers at present.*

## FINANCIAL IMPLICATIONS

This Bill will not involve the Government in any extra financial expenditure. [PN. (U<sup>2</sup>)1481.]