

# Republic Act No. 8291

May 30, 1997

REPUBLIC ACT NO. 8291

## **AN ACT AMENDING PRESIDENTIAL DECREE NO. 1146, AS AMENDED, EXPANDING AND INCREASING THE COVERAGE AND BENEFITS OF THE GOVERNMENT SERVICE INSURANCE SYSTEM, INSTITUTING REFORMS THEREIN AND FOR OTHER PURPOSES**

SECTION 1. Presidential Decree No. 1146, as amended, otherwise known as the "Revised Government Service Insurance Act of 1977", is hereby further amended to read as follows:

"SECTION 1. Title. ô The short title of this Act shall be: 'The Government Service Insurance System Act of 1997.'

### "A. DEFINITIONS

"SECTION 2. Definition of Terms. ô Unless the context otherwise indicates, the following terms shall mean:

"(a) GSIS ô The Government Service Insurance System created by Commonwealth Act No. 186;

"(b) Board ô The Board of Trustees of the Government Service Insurance System;

"(c) Employer ô The national government, its political subdivisions, branches, agencies or instrumentalities, including government-owned or controlled corporations, and financial institutions with original charters, the constitutional commissions and the judiciary;

"(d) Employee or Member ô Any person, receiving compensation while in the service of an employer as defined herein, whether by election or appointment, irrespective of status of appointment, including barangay and sanggunian officials;

"(e) Active Member ô A member who is not separated from the service;

"(f) Dependents ô Dependents shall be the following: (a) the legitimate spouse dependent for support upon the member or pensioner; (b) the legitimate, legitimated, legally adopted child, including the illegitimate child, who is unmarried, not gainfully employed, not over the age of majority, or is over the age of majority but incapacitated and incapable of self-support due to a mental or physical defect acquired prior to age of majority; and (c) the parents dependent upon the member for support;

"(g) Primary beneficiaries ô The legal dependent spouse until he/she

remarries and the dependent children;

"(h) Secondary beneficiaries ô The dependent parents and, subject to the restrictions on dependent children, the legitimate descendants;

"(i) Compensation ô The basic pay or salary received by an employee, pursuant to his election/appointment, excluding per diems, bonuses, overtime pay, honoraria, allowances and any other emoluments received in addition to the basic pay which are not integrated into the basic pay under existing laws;

"(j) Contribution ô The amount payable to the GSIS by the member and the employer in accordance with Section 5 of this Act;

"(k) Current Daily Compensation ô The actual daily compensation or the actual monthly compensation divided by the number of working days in the month of contingency but not to exceed twenty-two (22) days;

"(l) Average Monthly Compensation (AMC) ô The quotient arrived at after dividing the aggregate compensation received by the member during his last thirty-six (36) months of service preceding his separation/retirement/disability/death by thirty-six (36), or by the number of months he received such compensation if he has less than thirty-six (36) months of service: Provided, That the average monthly compensation shall in no case exceed the amount and rate as may be respectively set by the Board under the rules and regulations implementing this Act as determined by the actuary of the GSIS: Provided, further, That initially the average monthly compensation shall not exceed Ten thousand pesos (P10,000.00), and premium shall be nine percent (9%) and twelve percent (12%) for employee and employer covering the AMC limit and below; and two percent (2%) and twelve percent (12%) for employee and employer covering the compensation above the AMC limit;

"(m) Revalued average monthly compensation ô An amount equal to one hundred seventy percent (170%) of the first One thousand pesos (P1,000) of the average monthly compensation plus one hundred percent (100%) of the average monthly compensation in excess of One thousand pesos (P1,000);

"(n) Lump sum ô The basic monthly pension multiplied by sixty (60);

"(o) Pensioner ô Any person receiving old-age or permanent total disability pension or any person who has received the lump sum excluding one receiving survivorship pension benefits as defined in Section 20 of this Act;

"(p) Gainful Occupation ô Any productive activity that provided the member with income at least equal to the minimum compensation of government employees;

"(q) Disability ô Any loss or impairment of the normal functions of the physical and/or mental faculty of a member which reduces or eliminates his/her capacity to continue with his/her current gainful occupation or engage in any other gainful occupation;

"(r) Total Disability ô Complete incapacity to continue with his present employment or engage in any gainful occupation due to the loss or impairment of the normal functions of the physical and/or mental faculties of the member;

"(s) Permanent Total Disability ô Accrues or arises when recovery from the impairment mentioned in Section 2(Q) is medically remote;

"(t) Temporary Total Disability ô Accrues or arises when the impaired physical and/or mental faculties can be rehabilitated and/or restored to their normal functions;

"(u) Permanent Partial Disability ô Accrues or arises upon the irrevocable loss or impairment of certain portion/s of the physical faculties, despite which the member is able to pursue a gainful occupation.

## "B. MEMBERSHIP IN THE GSIS

"SECTION 3. Compulsory Membership. ô Membership in the GSIS shall be compulsory for all employees receiving compensation who have not reached the compulsory retirement age, irrespective of employment status, except members of the Armed Forces of the Philippines and the Philippine National Police, subject to the condition that they must settle first their financial obligation with the GSIS, and contractuels who have no employer and employee relationship with the agencies they serve.

"Except for the members of the judiciary and constitutional commissions who shall have life insurance only, all members of the GSIS shall have life insurance, retirement, and all other social security protection such as disability, survivorship, separation, and unemployment benefits.

"SECTION 4. Effect of Separation from the Service. ô A member separated from the service shall continue to be a member, and shall be entitled to whatever benefits he has qualified to in the event of any contingency compensable under this Act.

## "C. SOURCES OF FUNDS

"SECTION 5. Contributions. ô (a) It shall be mandatory for the member and the employer to pay the monthly contributions specified in the following schedule:

"Monthly Compensation Percentage of Monthly

Compensation Payable by

Member Employer

I. Maximum Average

Monthly Compensation

(AMC) Limit and Below 9.0% 12.0%

<!--[if !supportLists]-->II. Over the Maximum AMC Limit<!--[endif]-->

<!--[if !supportLists]-->III. <!--[endif]-->

ô Up to the Maximum AMC Limit 9.0% 12.0%

ô In Excess of the AMC Limit 2.0% 12.0%

"Members of the judiciary and constitutional commissioners shall pay three percent (3%) of their monthly compensation as personal share, and their employers a corresponding three percent (3%) share for their life insurance coverage.

"(b) The employer shall include in its annual appropriation the necessary amounts for its share of the contributions indicated above, plus any additional premiums that may be required on account of the hazards or risks of its employees' occupation.

"(c) It shall be mandatory and compulsory for all employers to include the payment of contributions in their annual appropriations. Penal sanctions shall be imposed upon employers who fail to include the payment of contributions in their annual appropriations or otherwise fail to remit the accurate/exact amount of contributions on time, or delay the remittance of premium contributions to the GSIS. The heads of offices and agencies shall be administratively liable for non-remittance or delayed remittance of premium contributions to the GSIS.

"SECTION 6. Collection and Remittance of Contributions. ô (a) The employer shall report to the GSIS the names of all its employees, their corresponding employment status, positions, salaries and such other pertinent information, including subsequent changes therein, if any, as may be required by the GSIS; the employer shall deduct each month from the monthly salary or compensation of each employee the contribution payable by him in accordance with the schedule prescribed in the rules and regulations implementing this Act.

"(b) Each employer shall remit directly to the GSIS the employees' and employers' contributions within the first ten (10) days of the calendar month following the month to which the contributions apply. The remittance by the employer of the contributions to the GSIS shall take priority over and above the payment of any and all obligations, except salaries and wages of its employees.

"SECTION 7. Interests on Delayed Remittances. ô Agencies which delay the remittance of any and all monies due the GSIS shall be charged interests as may be prescribed by the Board but not less than two percent (2%) simple interest per month. Such interest shall be paid by the employers concerned.

"SECTION 8. Government Guarantee. ô The government of the Republic of the Philippines hereby guarantees the fulfillment of the obligations of the GSIS to its members as and when they fall due.

## "D. BENEFITS

"SECTION 9. Computation of the Basic Monthly Pension. ô (a) the basic monthly pension is equal to:

"1) thirty-seven and one-half percent (37.5%) of the revalued average monthly compensation; plus

"2) two and one-half percent (2.5%) of said revalued average monthly compensation for each year of service in excess of fifteen (15) years: Provided, That the basic monthly pension shall not exceed ninety percent (90%) of the average monthly compensation.

"(b) The basic monthly pension may be adjusted upon the recommendation of the President and General Manager of the GSIS and approved by the President of the Philippines in accordance with the rules and regulations prescribed by the GSIS: Provided, however, That the basic monthly pension shall not be less than One thousand and three hundred pesos (P1,300.00): Provided, further, That the basic monthly pension for those who have rendered at least twenty (20) years of service after the effectivity of this Act shall not be less than Two thousand four hundred pesos (P2,400.00) a month.

"SECTION 10. Computation of Service. ô (a) The computation of service for the purpose of determining the amount of benefits payable under this Act shall be from the date of original appointment/election, including periods of service at different times under one or more employers, those performed overseas under the authority of the Republic of the Philippines, and those that may be prescribed by the GSIS in coordination with the Civil Service Commission.

"(b) All service credited for retirement, resignation or separation for which corresponding benefits have been awarded under this Act or other laws shall be excluded in the computation of service in case of reinstatement in the service of an employer and subsequent retirement or separation which is compensable under this Act.

"For the purpose of this section the term service shall include full time service with compensation: Provided, That part time and other services with compensation may be included under such rules and regulations as may be prescribed by the GSIS.

## "SEPARATION BENEFITS

"SECTION 11. Separation Benefits. ô The separation benefit shall consist of: (a) a cash payment equivalent to one hundred percent (100%) of his average monthly compensation for each year of service he paid contributions, but not less than Twelve thousand pesos (P12,000) payable upon reaching sixty (60) years of age or upon separation, whichever comes later: Provided, That the member resigns or separates from the service after he has rendered at least three (3) years of service but less than fifteen (15) years; or

"(b) A cash payment equivalent to eighteen (18) times his basic monthly pension payable at the time of resignation or separation, plus an old-age pension benefit equal to the basic monthly

pension payable monthly for life upon reaching the age of sixty (60): Provided, That the member resigns or separates from the service after he has rendered at least fifteen (15) years of service and is below sixty (60) years of age at the time of resignation or separation.

"SECTION 12. Unemployment or Involuntary Separation Benefits. ð Unemployment benefits in the form of monthly cash payments equivalent to fifty percent (50%) of the average monthly compensation shall be paid to a permanent employee who is involuntarily separated from the service due to the abolition of his office or position usually resulting from reorganization: Provided, That he has been paying integrated contributions for at least one (1) year prior to separation. Unemployment benefits shall be paid in accordance with the following schedule:

"Contributions Made Benefit Duration

1 year but less than 3 years 2 months

3 or more years but less than 6 years 3 months

6 or more years but less than 9 years 4 months

9 or more years but less than 11 years 5 months

11 or more years but less than 15 years 6 months

"The first payment shall be equivalent to two (2) monthly benefits. A seven-day (7) waiting period shall be imposed on succeeding monthly payments.

"All accumulated unemployment benefits paid to the employee during his entire membership with the GSIS shall be deducted from voluntary separation benefits.

"The GSIS shall prescribe the detailed guidelines in the operationalization of this section in the rules and regulations implementing this Act.

## "RETIREMENT BENEFITS

"SECTION 13. Retirement Benefits. ð (a) Retirement benefit shall be:

"(1) the lump sum payment as defined in this Act payable at the time of retirement plus an old-age pension benefit equal to the basic monthly pension payable monthly for life, starting upon expiration of the five-year (5) guaranteed period covered by the lump sum; or

"(2) cash payment equivalent to eighteen (18) months of his basic monthly pension plus monthly pension for life payable immediately with no five-year (5) guarantee.

"(b) Unless the service is extended by appropriate authorities, retirement shall be compulsory for an employee at sixty-five (65) years of age with at least fifteen (15) years of service: Provided,

That if he has less than fifteen (15) years of service, he may be allowed to continue in the service in accordance with existing civil service rules and regulations.

"SECTION 13-A. Conditions for Entitlement. ô A member who retires from the service shall be entitled to the retirement benefits in paragraph (a) of Section 13 hereof: Provided, That:

- (1) he has rendered at least fifteen (15) years of service;
- (2) he is at least sixty (60) years of age at the time of retirement; and
- (3) he is not receiving a monthly pension benefit from permanent total disability.

"SECTION 14. Periodic Pension Adjustment. ô The monthly pension of all pensioners including all those receiving survivorship pension benefits shall be periodically adjusted as may be recommended by the GSIS' actuary and approved by the Board in accordance with the rules and regulations prescribed by the GSIS.

#### "PERMANENT DISABILITY BENEFITS

"SECTION 15. General Conditions for Entitlement. ô A member who suffers permanent disability for reasons not due to his grave misconduct, notorious negligence, habitual intoxication, or willful intention to kill himself or another, shall be entitled to the benefits provided for under Sections 16 and 17 immediately following, subject to the corresponding conditions therefor.

"SECTION 16. Permanent Total Disability Benefits. ô (a) If the permanent disability is total, he shall receive a monthly income benefit for life equal to the basic monthly pension effective from the date of disability: Provided, That:

- (1) he is in the service at the time of disability; or

<!--[if !supportLists]-->(2) if separated from the service, he has paid at least thirty-six (36) monthly contributions within the five (5) year period immediately preceding his disability, or has paid a total of at least one hundred eighty (180) monthly contributions, prior to his disability: Provided, further, That if at the time of disability, he was in the service and has paid a total of at least one hundred eighty (180) monthly contributions, in addition to the monthly income benefit, he shall receive a cash payment equivalent to eighteen (18) times his basic monthly pension: Provided, finally, That a member cannot enjoy the monthly income benefit for permanent disability and the old-age retirement simultaneously.<!--[endif]-->

"(b) If a member who suffers permanent total disability does not satisfy conditions (1) and (2) in paragraph (a) of this section but has rendered at least three (3) years service at the time of his disability, he shall be advanced the cash payment equivalent to one hundred percent (100%) of his average monthly compensation for each year of service he paid contributions, but not less than Twelve Thousand pesos (P12,000) which should have been his separation benefit.

"(c) Unless the member has reached the minimum retirement age, disability benefit shall be suspended when:

"(1) he is reemployed or

"(2) he recovers from disability as determined by the GSIS, whose decision shall be final and binding; or

"(3) he fails to present himself for medical examination when required by the GSIS.

"(d) The following disabilities shall be deemed total and permanent:

"(1) complete loss of sight of both eyes;

"(2) loss of two (2) limbs at or above the ankle or wrist;

"(3) permanent complete paralysis of two(2) limbs;

"(4) brain injury resulting in incurable imbecility or insanity; and

"(5) such other cases as may be determined by the GSIS.

"SECTION 17. Permanent Partial Disability Benefits. ô (a) If the disability is partial, he shall receive a cash payment in accordance with a schedule of disabilities to be prescribed by the GSIS: Provided, That he satisfies either conditions (1) or (2) of Section 16(a);

"(b) The following disabilities shall be deemed permanent and partial:

"(1) complete and permanent loss of the use of:

(i) any finger

(ii) any toe

(iii) one arm

(iv) one hand

(v) one foot

(vi) one leg

(vii) one or both ears

(viii) hearing of one or both ears



(ix) sight of one eye

"(2) such other cases as may be determined by the GSIS.

#### "TEMPORARY DISABILITY BENEFITS

"SECTION 18. Temporary Total Disability Benefit. ô (a) A member who suffers temporary total disability for reasons not due to any of the conditions enumerated in Section 15 hereof shall be entitled to seventy-five percent (75%) of his current daily compensation for each day or fraction thereof of temporary disability benefit not exceeding one hundred twenty (120) days in one calendar year after exhausting all his sick leave credits and collective bargaining agreement sick leave benefits, if any, but not earlier than the fourth day of his temporary total disability: Provided, That:

"(1) he is in the service at the time of his disability; or

"(2) if separated, he has rendered at least three (3) years of service and has paid at least six (6) monthly contributions in the twelve-month period immediately preceding his disability.

Provided, however, That a member cannot enjoy the temporary total disability benefit and sick leave pay simultaneously: Provided, further, That if the disability requires more extensive treatment that lasts beyond one hundred twenty (120) days, the payment of the temporary total disability benefit may be extended by the GSIS but not to exceed a total of two hundred forty (240) days.

"(b) The temporary total disability benefit shall in no case be less than Seventy pesos (P70.00) a day.

"(c) The notices required of the member and the employer, the mode of payment, and the other requirements for entitlement to temporary total disability benefits shall be provided in the rules and regulations to be prescribed by the GSIS.

"SECTION 19. Non-scheduled Disability. ô For injuries or illnesses resulting in a disability not listed in the schedule of partial/total disability, as provided herein, the GSIS shall determine the nature of the disability and the corresponding benefits therefor.

#### "SURVIVORSHIP BENEFITS

"SECTION 20. Survivorship Benefits. ô When a member or pensioner dies, the beneficiaries shall be entitled to survivorship benefits provided in Sections 21 and 22 hereunder subject to the conditions therein provided for. The survivorship pension shall consist of:

(1) the basic survivorship pension which is fifty percent (50%) of the basic monthly pension; and

<!--[if !supportLists]-->(2) the dependent children's pension not exceeding fifty percent (50%) of the basic monthly pension.<!--[endif]-->

<!--[if !supportLists]-->(3) <!--[endif]-->

"SECTION 21. Death of a Member. ô (a) Upon the death of a member, the primary beneficiaries shall be entitled to:

(1) survivorship pension: Provided, That the deceased:

(i) was in the service at the time of his death; or

(ii) if separated from the service, has at least three (3) years of service at the time of his death and has paid thirty-six (36) monthly contributions within the five-year period immediately preceding his death; or has paid a total of at least one hundred eighty (180) monthly contributions prior to his death; or

(2) the survivorship pension plus a cash payment equivalent to one hundred percent (100%) of his average monthly compensation for every year of service: Provided, That the deceased was in the service at the time of his death with at least three (3) years of service; or

(3) a cash payment equivalent to one hundred percent (100%) of his average monthly compensation for each year of service he paid contributions, but not less than Twelve thousand pesos (P12,000.00): Provided, That the deceased has rendered at least three (3) years of service prior to his death but does not qualify for the benefits under the item (1) or (2) of this paragraph.

(b) The survivorship pension shall be paid as follows:

(1) when the dependent spouse is the only survivor, he/she shall receive the basic survivorship pension for life or until he/she remarries;

(2) when only dependent children are the survivors, they shall be entitled to the basic survivorship pension for as long as they are qualified, plus the dependent children's pension equivalent to ten percent (10%) of the basic monthly pension for every dependent child not exceeding five (5), counted from the youngest and without substitution;

(3) when the survivors are the dependent spouse and the dependent children, the dependent spouse shall receive the basic survivorship pension for life or until he/she remarries, and the dependent children shall receive the dependent children's pension mentioned in the immediately preceding paragraph (2) hereof.

(c) In the absence of primary beneficiaries, the secondary beneficiaries shall be entitled to:

(1) the cash payment equivalent to one hundred percent (100%) of his average monthly compensation for each year of service he paid contributions, but not less than Twelve thousand pesos (P12,000): Provided, That the member is in the service at the time of his death and has at least three (3) years of service; or

(2) in the absence of secondary beneficiaries, the benefits under this paragraph shall be paid to his legal heirs.

(d) For purposes of the survivorship benefits, legitimate children shall include legally adopted and legitimate children.

"SECTION 22. Death of a Pensioner. ô Upon the death of an old-age pensioner or a member receiving the monthly income benefit for permanent disability, the qualified beneficiaries shall be entitled to the survivorship pension defined in Section 20 of this Act, subject to the provisions of paragraph (b) of Section 21 hereof. When the pensioner dies within the period covered by the lump sum, the survivorship pension shall be paid only after the expiration of the said period.

#### "FUNERAL BENEFITS

"SECTION 23. Funeral Benefit. ô The amount of funeral benefit shall be determined and specified by the GSIS in the rules and regulations but shall not be less than Twelve thousand pesos (P12,000.00): Provided, That it shall be increased to at least Eighteen thousand pesos (P18,000.00) after five (5) years and shall be paid upon the death of:

- (a) an active member as defined under Section 2(e) of this Act; or
- (b) a member who has been separated from the service, but who may be entitled to future benefit pursuant to Section 4 of this Act; or
- (c) a pensioner, as defined in Section 2(o) of this Act; or
- (d) a retiree who at the time of his retirement was of pensionable age under this Act but who opted to retire under Republic Act No. 1616.

#### "LIFE INSURANCE BENEFITS

"SECTION 24. Compulsory Life Insurance. ô All employees except for Members of the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) shall, under such terms and conditions as may be promulgated by the GSIS, be compulsorily covered with life insurance, which shall automatically take effect as follows:

- (1) for those employed after the effectivity of this Act, their insurance shall take effect on the date of their employment;
- (2) for those whose insurance will mature after the effectivity of this Act, their insurance shall be deemed renewed on the day following the maturity or expiry date of their insurance;
- (3) for those without any life insurance as of the effectivity of this Act, their insurance shall take effect following said effectivity.

"SECTION 25. Dividends. ô An annual dividend may be granted to all members of the GSIS whose life insurance is in force for at least one (1) year in accordance with a dividend allocation formula to be determined by the GSIS.

"SECTION 26. Optional Insurance. ô Subject to the rules and regulations prescribed by the GSIS, a member may apply for insurance and/or pre-need coverage embracing life, health, hospitalization, education, memorial plans, and such other plans as may be designed by the GSIS, for himself and/or his dependents. Any employer may likewise apply for group insurance coverage for its employees. The payment of the premiums/installments for optional insurance and pre-need products may be made by the insured or his employer and/or any person acceptable to the GSIS.

"SECTION 27. Reinsurance. ô The GSIS may reinsure any of its interests or part thereof with any private company or reinsurer whether domestic or foreign: Provided, That the GSIS shall submit an annual report on its reinsurance operations to the Insurance Commission.

#### "E. ADJUDICATION OF CLAIMS AND DISPUTES

"SECTION 28. Prescription. ô Claims for benefits under this Act except for life and retirement shall prescribe after four (4) years from the date of contingency.

"SECTION 29. Facility of Payment. ô The GSIS shall prescribe rules and regulations to facilitate payment of benefit, proceeds, and claims under this Act and any other laws administered by the GSIS. Payments made by the GSIS prior to its receipt of an adverse claim, to a beneficiary or claimant subsequently found not entitled thereto, shall not bar the legal and eligible recipient to his right to demand the payment of benefits, proceeds, and claims from the GSIS, who shall, however, have a right to institute the appropriate action in a court of law against the ineligible recipient.

"SECTION 30. Settlement of Disputes. ô The GSIS shall have original and exclusive jurisdiction to settle any dispute arising under this Act and any other laws administered by the GSIS.

The Board may designate any member of the Board, or official of the GSIS who is a lawyer, to act as hearing officer to receive evidence, make findings of fact and submit recommendations thereon. The hearing officer shall submit his findings and recommendations, together with all the documentary and testimonial evidence to the Board within thirty (30) working days from the time the parties have closed their respective evidence and filed their last pleading. The Board shall decide the case within thirty (30) days from the receipt of the hearing officer's findings and recommendations. The cases heard directly by the Board shall be decided within thirty (30) working days from the time they are submitted by the parties for decision.

"SECTION 31. Appeals. ô Appeals from any decision or award of the Board shall be governed by Rules 43 and 45 of the 1997 Rules of Civil Procedure adopted by the Supreme Court on April 8, 1997 which will take effect on July 1, 1997: Provided, That pending cases and those filed prior to July 1, 1997 shall be governed by the applicable rules of procedure: Provided, further, That

the appeal shall take precedence over all other cases except criminal cases when the penalty of life imprisonment or death or reclusion perpetua is imposable.

The appeal shall not stay the execution of the order or award unless ordered by the Board, by the Court of Appeals or by the Supreme Court and the appeal shall be without prejudice to the special civil action of certiorari when proper.

"SECTION 32. Execution of Decision. ô When no appeal is perfected and there is no order to stay by the Board, by the Court of Appeals or by the Supreme Court, any decision or award of the Board shall be enforced and executed in the same manner as decisions of the Regional Trial Court. For this purpose, the Board shall have the power to issue to the city or provincial sheriff or its appointed sheriff such writs of execution as may be necessary for the enforcement of such decision or award, and any person who shall fail or refuse to comply with such decision, award, writ or process after being required to do so, shall, upon application by the GSIS, be punished for contempt.

"SECTION 33. Oaths, Witnesses, and Production of Records. ô When authorized by the Board, an official or employee of the GSIS shall have the power to administer oath and affirmation, take depositions, certify to official acts, and issue subpoena ad testificandum and subpoena duces tecum to compel the attendance of witnesses and the production of books, papers, correspondences, and other records deemed necessary as evidence in connection with any question arising under this Act. Any case of contumacy shall be dealt with in accordance with the provisions of Section 580 of the Revised Administrative Code.

#### "F. FUNDS OF THE GSIS

"SECTION 34. Funds. ô All contributions payable under Section 5 of this Act together with the earnings and accruals thereon shall constitute the GSIS Social Insurance Fund. The said Fund shall be used to finance the benefits administered by the GSIS under this Act. In addition, the GSIS shall administer the optional insurance fund for the insurance coverage described in Section 26 hereof, the employees' Compensation Insurance Fund created under P.D. 626, as amended, the General Insurance Fund created under Act No. 656, as amended, and such other special funds existing or that may be created for special groups or persons rendering services to the government. The GSIS shall maintain the required reserves to guarantee the fulfillment of its obligations under this Act.

"The funds of the GSIS shall not be used for purposes other than what are provided for under this Act. Moreover, no portion of the funds of the GSIS or income thereof shall accrue to the General Fund of the national government and its political subdivisions, instrumentalities and other agencies including government-owned and controlled corporations except as may be allowed under this Act.

"SECTION 35. Deposits and Disbursements. ô All revenues collected and all accruals thereto shall be deposited, administered and disbursed in accordance with the law. A maximum expense loading of twelve percent (12%) of the yearly revenues from all sources may be disbursed for

administrative and operational expenses except as may be otherwise approved by the President of the Philippines on the basis of actuarial and management studies.

"SECTION 36. Investment of Funds. ô The funds of the GSIS which are not needed to meet the current obligations may be invested under such terms and conditions and rules and regulations as may be prescribed by the Board: Provided, That investments shall satisfy the requirements of liquidity, safety/security and yield in order to ensure the actuarial solvency of the funds of the GSIS: Provided, further, That the GSIS shall submit an annual report on all investments made to both Houses of Congress of the Philippines, to wit:

(a) in interest-bearing bonds or securities or other evidence of indebtedness of the Government of the Philippines;

(b) In interest-bearing deposits or securities in any domestic bank doing business in the Philippines: Provided, That in the case of such deposits, these shall not exceed at any time the unimpaired capital and surplus or total private deposits of the depository bank, whichever is smaller: Provided, further, That said bank has prior designation as a depository for the purpose by the Monetary Board of the Central Monetary Authority;

(c) in direct housing loans to members and group housing projects secured by first mortgage, giving priority to the low income groups and in short-and-medium-term loans to members such as salary, policy, educational, emergency, stock purchase plan and other similar loans: Provided, That no less than forty percent (40%) of the investable fund of the GSIS Social Insurance Fund shall be invested for these purposes;

(d) in bonds, securities, promissory notes or other evidence of indebtedness of educational or medical institutions to finance the construction, improvement and maintenance of schools and hospitals;

(e) in real estate property including shares of stocks involving real estate property and investments secured by first mortgages on real estate or other collaterals acceptable to the GSIS: Provided, That such investments shall, in the determination of the Board, redound to the benefit of the GSIS, its members, as well as the general public;

(f) In debt instruments and other securities traded in the secondary markets;

(g) In loans to, or in bonds, debentures, promissory notes or other evidence of indebtedness of any solvent corporation created or existing under the laws of the Philippines;

(h) In common and preferred stocks of any solvent corporation or financial institution created or existing under the laws of the Philippines listed in the stock exchange with proven track record or profitability over the last three (3) years and payment of dividends at least once over the same period;

(i) In domestic mutual funds including investments related to the operations of mutual funds; and

(j) In foreign mutual funds and in foreign currency deposits or foreign currency-denominated debts, non-speculative equities and other financial instruments or other assets issued in accordance with existing laws of the countries where such financial instruments are issued: Provided, That these instruments or assets are listed in bourses of the respective countries where these instruments or assets are issued: Provided, further, That the issuing company has proven track record of profitability over the last three (3) years and payment of dividends at least once over the same period.

"SECTION 37. Records and Reports. ô The GSIS shall keep and cause to keep such records as may be necessary for the purpose of making actuarial studies, calculations and valuations of the funds of the GSIS including such data needed in the computation of rates of disability, mortality, morbidity, separation and retirement among the members and any other information useful for the adjustment of the benefits of the members. The GSIS shall maintain appropriate books of accounts to record its assets, liabilities, income, expenses, receipts and disbursements of funds and other financial transactions and operations.

"SECTION 38. Examination and Valuation of the Funds. ô The GSIS shall make a periodic actuarial examination and valuation of its funds in accordance with accepted actuarial principles.

"SECTION 39. Exemption from Tax, Legal Process and Lien. ô It is hereby declared to be the policy of the State that the actuarial solvency of the funds of the GSIS shall be preserved and maintained at all times and that contribution rates necessary to sustain the benefits under this Act shall be kept as low as possible in order not to burden the members of the GSIS and their employers. Taxes imposed on the GSIS tend to impair the actuarial solvency of its funds and increase the contribution rate necessary to sustain the benefits of this Act. Accordingly, notwithstanding any laws to the contrary, the GSIS, its assets, revenues including all accruals thereto, and benefits paid, shall be exempt from all taxes, assessments, fees, charges or duties of all kinds. These exemptions shall continue unless expressly and specifically revoked and any assessment against the GSIS as of the approval of this Act are hereby considered paid. Consequently, all laws, ordinances, regulations, issuances, opinions or jurisprudence contrary to or in derogation of this provision are hereby deemed repealed, superseded and rendered ineffective and without legal force and effect.

"Moreover, these exemptions shall not be affected by subsequent laws to the contrary unless this section is expressly, specifically and categorically revoked or repealed by law and a provision is enacted to substitute or replace the exemption referred to herein as an essential factor to maintain or protect the solvency of the fund, notwithstanding and independently of the guaranty of the national government to secure such solvency or liability.

"The funds and/or the properties referred to herein as well as the benefits, sums or monies corresponding to the benefits under this Act shall be exempt from attachment, garnishment, execution, levy or other processes issued by the courts, quasi-judicial agencies or administrative bodies including Commission on Audit (COA) disallowances and from all financial obligations of the members, including his pecuniary accountability arising from or caused or occasioned by his exercise or performance of his official functions or duties, or incurred relative to or in

connection with his position or work except when his monetary liability, contractual or otherwise, is in favor of the GSIS.

## "G. ADMINISTRATION

"SECTION 40. Implementing Body. ô The Government Service Insurance System as created under Commonwealth Act No. 186 shall implement the provisions of this Act.

"SECTION 41. Powers and Functions of the GSIS. ô The GSIS shall exercise the following powers and functions:

(a) to formulate, adopt, amend and/or rescind such rules and regulations as may be necessary to carry out the provisions and purposes of this Act, as well as the effective exercise of the powers and functions, and the discharge of duties and responsibilities of the GSIS, its officers and employees;

(b) to adopt or approve the annual and supplemental budget of receipts and expenditures including salaries and allowances of the GSIS personnel; to authorize such capital and operating expenditures and disbursements of the GSIS as may be necessary and proper for the effective management and operation of the GSIS;

(c) to invest the funds of the GSIS, directly or indirectly, in accordance with the provisions of this Act;

(d) to acquire, utilize or dispose of, in any manner recognized by law, real or personal property in the Philippines or elsewhere necessary to carry out the purposes of this Act;

(e) to conduct continuing actuarial and statistical studies and valuations to determine the financial condition of the GSIS and taking into consideration such studies and valuations and the limitations herein provided, re-adjust the benefits, contributions, premium rates, interest rates or the allocation or re-allocation of the funds to the contingencies covered;

(f) to have the power of succession;

(g) to sue and be sued;

(h) to enter into, make, perform and carry out contracts of every kind and description with any person, firm or association or corporation, domestic or foreign;

(i) to carry on any other lawful business whatsoever in pursuance of, or in connection with the provisions of this Act;

(j) to have one or more offices in and outside of the Philippines, and to conduct its business and exercise its powers throughout and in any part of the Republic of the Philippines and/or in any or all foreign countries, states and territories: Provided, That the GSIS shall maintain a branch office in every province where there exists a minimum of fifteen thousand (15,000) membership;



(k) to borrow funds from any source, private or government, foreign or domestic, only as an incident in the securitization of housing mortgages of the GSIS and on account of its receivables from any government or private entity;

(l) to invest, own or otherwise participate in equity in any establishment, firm or entity;

(m) to approve appointments in the GSIS except appointments to positions which are policy determining, primarily confidential or highly technical in nature according to the Civil Service rules and regulations: Provided, That all positions in the GSIS shall be governed by a compensation and position classification system and qualifications standards approved by the GSIS Board of Trustees based on a comprehensive job analysis and audit of actual duties and responsibilities: Provided, further, That the compensation plan shall be comparable with the prevailing compensation plans in the private sector and shall be subject to the periodic review by the Board no more than once every four (4) years without prejudice to yearly merit reviews or increases based on productivity and profitability;

(n) to design and adopt an Early Retirement Incentive Plan (ERIP) and/or financial assistance for the purpose of retirement for its own personnel;

(o) to fix and periodically review and adjust the rates of interest and other terms and conditions for loans and credits extended to members or other persons, whether natural or juridical;

(p) to enter into agreement with the Social Security System or any other entity, enterprise, corporation or partnership for the benefit of members transferring from one system to another subject to the provision of Republic Act No. 7699, otherwise known as the Portability Law;

(q) to be able to float proper instrument to liquefy long-term maturity by pooling funds for short-term secondary market;

(r) to submit annually, not later than June 30, a public report to the President of the Philippines and the Congress of the Philippines regarding its activities in the administration and enforcement of this Act during the preceding year including information and recommendations on broad policies for the development and perfection of the programs of the GSIS;

(s) to maintain a provident fund, which consists of contributions made by both the GSIS and its officials and employees and their earnings, for the payment of benefits to such officials and employees or their heirs under such terms and conditions as it may prescribe;

(t) to approve and adopt guidelines affecting investments, insurance coverage of government properties, settlement of claims, disposition of acquired assets, privatization or expansion of subsidiaries, development of housing projects, increased benefit and loan packages to members, and the enforcement of the provisions of this Act;

(u) any provision of law to the contrary notwithstanding, to authorize the payment of extra remuneration to the officials and employees directly involved in the collection and/or remittance of contributions, loan repayments, and other monies due to the GSIS at such rates and under such

conditions as it may adopt. Provided, That the best interest of the GSIS shall be observed thereby;

(v) to determine, fix and impose interest upon unpaid premiums due from employers and employees;

(w) to ensure the collection or recovery of all indebtedness, liabilities and/or accountabilities, including unpaid premiums or contributions in favor of the GSIS arising from any cause or source whatsoever, due from all obligors, whether public or private. The Board shall demand payment or settlement of the obligations referred to herein within thirty (30) days from the date the obligation becomes due, and in the event of failure or refusal of the obligor or debtor to comply with the demand, to initiate or institute the necessary or proper actions or suits, criminal, civil or administrative or otherwise, before the courts, tribunals, commissions, boards, or bodies of proper jurisdiction within thirty (30) days reckoned from the expiry date of the period fixed in the demand within which to pay or settle the account;

(x) to design and implement programs that will promote and mobilize savings and provide additional resources for social security expansion and at the same time afford individual members appropriate returns on their savings/investments. The programs shall be so designed as to spur socio-economic take-off and maintain continued growth; and

(y) to exercise such powers and perform such other acts as may be necessary, useful, incidental or auxiliary to carry out the provisions of this Act, or to attain the purposes and objectives of this Act.

"SECTION 42. The Board of Trustees; Its Composition; Tenure and Compensation. 6 The corporate powers and functions of the GSIS shall be vested in and exercised by the Board of Trustees composed of the President and General Manager of the GSIS and eight (8) other members to be appointed by the President of the Philippines, one (1) of whom shall be either the President of the Philippine Public School Teachers Association (PPSTA) or the President of the Philippine Association of School Superintendents (PASS), another two (2) shall represent the leading organizations or associations of government employees/retirees, another four (4) from the banking, finance, investment, and insurance sectors, and one (1) recognized member of the legal profession who at the time of appointment is also a member of the GSIS. The Trustees shall elect from among themselves a Chairman while the President and General Manager of the GSIS shall automatically be the vice-chairman.

The Trustees, except the President and General Manager who shall cease as trustee upon his separation, shall hold office for six (6) years without reappointment, or until their successors are duly appointed and qualified. Vacancy, other than through the expiration of the term, shall be filled for the unexpired term only. The members of the Board shall be entitled to a per diem of Two thousand five hundred pesos (P2,500) for each board meeting actually attended by them, but not to exceed Ten thousand pesos (P10,000) a month and reasonable transportation and representation allowances as may be fixed by the Board.

"SECTION 43. Powers and Functions of the Board of Trustees. ô The Board of Trustees shall have the following powers and functions:

"(a) to formulate the policies, guidelines and programs to effectively carry out the purposes of this Act;

"(b) to promulgate such rules and regulations as may be necessary or proper for the effective exercise of the powers and functions as well as the discharge of the duties and responsibilities of the GSIS, its officers and employees;

"(c) upon the recommendation of the President and General Manager, to approve the annual and supplemental budget of receipts and expenditures of the GSIS, and to authorize such operating and capital expenditures and disbursements of the GSIS as may be necessary or proper for the effective management, operation and administration of the GSIS;

"(d) upon the recommendation of the President and General Manager, to approve the GSIS' organizational and administrative structures and staffing pattern, and to establish, fix, review, revise and adjust the appropriate compensation package for the officers and employees of the GSIS with reasonable allowances, incentives, bonuses, privileges and other benefits as may be necessary or proper for the effective management, operation and administration of the GSIS, which shall be exempt from Republic Act No. 6758, otherwise known as the Salary Standardization Law and Republic Act No. 7430, otherwise known as the Attrition Law;

"(e) to fix and periodically review and adjust the rates of interest and other terms and conditions for loans and credits extended to its members or other persons, whether natural or juridical;

"(f) the provision of any law to the contrary notwithstanding, to compromise or release, in whole or in part, any claim or settle liability to the GSIS, regardless of the amount involved, under such terms and conditions as it may impose for the best interest of the GSIS;

"(g) to approve and adopt guidelines affecting investments, insurance coverage of government properties, settlement of claims, disposition of acquired assets, development of housing projects, increased benefit and loan packages to members, and the enforcement of the provisions of this Act;

"(h) to determine, fix and impose interest upon unpaid or unremitted premiums and/or contributions; and

"(i) to do and perform any and all acts necessary, proper or incidental to the attainment of the purposes and objectives of this Act.

"SECTION 44. Appointment, Qualifications, and Compensation of the President and General Manager and of Other Personnel. ô The President and General Manager of the GSIS shall be its Chief Executive Officer and shall be appointed by the President of the Philippines. He shall be a person with management and investments expertise necessary for the effective performance of his duties and functions under this Act.

"The GSIS President and General Manager shall be assisted by one or more executive vice-presidents, senior vice-presidents, vice-presidents and managers in addition to the usual supervisory and rank and file positions who shall be appointed and removed by the President and General Manager with the approval of the Board, in accordance with the existing Civil Service rules and regulations.

"SECTION 45. Powers and Duties of the President and General Manager. ô The President and General Manager of the GSIS shall among others, execute and administer the policies and resolutions approved by the board and direct and supervise the administration and operations of the GSIS. The President and General Manager, subject to the approval of the Board, shall appoint the personnel of the GSIS, remove, suspend or otherwise discipline them for cause, in accordance with existing Civil Service rules and regulations, and prescribe their duties and qualifications to the end that only competent persons may be employed.

"SECTION 46. Auditor. ô (a) The Chairman of the Commission on Audit shall be the ex officio auditor of the GSIS. For this purpose, he may appoint a representative who shall be the Auditor of the GSIS, and the necessary personnel to assist said representative in the performance of his duties.

"(b) The Chairman of the Commission on Audit or his authorized representative, shall submit to the Board soon after the close of each calendar year, an audited statement showing the financial condition and progress of the GSIS for the calendar year just ended.

"SECTION 47. Legal Counsel. ô The Government Corporate Counsel shall be the legal adviser and consultant of the GSIS, but the GSIS may assign to the Office of the Government Corporate Counsel (OGCC) cases for legal action or trial, issues for legal opinions, preparation and review of contracts/agreements and others, as the GSIS may decide or determine from time to time: Provided, however, That the present legal services group in the GSIS shall serve as its in-house legal counsel.

"The GSIS may, subject to approval by the proper court, deputize any personnel of the legal service group to act as special sheriff in the enforcement of writs and processes issued by the court, quasi-judicial agencies or administrative bodies in cases involving the GSIS.

"SECTION 48. Powers of the Insurance Commission. ô The Insurance Commissioner or his authorized representatives shall make an examination of the financial condition and methods of transacting business of the GSIS at least once every three (3) years and the report of said examination shall be submitted to the Board of Trustees and copies thereof be furnished the Office of the President of the Philippines and the two Houses of the Congress of the Philippines within five (5) days after the close of examination: Provided, however, That for each examination the GSIS shall pay the office of the Insurance Commissioner an amount equal to the actual expenses incurred by the said office in the conduct of the examination, including the salaries of the examiners and of the actuary of such examination for the actual time spent.

"H. GENERAL PROVISIONS

"SECTION 49. Dispensation of Social Insurance Benefits. ô (a) The GSIS shall pay the retirement benefits to the employee on his last day of service in the government: Provided, That all requirements are submitted to the GSIS within a reasonable period prior to the effective date of the retirement;

"(b) The GSIS shall discontinue the processing and adjudication of retirement claims under R.A. No. 1616 except refund of retirement premium and R.A. No. 910. Instead, all agencies concerned shall process and pay the gratuities of their employees. The Board shall adopt the proper rules and procedures for the implementation of this provision.

"SECTION 50. Development and disposition of Acquired Assets. ô The GSIS shall have the right to develop and dispose of its acquired assets obtained in the ordinary course of its business. To add value to, improve profitability on, and/or enhance the marketability of an acquired asset, the GSIS may further develop/renovate the same either with its own capital or through a joint venture arrangement with private companies or individuals.

"The GSIS may sell its acquired assets in accordance with existing Commission on Audit (COA) rules and regulations for an amount not lower than the current market value of the property. For this purpose, the GSIS shall conduct an annual appraisal of its property or acquired assets to determine its current market value. All notices of sale shall be published in newspapers of general circulation.

"No injunction or restraining order issued by any court, commission, tribunal or office shall bar, impede or delay the sale and disposition by the GSIS of its acquired assets except on questions of ownership and national or public interest.

"SECTION 51. Government Assistance to the GSIS. ô The GSIS may call upon any employer for such assistance as may be necessary in the discharge of its duties and functions.

#### "L. PENAL PROVISIONS

"SECTION 52. Penalty. ô (a) Any person found to have participated directly or indirectly in the commission of fraud, collusion, falsification, or misrepresentation in any transaction with the GSIS whether for him or for some other persons, shall suffer the penalties provided for in Article 172 of the Revised Penal Code.

"(b) Whoever shall obtain or receive any money or check invoking any provision of this Act or any agreement thereunder, without being entitled thereto with the intent to defraud any member, any employer, the GSIS, or any third party, shall be punished by a fine of not less than Five thousand pesos (P5,000.00) nor more than Twenty thousand pesos (P20,000.00) or by imprisonment of not less than six (6) years and one (1) day to twelve (12) years, or both, at the discretion of the court.

"(c) Whoever fails or refuses to comply with the provisions of this Act or with the rules and regulations adopted by the GSIS shall be punished by a fine of not less than Five thousand pesos

(P5,000.00) nor more than Twenty thousand pesos (P20,000.00), or by imprisonment of not less than six (6) years and one (1) day to twelve (12) years, or both, at the discretion of the court.

"(d) The treasurer, finance officer, cashier, disbursing officer, budget officer or other official or employee who fails to include in the annual budget the amount corresponding to the employer and employee contributions, or who fails or refuses or delays by more than thirty (30) days from the time such amount becomes due and demandable, or to deduct the monthly contributions of the employee shall, upon conviction by final judgment, suffer the penalties of imprisonment from six (6) months and one (1) day to six (6) years, and a fine of not less than Three thousand pesos (P3,000.00) but not more than Six thousand pesos (P6,000.00), and in addition shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

"(e) Any employee or member who receives or keeps fund or property belonging, payable or deliverable to the GSIS and appropriates the same, or takes or misappropriates or uses the same to any purpose other than that authorized by this Act, or permits another person to take, misappropriate or use said fund or property by expressly consenting thereto, or through abandonment or negligence, or is otherwise guilty of the misappropriation of said fund or property, in whole or in part, shall suffer the penalties provided in Article 217 of the Revised Penal Code, and in addition shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

"(f) Any employee, who after deducting the monthly contribution or loan amortization from a member's compensation, fails to remit the same to the GSIS within thirty (30) days from the date they should have been remitted under Section 6(a) shall be presumed to have misappropriated such contribution or loan amortization and shall suffer the penalties provided in Article 315 of the Revised Penal Code, and in addition shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

"(g) The heads of the offices of the national government, its political subdivisions, branches, agencies and instrumentalities, including government-owned or controlled corporations and government financial institutions, and the personnel of such offices who are involved in the collection of premium contributions, loan amortization and other accounts due the GSIS who shall fail, refuse or delay the payment, turnover, remittance or delivery of such accounts to the GSIS within thirty (30) days from the time that the same shall have been due and demandable shall, upon conviction by final judgment, suffer the penalties of imprisonment of not less than one (1) year nor more than five (5) years and a fine of not less than Ten thousand pesos (P10,000.00) nor more than Twenty thousand pesos (P20,000.00), and in addition shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

"(h) The officers and/or personnel referred to in paragraph (g) of this section shall be liable not only criminally but also civilly to the GSIS or to the employee or member concerned in the form of damages, including surcharges and interests.

"(i) For the charges or complaints referred to in paragraph (g) of this Section, the liabilities therein set forth shall be construed as waiver of the State of its immunity from suit, hence, the above-mentioned officials and/or personnel may not invoke the defense of non-suability of the State.

"(j) Failure of the Members of the GSIS Board, including the chairman and the vice-chairman, to comply with the provisions of paragraph (w) of Section 41 hereof, shall subject them to imprisonment of not less than six (6) months nor more than one (1) year or a fine of not less than Five thousand pesos (P5,000.00) nor more than Ten thousand pesos (P10,000.00) without prejudice to any civil or administrative liability which may also arise therefrom.

"Criminal actions arising from violations of the provisions of this Act may be commenced by the GSIS or by the aggrieved member, either under this Act or, in appropriate cases, under the Revised Penal Code.

"SECTION 53. Implementing Rules and Regulations. ð The implementing rules and regulations to carry out the provisions of this Act shall be adopted and promulgated by the GSIS not later than ninety (90) days after the approval of this Act.

"SECTION 54. Non-impairment of Benefits, Powers, Jurisdiction, Rights, Privileges, Functions and Activities. ð Nothing in this Act shall be construed to repeal, amend or limit any provision of existing laws. Presidential Decrees and Letters of Instructions, not otherwise specifically inconsistent with the provisions of this Act.

"SECTION 55. Exclusiveness of Benefits. ð Whenever other laws provide similar benefits for the same contingencies covered by this Act, the member who qualifies to the benefits shall have the option to choose which benefits will be paid to him. However, if the benefits provided by the law chosen are less than the benefits provided under this Act, the GSIS shall pay only the difference.

"SECTION 56. Appropriations. ð The amount necessary to carry out the provisions of this Act shall be included in the respective budgets of the agencies in the national government obligation program of the year following its enactment into law and thereafter."

SECTION 2. Separability Clause. ð Should any provision of this Act or any part thereof be declared invalid, the other provisions, so far as they are separable from the invalid ones, shall remain in force and effect.

SECTION 3. Repealing Clause. ð All laws and any other law or parts of law specifically inconsistent herewith are hereby repealed or modified accordingly: Provided, That the rights under existing laws, rules and regulations vested upon or acquired by an employee who is already in the service as of the effectivity of this Act shall remain in force and effect: Provided, further, That subsequent to the effectivity of this Act, a new employee or an employee who has previously retired or separated and is reemployed in the service shall be covered by the provisions of this Act.

SECTION 4. Effectivity.   This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

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