

(20 February 2023 – to date)

PENSION FUNDS ACT 24 OF 1956

(Gazette No. 5679, Notice No. 839, dated 11 May 1956. Commencement date: **1 January 1958**. [Proc. 330, Gazette No. 5971, dated 8 November 1957].)

REGULATIONS IN TERMS OF SECTION 36

Government Notice R98 in Government Gazette 162, dated 26 January 1962. Commencement date:
26 January 1962.

as amended by:

Government Notice R2144 in Government Gazette 9437, dated 28 September 1984. Commencement date:
28 September 1984.

Government Notice R1790 in Government Gazette 9892, dated 16 August 1985. Commencement date:
16 August 1985.

Government Notice R1037 in Government Gazette 10249, dated 28 May 1986. Commencement date:
28 May 1986.

Government Notice R232 in Government Gazette 10601, dated 6 February 1987. Commencement date:
6 February 1987.

Government Notice R1452 in Government Gazette 11992, dated 7 July 1989. Commencement date:
7 July 1989.

Government Notice 1920 in Government Gazette 12079, dated 1 September 1989. Commencement date:
1 October 1989.

Government Notice R2361 in Government Gazette 13536, dated 27 September 1991. Commencement date:
30 September 1991.

Government Notice R201 in Government Gazette 14572, dated 12 February 1993. Commencement date:
12 February 1993.

Government Notice R2324 in Government Gazette 15312, dated 10 December 1993. Commencement date:
15 December 1993.

Prepared by:

*Government Notice R141 in Government Gazette 15453, dated 28 January 1994. Commencement date:
28 January 1994.*

*Government Notice R1838 in Government Gazette 16833, dated 24 November 1995. Commencement date:
24 November 1995.*

*Government Notice R1677 in Government Gazette 17500, dated 18 October 1996. Commencement date:
18 October 1996.*

*Government Notice R801 in Government Gazette 18978, dated 19 June 1998. Commencement date:
19 June 1998.*

*Government Notice R1020 in Government Gazette 19131, dated 14 August 1998. Commencement date:
14 August 1998.*

*Government Notice R1154 in Government Gazette 19225, dated 11 September 1998. Commencement date:
11 September 1998.*

Government Notice R1218 in Government Gazette 19269, dated 25 September 1998 (Correction Notice)

*Government Notice R1644 in Government Gazette 19596, dated 18 December 1998. Commencement date:
18 December 1998.*

*Government Notice R853 in Government Gazette 20267, dated 9 July 1999. Commencement date:
1 July 1999.*

*Government Notice R896 in Government Gazette 21545, dated 8 September 2000. Commencement date:
1 September 2000.*

*Government Notice 337 in Government Gazette 22210, dated 6 April 2001. Commencement date:
5 July 2001.*

*Government Notice R100 in Government Gazette 23080, dated 1 February 2002. Commencement date:
1 February 2002.*

*Government Notice R1037 in Government Gazette 23689, dated 1 August 2002. Commencement date:
1 August 2002.*

*Government Notice 558 in Government Gazette 24780, dated 22 April 2003. Commencement date:
22 April 2003.*

Government Notice R1739 in Government Gazette 25776, dated 28 November 2003. Commencement date:
28 November 2003.

Government Notice R1355 in Government Gazette 27012, dated 19 November 2004. Commencement date:
19 November 2004.

Government Notice R1105 in Government Gazette 28226, dated 14 November 2005. Commencement date:
14 November 2005.

Government Notice R491 in Government Gazette 28884, dated 29 May 2006. Commencement date:
29 May 2006.

Government Notice R843 in Government Gazette 29139, dated 18 August 2006. Commencement date:
18 August 2006.

Government Notice R1217 in Government Gazette 29446, dated 1 December 2006. Commencement date:
1 December 2006.

Government Notice R73 in Government Gazette 31837, dated 4 February 2009. Commencement date:
4 February 2009.

Board Notice 10 in Government Gazette 33954, dated 28 January 2011. Commencement date:
28 January 2011.

Board Notice 26 in Government Gazette 34024, dated 14 February 2011. Commencement date:
14 February 2011.

Board Notice 149 in Government Gazette 33693, dated 27 Oct 2010. Commencement date: **1 April 2011.**

Board Notice 61 in Government Gazette 34152, dated 25 March 2011. Commencement date: **1 April 2011.**

Government Notice R183 in Government Gazette 34070, dated 4 March 2011. Commencement date:
1 July 2011.

Board Notice 77 in Government Gazette 37844 dated 18 July 2014. Commencement date: **18 July 2014.**

Government Notice 863 in Government Gazette 41064 dated 25 August 2017. Commencement date:
1 September 2017.

Government Notice 2230 in Government Gazette 46649 dated 1 July 2022. Commencement date: **3 January 2023.**

*Government Notice 2977 in Government Gazette 47926 dated 27 January 2023. Commencement date:
20 February 2023.*

The State President has, under the powers vested in him by section thirty-six of the Pension Funds Act, 1956 (Act No. 24 of 1956), as amended, made the following regulations in substitution for the regulations published by Government Notice No. 1720, dated 8th November, 1957:

TABLE OF CONTENTS

Definitions

PART I

REQUIREMENTS FOR EXEMPTION IN TERMS OF SECTION 2(3)(a) OF THE ACT AND RELATED MATTERS

1. Underwritten fund
2.
- 3.
- 4.
- 5.
- 6.
- 7.

PART II

DOCUMENTS AND PARTICULARS REQUIRED UNDER SECTION 4(2) AND CONDITIONS WHICH MUST BE COMPLIED WITH UNDER SECTION 4(4)

- 8.
9. Foreign Funds
10.
11.

PART III

FINANCIAL STATEMENTS AND STATISTICS TO BE FURNISHED BY FUNDS AND INSURERS

12.
13.
14.

PART IV

REPORTS BY VALUATOR AND STATEMENTS OF ASSETS AND LIABILITIES

15.

Prepared by:

- 16.
- 17.

PART V
SIGNING OF DOCUMENTS

- 18. Rules
- 19.
- 20. Other Documents

PART VI
AUDITORS

- 21.
- 22.

PART VII
GENERAL

- 23.
- 24.
- 25.
- 26.
- 27.
- 28. Asset spreading requirements
- 29. Accounts in terms of section 28(4) and 28(12) of Act
- 30. Rules and amendments thereof
- 31. Registers to be kept by pension funds
- 32. Application for registration as administrator
- 33.
- 34. Minimum pension increase for pensioner who was a deferred pensioner prior to retirement
- 35. Establishment of Contingency Reserve Accounts
- 36. Surplus apportionment dates for funds which are valuation exempt
- 37. Default investment portfolio(s)
- 38. Default preservation and portability
- 39. Annuity strategy
- 40. Application of Regulations 37 to 39
- SCHEDULE A
- SCHEDULE B
- SCHEDULE C
- SCHEDULE D
- SCHEDULE E

Prepared by:

SCHEDULE F
SCHEDULE G
SCHEDULE H
SCHEDULE I
SCHEDULE J – FORM OF SUMMARY OF REPORT OF VALUATOR
SCHEDULE K
SCHEDULE L – PRESCRIBED FEES

SCHEDULE M - APPLICATION FOR APPROVAL AS AN ADMINISTRATOR IN TERMS OF SECTION 13B OF THE PENSION FUNDS ACT, 1956

SCHEDULE N - REPORT OF THE ACCOUNTING PERSON (EXCLUDING AUDITORS (OF (THE ADMINISTRATOR) TO THE REGISTRAR OF PENSION FUNDS IN COMPLIANCE WITH REGULATION 32 (2) (b) OF THE REGULATIONS MADE IN TERMS OF THE PENSION FUNDS ACT, 1956

SCHEDULE O - REPORT OF THE AUDITOR OF (THE ADMINISTRATOR) TO THE REGISTRAR OF PENSION FUNDS IN COMPLIANCE WITH REGULATION 32 (2) (b) OF THE REGULATIONS MADE IN TERMS OF THE PENSION FUNDS ACT, 1956

Definitions

In these regulations “**the Act**” or “**the Pension Funds Act, 1956**”, means the Pension Funds Act, 1956 (Act No. 24 of 1956), and any word or expression to which a meaning has been assigned in the Act shall bear such meaning, and-

“**accounting person**”, in relation to an administrator, means an auditor registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), or an accounting officer contemplated in the Close Corporations Act, 1984 (Act No. 69 of 1984), or such other person approved by the registrar;

(Definition of “accounting person” inserted by regulation 2 of GNR 1838 of 1995)

“**annuity strategy**” means a strategy, as determined by a board, setting out the manner in which a member’s retirement savings may be applied, with the member’s consent, to provide an annuity or annuities by the fund or to purchase an annuity on behalf of the member from an external provider, which annuity or annuities may either be in the name of the member or in the name of the fund and which complies with the requirements of regulation 39 and any conditions that may be prescribed from time to time;

(Definition of “annuity strategy” inserted by regulation 1(a) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“**collective investment scheme**” has the meaning assigned to it in section 1 of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

(Definition of “collective investment scheme” inserted by regulation 1(a) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“**default investment portfolio**” means an investment portfolio(s) in which the retirement funding contributions of a member must be invested unless the fund has been instructed by the member in writing to invest them in another investment portfolio provided in terms of the investment policy statement of the fund or options available to members of the fund, and which portfolio(s)—

- (a) complies with the requirements set out in regulation 37;
- (b) may differ in composition from member to member depending on:
 - (i) the age or likely date of retirement from service of each member;
 - (ii) the value of the retirement savings of the member in that fund,
 - (iii) the actual or expected retirement funding contributions of the member; or
 - (iv) any other factor reasonably considered by the board to be appropriate in respect of that member;
and
- (c) complies with any conditions that may be prescribed;

(Definition of “default investment portfolio” inserted by regulation 1(a) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“**deferred pensioner**” means a member who has left the service of his employer or has otherwise terminated his contributions and has a paid-up benefit in the fund concerned;

“**foreign fund**” means a fund referred to in section 2(2) of the Act;

“**insurer**” means a person that is registered as a long-term insurer in terms of the Long-term Insurance Act, 1998 (Act No. 42 of 1998);

(Definition of “insurer” substituted by regulation 2(a) of GNR 491 of 2006)

“**investment portfolio**” means an identifiable portfolio of assets whether those assets are—

- (a) owned by the fund; and/or
- (b) owned by an insurer which has issued to the fund a policy in terms of which policy benefits are directly or indirectly based on the returns on the investment of those assets; and/or

- (c) assets held by a collective investment scheme or pooled fund of which the fund or an insurer contemplated in part (b) is a unit-holder,

in which the fund has invested retirement funding contributions and/or has decided to include in the range of investment options in which retirement funding contributions may be invested;

(Definition of “investment portfolio” inserted by regulation 1(b) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“**living annuity**” has the meaning assigned to it in section 1 of the Income Tax Act, 1962 (Act No 58 of 1962);

(Definition of “living annuity” inserted by regulation 1(b) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“**Long-term Insurance Act**” means the Long-term Insurance Act, 1998 (Act No. 52 of 1998);

(Definition of “Long-term Insurance Act” inserted by regulation 1(b) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“**long-term insurer**” means a person registered as a long-term insurer in terms of the Long-term Insurance Act;

(Definition of “long-term insurer” inserted by regulation 1(b) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“**paid-up member**” means a deferred pensioner;

(Definition of “paid-up member” inserted by regulation 1(b) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“**paid-up membership certificate**” means a certificate issued by a fund in terms of regulation 38 in respect of a paid-up member which records, in a format which may be prescribed, at least the following:

- (a) the name, address, registration number and contact details of the pension or provident fund;
- (b) the name, address and contact details of the pension or provident fund administrator;
- (c) the name, address, ID number, tax number, fund membership number and most recent contact details of the member in respect of whom the certificate is issued;
- (d) the date at which the member in respect of whom the certificate is issued became a paid-up member, and the date on which the certificate was issued;
- (e) the value of the member’s individual account or member’s individual reserve in respect of whom the certificate is issued, at the date on which such a member became paid-up;
- (f) the investment portfolios in which such retirement savings are invested; and

(g) any other information which may be prescribed.

(Definition of “paid-up membership certificate” inserted by regulation 1(b) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“**pooled fund**” means a collective investment undertaking, including investment compartments of a collective investment undertaking, constituted in any legal form, including in terms of a contract, by means of a trust, or in terms of statute, which—

(a) raises capital from one or more investors, to facilitate the participation or interest in, subscription, contribution or commitment to a fund or portfolio, with a view to investing it in accordance with a defined investment policy for the benefit of the investors; and

(b) does not require approval as a collective investment scheme in terms of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

(Definition of “pooled fund” inserted by regulation 1(b) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“**person or persons managing the business of the fund or trustee or trustees**” includes the committee, committee of management, board of trustees or similar body managing the business of the fund or controlling the fund;

“**principal officer**” means the principal executive officer referred to in section 8 of the Act, who may be a member of a body managing the affairs of the fund or controlling the fund; and

“**privately administered fund**” means a fund other than an underwritten fund;

(Definition of “privately administered fund” substituted by regulation 2(b) of GNR 491 of 2006)

“**retirement benefits counselling**” means the disclosure and explanation, in a clear and understandable language, including risks, costs and charges, of:

(a) the available investment portfolios;

(b) the terms of the fund’s annuity strategy;

(c) the terms and process by which a fund, handles preserved benefits in terms of regulation 38; and

(d) any other options made available to members;

(Definition of “retirement benefits counselling” inserted by regulation 1(c) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“retirement funding contributions” in a defined contribution category of a fund, means that part of the contributions or transfer values paid to the fund by or in respect of a member, which are applied towards retirement savings in terms of the rules of the fund;

(Definition of “retirement funding contributions” inserted by regulation 1(c) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“retirement savings” in a defined contribution category of a fund, means the member’s individual account;

(Definition of “retirement savings” inserted by regulation 1(c) of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

“underwritten fund” means a fund referred to in regulation 1 of these Regulations;

(Definition of “underwritten fund” inserted by regulation 2(c) of GNR 491 of 2006)

(Definitions substituted by GNR 2324 of 1993)

PART I

REQUIREMENTS FOR EXEMPTION IN TERMS OF SECTION 2(3)(a) OF THE ACT AND RELATED MATTERS

(Heading substituted by GNR 2324 of 1993)

1. Underwritten fund

(Heading added by regulation 3(a) of GNR 491 of 2006)

An underwritten fund is a fund that complies with the conditions set out below:

(Words preceding paragraph (a) substituted by regulation 3(b) of GNR 491 of 2006)

- (a) The assets of the fund shall consist only of claims against one or more insurers, except that the fund may receive, as beneficial owner, shares which have been issued, free of any consideration, to the fund, as a policyholder under a scheme by which a mutual insurer is demutualised to become a public company (“demutualisation shares”), as well as capitalisation shares allotted in respect of demutualisation shares in the place of cash dividends or otherwise (“capitalisation shares”), provided that -
- (i) the demutualisation shares and capitalisation shares (hereafter jointly referred to as “the shares”) are held on behalf of the fund in the name of a nominee company, approved by the registrar;
 - (ii) dividends paid in cash in respect of the shares, and the proceeds from the disposal of any of the shares, after the deduction of administration costs, are -
 - (aa) paid on receipt by the nominee company directly, either to the demutualised insurer, or to another insurer, to be applied as a premium, free of commission, under one or

more policies issued to the fund by the demutualised insurer or such other insurers,
or

- (bb) in exceptional cases, held on behalf of the fund, in respect of funds whose only claims against the demutualised insurer consist of individual policies, in the name of the nominee company, also free of commission;
- (iii) when the fund ceases to have a claim - as meant in this regulation 1(a) - against demutualised insurer, the shares shall either be -
 - (aa) transferred to one or more insurers as a premium in kind; or
 - (bb) realised and the proceeds paid directly to one or more insurers as a premium, under one or more policies issued by those insurers to the fund, free of commission;
- (iv) the nominee company annually provides to the insurer mentioned in paragraph (d) of this regulation ("administering insurer") a certificate, verified by the external auditor of the nominee company, which must include -
 - (aa) the number of shares held by the nominee company on behalf of the fund;
 - (bb) the dividends paid in respect of the shares; and
 - (cc) any other information available to the nominee company relating to the shares and dividends;

so that the administering insurer may complete the financial returns required in terms of regulation 12(2)(a), and comply with subparagraph (v) of this regulation;

- (v) the administering insurer annually reports to the Registrar that the fund has not acquired further shares, in addition to demutualisation and capitalisation shares, as beneficial owner, in the company which issued the demutualisation shares, and the report must include particulars of any dealings in the shares, receipts of dividends, and any related transactions on behalf of the fund in the financial returns required in terms of regulation 12(2)(a).

(Regulation 1(a) substituted by GNR 1644 of 1998)

- (b) the payment of every benefit in terms of the rules of a pension fund shall be made solely by one or more insurers;
- (c) the contributions payable to the pension fund shall not be paid into a bank account of the pension fund, but shall be paid direct to one or more insurers; and

- (d) one insurer shall accept the responsibility to act as administering insurer for the purposes of these regulations.

2.

(Regulation 2 replaced by BN 61 of 2011 with effect from 1 April 2011)

3. – 7.

(Part I substituted by GNR 2324 of 1993, in effect omitting regulations 3 to 7)

PART II

DOCUMENTS AND PARTICULARS REQUIRED UNDER SECTION 4(2) AND CONDITIONS WHICH MUST BE COMPLIED WITH UNDER SECTION 4(4)

(Heading substituted by GNR 2324 of 1993)

8.

(Heading of regulation 8 deleted by GNR 2324 of 1993)

- (1) Every application for registration of a pension fund shall consist of a letter signed by the person managing the business of the fund for the time being or by a person on behalf of the employer participating in the fund, in which-
 - (a) registration of the pension fund is applied for;
 - (b) the full name of the pension fund is stated;
 - (c) the physical address of the registered office of the pension fund is stated;
 - (d) the postal address of the registered office of the pension fund is stated;
 - (e) the name and address of the person who for the time being is, or upon registration of the pension fund will be, administering the fund are given;
 - (f) the full name, the physical and postal addresses of the participating employer or employers and the initial rate of contributions to be paid by the employer if not set out in the rules are stated;

and shall be accompanied by-

- (i) two copies of the rules of the pension fund, duly certified by the applicant in accordance with regulation 18 as being the rules which will come into operation on the date of registration of the fund, or the date of commencement of the fund, whichever date is applicable;

(ii) a document to indicate the authority in terms of which the pension fund was established, and if no such authority exists, this fact shall be clearly stated;

(iii)

(Regulation 8(1)(iii) deleted by regulation 4 of GNR 491 of 2006)

(iv) if a fund desires to be exempted from the valuation requirements in terms of section 16 of the Act, an application to that effect, together with a certificate by an actuary certifying that there has been compliance with the provisions of subparagraphs (i), (v) and (vii) of paragraph (c) of regulation 2;

(v) the application and registration fees prescribed by Schedule L.

(2) The conditions with which a pension fund shall comply in terms of section 4(4) shall be as follows:

(a) The rules of the fund shall be consistent with the Act and the regulations; and

(b) the rules shall be based on sound financial principles.

(Regulation 8 amended by GNR 2144 of 1984)

(Regulation 8 amended by GNR 201 of 1993)

(Regulation 8 substituted by GNR 2324 of 1993)

9. Foreign Funds

An application for registration of a fund referred to in section two (2) of the Act shall be in the form set out and be accompanied by all the documents and particulars mentioned in regulation 8. In addition the applicant shall submit a memorandum in which are set out -

(a) the reasons why exemption is claimed under section two (2);

(b) the names and registered addresses of the head offices of all the employers participating in the fund;

(c) the number of members of the fund –

(i) outside the Republic of South Africa;

(ii) in the Republic who are South African citizens;

(iii) in the Republic who are not South African citizens.

10.
(Regulation 10 withdrawn by GNR 2324 of 1993)

11.
(Regulation 11 withdrawn by GNR 2324 of 1993)

PART III

FINANCIAL STATEMENTS AND STATISTICS TO BE FURNISHED BY FUNDS AND INSURERS.

(Heading substituted by GNR 2324 of 1993)

12.
(Regulation 12 substituted by GNR 2324 of 1993)
(Regulation 12 amended by regulation 5 of GNR 491 of 2006)
(Regulation 12 replaced by Board Notice 77 (see separate document) in Government Gazette 37844 dated
18 July 2014)

13.
(Regulation 13 substituted by GNR 2324 of 1993)
(Regulation 13 repealed by regulation 6 of GNR 491 of 2006)

14.
(Regulation 14 replaced by Board Notice 77 (see separate document) in Government Gazette 37844 dated
18 July 2014)

PART IV

REPORTS BY VALUATOR AND STATEMENTS OF ASSETS AND LIABILITIES

15.
(Regulation 15 substituted by GNR 1790 of 1985)
(Regulation 15 substituted by GNR 2324 of 1993)
(Regulation 15 replaced by BN 149 of 2010 with effect from 1 April 2011)

16.
(Regulation 16 withdrawn by GNR 2324 of 1993)

17.
(Regulation 17 withdrawn by GNR 2324 of 1993)

PART V

SIGNING OF DOCUMENTS

18. Rules

Both copies of the rules of a fund which accompany the application for registration must be certified as follows on the first page or on the cover if the rules are in the form of a booklet: -

“Certified that these are the rules of the XYZ Pension Fund which will become effective on the date of registration/commencement* of the fund.”

*Delete whichever not applicable.

If the applicant is the person managing the business of the fund the certificate is to be signed by the person for the time being at the head of the administering body and by one other member thereof. If the application is made on behalf of the participating employer the certificate must clearly indicate the capacity in which the applicant signed the document, e.g. as secretary of the company.

19.

(Regulation 19 substituted by GNR 2324 of 1993)

(Regulation 19 substituted by regulation 7 of GNR 491 of 2006)

(Regulation 19 replaced by Board Notice 77 (see separate document) in Government Gazette 37844 dated 18 July 2014)

20. Other Documents

Any document (excluding a letter) other than those referred to in regulations 18 and 19 must be signed on the first page thereof as prescribed in section twenty of the Act, namely –

- (a) where the fund is administered by one individual, by –
 - (i) such individual; and
 - (ii) the principal officer;
- (b) where the fund is administered by a committee or trustees, by –
 - (i) the person for the time being at the head of such committee or trustees;
 - (ii) one other member of the committee or a trustee; and
 - (iii) the principal officer.

In the case of (a) there must be two signatures by different individuals. In the case of (b) there must be three signatures but as the principal officer may be a member of the committee or a

trustee it is possible that his may be two of the three signatures, i.e. at least two different individuals must sign the document.

PART VI AUDITORS

21.

- (a) Within 30 days of the registration of the fund the person managing the business of the fund shall notify the Registrar in writing of the name and address of the auditor of the fund.
- (b) Whenever a registered fund has appointed a new auditor, the person managing the business of the fund, shall within 30 days as from the date of such appointment give notice thereof in writing to the Registrar which notice shall state the name and address of the auditor and contain a statement to the effect that such appointment was made in accordance with the provisions of the rules of the fund.

22. The documents referred to in regulation 12 shall be prepared in the form prescribed by notice in the *Gazette* and, where applicable, shall be accompanied by the three reports signed by the auditor of the pension fund, appointed in terms of section 9 of the Act. If the auditor is unable to sign the report referred to without qualification, the report may be qualified, provided that it deals with all the matters referred to in the reports and shall include his reasons for being unable to sign the reports without qualification.

(Regulation 22 substituted by GNR 2324 of 1993)

(Regulation 22 substituted by regulation 8 of GNR 491 of 2006)

PART VII GENERAL

23. No registered fund shall change its registered address unless the procedure prescribed in its rules for the amendment of the rule pertaining to the registered address has been followed and the amendment of the rule has been registered by the Registrar.

24.

- (a) Within sixty days from the date of the passing of a resolution for the alteration or rescission of any rule or for the adoption of any additional rule the principal officer of the fund shall submit to the Registrar –

(Words preceding regulation 24(a)(i) amended by GNR 2324 of 1993)

- (i) two copies of the resolution adopted together with a certificate signed as explained in regulation 20 to the effect that the resolution has been adopted in accordance with the provisions of the rules of the fund;

(Regulation 24(a)(i) amended by GNR 2324 of 1993)

- (ii) if the alteration or rescission of or addition to the rules affects the financial condition of the fund, a certificate by a valuator as to the financial soundness of the alteration, rescission or addition or, if no valuator has been employed, a certificate by an actuary that the provisions of regulation 2 shall continue to apply;

(Regulation 24(a)(ii) amended by GNR 2324 of 1993)

- (iii) a statement explaining the necessity for the alteration or rescission of or addition to the rules; and

(Regulation 24(a)(iii) amended by GNR 201 of 1993)

- (iv) the applicable fees set out in Schedule L.

(Regulation 24(a)(iv) added by GNR 201 of 1993)

(Regulation 24(a)(iv) amended by GNR 2324 of 1993)

- (b) No alteration or rescission of or addition to the rules shall be valid before registration by the Registrar in terms of section twelve (4) of the Act, and such alteration, rescission or addition shall take effect either as from the date determined by the fund concerned, or if no such date has been so determined, as from the date of the registration thereof.

- (c) On the submission of a scheme for an amalgamation or transfer contemplated in section 14 of the Act, the applicable fees set out in Schedule L shall be payable by the transferee fund or other person taking transfer, as the case may be.

(Regulation 24(c) added by GNR 201 of 1993)

(Regulation 24(c) amended by GNR 2324 of 1993)

- (d) The principal officer shall, within six months after the end of the fund's financial year, inform the members of the fund, in summarised form, of all alterations to, rescissions of or additions to the rules of the fund which have been registered during that financial year.

(Regulation 24(d) added by GNR 2324 of 1993)

25.

- (a) Subject to the provisions of section 35 of the Act, any person may upon payment of the applicable fees set out in Schedule L, between 09:00 and 12:00 and between 14:00 and 15:30 on Mondays to Fridays (excluding public holidays), inspect at the Office of the Registrar any document in the Schedule and may make a copy thereof or take an extract therefrom, or obtain from the said Registrar a copy of or an extract from any such document.

- (b) The said fees shall be paid in any manner other than by means of revenue or postage stamps.

(Regulation 25 substituted by GNR 201 of 1993)

(Regulation 25 amended by GNR 2324 of 1993)

26. Any person who has failed to make a return or to transmit or deposit a scheme, report, account, statement or other document within the time prescribed in the appropriate provisions of the Act or within any extended period allowed by the Registrar in terms of section thirty-three (1) of the Act, shall, without derogation from the provisions of section thirty-seven (1) of the Act, thereafter be permitted to furnish such return or to transmit or deposit such scheme, report, account, statement or other document subject to the payment of a penalty of R50 for every day during which he has remained in default.

(Regulation 26 amended by GNR 1020 of 1998)

27.

(Regulation 27 added by GNR 1037 of 1986)

(Regulation 27 substituted by GNR 232 of 1987)

(Regulation 27 substituted by GNR 1452 of 1989)

(Regulation 27 substituted by GNR 141 of 1994)

(Regulation 27 withdrawn by BN 10 of 2011 and again by BN 26 of 2011)

28. Asset spreading requirements

Preamble

A fund has a fiduciary duty to act in the best interest of its members whose benefits depend on the responsible management of fund assets. This duty supports the adoption of a responsible investment approach to deploying capital into markets that will earn adequate risk adjusted returns suitable for the fund's specific member profile, liquidity needs and liabilities. Prudent investing should give appropriate consideration to any factor which may materially affect the sustainable long-term performance of a fund's assets, including factors of an environmental, social and governance character. This concept applies across all assets and categories of assets and should promote the interests of a fund in a stable and transparent environment.

(1) Definitions

In this regulation: -

“**Act**” means the Pension Funds Act, 1956 (Act No. 24 of 1956), and any word or expression to which a meaning is assigned in the Act is assigned to it in this regulation, unless otherwise defined;

“**collective investment scheme**” has the meaning assigned to it in section 1 of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

“**credit ratings**” means credit ratings issued by a credit rating agency as may be prescribed;

“**crypto-asset**” means a digital representation of value that is not issued by a central bank, but is capable of being traded, transferred or stored electronically by natural and legal persons for the purpose of

payment, investment and other forms of utility; applies cryptographic techniques and uses distributed ledger technology;

(Definition of “crypto-asset” inserted by regulation 2(a) of GN 2230 dated 1 July 2022)

“**derivative instrument**” has the meaning assigned to it in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

“**exchange**” means: -

- (a) an exchange licensed under section 10 of the Securities Services Act, 2004 (Act No. 36 of 2004);
- (b) any other exchange that is a full member of the World Federation of Exchanges; or
- (c) where a fund invests in a collective investment scheme, such an exchange as is referred to in Section 45(b)(ii) of the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002);

“**fair value**” has the meaning assigned to it in financial reporting standards and includes any other conditions as may be prescribed;

“**financial reporting standards**” has the meaning assigned to it in the Companies Act, 2008 (No. 71 of 2008);

“**foreign asset**” means an asset that is deemed foreign by the South African Reserve Bank for its reporting purposes, and subject to conditions as may be prescribed;

“**foreign bank**” means a bank that is not a South African bank and is domiciled, registered and supervised as a bank outside of South Africa;

“**fund member policy**” has the meaning assigned to it in Part 5A of the Regulations issued under the Long-term Insurance Act;

“**fund of hedge funds**” means a portfolio that invests only in hedge funds, but may also hold notes, coins, and a balance or deposit in a savings, current or money market account with a South African bank or a foreign bank, and subject to conditions as may be prescribed;

“**fund of private equity funds**” means a portfolio that invests only in private equity funds, but may also hold notes, coins, and a balance or deposit in a savings, current or money market account with a South African bank or a foreign bank, and subject to conditions as may be prescribed;

“**hedge fund**”—

- (a) has the meaning assigned to it in paragraph 2 of the declaration by the Minister of Finance, in Government Notice No. 141 in Gazette No. 38503 of 25 February 2015 of the business of a hedge fund, to be a collective investment scheme to which the prescribed provisions of the Collective Investment Schemes Control Act, 2000 (Act No. 45 of 2002), apply; and
- (b) includes a foreign hedge fund approved in terms of section 65 of the Collective Investment Schemes Control Act, 2000;

(Definition of "hedge fund" substituted by regulation 2(b) of GN 2230 dated 1 July 2022)

"infrastructure" means any asset that has or operates with a primary objective of developing, constructing and/or maintaining physical assets and technology structures and systems for the provision of utilities, services or facilities for the economy, businesses, or the public;

(Definition of "infrastructure" inserted by regulation 2(c) of GN 2230 dated 1 July 2022)

"investment policy statement" means a document which, at least: -

- (a) describes a fund's general investment philosophy and objectives as determined by its liability profile and risk appetite;
- (b) addresses the principles referred to in subregulation (2)(c); and
- (c) complies with conditions as may be prescribed;

"Islamic debt instrument" means a bond based on the ownership of an underlying immovable property or a tangible asset or portfolio of immovable properties or tangible assets, governed by Shari'ah rules, and that is issued by: -

- (a) the Government of the Republic;
- (b) the South African Reserve Bank;
- (c) any public entity listed in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (d) a South African bank; or
- (e) a foreign bank

that is negotiable and in respect of which the title to the underlying property or asset or portfolio of properties and assets is vested in a special purpose vehicle that derives its income from commercial activities related to that property, asset or portfolio;

“Islamic liquidity management financial instrument” means a financial instrument, governed by Shari'ah rules, issued by a South African bank or a foreign bank: -

- (a) that is negotiable; and
- (b) in respect of which ownership of the underlying tangible asset or assets passes from a fund to a third party within seven business days from the date of purchase thereof, and at which purchase date the future sale price of the tangible asset or assets is fixed notwithstanding any increase or decrease in the fair value thereof;

“listed” means to be compliant with the listings and disclosure requirements of an exchange and any other condition as may be prescribed;

“Long-term Insurance Act” means the Long-term Insurance Act, 1998 (Act No. 52 of 1998);

“long-term insurer” means a person registered or deemed to be registered as a long-term insurer in terms of the Long-term Insurance Act;

“pension preservation fund” has the meaning assigned to it in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);

“PostBank” means the SA Post Office Limited established pursuant to section 3 the Post Office Act, 1958 (Act No. 44 of 1958), and the South African Postbank Limited Act, 2010 (Act No. 9 of 2010);

“prescribed” means prescribed by the Registrar by notice on the official website, as defined in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002) of the Financial Services Board, unless notice in the *Gazette* is specifically required under a provision of the Act;

“private equity fund” means a managed pool of capital that:

- (a) has as its main business the making of equity, equity orientated or equity related investments in unlisted companies to earn income and capital gains;
- (b) is not offered to the public as contemplated in the Companies Act, 2008 (No. 71 of 2008);
- (c) is managed by a person licensed as a discretionary Financial Services Provider as defined in the Code of Conduct for Administrative and Discretionary Financial Service Providers, 2003, or if a foreign private equity fund managed by a person licensed as a Category I Financial Services Provider that is authorized to render financial services on securities and instruments as defined in the Determination of Fit and Proper Requirements for Financial Services Providers, 2008; and
- (d) is subject to conditions as may be prescribed;

“property company” means a company -

- (a) of which 75% or more of the fair value of its assets consists of immovable property, irrespective of whether such property is held directly by that company as registered owner, or indirectly through ownership of the shares or the exercise of control over another company that is the registered owner of the property; or
- (b) of which 75% or more of its income is derived from investments in immovable property, or from an investment in a company of which 75% or more of the income of that company is derived from investments in immovable property;

“provident preservation fund” has the meaning assigned to it in section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);

“reporting period” means the financial year determined in the rules of a fund;

“South African bank” means a bank or branch as defined in and registered under the Banks Act, 1990 (Act No. 94 of 1990), a mutual bank as defined and registered under in the Mutual Banks Act, 1993 (Act No. 124 of 1993), a cooperative bank as defined in the Cooperative Banks Act, 2007 (Act No. 40 of 2007), or the PostBank.

(2) **Principles**

- (a) A fund must at all times comply with the limits as set out in this regulation;
- (b) A fund must have an investment policy statement, which must be reviewed at least annually.
- (c) A fund and its board must at all times apply the following principles:-
 - (i) promote the education of the board with respect to pension fund investment, governance and other related matters;
 - (ii) monitor compliance with this regulation by its advisors and service providers;
 - (iii) in contracting services to the fund or its board, consider the need to promote broad-based black economic empowerment of those providing services;
 - (iv) ensure that the fund's assets are appropriate for its liabilities;
 - (v) before making a contractual commitment to invest in a third party managed asset or investing in an asset, perform reasonable due diligence taking into account risks relevant

to the investment including, but not limited to, credit, market and liquidity risks, as well as operational risk for assets not listed on an exchange;

- (vi) in addition to (v), before making a contractual commitment to invest in a third party managed foreign asset or investing in a foreign asset, perform reasonable due diligence taking into account risks relevant to a foreign asset including but not limited to currency and country risks;
- (vii) in performing the due diligence referred to in (v) and (vi), a fund may take credit ratings into account, but such credit ratings should not be relied on in isolation for risk assessment or analysis of an asset, should not be to the exclusion of a fund's own due diligence, and the use of such credit ratings shall in no way relieve a fund of its obligation to comply with all the principles set out in paragraph 2(c);
- (viii) understand the changing risk profile of assets of the fund over time, taking into account comprehensive risk analysis, including but not limited to credit, market, liquidity and operational risk, and currency, geographic and sovereign risk of foreign assets; and
- (ix) before making an investment in and while invested in an asset consider any factor which may materially affect the sustainable long term performance of the asset including, but not limited to, those of an environmental, social and governance character.

- (d) With the appointment of third parties to perform functions which are required to be performed in order to comply with the principles in (c) above, the fund retains the responsibility for compliance with such principles.

(3) **Asset limits**

- (a) A fund must only hold assets and categories of assets referred to in Table 1 and must comply with the limits set out in this regulation.
- (b) Any portion of a fund's total assets associated with a specific category of members, or a specific member where the fund provides individual member choice, must comply with the limits in this regulation.
- (c) Notwithstanding (a) and (b), the portion of the total assets of a retirement annuity fund, pension preservation fund or provident preservation fund that is associated with a fund member policy, or with another contractual arrangement between the member and the fund relating exclusively to the fund's liability to a particular member (or to the surviving spouse, children, dependants or nominees of the member) in terms of the rules of the fund, entered into before 1 April 2011, need not comply with the limits set out in this regulation until: -

- (i) the contractual terms relating to the amount or frequency of premiums or contributions payable in terms of the policy or other contractual arrangement are amended, including where an additional amount over and above any regular contractual premium or contribution is contributed to the policy or arrangement; or
 - (ii) any change is made to the category of underlying assets held in respect of the policy or arrangement.
- (d) A fund must not invest or contractually commit to invest in an asset, including a hedge fund or private equity fund, where the fund may suffer a loss in excess of its investment or contractual commitment in the asset. This does not preclude a fund from investing in derivative instruments subject to subregulation (7). Hedge funds and private equity funds that may expose the fund to a liability must be held in a limited liability structure.
- (dA) Subject to paragraph (d), a fund may invest in a hedge fund, subject to conditions that may be prescribed.
(Regulation 28(3)(dA) inserted by regulation 3(a) of GN 2230 dated 1 July 2022)
- (e) Assets and categories of assets referred to in Table 1 must be calculated at fair value for reporting purposes.
- (f) The aggregate exposure to assets specified in the following items of Table 1 must not exceed 45 percent of the aggregate fair value of the total assets of a fund: -
(Words preceding regulation 28(3)(f)(i) amended by regulation 3(b) of GN 2230 dated 1 July 2022)
- (i) item 2.1(e)(ii): Other debt instruments not listed on an exchange;
 - (ii) item 3.1(b): Preference and ordinary shares in companies, excluding shares in property companies, not listed on an exchange;
 - (iii) item 4.1(b): Immovable property, preference and ordinary shares in property companies, and linked units comprising shares linked to debentures in property companies, not listed on an exchange;
(Regulation 28(3)(f)(iii) amended by regulation 3(c) of GN 2230 dated 1 July 2022)
 - (iv) item 8: Hedge funds;
(Regulation 28(3)(f)(iv) substituted by regulation 3(d) of GN 2230 dated 1 July 2022)
 - (v) item 9: Private equity funds; and
(Regulation 28(3)(f)(v) inserted by regulation 3(e) of GN 2230 dated 1 July 2022)
 - (vi) item 10: any other asset not referred to in this schedule.

(Regulation 28(3)(f)(vi) inserted by regulation 3(e) of GN 2230 dated 1 July 2022)

- (g) The aggregate exposure to assets specified in the following items of Table 1 must not exceed 20 percent of the aggregate fair value of the total assets of a fund: -

(Words preceding regulation 28(3)(g)(i) amended by regulation 3(f) of GN 2230 dated 1 July 2022)

- (i) item 3.1(b): Preference and ordinary shares in companies, excluding shares in property companies, not listed on an exchange; and
- (ii) item 9: Private equity funds.

(Regulation 28(3)(g)(ii) substituted by regulation 3(g) of GN 2230 dated 1 July 2022)

- (h) The aggregate exposure by a fund per issuer or entity, in respect of all asset categories specified in Table 1, irrespective of the limits referred to in Column 1 of Table 1, must not exceed 25 per cent of the aggregate fair value of the total assets of the fund, excluding any debt instruments issued by, and loans to, the government of the Republic and any debt or loan guaranteed by the Republic.

(Regulation 28(3)(h) substituted by regulation 3(h) of GN 2230 dated 1 July 2022)

- (i) The aggregate exposure to foreign assets, referred to in Column 1 of Table 1 and expressed as a percentage, must not exceed the maximum allowable amount that a fund may invest in foreign assets as determined by the South African Reserve Bank, or such other amount as may be prescribed.

- (iA) The aggregate exposure by a fund to all issuers in respect of direct infrastructure, across all asset categories, excluding any debt instrument issued or guaranteed by the South African government, may not exceed 45% of the aggregate fair value of the total assets of the fund;

(Regulation 28(3)(iA) inserted by regulation 3(i) of GN 2230 dated 1 July 2022)

- (iB) The limit of 65 per cent in respect of housing loans granted to members in accordance with the provisions of section 19(5) of the Act referred to in item 7 of Table 1—

- (i) applies, with effect from 3 January 2023, in respect of loan guarantees entered into on or subsequent to that date; and
- (ii) does not apply in respect of loan guarantees that have been entered into prior to 3 January 2023.

(Regulation 28(3)(iB) inserted by regulation 3(i) of GN 2230 dated 1 July 2022)

- (j) Notwithstanding paragraphs (a)-(iB), the limits set out in this regulation may be exceeded where the excess is due to a change in the fair value or characteristic of an asset, and not as a result of

discretionary transacting either by the fund or on the fund's behalf, provided that where a fund exceeds any limit: -

(Words preceding regulation 28(3)(j)(i) amended by regulation 3(j) of GN 2230 dated 1 July 2022)

- (i) such fund must inform the Registrar without delay of the limit being exceeded, including the reasons for such excess;
- (ii) such fund must not, for as long as the excess exists, make any further investments or contractual commitments to invest in those assets or categories of assets; and
- (iii) the board must ensure compliance with the relevant limits within 12 months from the date of the excess arising or such other period as determined by the Registrar.

- (k) A fund may not invest in crypto-assets, including in relation to Item 10 of Table 1.

(Regulation 28(3)(k) inserted by regulation 3(k) of GN 2230 dated 1 July 2022)

(4) **Look-through**

- (a) A fund must not utilise any asset to circumvent the limits as set out in this regulation and, where an asset is made up of underlying assets, the fund must include and disclose the underlying assets in the category in Table 1 to which the economic exposure of the underlying assets relate.
- (b) Notwithstanding paragraph (a), where the fair value of an asset comprises less than 5 percent of the aggregate fair value of the assets of the fund, then the fund need only disclose the categories of assets specified in Table 1, and not each underlying asset.

(Regulation 28(4)(b) amended by regulation 4(a) of GN 2230 dated 1 July 2022)

- (c) Notwithstanding paragraphs (a) and (b), any direct or indirect exposure to a hedge fund or private equity fund must be disclosed as an investment into a hedge fund or private equity fund, as the case may be, and the fund need not apply the look-through principle in respect of the underlying assets of the hedge fund or private equity fund, except in the case of infrastructure investments.

(Regulation 28(4)(c) substituted by regulation 4(b) of GN 2230 dated 1 July 2022)

- (d) Notwithstanding paragraph (b) and (c), and in accordance with conditions set by the South African Reserve Bank, when applying look-through any direct or indirect exposure to a foreign asset must be disclosed as a foreign asset.

(Regulation 28(4)(d) amended by regulation 4(c) of GN 2230 dated 1 July 2022)

(5) **Borrowing**

- (a) A fund must not borrow.

(b) Notwithstanding paragraph (a): -

(Words preceding regulation 28(5)(b)(i) amended by regulation 5 of GN 2230 dated 1 July 2022)

- (i) a fund may only borrow money for bridging purposes to maintain sufficient liquidity to meet its operational requirements;
- (ii) the aggregate of any loans for bridging purposes must not, throughout the financial year as determined in the rules of a fund, exceed 50 percent of the gross income of the fund (income of the fund before payment of management fees and administration fees) during the preceding financial year;
- (iii) any loan for bridging purposes must be repaid within 12 months of entering into the loan; and
- (iv) any loan for bridging purposes must not be subject to an early settlement penalty.

(c) A fund may as collateral for default on a loan referred to in paragraph (b) cede a proportionate share of its assets to the lender.

(6) Securities lending

A fund may engage in securities lending subject to conditions as prescribed.

(7) Derivative instruments

Notwithstanding subregulation 3(d), a fund may invest in derivative instruments subject to conditions as prescribed.

(8) Reporting

(Words preceding regulation 28(8)(a) amended by regulation 6(a) of GN 2230 dated 1 July 2022)

(a) The Registrar may prescribe the format, content and any other particulars in respect of the disclosure of compliance with this regulation.

(b) Infrastructure assets must be reported, with respect to the top 20 holdings, in the format specified in Table 2.

(Regulation 28(8)(b) substituted by regulation 6(b) of GN 2230 dated 1 July 2022)

(9) Exemptions

The Registrar may on written application by a fund or in general, exempt a fund, or categories, types or kinds of funds, from all or any of the provisions of this regulation, subject to conditions that the Registrar may impose.

TABLE 1

			Column 1	Column 2	
Item			Categories of assets	Limits being the maximum percentage of the aggregate fair value of total assets of the fund	
				Per Issuer/ entity as applicable	For all issuers/ entities
1			CASH		100%
1.1			Notes and coins; any balance or deposit in an account in a South African bank; A money market instrument issued by a South African Bank including an Islamic liquidity management financial instrument; Any positive net balance in a margin account with an exchange; and Any positive net balance in a settlement account with an exchange, operated for the buying and selling of assets.	25%	100%
1.2			Any balance or deposit held with a foreign bank; A money market instrument issued by a foreign bank including an Islamic liquidity management instrument.	5%	
2			DEBT INSTRUMENTS INCLUDING ISLAMIC DEBT INSTRUMENTS		100% for debt instruments issued by or guaranteed by the Republic, otherwise 75%
2.1			Inside the Republic and foreign assets		
	(a)		Debt instruments issued by, and loans to, the government of the Republic, and any debt or loan guaranteed by the Republic		100%
	(b)		Debt instrument issued or guaranteed by the government of a foreign country	10%	

			Column 1	Column 2	
Item			Categories of assets	Limits being the maximum percentage of the aggregate fair value of total assets of the fund	
				Per issuer/ entity as applicable	For all issuers/ entities
	(c)		Debt instruments issued or guaranteed by a South African bank against its balance sheet -		75%
		(i)	Listed on an exchange with an issuer market capitalisation of R20 billion or more, or an amount or conditions as prescribed	25%	
		(ii)	Listed on an exchange with an issuer market capitalisation of between R2 billion and R20 billion or an amount or conditions as prescribed	15%	
		(iii)	Listed on an exchange with an issued market capitalisation of less than R2 billion or an amount or conditions as prescribed	10%	
		(iv)	Not listed on an exchange	5%	
	(d)		Debt instruments issued or guaranteed by an entity that has equity listed on an exchange, or debt instruments issued or guaranteed by a public entity under the Public Finance Management Act, 1999 (Act No.1 of 1999) as prescribed -	10%	50%
		(i)	Listed on an exchange	10%	50%
		(ii)	Not listed on an exchange	5%	25%
	(e)		Other debt instruments -	5%	25%
		(i)	Listed on an exchange	5%	25%
		(ii)	Not listed on an exchange	5%	15%
3			EQUITIES		75%
3.1			Inside the Republic and foreign assets		
	(a)		Preference and ordinary shares in companies, excluding shares in property companies, listed on an exchange -		75%
		(i)	Issuer market capitalisation of R20 billion or more, or an amount or conditions as prescribed	15%	
		(ii)	Issuer market capitalisation of between R2 billion and R20 billion or an amount or conditions as prescribed	10%	

			Column 1	Column 2	
Item			Categories of assets	Limits being the maximum percentage of the aggregate fair value of total assets of the fund	
				Per entity applicable	Issuer/ as For all issuers/entities
		(iii)	Issuer market capitalisation of less than R2 billion or an amount or conditions as prescribed	5%	
	(b)		Preference and ordinary shares in companies, excluding shares in property companies, not listed on an exchange	2.5%	
4			IMMOVABLE PROPERTY		25%
4.1			Inside the Republic and foreign assets		
	(a)		Preference shares, ordinary shares and linked units comprising shares linked to debentures in property companies, or units in a Collective Investment Scheme in Property, listed on an exchange -		25%
		(i)	Issuer market capitalisation of R10 billion or more, or an amount or conditions as prescribed	15%	
		(ii)	Issuer market capitalisation of between R5 billion and R10 billion, or an amount or conditions as prescribed	10%	
		(iii)	Issuer market capitalisation of less than R5 billion, or an amount and conditions as prescribed	5%	
	(b)		Immovable property, preference and ordinary shares in property companies, and linked units comprising shares linked to debentures in property companies, not listed on an exchange	5%	15%
5			COMMODITIES		10%
5.1			Inside the Republic and foreign assets		
	(a)		Kruger Rands and other commodities listed on an exchange, including exchange traded commodities:-		10%
		(i)	Gold	10%	
		(ii)	Each other commodity	15%	
6			INVESTMENTS IN THE BUSINESS OF A PARTICIPATING EMPLOYER INSIDE THE REPUBLIC IN TERMS OF-		
	(a)		Section 19(4) of the Pension Funds Act		5%

			Column 1	Column 2	
Item			Categories of assets	Limits being the maximum percentage of the aggregate fair value of total assets of the fund	
				Per issuer/ entity as applicable	For all issuers/ entities
	(b)		To the extent it has been allowed by an exemption in terms of section 19(4A) of the Pension Funds Act		10%
7			HOUSING LOANS GRANTED TO MEMBERS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 19(5) OF THE PENSION FUNDS ACT		65%
8			HEDGE FUNDS		10%
8.1			Inside the Republic and foreign assets		
	(a)		Hedge funds		10%
		(i)	Funds of hedge funds	5% per fund of hedge funds	
		(i)	Hedge funds	2.5% per hedge fund	
9			PRIVATE EQUITY FUNDS		15%
9.1			Inside the Republic and foreign assets		
	(a)		Private equity		15%
		(i)	Funds of private equity funds	10% per fund of private equity funds	
		(ii)	Private equity funds	5% per private equity fund	
10			OTHER ASSETS NOT REFERRED TO IN THIS TABLE		2.5%
11	(a)		Overall limit for infrastructure across all classes (excluding debt instruments issued by, and loans to, the government of the Republic and any debt or loan guaranteed by the Republic)		45%
	(b)		Overall limit for all instruments per entity/issuer (local and or foreign) (excluding debt instruments issued by, and loans to, the government of the Republic and any debt or loan guaranteed by the Republic)	25%	

			Column 1	Column 2	
Item			Categories of assets	Limits being the maximum percentage of the aggregate fair value of total assets of the fund	
				Per issuer/ entity as applicable	For all issuers/ entities

(Table 1 substituted by regulation 7 of GN 2230 dated 1 July 2022)

TABLE 2

Categories of assets	Percentage (Infrastructure) (%)	Rand value (Infrastructure) (R)	List of Top 20 holdings in respect of infrastructure (name of issuer/ entity in respect of infrastructure)
1. Cash			
2. Debt instruments including Islamic debt instruments: 2.1 Debt instruments issued by, and loans to, the government of the Republic and any debt or loan guaranteed by the Republic 2.2 Other debt instruments: 2.2.1 Listed debt instruments 2.2.2 Unlisted debt instruments			
3. Equities: 3.1 Listed equities 3.2 Unlisted equities			
4. Immovable property (direct & indirect)			
5. Commodities			

Prepared by:

Categories of assets	Percentage (Infrastructure) (%)	Rand value (Infrastructure) (R)	List of Top 20 holdings in respect of infrastructure (name of issuer/ entity in respect of infrastructure)
6. Investment in the business of the participating employer			
7. Housing loans	n/a	n/a	n/a
8. Hedge funds			
9. Private equity			
10. Other assets not referred to in this table			
11. Infrastructure exposure in the rest of Africa			
TOTAL (Total investment in respect of direct infrastructure, excluding debt instruments issued by, and loans to, the government of the Republic and any debt or loan guaranteed by the Republic)	%	(R)	

(Table 2 inserted by regulation 8 of GN 2230 dated 1 July 2022)

(Regulation 28 added by GN 1920 of 1989)

(Regulation 28 amended by GNR 2324 of 1993)

(Regulation 28 amended by GNR 1677 of 1996)

(Regulation 28 amended by GNR 1154 of 1998)

(Regulation 28 corrected by GNR 1218 of 1998)

(Regulation 28 substituted by GNR 183 of 2011 with effect from 1 July 2011)

29. Accounts in terms of section 28(4) and 28(12) of Act

The accounts to be deposited or lodged with the Registrar in terms of section 28(4) and 28(12) of the Act shall be prepared in the form as set out in Schedule K.

(Regulation 29 added by GNR 2324 of 1993)

30. Rules and amendments thereof

Prepared by:

- (1) The rules of a pension fund shall, unless exempted partly or in full therefrom by the Registrar, comply with the following formal requirements:
 - (a) They shall be printed in at least 1,5 spacing on A4 paper of at least 80 grams;
 - (b) they shall be printed on one side of the paper only with a margin of at least 30 mm on the left side of the paper;
 - (c) headings and subheadings shall be printed in bold print;
 - (d) definitions shall be printed in capital letters and used in that way throughout the text;
 - (e) no underlining shall be allowed in the document; and
 - (f) the document shall at the front contain a detailed table of contents of the rules, with references to the relevant page numbers.

- (2) The rules of a pension fund shall furthermore not be inconsistent with the Act and these regulations, and shall also, subject to subregulation (3), provide for the following matters:
 - (a) The full name of the pension fund, including a reference to any name changes that the pension fund might have undergone;
 - (b) the date of commencement of the pension fund and the dates of the first and subsequent financial year ends;
(Regulation 30(2)(b) substituted by GNR 1677 of 1996)
 - (c) the physical address of the registered office of the pension fund;
 - (d) the objects of the pension fund;
 - (e) a list or lists of definitions, in alphabetical order, defining the terms which are frequently used in the rules and which bear a special connotation;
 - (f) a detailed exposition of the eligibility conditions for joining the pension fund and the circumstances under which membership shall cease, with specific reference to the following:
 - (i) the class or classes of persons who are, or may in due course become, eligible to join the pension fund;

- (ii) when membership shall be compulsory or not, as well as any period with-in which current employees may exercise a choice, if applicable;
 - (iii) the conditions of membership relating to deferred pensioners (if any); and
 - (iv) mutual transfer arrangements with any other pension fund (if any);
- (g) the calculation and payment of contributions payable to the pension fund by and/or on behalf of members;
- (h) the nature and extent of the benefits granted by the pension fund, as well as the payment thereof to any member or other person entitled thereto, in respect of-
- (i) normal retirement, early retirement, ill-health retirement, death before retirement, resignation, dismissal, retrenchment and redundancy: Provided that retirement annuity funds or other pension funds not sponsored by an employer need not make provision for dismissal, redundancy, resignation and retrenchment; and
 - (ii) if applicable, late retirement, deferred benefits and death after retirement;
- (i) the powers of investment of the pension fund;
- (j) the appointment of a valuator and provisions regarding the triennial investigations if the pension fund is subject to the provisions of section 16 of the Act;
- (k) the manner in which contracts and other documents binding the pension fund shall be executed;
- (l) the manner of altering or rescinding any rules, and of making additional rules;
- (m) the appointment of the auditor of the pension fund, if applicable;
- (n) the manner in which any disputes between the pension fund and its members or between the pension fund and any other person whose claim is derived from a member shall be settled;
- (o) the safe custody of title deeds or any other securities belonging to or held by the pension fund;
- (p) subject to the provisions of the Act, the manner in which and the circumstances under which the pension fund shall be terminated or dissolved, with specific reference to-
- (i) total and partial dissolution;
 - (ii) the appointment of a liquidator, to be approved by the Registrar;

- (iii) any transfers of participating employers to, or amalgamation of the pension fund with, any other pension fund; and
- (iv) the position of persons whose membership ceased during at least the 12-month period immediately prior to the date of liquidation;
- (q) the transfer or amalgamation of the business of the pension fund, or any part thereof, with that of any other pension fund (or person);
- (r) the manner in which unclaimed benefits shall be dealt with upon-
 - (i) the death of a member (including any deferred pensioner);
 - (ii) the liquidation of the pension fund; and
 - (iii) the withdrawal of a member from the pension fund;
- (s) the opening of a bank account in the name of the pension fund, unless the fund is an underwritten fund.
(Regulation 30(2)(s) substituted by regulation 9 of GNR 491 of 2006)
- (t) a specific indication of the participation in the pension fund so as to differentiate between pension funds established for the benefit of-
 - (i) employees of a principal employer and its subsidiaries;
 - (ii) employees of various employers that do not fall within the ambit of subparagraph (i) above; and
 - (iii) persons not referred to in either subparagraph (i) or (ii) above;
- (u) the policy of insurance effected to indemnify the pension fund against losses owing to the dishonesty or fraud of any of its officials or such other indemnification as the Registrar may allow; and
- (v) the appointment, remuneration (if applicable) and dismissal, as well as the powers, of a trustee or the trustees of the fund.
- (w) where the assets of a pension fund consist exclusively or in part of fund member policies, the rules of that fund must provide clearly -

- (i) whether or not the fund's liability to provide benefits to affected members or beneficiaries is funded exclusively or in part by fund member policies;
- (ii) to the extent that benefits provided or to be provided by the fund to a member or beneficiary are funded by a fund member policy, that -
 - (aa) the fund's liability from time to time to the member or beneficiary in respect of those benefits is equal to the fund's corresponding claim from time to time as policyholder against the insurer for the policy benefits provided or to be provided by the insurer under the policy in accordance with the policy prescriptions;
 - (bb) the policy is administered by the insurer, and all values and benefits of the policy and charges in respect of it are determined, in accordance with the policy prescriptions;
 - (cc) any change in the policy benefits provided or to be provided under the policy on account of a causal event, as determined in accordance with the policy prescriptions, has the result that the fund's liability to the member or beneficiary changes accordingly;
 - (dd) the fund must notify the member or beneficiary of the change contemplated in paragraph (cc) in respect of causal events that occur after the coming into operation of this subregulation (w);
- (iii) where applicable, that every member or beneficiary affected by (i) and (ii) selected or must select the fund member policy (including the investment and other features of the policy) which funds or is to fund the benefits provided or to be provided to the member or beneficiary, and where applicable that the member or beneficiary decided or must decide on any amendments or other transactions regarding the policy, in accordance with the policy prescriptions;
- (iv) where applicable, where (i), (ii) and (iii) have application, that the fund or its board do not provide advice with regard to the selection of policies by members or beneficiaries (in particular regarding the investment and other related features of the policies), or with regard to amendments or other transactions regarding those policies;
- (v) that the board of the fund must, to reasonably satisfy themselves that the fund member policies made available to members or beneficiaries for selection are suitable for the membership profile of the fund -
 - (aa) within one year of the date of the coming into operation of this subregulation, review the existing range of fund member policies available for selection by members or beneficiaries; and

(bb) after this subregulation has come into operation -

- (i) approve all new fund member policies made available for selection by members or beneficiaries, and
- (ii) annually review the range of fund member policies that are made available to members or beneficiaries for selection

(Regulation 30(2)(w) added by regulation 2(a) of GNR 1217 of 2006)

(3) A pension fund that is a registered fund at the date of the coming into operation of these regulations shall amend its rules to comply with subregulations (1) and (2) within five years of that date, provided that a pension fund that is a registered fund at the date of the coming into operation of subregulation (2)(w) shall amend its rules to comply with that subregulation within one year of that date.

(Regulation 30(3) amended by regulation 2(b) of GNR 1217 of 2006)

(4) In subregulation (2)(w) and in this subregulation (4), unless the context indicates otherwise:

- (a) the terms “**actuarial basis**”, “**benefit**”, “**causal event**”, “**charge**”, “**fund member policy**”, “**member**”, “**policy**” and “**values**” have the meaning assigned in Part 5 of the Regulations under the Long-term Insurance Act, 1998; and
- (b) “**policy prescriptions**”, in relation to a fund member policy, means the terms of the policy, the underlying actuarial basis of the policy, and the prescriptions of the Long-term Insurance Act, 1998 and the regulations issued under that Act.

(Regulation 30(4) added by regulation 2(c) of GNR 1217 of 2006)

(Regulation 30 added by GNR 2324 of 1993)

31. Registers to be kept by pension funds

Every pension fund shall keep, at its registered office, a register or registers containing the undermentioned information:

- (a) In respect of every trustee: his full names and surname, identity number, date of birth, nationality, occupation, residential address, business address and postal addresses and the date of his appointment;
- (b) any changes occurring from time to time in the particulars referred to above;

- (c) a minute book recording all resolutions passed by trustees at meetings, the pages of which minute book shall be bound in such a way as to render the withdrawal or insertion of a page impossible and shall be numbered consecutively;
- (d) the members of the fund; and
- (e) particulars regarding-
 - (i) the postal address and registered office of the fund;
 - (ii) the auditor (if applicable);
 - (iii) the administrator of benefits;
 - (iv) the administrator of investments (if applicable); and
 - (v) the valuator (if applicable).

(Regulation 31 added by GNR 2324 of 1993)

32. Application for registration as administrator

- (1) An application for approval to administer pension funds as contemplated in section 13B of the Act, together with an application for exemption contemplated in section 13B(4) of the Act (if any) shall be in the form set out in Schedule M.
- (2) An application contemplated in subregulation (1) shall be accompanied by:
 - (a) the fee prescribed in item (m) of Schedule L; and
 - (b) a report by an accounting person in the form of Schedule N (accounting persons other than auditors) or O (auditors), as the case may be.

(Regulation 32 added by regulation 3 of GNR 1838 of 1995)

33.

(Regulation 33 added by GN 337 of 2001)

(Regulation 33 repealed by GN 2977 dated 27 January 2023)

34. Minimum pension increase for pensioner who was a deferred pensioner prior to retirement

For purposes of section 14B(4)(b) of the Act, the pension increase to be determined in terms of that section for a pensioner who was a deferred pensioner prior to retirement, is the change to the consumer

price index from date of exit to the effective date of the calculation, with appropriate adjustments for any portion commuted on retirement.

(Regulation 34 added by GN 558 of 2003)

35. Establishment of Contingency Reserve Accounts

- (1) By virtue of the fact that-
 - (a) the Act vests powers in boards of funds to establish contingency reserve accounts; and
 - (b) the establishment of contingency reserve accounts reduces the actuarial surplus available for apportionment and increases the possibility that actuarial surplus may be insufficient to enhance benefits previously paid to former members to the level prescribed in section 15B(5)(b) of the Act,

no fund may, with effect from the date of commencement of this regulation, establish any contingency reserve account under circumstances where a reasonable inference may be made that the establishment of the account is contrary to the duties of the relevant board under section 7C(2)(b) of the Act and motivated by bad faith.
- (2) The establishment and magnitude of any contingency reserve account by a fund -
 - (a) must be motivated by the valuator in the relevant report on the statutory actuarial valuation; and
 - (b) may, where the Registrar is not satisfied with any such motivation, be rejected by the Registrar.
- (3) A fund must, on any such rejection of the establishment or magnitude of the relevant contingency reserve account, take such steps in connection therewith as the Registrar determines and sets out in writing to the relevant fund.
- (4) Where a board is able to determine the enhancement due in respect of a particular former member in terms of section 15B(5)(b) or (c) of the Act, but is unable to trace that former member in order to make payment, the board shall put the corresponding enhancement into a contingency reserve account specific for the purpose. Notwithstanding anything in the rules of the fund, moneys may not be released from such contingency reserve accounts except as a result of payment to such former members or as a result of crediting the Guardians Fund or some other fund established by law to include such amounts.

(Regulation 35 added by GN 558 of 2003)

36. Surplus apportionment dates for funds which are valuation exempt

- (1) In this regulation-

“**audit-exempt**”, in respect of a fund, means an exemption granted under section 2(3)(a) of the Act to the fund as regards the obligation to appoint an auditor;

“**scheme anniversary**”, in respect of a fund, means the anniversary of the date of commencement of the fund;

“**valuation exempt**”, in respect of a fund, means the granting of exemption from the requirement to appoint a valuator in terms of section 9A of the Act and submit reports in terms of section 16 of the Act; and

“**valuation exemption**” has a corresponding meaning.

- (2) The Registrar must on the date of commencement of this regulation withdraw any valuation exemption in respect of any fund existing on that date with effect from-
 - (a) in the case of a fund which is not audit-exempt, the end of the financial year of such fund following 7 December 2003; or
 - (b) in the case of an audit-exempt fund, the scheme anniversary, following 7 December 2003.
- (3) Any fund in respect of whom subregulation (2) has been applied, must submit an actuarial valuation to the Registrar-
 - (a) at the end of the financial year following 7 December 2003; or
 - (b) in the case of an audit-exempt fund, the scheme anniversary following 7 December 2003.
- (4) The effective date of a valuation contemplated in subregulation (3), shall be the surplus apportionment date in respect of the fund for purposes of the provisions of the Act dealing with such dates.
- (5) A fund referred to in subregulation (3) may, in the event that the fund has after compliance with that subregulation satisfied the Registrar that there is no actuarial surplus to apportion, submit a new request to the Registrar under section 2(3)(a) of the Act for an authorisation referred to in subregulation (1) of this regulation.
- (6) All funds which are valuation exempt and in respect of which a surplus apportionment date has been determined in accordance with subregulation (4), must apply minimum benefits in terms of section 14B of the Act with effect from a date 12 months after such surplus apportionment date.

(Regulation 36 added by GN 558 of 2003)

37. Default investment portfolio(s)

Prepared by:

- (1) The board of a fund with a defined contribution category, to which members belong as a condition of employment, must include in its investment policy statement the provision of one or more default investment portfolios.
- (2) The board must ensure, and be able to demonstrate to the Registrar on request, that—

Default investment portfolio(s) are appropriate for the members who will be automatically enrolled into them

- (a) the design of the default investment portfolio, including its—
 - (i) objective;
 - (ii) underlying asset allocation;
 - (iii) fees and charges; and
 - (iv) the expected risks and returns to which it exposes members whose retirement savings in that fund are or will be invested in the default investment portfolio,

is appropriate to that category of members whose retirement funding contributions and retirement savings are or will be invested in the default investment portfolio(s);

The composition of assets and performance of the default investment portfolio are adequately communicated to members

- (b) the composition of assets and performance of the default investment portfolio(s), and fund returns are communicated to members on a frequency and format which may be prescribed;

Default investment portfolios are reasonably priced and competitive

- (c) the fees and charges in respect of the default investment portfolio(s) or the assets held in respect of the default investment portfolio(s) are reasonable and competitive, taking account of the size, asset allocation and other characteristics of the fund;

All fees and charges are disclosed

- (d) all fees and charges, whether borne directly or indirectly by the fund, implicit or explicit, are disclosed on a regular basis to boards and the relevant information is appropriately disclosed to members, in a clear and understandable language, and in formats which may be prescribed;

Both passive and active investment must be considered as investment options

- (e) it considers both passive and active investment strategies as part of the default investment portfolio;

No loyalty bonuses or other complex fee structures

- (f) no fees or charges deducted from or amounts credited to members' retirement savings or retirement funding contributions or otherwise paid to members by any service provider in respect of the default investment portfolio may depend on the length of time that an individual has been a member of the fund, the number of contributions made by the member or any similar measure;

Members are not locked into the default investment portfolio

- (g) where member investment choice is provided in the rules, members may, at least once every twelve (12) months, instruct the fund to transfer their retirement savings from the default investment portfolio into any other investment portfolios offered in terms of the investment policy statement, in respect of which transfer the fund may deduct reasonable administration costs; and

The default investment portfolio is reviewed

- (h) it reviews the default investment portfolio(s) on a regular basis to ensure that it continues to comply with this regulation;

Exemption

- (3) The Registrar may on written application by a fund or in general, exempt a fund, or categories, types or kinds of funds, from all or any of the provisions of these regulations, subject to conditions that the Registrar may impose.

(Regulation 37 inserted by regulation 2 of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

38. Default preservation and portability

1.

- (a) When members are enrolled into a pension or provident fund as a condition of employment, the rules of that fund must provide for members who leave the service of a participating employer before retirement to become paid-up members.
- (b) When members leave the service of a participating employer before retirement, such members—

- (i) must be made paid-up members of the fund until the fund is instructed by the member, in writing, to pay out or transfer the benefits due to the member in terms of the rules, and
 - (ii) must be presented with a paid-up membership certificate within two (2) calendar months of the fund becoming aware that the member has left the services of the participating employer.
- (c) Investment fees and charges in respect of the portion of retirement savings that is invested in the default investment portfolio may not differ on the basis of whether members are paid-up members or are still in the service of the participating employer. The administration fees for paid-up members must be fair, reasonable and commensurate with the cost of providing the administration service to members still in the service of the participating employer.
- (d) No initial once-off charge may be levied on the retirement savings of a member as a direct consequence of that member becoming a paid-up member.
- (e) The rules of funds to which a member belongs as a condition of employment must make provision to accept any amount or amounts transferred, to the fund from another fund for the benefit of a member or members, provided that such transfers comprise a defined contribution benefit component, and such funds must –
- (i) within four (4) months of a member joining the fund, request, in a manner which may be prescribed, a list of all paid-up membership certificates in respect of any retirement savings of that member;
 - (ii) request, for each paid-up membership certificate, in a manner which may be prescribed, whether members wish to allow the retirement savings held in respect of each paid-up membership certificate to be transferred into the new fund; and
 - (iii) if a member elects to transfer their retirement savings, arrange on behalf of that member, in respect of each paid-up membership certificate, the transfer of all such retirement savings into the fund, without levying a charge on such amounts in respect of the transfer.
- (2) The fund rules must with respect to paid-up members specify that—
- (a) no new contributions to the fund may be permitted in respect of this class of member;
 - (b) no deductions may be made from the retirement savings of paid-up members in respect of risk benefits;
 - (c) upon the member becoming paid-up, a defined benefit amount, must be converted to a defined contribution component and have it preserved as such;

- (d) eligibility for death benefits, retirement and early retirement for paid-up members is as per fund rules; and
 - (e) members are given access to retirement benefits counselling before any such withdrawal benefit as determined in the fund rules is paid to them or any transfer is made to another fund.
- (3) The Registrar may on written application by a fund or in general, exempt a fund, or categories, types or kinds of funds, from all or any of the provisions of these regulations, subject to conditions that the Registrar may impose.

(Regulation 38 inserted by regulation 2 of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

39. Annuity strategy

- (1)
- (a) The boards of all pension, pension preservation and retirement annuity funds must establish an annuity strategy.
 - (b) Where the rules of a provident or provident preservation fund enable a member to elect an annuity, the board must establish an annuity strategy.
- (2) Boards must ensure, and be able to demonstrate to the Registrar on request, that—

The proposed annuity or annuities as per the annuity strategy are appropriate and suitable for the specific classes of members who will be enrolled into them

- (a) in determining an annuity or annuities, the board has considered, as far as it can reasonably ascertain: the level of income that will be payable to retiring members; the investment, inflation and other risks inherent in the income received by retiring members; and the level of income protection granted to beneficiaries in the event of the death of a member enrolled into the proposed annuity;

The objective, asset class composition and performance of the annuity are communicated to members

- (b) with respect to a living annuity, the asset class composition of investments, their performance and changes in the incomes in respect of the annuity must be communicated to members on a regular basis, in a clear and understandable language and in a format which may be prescribed;

Annuities have reasonable and competitive fees and charges

- (c) the fees and charges in respect of the annuity or the assets held in respect thereof are reasonable and competitive, considering the benefits provided to members;

All fees and charges, and their impact on members' benefits are disclosed

- (d) all fees and charges, whether borne directly or indirectly by the fund, implicit or explicit, are disclosed on a regular basis to boards and the relevant information is appropriately disclosed to members, in a clear and understandable language, and in formats which may be prescribed;

Members are given access to retirement benefits counselling

- (e) members are given access to retirement benefits counselling not less than three (3) months before their normal retirement age as determined in the rules of the fund and as may be prescribed; and

The annuity strategy is reviewed annually

- (f) it reviews the annuity strategy at least annually to ensure that the annuity or annuities continue to comply with this regulation and are appropriate for members.

Living annuities

(3)

- (a) In addition to traditional annuities, living annuities may be paid directly from the fund or through a fund owned policy or sourced from an external provider as part of the annuity strategy; provided that in each case, the investment choice is limited to four (4) investment portfolios, which portfolios are compliant with regulation 28 and 37 and drawdown levels are compliant with a prescribed standard.
- (b) Where the living annuity is paid from the fund or through a fund owned policy, funds must monitor the sustainability of income drawn by retirees in these living annuities and make such members aware if their drawdown rates are deemed not to be sustainable.

In-fund annuities other than living annuities

- (4) An annuity payable by the fund in terms of the rules of the fund may be chosen as part of the annuity strategy.

Out of fund annuities, other than living annuities

- (5) Annuities provided by a long-term insurer may be provided as part of the annuity strategy subject to such conditions that the Registrar may prescribe.

Prepared by:

Exemption

- (6) The Registrar may on written application by a fund or in general, exempt a fund, or categories, types or kinds of funds, from all or any of the provisions of these regulations, subject to conditions that the Registrar may impose.

(Regulation 39 inserted by regulation 2 of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

40. Application of Regulations 37 to 39

- (a) Other than where specifically indicated, regulations 37 and 38 do not apply to retirement annuity and preservation funds.
- (b) Regulations 37, 38 and 39 do not apply to funds in liquidation as contemplated in section 28 of the Act.

(Regulation 40 inserted by regulation 2 of Government Notice 863 in Government Gazette 41064 dated 25 August 2017)

SCHEDULE A

(Schedule A substituted by GNR 2324 of 1993)

(Schedule A substituted by GNR 1644 of 1998)

(Schedule A repealed by regulation 5(a) of GNR 491 of 2006)

SCHEDULE B

(Schedule B substituted by GNR 2324 of 1993)

(Schedule B substituted by GNR 1644 of 1998)

(Schedule B repealed by regulation 5(b)(ii) of GNR 491 of 2006)

SCHEDULE C

(Schedule C substituted by GNR 2324 of 1993)

(Schedule C repealed by regulation 5(b)(ii) of GNR 491 of 2006)

SCHEDULE D

(Schedule D substituted by GNR 2324 of 1993)

(Schedule D repealed by regulation 5(b)(ii) of GNR 491 of 2006)

SCHEDULE E

(Schedule E substituted by GNR 2144 of 1984)

(Schedule E substituted by GNR 201 of 1993)

(Schedule E substituted by GNR 2324 of 1993)
(Schedule E repealed by regulation 5(b)(ii) of GNR 491 of 2006)

SCHEDULE F

(Schedule F added by GNR 1790 of 1985)
(Schedule F substituted by GNR 2324 of 1993)
(Schedule F repealed by regulation 5(b)(ii) of GNR 491 of 2006)

SCHEDULE G

(Schedule G added by GNR 2324 of 1993)
(Schedule G repealed by regulation 5(b)(ii) of GNR 491 of 2006)

SCHEDULE H

(Schedule H added by GNR 2324 of 1993)
(Schedule H repealed by regulation 5(b)(ii) of GNR 491 of 2006)

SCHEDULE I

(Schedule I added by GNR 2324 of 1993)
(Schedule I amended by GNR 1677 of 1996)
(Schedule I amended by GNR 1154 of 1998)
(Schedule I repealed by regulation 5(b)(ii) of GNR 491 of 2006)

SCHEDULE J

[In terms of regulation 15 (1)]

FORM OF SUMMARY OF REPORT OF VALUATOR

Name of fund

Financial year

Valuator

Particulars of financial condition of the fund

1. The fair value of the net assets of the fund, after deduction of current liabilities and any liabilities arising from the pledging, hypothecation or other encumbering of the assets of the fund

.....

2. The actuarial value of assets of the fund, for purposes of comparison with the accrued liabilities* of the fund

.....

3. A brief description of the basis employed in calculating the actuarial value of the assets

.....

.....

4. The accrued liabilities* of the fund

.....

5. Any other particulars deemed necessary by the valuator for the purposes of this summary

.....

6. A statement as to whether the fund was in a sound financial condition for the purposes of the Pension Funds Act, 1956

.....

Prepared by:

Prepared by me:

.....

(Date)

.....

(Signature of valuator)

REMARKS

* For the purposes of this Schedule “accrued[*sic*] liabilities”, in relation to the fund in question, means –

- (a) the actuarial liabilities in respect of past service benefits (including accrued bonus service) of active members, with due allowance for future salary increases where these affect the benefits in respect of past service, and with due allowance for increases in pension and deferred pensions at rates consistent with past practice, the current policy and the reasonable benefit expectations of members;
- (b) the actuarial liabilities in respect of pensions in course of payment and deferred pensions, with due allowance for increases at rates consistent with past practice, the current policy and the reasonable benefit expectations of pensioners; and
- (c) any other accrued actuarial liabilities.

(Schedule J added by GNR 2324 of 1993)

SCHEDULE K

(In terms of regulation 29)

.....FUND (in liquidation)

REFERENCE NUMBER: 12/8//2

ANNEXURE A

**Preliminary/Final ⁽¹⁾ Statement of Funds and Net Assets at the commencement of the liquidation as on
..... 19**

(Accounts in terms of section 28 of the Pension Funds Act, 1956)

1. FUNDS

1.1 ACCUMULATED FUNDS

(a) Pension

(b) Provident

(c) Retirement annuity

(d) Benefit

1.2 RESERVE ACCOUNTS

(a) Reserve

(b) Pensioner reserves

(c) Other reserves _____

TOTAL FUNDS AND RESERVES R.....

NET ASSETS

2. FIXED ASSETS AND INVESTMENTS

2.1 FIXED ASSETS

Prepared by:

2.2	INVESTMENTS	<u> </u>	
2.3	CURRENT ASSETS		.....
(a)	Accounts receivable	.....
(b)	Income accrued	.....
(c)	Arrear contributions	.....
(d)	Cash at bank	.....
(e)	Other (specify)	<u> </u>	_____
	TOTAL ASSETS		.....
3.	LESS: LIABILITIES		.....
3.1	LONG-TERM LIABILITIES	.....
	(Specify)		
(a)	.....	
(b)	.....	
3.2	CURRENT LIABILITIES	.....
(a)	Contributions in advance	.....
(b)	Accounts payable	.....
(c)	Benefits due	.....
(d)	Bank overdraft	.....
(e)	Other (specify)	.....	_____
	NET ASSETS		<u>R.....</u>

Certified correct (liquidator)

Prepared by:

Place

Date.....

Note: ⁽¹⁾ Delete whichever *[sic]* is not applicable.

SCHEDULE K

(In terms of regulation 29)

..... FUND (in liquidation)

REFERENCE NUMBER: 12/8/ /2

ANNEXURE B

Preliminary/Final⁽¹⁾ realisation account at

.....

(Accounts In terms of section 28 of the Pension Funds Act, 1956)

(1) RECEIPTS

(Details of amounts realised by assets in accordance with the Preliminary/Final ⁽¹⁾ Statement of Funds and Net Assets as per Annexure A)

Description	Value as per statement	Realisable value
.....
.....	<u>.....</u>	<u>.....</u>
	<u>.....</u>	<u>.....</u>
Other receipts ⁽³⁾		<u>.....</u>
.....	
	

LESS: LIABILITIES

Prepared by:

(Details from the Preliminary/Final⁽¹⁾ Statement of Funds and Net Assets in Annexure A)

Description

.....	
.....	
.....	<u>.....</u>	_____
SUBTOTAL		.....
LESS: PROVISION FOR⁽²⁾ LIQUIDATION EXPENSES		.....
Advertisements	.....
Liquidator's fees	.....
Pension payments	.....
Other (specify)	.....	_____
DISTRIBUTION ACCOUNT AS PER ANNEXURE C		<u>R.....</u>

Certified correct... (liquidator)

Place . Date .

- NOTES:**
- (1) Delete whichever is not applicable.
 - (2) Delete in final realisation account, where actual expenditure must be shown.
 - (3) Include investment income only in final realisation account.

SCHEDULE K

(In terms of regulation 29)

..... FUND (in liquidation)

REFERENCE NUMBER: 12/8//2

Prepared by:



ANNEXURE C

Preliminary/Final ⁽¹⁾ distribution account at

(Accounts in terms of section 28 of the Pension Funds Act, 1956)

(a) Basis of distribution:

(Concise description of the basis of distribution to beneficiaries, with reference to the rule in terms of which the fund is being dissolved and the rule (if any) under which the distribution is being made. Particular reference must be made to the vested rights to pensions of pensioners.)

(b) Schedule of distribution:

PARTICULARS OF BENEFICIARIES PAYMENT			DATES OF MEMBERSHIP		PAYMENT
NO. SURNAME	INITIALS	I.D.NUMBER	COMMENCED	CEASED	RAND
Total as per preliminary/final ⁽¹⁾ realisation account in Annexure B					R

Note: ⁽¹⁾ Delete whichever is not applicable.

Certified correct (liquidator)

Place

Date

ANNEXURE D

..... Fund (in liquidation)

Reference No : 12/8/

Prepared by:



Commissioner of Inland Revenue reference no.....

Number of members

Active

Pensioners

- Current

- Deferred

Dependants and nominees in receipt of regular payments

TOTAL

1. The number of members (including pensioners) at the date of termination of the fund

2. Highest number of members (including pensioners) during the 12 months preceding the date of termination

3. The reason(-s) for the difference in 1 and 2 above:

.....
...
.....
...
.....
...

Note: Submit in duplicate on a separate page only with the Final Liquidation Accounts.

(Annexure D to Schedule K added by GN 337 of 2001)

(Schedule K added by GNR 2324 of 1993)

Prepared by:

SCHEDULE L**PRESCRIBED FEES**

MATTER	FEES PAYABLE
	R
(a) For an application for the registration and registration of a pension fund in terms of section 4 of the Act (regulation 8(1)(v))	1 230,00
(b) For an application for the registration of special rules under an umbrella fund in terms of section 4 of the Act (regulation 8(1)(v))	405,00
(c) For an amalgamation or transfer in terms of section 14(1) of the Act [regulation 24(c)]	
(i) Single Transfer	
- Per individual member transferred	210,00
- With a maximum per transfer of	1 020,00
- Transfer in respect of "agterskot"	1 020,00
(ii) Multiple	4 100,00
(iii) In the case where the transferor fund is an Umbrella Fund:	
Single Transfer	
- Per individual member transferred	210,00
- With a maximum per participating employer transferred of	1 020,00
Multiple transfer	
- Multiple transfer per participating employer	4 100,00

(d)	For the alteration or rescission of or an addition to the rules of a fund:	
-	Per resolution [regulation 24(a)(iv)]	415,00
-	Per resolution to amend special rules of an umbrella fund	410,00
(e)	For the inspection of one or more of the documents referred to in section 35 of the Act relating to a specific fund [regulation 25]	30,00
(f)	For a photostatic copy made by the Registrar of any document or register, per A4 page or part thereof	3,60
(g)	For a double-spaced typewritten copy or an extract of or from any document or register made by the Registrar, per A4 page or part thereof	17,70
(h)	For the authentication by the Registrar of a copy made or an extract taken as contemplated in item (f) or (g) above, per A4 page or part thereof	12,10
(i)	For certifying or confirming that a fund is registered under subsection (3) or (4) of section 4 of the Act, or that its name has been changed or its rules amended [except for the purposes of item (d)]	35,20
(j)	For a search fee per fund for services rendered in respect of item (e), (f) or (g) above	12,10
(k)	For the perusal of documents for the purposes of item (h) above, per A4 page or part thereof	12,10
(l)	For a list of names and addresses of Funds in an electronic format:	
(i)	For privately administered funds	390,00
(ii)	For funds exempted in terms of section 2(3)(a) of the Act	1 930,00
(m)	For an application for approval in terms of section 13B(1) of the Act	
(i)	To act as benefit administrator	4 110,00
(ii)	To act as an investment administrator approved as an administrative or discretionary financial services provider in terms of the FAIS Act	690,00
(n)		

For services rendered by the Registrar in case of the consolidation or revision of the rules of a registered fund in terms of section 12(5) of the Act or a scheme to change the funding basis of a fund

- Per consolidation / conversion	1 235,00
- Per revision	1 210,00

(o) For a customised printer report of information from the Registrar's database:

Per entry contained on the printer report	1,20
Minimum cost per customised report	180,00

(p) For services rendered by the Registrar in case of liquidation of a fund in terms of section 28 of the Act, whether the liquidation has been completed or not, a fee of 20% of the liquidation fee with a minimum of 690,00
but not more than 6 770,00
.....

(q) For an application for approval of a nominee company in terms of section 5(2) of the Act 4 515,00

(r) For an application for approval of the apportionment of surpluses to stakeholders in terms of section 15B, 15F and 15K of the Act:

(i) Professional fee per senior official per hour or part thereof	1 020,00
(ii) With a minimum fee per application of (or such lesser fee as agreed to by the registrar)	12 815,00

(s) Transfer in terms of section 15E 1 020,00

(Schedule L added by GNR 2324 of 1993)

(Schedule L amended by GNR 1838 of 1995)

(Schedule L amended by GNR 801 of 1998)

(Schedule L amended by GNR 853 of 1999 with effect from 1 July 1999)

(Schedule L amended by GNR 896 of 2000 with effect from 1 September 2000)

(Schedule L amended by GNR 100 of 2002)

(Schedule L substituted by GNR 1037 of 2002)

(Schedule L substituted by GNR 1739 of 2003)

(Schedule L substituted by GNR 1355 of 2004)

(Schedule L substituted by GNR 1105 of 2005)

Prepared by:

(Schedule L substituted by GNR 843 of 2006)

(Schedule L substituted by GNR 73 of 2009)

SCHEDULE M

**APPLICATION FOR APPROVAL AS AN ADMINISTRATOR IN TERMS OF SECTION 13B OF THE
PENSION FUNDS ACT, 1956**

SECTION 1 (To be completed by all applicants)

1. Full name of proposed administrator.

.....

2. Details of corporate status, registered number and registered address.

.....

3. Address where business is being conducted.

.....

4. Postal Address.

.....

5. Telephone Number Facsimile

6. Date on which financial year ends.

.....

7. Name and address of accounting person contemplated in condition 1 of the Conditions*. Give full particulars of the firm of accountants or auditors and specify one or two specific members of the firm as the bearer of the responsibilities in terms of the Regulations and the Conditions. If approval of a person to be acting as accounting person is required, please furnish full details including qualifications and experience of the person to be approved.

.....

8. Name and address of person who will be in charge of the administration of pension funds.

.....

.....

Prepared by:

13. The names (A), identity numbers (B), business telephone numbers (C), home telephone numbers (D), four business references (E), current employers (F), and qualifications and experience (G) of the administrator's members, directors, partners, owners and/or employees on the first and second level of the hierarchy involved in the administration of pension funds.

A	B	C	D	E	F	G

14. Whether any of the persons referred to in paragraph 13 have ever been convicted of an offence resulting from dishonesty, fraud or embezzlement (H), whether any of these persons were a controlling shareholder or director of a company or close corporation at the time it was placed under judicial management or in liquidation (I), whether the estate of any such person has ever been sequestrated (J), whether any such person has been subject to disciplinary proceedings by an employer or regulatory body (K), and whether any such person has been barred from entry into any profession or occupation (L):

H	I	J	K	L	

15. Do your current assets exceed current liabilities as contemplated in condition 7.2 of the Conditions*.

.....

16. Do your liquid assets equal or exceed 8/52 x annual expenditure as contemplated in condition 7.3 of the Conditions*

.....

SECTION II

Prepared by:

(Only to be completed by administrators in existence at the date of coming into operation of the Regulations in terms of which this Schedule was added to the Regulations)

1. Number of registered and unregistered pension funds currently being administered:

Registered Unregistered.

2. Are your administration agreements with pension funds in writing and do they conform with the provisions of condition 3 of the Conditions*?

.....

3. If not, will amendments be made or do you wish to apply for exemption? (If you wish to apply for exemption in terms of condition 3, state grounds for exemption).

.....

4. Do you deposit fund moneys, whether contributions paid or benefits payable, in a trust account or other bank account opened in your name? Please furnish details.

.....

.....

SECTION III (Only to be completed by administrator requiring exemption)

Please indicate exemptions required from the Conditions*, if any.

.....
.....
.....
.....
.....
.....
.....
.....

Please furnish reasons for requiring exemption.

.....
.....
.....
.....
.....

Prepared by:

.....
.....

* The Conditions promulgated in the *Government Gazette* containing the Registrar's prerequisites for approval as an administrator.

(Schedule M added by regulation 5 of GNR 1838 of 1995)

SCHEDULE N

**REPORT OF THE ACCOUNTING PERSON (EXCLUDING AUDITORS (OF
(THE ADMINISTRATOR) TO THE REGISTRAR OF PENSION FUNDS IN COMPLIANCE WITH
REGULATION 32 (2) (b) OF THE REGULATIONS MADE IN TERMS OF THE PENSION FUNDS ACT, 1956**

1. We have performed the duties of an accounting person of the administrator as required by regulation 32(2)(b). No audit is required by the Act to be carried out and no audit was conducted.

2. The financial information and the insurance of business risks are the responsibility of the management of the administrator. We have adopted such procedures and conducted such enquiries in relation to the books of account and records of the administrator as we considered necessary in the circumstances. This enables us to certify that-
 - 2.1 the administrator has taken out an Employer's Fidelity Guarantee Policy, No. with and that such policy has been renewed for a period of months ending on the day of 19, and

 - 2.2 the administrator has taken out a Professional Indemnity Insurance Policy, No with and that such policy has been renewed for a period of months ending on theday of 19.

Accounting person (excluding auditors):

Date:

Address:

(Schedule N added by regulation 5 of GNR 1838 of 1995)

SCHEDULE O

REPORT OF THE AUDITOR OF (THE ADMINISTRATOR) TO THE REGISTRAR OF PENSION FUNDS IN COMPLIANCE WITH REGULATION 32 (2) (b) OF THE REGULATIONS MADE IN TERMS OF THE PENSION FUNDS ACT, 1956

1. In compliance with regulation 32(2)(b) we have performed certain procedures described below on the system of internal control and records of the administrator as at

2. Compliance with the regulations and the maintenance and development of a system of internal control are the responsibilities of the management of the administrator. Our responsibility is to report on the results of the procedures which we have performed. The procedures were carried out solely to comply with the requirements of Regulation 32(2)(b) and this report should be used by you for that purpose only.

3. We have adopted such procedures and conducted such enquiries in relation to the books of account and records of the administrator as we considered necessary in the circumstances. This enables us to certify that-

3.1 the bookkeeping, computer and control systems are adequate for the size and complexity of the business it is conducting / *proposes to conduct;

3.2 adequate measures are in operation to ensure the continued safety of documents of title relating to assets held in safe custody;

3.3 the administrator has taken out an Employer's Fidelity Guarantee Policy, No. withand that such policy has been renewed for a period of months ending on theday of 19, and

3.4 the administrator has taken out a Professional Indemnity Insurance Policy, No with and that such policy has been renewed for a period of months ending on theday of19

4. The following exceptions to paragraph 3 have been brought to the attention of the administrator's management and have/*have not subsequently been corrected:

.....
.....
.....

Auditor (CA) SA:

Address:

Prepared by:



Date:

* Delete if not applicable.

(Schedule O added by regulation 5 of GNR 1838 of 1995)

Prepared by: