

A BILL

*intituled*

An Act to establish the Pensions Trust Fund and to provide for the management of that Fund and other matters incidental thereto.

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 Trust Fund Act 1990 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint.

Short title and commencement.

2. In this Act, unless the context otherwise requires— Interpretation.

"Council" means the Pensions Trust Fund Council established under section 4;

"Fund" means the Pensions Trust Fund established under section 3;

"Investment Panel" means the Investment Panel established under section 5;

"Minister" means the Minister for the time being charged with the responsibility for finance;

"Securities" includes stocks, funds, shares and bonds, and debentures and other instruments creating or evidencing a charge or Hen on assets.

3. (1) There is hereby established a fund to be known as the Pensions Trust Fund which shall be specified in and incorporated into the Second Schedule to the Financial Procedure Act 1957.

The Pensions Trust Fund.

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(2) The Fund shall be administered by the Pensions Trust Fund Council.

(3) The Accountant-General Malaysia shall be responsible for the day to day administration and management of the affairs of the Fund.

Pensions  
Trust Fund  
Council.

4. (1) There is hereby established a council of trustees to be known as the Pensions Trust Fund Council.

(2) The trustees shall be appointed by the Minister and shall consist of—

- (a) a Chairman who shall be the Secretary-General of the Ministry of Finance;
- (b) an officer from the Treasury;
- (c) an officer from Bank Negara;
- (d) an officer from the Attorney-General's Chambers;
- (e) a Secretary who shall be an officer from the Accountant-General's Department;
- (f) an officer from the Public Services Department;
- (g) an officer from the Employees Provident Fund Board; and
- (h) three other members with business or financial experience.

(3) The Council shall have such powers and shall perform such duties as are given or imposed by this Act or as may be prescribed from time to time by the Minister and may by instrument in writing delegate to any person all or any of such powers and duties.

Investment  
Panel.

5. (1) There shall be established an Investment Panel responsible for matters pertaining to the investment of the assets of the Fund which shall be responsible to the Minister.

(2) The Investment Panel shall consist of—

- (a) a Chairman who shall be the Chairman of the Council or such other person as may be appointed by the Minister;

- (b) a representative from Bank Negara;
- (c) a representative from the Accountant-General's Department; and
- (d) three other members with business or financial experience who shall be appointed by the Minister.

6. The provisions of the First Schedule shall have effect with respect to the Council and the Investment Panel.

The provisions of the First Schedule shall apply.

7. All members of the Council and the Investment Panel shall be deemed to be public servants within the meaning of the Penal Code.

Public servants. *F.M.S. Cap. 45.*

8. Notwithstanding the relevant provisions of the Financial Procedure Act 1957, there shall be paid from time to time into the Fund—

Moneys required to be paid into the Fund.

- (a) moneys appropriated from the Federal Consolidated Fund to and for the purposes of the Fund;
- (b) such sums as may be paid from time to time by the Employees Provident Fund Board to the Fund under section 56 of the Employees Provident Fund Act 1990;
- (c) all monthly contributions made by employers and organisations to the Consolidated Fund under section 8 of the Statutory and Local Authorities Pensions Act 1980;
- (d) moneys earned or arising from any investment of the Fund; and
- (e) any moneys from any other source as the Minister may approve.

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9. The Minister may, after the coming into force of this Act, authorize that moneys standing to the credit of the Fund be applied to meet, whether wholly or partly, the cost of payment of pension, gratuity or other benefit granted under any written law for officers of the public service and employees of statutory and local authorities.

Application of moneys of the Fund.

Investment  
of the  
moneys  
of the Fund.

10. (1) The Investment Panel may invest money standing to the credit of the Fund—

- (a) on deposit in any bank, in or outside Malaysia, in any currency including the ringgit;
- (b) in money market instruments, including treasury bills, bankers' acceptances and certificates of deposit in any currency including the ringgit;
- (c) in loans, on terms remunerative to the Fund, to the Federal Government or the Government of any State in Malaysia;
- (d) in loans, on terms remunerative to the Fund, to any public authority or corporation in which the Federal Government has an interest;
- (e) in precious metals including gold, silver, platinum and palladium; and
- (f) in any other manner authorised by the Minister.

(2) In granting any authorisation under this section the Minister may impose such terms or conditions as he may consider necessary.

(3) The total investment referred to in paragraph (1) (d) shall not at any time exceed twenty per centum of the disposable assets of the Fund.

(4) Investments referred to in paragraph (1) (e) shall not at any time exceed five per centum of the disposable assets of the Fund.

Administra-  
tion fees.

11. Any cost, expense or other payment directly attributable to the administration of the Fund shall be charged to the Fund.

Power of the  
Minister in  
relation to  
the Council.

12. (1) The Minister may give the Council such directions of a general nature as are not inconsistent with the provisions of this Act as relate to the exercise and performance of its functions and the Council shall give effect to all such directions.

PENSIONS TRUST FUND

(2) The Council shall furnish the Minister with such returns, accounts and other information with respect to the assets and activities of the Fund as he may from time to time require.

**13.** For the purposes of this Act, the financial year of the Fund shall commence on the 1st January and end on the 31st December of each year. Financial year.

14. (1) The Council shall keep or cause to be kept proper accounts and other records in respect of the operation of the Fund and shall prepare statements of accounts in respect of each financial year. Accounts and audit.

(2) The Council shall, not later than three months after the end of its financial year, cause the accounts of the Fund to be audited by the Auditor-General.

(3) At the end of each financial year and as soon as the accounts of the Fund have been audited, the Council shall cause a copy of the statement of accounts to be submitted to the Minister, together with a copy of the observations made by the Auditor-General on any statement of accounts or on the accounts generally.

**15.** The Council shall, not later than the thirtieth day of April in each year, cause to be made and submitted to the Minister a report dealing with the investments of the Fund during the preceding financial year and containing such information relating to the proceedings and policy of the Council as the Minister may from time to time direct. Annual report.

**16.** The Minister shall cause a copy of the annual audited account under section 12 and the annual report under section 13 received by him to be laid before each House of Parliament. Audited accounts and annual reports to be laid before Parliament.

**17.** The Minister may make regulations for the better carrying out of the provisions of this Act. Power to make regulations.

Provisions of the Financial Procedure Act 1957 to apply.

18. Save as otherwise provided in this Act, the provisions of the Financial Procedure Act 1957 and regulations made and instructions issued thereunder shall apply to the Fund,

## FIRST SCHEDULE

### [Section 6]

Appointment, revocation and resignation.

1. (1) A member of the Council and the Investment Panel shall, subject to such conditions as may be specified in his instrument of appointment, hold office for a term not exceeding three years and is eligible for reappointment.

(2) The appointment of any member may at any time be revoked by the Minister without assigning any reason therefor.

(3) A member may at any time resign his office by letter addressed to the Minister.

(4) Every member shall devote such time to the business of the Council and the Investment Panel as is necessary to discharge his duties effectively.

Vacation of office.

2. (1) The office of a member of the Council and the Investment Panel shall be vacated—

- (a) if he dies;
- (b) if there has been proved against him, or he has been convicted on, a charge in respect of—
  - (i) an offence involving fraud, dishonesty or moral turpitude;
  - (ii) an offence under any law relating to corruption; or
  - (iii) any other offence punishable with imprisonment (in itself only or in addition to or in lieu of a fine) for more than two years;
- (c) if he becomes bankrupt;
- (d) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (e) if he absents himself from three consecutive meetings without leave of the Minister;
- (f) in the event of his resignation being accepted by the Minister; or
- (g) if his appointment is revoked by the Minister.

(2) Where any person ceases to be a member by reason of any other provisions of this Act, another person shall be appointed in his place in accordance with the provisions applying.

3. There may be paid to members of the Council and the Investment Panel such remuneration or allowance as the Minister may determine. Remuneration or allowance.
4. (1) The Council and the Investment Panel shall meet as and when required. Meetings
- (2) The Chairman and two other members of the Council or the Investment Panel shall form a quorum at any meeting of the Council and the Investment Panel.
- (3) Subject to the provisions of this Act, the Council and the Investment Panel shall determine their own procedures.
5. The Investment Panel may request any person (not being a member of the Investment Panel) to attend any meeting or deliberation of the Investment Panel for the purpose of advising it on any matter under discussion, but any person so attending shall have no right to vote at the said meeting or deliberation. Investment Panel may invite others to meetings.
6. If any member of the Council and the Investment Panel is financially interested in any scheme, project or enterprise undertaken or is recommended by the Council and the Investment Panel, he shall forthwith declare to the Minister in writing the nature and extent of his interest in such scheme, project or enterprise and of any subsequent change in the nature or extent of his interest therein. Disclosure of interest
7. The Council and the Investment Panel shall cause minutes of all its meetings to be maintained and kept in a proper form. Minutes.

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#### EXPLANATORY STATEMENT

This Bill seeks to establish the Pensions Trust Fund by law and to constitute a Council of trustees known as the Pensions Trust Fund Council to administer the Fund. The Accountant-General will be responsible for the day to day administration and management of the affairs of the Fund. An Investment Panel will be responsible for matters relating to the investment of the assets of the Fund.

2. *Clauses 3 and 4* deal with the establishment of the Fund and the Council respectively.
3. *Clause 5* deals with the establishment of the Investment Panel.
4. *Clause 6* provides that the provisions of the First Schedule shall have effect with respect to all members of the Council and the Investment Panel.
5. *Clause 7* provides that all members of the Council and the Investment Panel shall be deemed to be public servants within the meaning of the Penal Code.

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6. *Clause 8* provides for the moneys to be paid into the Fund and *clause 9* deals with the application of such moneys.
7. The moneys of the Fund may be invested in accordance with *clause 10 (1)*.
8. *Clause 10(3) and (4)* set a limit on the amount of disposable assets of the Fund that can be placed in investments made in accordance with *clause 10 (1) (d) and (e)*.
9. *Clauses 12 and 17* respectively give power to the Minister to give directions to the Council and to make regulations.
10. *Clauses 11, 13, 14, 15 and 16* respectively deal with the administrative fees, the financial year, accounts and audits, annual reports and the requirement to lay such accounts and reports before each House of Parliament.
11. *Clause 18* provides that the provisions of the Financial Procedure Act 1957 shall apply unless otherwise provided in this Bill.

FINANCIAL IMPLICATIONS

Under *clause 8 (1) (a), (b) and (c)* of the Bill, moneys may, from time to time, be appropriated from Consolidated Fund and paid into the Fund. Otherwise, the Bill will not involve the Government in any extra financial expenditure.

[PN. (U<sup>2</sup>) 1630.]