

A BILL

i n t i t u l e d

An Act to amend the Retirement Fund Act 2007.

[]

ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Retirement Fund (Amendment) Act 2015.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Amendment of section 2

2. The Retirement Fund Act 2007 [*Act 662*], which is referred to as the “principal Act” in this Act, is amended in section 2—

(a) by inserting before the definition of “committee” the following definition:

‘ “debenture” includes debenture stock, bonds, notes and any other securities of a company or corporation whether or not constituting a charge on the assets of the company or corporation;’;

(b) in the definition of “securities”—

(i) in paragraph (b), by deleting the word “and” at the end of the paragraph;

(ii) by substituting for paragraph (c) the following paragraph:

“(c) unit trusts, exchange traded fund or prescribed instruments; and”; and

(iii) by inserting after paragraph (c) the following paragraph:

“(d) any Islamic securities,”; and

(c) in the definition of “company”, by inserting after the words “[Act 125]” the words “, a trust company incorporated under the Trust Companies Act 1949 [Act 100] or any company incorporated under any written law”.

New section 4A

3. The principal Act is amended by inserting after section 4 the following section:

“The Retirement Fund (Incorporated) may act as an agent of Government

4A. (1) The Retirement Fund (Incorporated) may act as an agent of the Government of Malaysia for the purpose of paying any pension, gratuity or other benefit granted under any written law from the Consolidated Fund in such manner as may be agreed between the Government of Malaysia and the Retirement Fund (Incorporated).

(2) The Retirement Fund (Incorporated) may be paid by the Government of Malaysia for services rendered by it as an agent of the Government of Malaysia under subsection (1).”.

Amendment of section 6

4. Paragraph 6(4)(f) of the principal Act is amended by inserting after the word “business” the words “, investment, banking”.

Amendment of section 7

5. Subsection 7(2) of the principal Act is amended—

(a) by deleting paragraph (b); and

(b) by substituting for paragraph (e) the following paragraph:

“(e) four persons from the public or private sector with experience and expertise in business, investment, banking or finance.”.

Amendment of section 13

6. Section 13 of the principal Act is amended—

(a) in subsection (2)—

(i) by deleting the word “and” at the end of paragraph (d);

(ii) by inserting after paragraph (d) the following paragraph:

“(da) moneys received by the Retirement Fund (Incorporated) for services rendered by the Retirement Fund (Incorporated) to the Government of Malaysia as its agent under section 4A; and” and

(b) in subsection (5), by deleting the words “for officers of the public service and employees of statutory and local authorities”.

Amendment of section 14**7. Section 14 of the principal Act is amended—**

(a) in subsection (1)—

(i) by substituting for paragraph (a) the following paragraph:

“(a) on deposit in any currency including the ringgit in—

(i) the Central Bank of Malaysia;

(ii) any duly licensed financial institution as defined under the Financial Services Act 2013 [Act 758];

(iii) any development financial institution as defined under the Development Financial Institutions Act 2002 [Act 618];

(iv) any Islamic bank under the Islamic Financial Services Act 2013 [Act 759];
or

(v) any bank or duly licensed financial institution outside Malaysia;”;

(ii) in paragraph (b), by substituting for the words “and certificates of deposit” the words “, certificates of deposit and any financial instruments recognized by the relevant regulatory body”;

(iii) in paragraph (d), by inserting after the words “the Retirement Fund (Incorporated)” the words “and with the acceptable credit criteria”;

(iv) in paragraph (h), by substituting for the words “the *Securities Industry Act 1983 [Act 280]” the words “the Capital Market and Services Act 2007 [Act 671] or securities in a company which has been approved to be listed in any stock exchange outside Malaysia subject to the listing of such security being approved by law in the foreign jurisdiction”;

- (vi) in paragraph (j), by deleting the word “and” at the end of the paragraph; and
- (vii) by inserting after paragraph (j) the following paragraph:

“(ja) with the approval of the Minister—

- (i) in the development of buildings, infrastructure and natural resources, and the interest within;
- (ii) in securities issued or fully guaranteed by any sovereign government, supranational or multilateral organization and includes securities where any sovereign government, supranational or multilateral organization is the obligor;
- (iii) in securities issued or fully guaranteed by the Government of Malaysia, secured by any sovereign government, supranational or multilateral organization and includes securities where any sovereign government, supranational or multilateral organization is the obligor and any instrument issued by the Central Bank of Malaysia;
- (iv) in purchasing securities or subscribing to any product for the purpose of hedging the investments of the Fund;
- (v) in private equity fund managed by—
 - (A) any fund management company registered with the Securities Commission Malaysia or Companies Commission of Malaysia;
 - (B) any fund management company registered by any regulatory body outside Malaysia; or

- (C) any limited liability partnership registered by any regulatory body outside Malaysia; and”;

(b) in subsection (2)–

- (i) in the national language text, by inserting after the words “perenggan (1)(i)” the words “dan (ja)”;
- and
- (ii) in the English language text, by substituting for the words “under paragraph (1)(i)” the words “under paragraphs (1)(i) and (ja)”.

New section 21A

8. The principal Act is amended by inserting after section 21 the following section:

“Obligation of secrecy

21A. (1) Except for any of the purposes of this Act or for the purposes of any civil or criminal proceedings under any written law or where otherwise authorized by the Board—

- (a) no member of the Board, Investment Panel, committee, officers and servants of the Retirement Fund (Incorporated) or any person attending any meeting of the Board, Investment Panel or any of its committees, whether during or after his tenure of office or employment, shall disclose any information which has been obtained by him in the course of his duties and which is not published in pursuance of this Act; and
- (b) no other person who has by any means access to any information or documents relating to the affairs of the Retirement Fund (Incorporated) shall disclose such information or document.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Retirement Fund Act 2007 (“Act 662”).

2. *Clause 1* contains the short title of the proposed Act and seeks to empower the Minister to appoint the date of commencement of the proposed Act.
3. *Clause 2* seeks to amend section 2 of Act 662 to introduce new definition of “debenture” and to amend certain existing definitions in Act 662.
4. *Clause 3* seeks to introduce new section 4A into Act 662 to enable the Retirement Fund (Incorporated) to act as an agent of the Government for the purpose of paying any pension, gratuity or other benefit granted under any written law from the Consolidated Fund. The Retirement Fund (Incorporated) may be paid a sum of money which amount may be determined by the Government of Malaysia for services rendered by it as an agent of the Government of Malaysia.
5. *Clause 4* seeks to amend paragraph 6(4)(f) of Act 662 to expand the qualifications of a prospective Board member of the Retirement Fund (Incorporated) to include persons who have experience and expertise in investment or banking.
6. *Clause 5* seeks to amend paragraph 7(2)(b) of Act 662 to remove the representative from the Central Bank of Malaysia as a member of the Board and to increase the number of persons to be appointed by the Minister under paragraph 7(2)(e) of Act 662 from three persons to four persons who could be appointed from the public or private sector provided they should have experience and expertise in business, investment, banking or finance.
7. *Clause 6* seeks to amend subsection 13(2) of Act 662 to include moneys received by the Retirement Fund (Incorporated) for services rendered by it as an agent to the Government of Malaysia under section 4A of Act 622 to be paid into or transferred into the Retirement Fund.
8. *Clause 7* seeks to amend subsection 14(1) Act 662 to clarify and expand the scope of investment by the Retirement Fund (Incorporated).
9. *Clause 8* seeks to introduce a new section 21A into Act 662 to impose duty to maintain secrecy.
10. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)2967]