

**CIRCULAR PF NO. 83**

(To all privately administered funds and insurers who underwrite pension funds)

**COMING INTO OPERATION OF CERTAIN SECTIONS OF ACT NO. 83 OF 1992 AND ACT NO. 104 OF 1993 AND PROMULGATION OF THE REGULATIONS**

1. Please take note that the following provisions came into operation on 15 December 1993:
  - 1.1 Sections 14, 15, 16, 17, 18, 21, 22, 23, 25, 26, 27, 28(b) and 29 of the Financial Institutions Amendment Act, 1992 (Act No. 83 of 1992) by Proclamation 121 of 1993 (Government Gazette No. 15309 of 10 December 1993).
  - 1.2 Section 24 of the Financial Institutions Second Amendment Act, 1993 (Act No. 104 of 1993) by Proclamation 122 of 1993 (Government Gazette No. 15309 of 10 December 1993).
  - 1.3 The Regulations promulgated by Government Notice No. R2324 on 10 December 1993 (Government Gazette No. 15312 of 10 December 1993).
2. In order to give you the opportunity to study the legislation and adapt your procedures, it has been decided to phase in the changes as from 1 April 1994, except where indicated otherwise below, notwithstanding the commencement date of the legislation and regulations. Should you in a particular case be unable to comply with the dates specified, do not hesitate to contact this Office to arrange for extension.

made known:

3.1 Section 2(3)(a) as amended read with Regulation 1, 12(1) and Schedule A and B

(Only applicable to underwritten funds).

3.1.1 New applications for registration received by the Registrar on or after 1 April 1994

Applications for exemption from sections 9, 15(1) and (2) of the Pension Funds Act and regulation 12(2)(b) must comply with the requirements of regulations 1 and 8(1)(iii).

Applications for registration must comply with the requirements of regulations 8 and 30 as well as the provisions of section 8 of the Act, ie. the appointment of a principal officer.

3.1.2 Existing funds (including applications received before 1 April 1994)

For purposes of compliance with the requirements of regulation 1(d), the insurer accepting responsibility for furnishing this Office with the prescribed annual statistical returns, shall be regarded as the administering insurer until this Office is otherwise informed by the insurer.

The following exemptions are withdrawn from the dates indicated:

Sections 14 and 28 of the Pension Funds Act	1 April 1994
Section 8 of the Pension Funds Act	1 August 1994

Section 14 - Circular PF 78 must be complied with. The submission of a complete Annexure A to Circular PF 78 is the responsibility of the transferee fund. If the transferee fund is underwritten, the application for a section 14 certificate must be lodged with the assistant manager: underwritten funds.

Section 28 - The underwriter may nominate a member of its staff not dealing with the administration of the fund to act as liquidator. A curriculum vitae of such person must be submitted to the Registrar to enable the Registrar to consider approving such person's appointment as liquidator.

Regulation 12(1) and 12(2)(a):

These provisions are effective from 15 December 1993. Schedule A is applicable where an insurer has a financial year end on or after 15 December 1993 and must be submitted within 6 months after the end of the financial year. Schedule B is applicable on a fund with a financial year end on or after 1 June 1994. The financial returns in the form of Schedule B must be submitted within 6 months after the end of that financial year. Where a fund does not have a specific financial year end mentioned in the rules, the anniversary or review date should be taken as the end of its financial year. For funds subject to actuarial valuations, the valuation date and the end of the financial year should coincide.

Where an insurance company operates specific investment portfolios to which the policies of more than one pension fund is linked, Annexure B to Schedule I, in terms of Regulation 28, need only be forwarded in respect of that investment portfolio. In other words, this Annexure need not be repeated for each pension fund. This is to be done once a year. The financial return of an individual pension fund linked to that particular investment portfolio need only refer to the name of the investment portfolio.

underwritten funds should be directed to the assistant manager: underwritten funds.

Insurance companies are still liable for the annual statistical returns as at 31 December 1993 in respect of underwritten funds.

#### 4. Regulation 2

(Applicable to both privately administered and underwritten funds).

##### 4.1 New Funds

Applications for exemption from the provisions of sections 9A and 16 received by the Registrar on or after 1 April 1994, must comply with the provisions of regulations 2 and 8(1)(iv).

The conditions may shortly be explained as follows:

For an application for exemption to be successful, the following must be adhered to:

- a) All fixed benefits, if any, must be purchased from an insurer, for example: death benefits equal to a multiple of salary or pensions payable to pensioners.
- b) All other benefits must be expressed as an equitable share of the assets of the fund where the members carry all the risks regarding investment returns themselves.
- c) Realised withdrawal profits may be allocated to members but future profits may not be anticipated. The bonuses allocated to members may be stabilised in the sense that a non-negative investment reserve may be maintained.

whether a portion of the employers contribution vests, such benefit shall not be regarded as a fixed benefit if the fund complies with either alternative A or alternative B.

Alternative A:

- (i) The fund should maintain investments in a guaranteed investment portfolio equal to at least the aggregate withdrawal benefits; and
- (ii) the guaranteed return in such portfolio should at least be equal to the interest rate specified in the withdrawal benefit.

Alternative B:

The fund limits its liability to members to a maximum of the member's equitable share of the assets of the fund.

Should exemption be granted, a fund must thereafter submit a certificate by an actuary within 3 (three) years after the date of exemption and triennially thereafter in terms of regulation 2(c). Please note that an actuary is not necessarily a valuator as contemplated in the Act.

4.2 Existing Funds (including new applications received by the Registrar before 1 April 1994)

Existing funds which must comply with the provisions of regulation 2(c) must do so not later than 1 April 1995. Extension for the submission of the first certificate will be granted to 1 April 1996 or 1 April 1997 if applied for. All administrators and insurers administering more than one fund are requested to choose different dates for different funds within the above period to avoid placing an unnecessary burden on your actuary and this office.

5. Regulations 8 and 30

(Applicable to underwritten and privately administered funds).

5.1 New Funds

Please note that the full name, the physical and postal addresses of the participating employers and the initial rate of contribution by the employer if not set out in the rules must now be included in your application (reg 8(1)(f)).

Should you require exemption from the formal requirements in regulation 30(1), please combine the application with the application for registration.

Please note that regulation 30(1)(d) will also be regarded as complied with if only the first letter of a definition is a capital letter.

5.2 Existing funds (including new applications prior to 1 April 1994)

In terms of the provisions of regulation 30(3) existing pension funds must comply with subregulations (1) and (2) within 5(five) years of the date of coming into operation of the Regulations.

6. Financial Statements and Statistics

(Only applicable to privately administered funds).

In accordance with modern regulatory trends regarding greater disclosure of information, Regulation 12 and Schedules C to I introduced new prescribed schedules and amended some of the existing schedules, basically by requiring more details.

(i) Schedule E - Trustees' report in respect of the fund

This schedule is the most important document regarding disclosure in which the trustees are requested to inform members on policy aspects and illuminate certain aspects in the financial statements and is therefore regarded as part of the Revenue Account and the Statement of Funds and Net Assets. The prescribed report provides only for the minimum information and trustees are free to broaden the base and give more detailed information.

(ii) Schedule H - Notes to the financial statements

The purpose of this schedule is to focus on disclosure by explaining certain items in the financial statements and not to give details of or information about items instead of incorporating it in the financial statements.

(iii) Schedule I - Report of the auditor to the registrar and schedules to the annual financial statements

These schedules are for use by the Registrar, but should the fund indicate in the covering letter mentioned in Regulation 12(2) that Schedule I, which comprises of the special audit report to the Registrar, paragraphs 1 to 14 of Annexure A and Annexure B of Schedule I, may be disclosed in terms of section 22 of the Act as envisaged in section 35 of the Act, this Office will make it available as prescribed.

(b) **Amendment of existing schedules**

(i) Schedule D - Report of the auditor to the trustees of the fund

The wording of this report was updated to bring it in line with modern audit reporting procedures.

It was felt that the description of the balance sheet pertaining to pension funds is misleading. In line with world wide trends, the name and the layout of this statement were changed.

(iii) Schedule G - Revenue account

The term "Revenue Account" is used instead of the term "Income Statement" because an income statement reflects profits and losses arising through trading activities. Pension funds do not trade and accordingly the term "Revenue Account" is used to reflect the net revenues arising from the fund's activities during a financial period. The layout of this account was also amended to facilitate interpretation and balancing.

(c) **General**

(i) All privately administered funds must use the new annual financial statements for submission to this Office for their financial years ending during 1994. In this regard you are also referred to the contents of Circular PF 77 of March 1992, in which the following matters regarding the financial statements were pointed out:

- Action will be taken against pension funds which fail to submit the prescribed returns and the report by the valuator within the periods prescribed in sections 15(1) and 16(2) of the Act.
- Should a pension fund be unable to submit the returns or report on time, application for extension of time should be lodged to this Office in advance.
- If returns are not submitted in the prescribed format, it may be rejected by this Office and it shall be deemed that the pension fund did not submit the returns.



... available from March 1994 in both official languages.  
Funds are advised to produce their own copies for submission  
to this Office.

- (iii) Care should be exercised to complete and duly sign all the necessary sections of the financial statements.

- 7. Kindly hand a copy of this Circular to the fund's auditor and valuator (where applicable).



REGISTRAR OF PENSION FUNDS

(Circular PF No. 82 was issued to all self-administered pension funds and insurers who underwrite pension funds).

(Sien keersy vir Afrikaans)