

A BILL

entitled

PUBLIC SERVICE SUPERANNUATION AMENDMENT ACT 2019

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WHEREAS it is expedient to amend the Public Service Superannuation Act 1981 to increase the age of compulsory retirement for certain public officers, and to make connected provision;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Public Service Superannuation Amendment Act 2019.

Amends section 12

2 In section 12 of the Public Service Superannuation Act 1981 ("the principal Act")—

- (a) in subsection (3), after "person" insert "falling within section 22(1A)";
- (b) after subsection (3) insert—

"(3A) A person falling within section 22(2) whose first employment with the Government commences after he has attained the age of sixty years shall not contribute to the Fund (or be entitled to any benefit under this Act) unless he elects to contribute to the Fund."

- (c) delete subsection (4) and substitute—

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“(4) An election under subsection (3) or (3A) shall be made in such form as the Accountant General may determine and shall be delivered to the Accountant General within 60 days after the commencement of a person’s employment.”

Amends section 22

3 In section 22 of the principal Act (age of compulsory retirement)—

- (a) in subsection (2), delete “sixty-five years” and substitute “sixty-eight years”;
- (b) delete the proviso to subsection (2) and substitute—

“Provided that a contributor may be permitted to continue in the public service until a later age, not exceeding the age of seventy years, subject to—

- (a) annual certification by a medical practitioner registered under the Medical Practitioners Act 1950 of the contributor’s fitness to continue; and
- (b) annual confirmation by the contributor’s Head of Department to the relevant Permanent Secretary that the contributor is competent to discharge the duties of the post.”

Amends section 24

4 In section 24 of the principal Act (deferred pensions)—

- (a) in subsection (2)—
 - (i) after “contributor”, insert “falling within section 22(1)”;
 - (ii) delete “section 22(1) or (2)” and substitute “section 22(1)”;
- (b) in subsection (3), delete “section 22(1) or (2)” and substitute “section 22(1)”;
- (c) after subsection (3) insert—

“(3A) Where a contributor falling within section 22(2) is permitted to continue in the same office in the public service after the age of retirement specified in section 22(2), payment of any pension to which he may be entitled at that age shall be deferred until he ceases to be employed in the public service.”

Amends section 32

5 In section 32(2) of the principal Act—

- (a) after “contributor”, insert “falling within section 22(1)”;
- (b) delete “section 22(1) or (2)” and substitute “section 22(1)”.

Transitional provision and application

6 (1) Notwithstanding the provisions of section 12(4) of the principal Act as substituted by section 2 above (election to contribute to Fund to be made within 60 days of

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commencement of employment), an election under section 12(3A) may be made within 60 days after the commencement date in the case of a person employed on that date by Government if his first employment with Government commenced after he had attained the age of fifty-seven years.

(2) The amendments made to sections 24 and 32 of the principal Act by sections 4 and 5 above (removal of right of contributors falling within section 22(2) who work beyond age of compulsory retirement to elect to defer pension until retirement) shall only apply to—

- (a) a contributor falling within section 22(2) who first became a public officer before 14 September 2007; and
- (b) a contributor falling within section 22(2) who commences employment as a public officer on or after the commencement date.

(3) In this section, “commencement date” means the date on which this Act comes into operation.

Commencement

7 This Act comes into operation on such date as the Minister of Finance may appoint by notice published in the Gazette.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Public Service Superannuation Act 1981 (“the principal Act”) to increase the age of compulsory retirement from 65 to 68 years for certain public officers (not including police officers, fire officers, prison officers, members of the Royal Bermuda Regiment and teachers), and to make related amendments.

Clause 1 is self-explanatory.

Clause 2 amends section 12 of the principal Act. Currently subsection (3) provides that a person whose first employment with the Government commences after he has attained the age of fifty-seven years shall not contribute to the Fund (or be entitled to any benefit under the principal Act) unless he elects to contribute to the Fund. This will continue to apply to teachers. New subsection (3A) increases the relevant age from 57 to 60 years for contributors other than teachers in consequence of the increased age of compulsory retirement for such persons effected by clause 3. Subsection (4) is substituted to include an election under subsection (3A) and simplified as former paragraph (a) is spent.

Clause 3 amends section 22(2) of the principal Act to increase from 65 to 68 years the age of compulsory retirement for public officers to whom that subsection applies (which does not include police officers, fire officers, prison officers, members of the Royal Bermuda Regiment and teachers). The proviso to subsection (2) is substituted to permit such officers to continue in the public service until a later age, not exceeding the age of 70 years, subject to annual certification by a registered medical practitioner of the contributor's fitness to continue, and annual confirmation by the contributor's Head of Department to the relevant Permanent Secretary that the contributor is competent to discharge the duties of the post. (Note that section 19(1)(d) of the principal Act is not being amended so that persons falling within section 22(2) are still able to retire and receive their pension at any time after age 60.)

Clause 4 amends section 24 of the principal Act by inserting new subsection (3A) which provides for automatic deferral of a contributor's pension until he ceases to be employed in the public service, for contributors falling within section 22(2) (ie not uniformed officers and teachers). This replaces the right to elect deferral for such persons who continue in employment after the age of compulsory retirement which was introduced by the Public Service Superannuation Amendment Act 2007.

Clause 5 amends section 32(2) of the principal Act (pension to begin to accrue day after attaining age of compulsory retirement if person does not elect to defer pension until retirement under section 24(3)) so that it no longer applies to contributors falling within section 22(2), in consequence of the amendments made to section 24 of the principal Act by clause 4.

Clause 6 subsection (1) makes transitional provision in relation to the amendments to section 12 of the principal Act by clause 2. Subsection (2) specifies the persons to whom the amendments to sections 24 and 32 of the principal Act (made by clauses 4 and 5) apply

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to ensure the amendments comply with section 91 of the Constitution (applicability of pensions law). The date in paragraph (a) references the coming into operation of the Public Service Superannuation Amendment Act 2007. Subsection (3) defines "commencement date".

Clause 7 provides for commencement.