

DIRECTIVE PF No. 1

Date issued: 10 December 2007

**FINANCIAL SERVICES BOARD
REPUBLIC OF SOUTH AFRICA**



PENSION FUNDS ACT (ACT 24 OF 1956)

SECTION 2 – Funds established or continued in terms of a collective agreement concluded in a council in terms of the Labour Relations Act, 1995

1. INTRODUCTION

- 1.1 This Directive is issued to provide clarity in respect of the requirements of section 2 of the Pension Funds Act, Act 24 of 1956 in respect of the registration of funds established or continued in terms of a collective agreement concluded in a council in terms of the Labour Relations Act, 1995 ("Bargaining Council Funds"). The amendment to section 2 became effective on 13 September 2007.
- 1.2 Sections 2(1) and 2(2) determines that:
- "2(1) Subject to section 4A and any other law in terms of which a fund is established, the provisions of this act apply to any pension fund, including a pension fund established or continued in terms of a collective agreement concluded in a council in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995), and registered in terms of section 4.
 - (2)(a) A pension fund established or continued in terms of a collective agreement contemplated in subsection (1) and not yet registered in terms of section 4, must register in terms of this Act before or on 1 January 2008.
 - (b) Despite any other provision of this Act, the first statutory actuarial valuation of a fund registered in accordance with paragraph (a) must be undertaken at the end of the first financial year following registration or such other date approved by the registrar.
 - (3) A pension fund contemplated in subsection (2) must, pending registration in terms of this Act, furnish the registrar with such statistical information as may be requested by the registrar."

2. REGISTRATION OF RULES

- 2.1 A Bargaining Council Fund already registered in terms of the Act would not be required to do anything following the amendment. Such funds are however reminded that the requirements of the Act continue to apply and all requirements of the Act must be adhered to including the submission of surplus apportionment schemes and nil schemes.

- 2.2 Other Bargaining Council Funds, not currently registered under the Act, are required to apply for registration of the Fund on or before 1 January 2008.
- 2.3 A copy of a set of rules to provide guidance to funds as to the requirements in terms of the Act and Regulations for an application to register is available on the fsb website (www.fsb.co.za). The draft rules are not prescriptive and are provided as guidance only.
- 2.4 Where Bargaining Council Funds are experiencing difficulty in registering before 1 January 2008, these funds can apply to the Registrar to extend the period in which to register until 30 April 2008.
- 2.5 Where Bargaining Council Funds are in a position to apply before 1 January 2008, even if the rules of the fund are not fully compliant with all the provisions of the Act, the Registrar may register the fund provisionally until such queries have been resolved.

3. APPROVAL AS ADMINISTRATOR IN TERMS OF SECTION 13B

Approval as benefit administrator or investment administrator

Section 13B(1) determines that:

"No person shall administer on behalf of a pension fund the investments of such pension fund, or the disposition of benefits provided for in the rules of the fund, unless the registrar has in a particular case or in general granted approval thereto and the person complies with such conditions as the registrar may from time to time determine in the particular case or in general"

Where a Bargaining Council Fund will not be utilising the services of an already approved investment administrator or benefit administrator in terms of section 13B, the entity or relevant Bargaining Council responsible for performing such benefit administration or investment administration would be required to apply for approval in terms of section 13B.

Such application for approval in terms of section 13B must reach this Office on or before 1 January 2008 unless such Bargaining Council Fund or Bargaining Council has applied to the Registrar for an extension of the period to which to register in terms of section 33 of the Act.

4. GENERAL

Where a Bargaining Council or Bargaining Council Fund requires any further assistance during the process of registration or approval, you are invited to contact this Office for assistance.

Yours sincerely



JURGEN BOYD
For: REGISTRAR OF PENSION FUNDS