BOKAMOSO
RETIREMENT FUND

RULES OF THE BOKAMOSO RETIREMENT FUND

CONTROL SHEET

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The pages enumerated below indicate the full content of the Rules:

GENERAL RULES OF THE BOKAMOSO RETIREMENT FUND

Original Rules registered on 08 January 2004.

Consolidated Rules registered on 08 March 2010 and amended by the following:

***1 Amendment registered by the Registrar on 01.03.2004 regarding the definition of Employer, prohibition on transfer of pension values from a retirement annuity fund to a pension Fund and change of registered address**

***2 Amendment registered by the Registrar on 28 February 2002 regarding discharge owing to re-organisation**

***3 Amendment registered by the Registrar on 17 August 2007 regarding the financial year**

***4 Amendment registered by the Registrar on 02 February 2010 regarding pensionable emoluments**

***5 Amendment registered by the Registrar on 08 February 2010 regarding pension age**

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RULES OF THE BOKAMOSO RETIREMENT FUND

1. INTERPRETATION

(1) In these Rules, unless the context otherwise indicates, the following words shall have the meanings assigned to them -

"ACT" the Pension Funds Act, 1956 (Act 24 of 1956), as amended, and any regulation promulgated there under;

"ACTUARY" a valuator appointed by the TRUSTEES in terms of section 9A of the ACT;

"ALTERNATE" the alternate for a REPRESENTATIVE;

"ANNUITY" an annual sum payable in terms of these Rules;

"APPROVED FUND" a fund registered by the REGISTRAR as a pension fund, provident fund or retirement annuity fund and approved as such by the COMMISSIONER;

"APPROVED PENSION FUND" a fund registered by the REGISTRAR as a pension fund and approved as such by the COMMISSIONER;

"APPROVED RETIREMENT ANNUITY FUND" a fund registered by the REGISTRAR as a retirement annuity fund and approved as such by the COMMISSIONER;

"AUDITOR" the Auditor appointed in terms of these Rules;

"CALENDAR MONTH" a period from the first to the last day of any month, both days inclusive;

"CHIEF EXECUTIVE OFFICER" the chief executive officer of an EMPLOYER regardless of the designation of the post occupied by that officer;

"CHILD"

(a) the child of a MEMBER in respect of whom the MEMBER is legally liable for maintenance;

(b) child in respect of whom the MEMBER is not legally liable for maintenance, if such child was, in the opinion of the TRUSTEES, at the death of the MEMBER in fact dependent on the MEMBER for maintenance;

(c) child in respect of whom the MEMBER would have become legally liable for maintenance, had the MEMBER not died:

Provided that the CHILD -

(i) (aa) is under the age of eighteen years and unmarried;

or

(bb) is under the age of twenty three years, unmarried and, in the opinion of the TRUSTEES, incapable of earning an income by reason of a mental or physical defect; or

(cc) is under the age of twenty three years, unmarried and, in the opinion of the TRUSTEES, is receiving full-time education: Provided that the TRUSTEES may for reasons considered by it in its absolute discretion as conclusive, apply this clause by substituting the age of twenty three with an age higher than twenty three but not exceeding twenty five years;

"COMMENCEMENT DATE" is 1 November 2002;

"COMMISSIONER" the Commissioner of Inland Revenue;

"CONTRIBUTIONS" in relation to any refund of contributions, do not include interest;

a “DEPENDANT” as defined in the ACT (The definition of “DEPENDANT” in terms of the ACT is contained in Annexure 1 to these Rules).

"EMPLOYEE" a person employed by an EMPLOYER who has attained the age of sixteen years but not the age of fifty eight years, excluding:

(i) a relief labourer in respect of whom a subsidy is received from the State;

(ii) a person who is employed for the duration or any part of the vacation of any educational institution; and

(iii) a person who is employed part-time or for a limited period if an application by the EMPLOYER concerned that he should not be regarded as an EMPLOYEE, is approved by the TRUSTEES;

"EMPLOYEES' REPRESENTATIVE" a representative elected in terms of section 5(3) or appointed in terms of section 11(2)(c);

*4 “EMPLOYER” means in so far as it is the EMPLOYER of a MEMBER:

the PENSION FUND (Municipal Employees Pension Fund)

Local Government organisations,

and any other juristic person which comes to participate in the FUND by arrangement with the TRUSTEES;

"EMPLOYERS' REPRESENTATIVE" a representative referred to in section 5(2);

*4 "FINANCIAL YEAR" the period from 1 March to 28 February;

*4 “HOUSING PURPOSES” means for the purpose of:

a. buying land on which a residence has been or will be built and which is or will be occupied by the MEMBER or a DEPENDANT of the MEMBER;

b. building a residence on land

    i. owned by the MEMBER and/or the person to whom he or she is MARRIED; or

    ii. which the MEMBER and/or the person to whom he or she is MARRIED has the right to own as a result of his or her occupation of the land,

    for the MEMBER or his or her DEPENDANT to live in; or

c. improve or change or maintain or repair the residence which belongs to the MEMBER or his or her DEPENDANT or which he or she has the right to own as a result of his or her occupation of the residence and which is occupied by the MEMBER or his or her DEPENDANT, if the right to occupy the land or residence arises by operation of any custom or law other than a temporary lease or arrangement;

*4 “MARRIED” means being a party to an intimate, sexual and financially mutually dependent relationship with the MEMBER which, in the opinion of the TRUSTEES, is or was intended to be a life-long intimate, sexual and financially mutually dependent relationship to the exclusion of all other such relationships in which the MEMBER is or was involved other than intimate, sexual and financially mutually dependent relationship which likewise are or were, in the opinion of the TRUSTEES, also intended to be life-long. Such a relationship may be or may have been between a man and a woman, between to men or between two women. It may or may not be or have been recognized by the state, the community or the organized body of the religion to which one or both of the persons in the relationship subscribes or subscribed;

"FUND" the Bokamoso Retirement Fund;

"GENERAL ANNUAL MEETING" the meeting as referred to in section 6;

"GRATUITY" a lump sum payable in terms of these Rules;

"INSURER" an insurer registered in terms of the Long Term Insurance Act, 1998 (Act 52 of 1998);

"INTEREST" compound interest at a rate determined by the TRUSTEES from time to time: Provided that different rates of interest may be determined in respect of different sections of these Rules;

"MEMBER" a person who becomes a member of the FUND in terms of section 24;

"MEMBER'S SHARE" for each MEMBER at any particular date, the balance in his Share Account as contemplated in section 32(1);

"OFFICE-BEARER" the chairperson, vice-chairperson or any other member of the TRUSTEES;

"PARENT" the natural parent of a MEMBER or such MEMBER'S parent if he was adopted as a minor by such parent;

*4 "PENSIONABLE EMOLUMENTS" -

(a) SALARY; and

*4 (b) any monthly repeating taxable allowance paid to a MEMBER which is not expressly excluded from PENSIONABLE EARNINGS from time to time by the TRUSTEES: Provided that the TRUSTEES may also include any taxable allowance in the PENSIONABLE EARNINGS again after it has been excluded;

"PENSIONABLE SERVICE" the last unbroken period in respect of which the MEMBER contributes to the FUND in terms of these Rules: Provided that -

(a) the following shall not constitute a break in service:

(i) authorised leave of absence;

(ii) a break in service regarded as leave without pay, or otherwise condoned by the TRUSTEES on the recommendation of the EMPLOYER;

(iii) a period of suspension followed by reinstatement in the same or another post;

(b) the PENSIONABLE SERVICE referred to in sections 48(1)(b) and 48(3)(b) shall be included for purposes hereof;

(c) subject to paragraph (b) above, any period in respect of which a MEMBER has not paid CONTRIBUTIONS to the FUND, shall not be taken into account in calculating the period of his PENSIONABLE SERVICE;

(d) the period of PENSIONABLE SERVICE shall be calculated by the year and month and a fraction of a month shall be disregarded;

(e) the PENSIONABLE SERVICE of a MEMBER who is an employee of an organisation on the date upon which such organisation becomes associated with the FUND in terms of a scheme approved under section 47, shall include the period determined to be so included in terms of the said scheme;

(f) such periods of pensionable service of a MEMBER which the PREVIOUS FUND'S Rules recognises as pensionable service, shall be taken into account in calculating his PENSIONABLE SERVICE;

"PENSION AGE" in respect of -

(a) a MEMBER who was a member of a PREVIOUS FUND immediately prior to the COMMENCEMENT DATE, the pension age as defined in the Rules of the applicable fund, as it read on the COMMENCEMENT DATE;

*5 (b) all MEMBER of the FUND, sixty years in respect of both male and female MEMBERS;

"PENSION FUND" the Municipal Employees Pension Fund, established in terms of section 79*ter* of the Local Government Ordinance, 1939 (Ordinance 17 of 1939)(Transvaal), as amended;

"MEMBER" (a) a MEMBER who was a member of a PREVIOUS FUND immediately prior to the COMMENCEMENT DATE.

(b) a MEMBER who was a member of the PENSION FUND and who exercised an option in terms of -

(i) section 24(1)(a)(ii)(aa); and

(ii) section 24(1)(b)(i)

of the Rules of the PENSION FUND before or on 31 August 1994;

(c) a person contemplated in section 24(2) of the Rules of the FUND.

"PRESERVATION FUND" an APPROVED PENSION FUND that functions as a preservation fund;

"PREVIOUS FUND" the MUNPEN RETIREMENT FUND;

"PRINCIPAL OFFICER" the principal officer as defined in section 1 of the ACT who is appointed in terms of section 15(1)(l) of these Rules;

*4 "SERVICE" means service as an employee;

"REGISTRAR" the Registrar of Pension Funds appointed under the ACT;

"REPRESENTATIVE" a representative appointed or elected in terms of section 5;

"SALARY" the annual, monthly, weekly or daily remuneration under a contract of service, but excluding payment for overtime, any bonus or any allowance;

"TRANSFER VALUE" the value of a MEMBER'S interest in the PREVIOUS FUND, as calculated by the actuary of the PREVIOUS FUND;

"TRUSTEES" the trustees contemplated in section 4 and any subcommittee thereof, acting under powers delegated to it.

(2) The headings are used for reference purposes only and shall in no way be deemed to explain, to modify, to amplify or to aid in the interpretation of these Rules and, unless the context otherwise indicates, words importing the masculine gender shall include the feminine gender and *vice versa*, and words importing the singular shall include the plural, and *vice versa*.

2. OBJECT, BODY CORPORATE, REGISTERED OFFICE AND BINDING FORCE

(1) The object of the FUND is to provide benefits for MEMBERS and retired MEMBERS of the FUND and the DEPENDANTS of such MEMBERS and retired MEMBERS.

(2) The FUND is a body corporate capable of suing and being sued in its own name and of performing all acts which may be reasonably necessary for or ancillary to the exercise of its powers or the performance of its functions in terms of these Rules.

*1 (3) The registered office of the FUND shall be situated at No 7, Disa Road, extension 8, Kempton Park, 1620, or such other place as the TRUSTEES may from time to time determine.

(4) These Rules shall be binding on the FUND and the MEMBERS and officers and OFFICE-BEARERS thereof, on EMPLOYERS and on any person who claims under the Rules or whose claim is derived from a person so claiming.

3. SOURCES OF THE FUND

The sources of the FUND shall consist of -

(1) CONTRIBUTIONS and INTEREST paid to the FUND in terms of these Rules;

(2) income derived from the investment of moneys of the FUND; and

(3) any other moneys or assets to which the FUND may become entitled.

4. CONTROL OF THE FUND

The control and management of the FUND shall vest in the TRUSTEES elected in terms of section 8.

5. APPOINTMENT AND ELECTION OF REPRESENTATIVES

(1) (a) The CHIEF EXECUTIVE OFFICER of every EMPLOYER which on 31 March in any year after 2001 employs at least one MEMBER, acting on the instruction of the Management of that EMPLOYER, shall designate the following number of EMPLOYERS' REPRESENTATIVE and ALTERNATES for each such EMPLOYERS' REPRESENTATIVE to attend the GENERAL ANNUAL MEETING, as contemplated in section 6. He shall notify the FUND in writing of such designation 45 days before the GENERAL ANNUAL MEETING.

NUMBER OF MEMBERS	NUMBER OF EMPLOYER REPRESENTATIVES AND NUMBER OF ALTERNATES
1 - 20	1
21 – 40	2
41 and more	3

(b) Such EMPLOYERS' REPRESENTATIVE or ALTERNATE shall be a member of the Management of the EMPLOYER concerned.

(2) The MEMBERS of every EMPLOYER which on 31 March in any year after 2001 employs at least one MEMBER, shall, in the manner determined by the CHIEF EXECUTIVE OFFICER of the EMPLOYER concerned, elect from among themselves the following number of EMPLOYEES' REPRESENTATIVES and ALTERNATES for each such EMPLOYEES' REPRESENTATIVE, to attend the GENERAL ANNUAL MEETING, as contemplated in section 6. The CHIEF EXECUTIVE OFFICER shall notify the FUND of such designation 45 days before the GENERAL ANNUAL MEETING of the same year.

NUMBER OF MEMBERS	NUMBER OF EMPLOYEE REPRESENTATIVES AND NUMBER OF ALTERNATES
1 - 20	1
21 – 40	2
41 and more	3

(3) If a REPRESENTATIVE referred to in subsection (1) or (2) cannot be present at the GENERAL ANNUAL MEETING as contemplated in section 6, his ALTERNATE shall act in his stead at such meeting and he shall be entitled to vote.

(4) No ALTERNATE designated or elected in terms of subsection (1) or (2) shall have the right to vote on the GENERAL ANNUAL MEETING or have any other power, unless he acts in the stead of a REPRESENTATIVE at the particular meeting.

(5) The CHIEF EXECUTIVE OFFICER may authorise any official of the EMPLOYER concerned to exercise any power and carry out any duty in terms of this section on his behalf.

6. GENERAL ANNUAL MEETING

(1) The PRINCIPAL OFFICER shall convene a GENERAL ANNUAL MEETING not later than six months after the FINANCIAL YEAR end of the year concerned by giving at least thirty days written notice thereof to each REPRESENTATIVE.

(2) The purpose of such GENERAL ANNUAL MEETING shall be to elect OFFICE-BEARERS in the stead of OFFICE-BEARERS whose terms of office for that particular year have expired, to accept and approve financial statements, and to make recommendations to the TRUSTEES on any matter relating to the business and activities of the FUND.

(3) If a REPRESENTATIVE, or his ALTERNATE acting in the REPRESENTATIVE'S stead, wishes to discuss any matter referred to in subsection (2) at such GENERAL ANNUAL MEETING, he shall advise the PRINCIPAL OFFICER in writing at least twenty one days prior to the date of such meeting thereof.

7. CHAIRPERSON OF THE GENERAL ANNUAL MEETING

(1) The chairperson of the TRUSTEES or, in his absence the vice-chairperson of the TRUSTEES, shall act as chairperson of the GENERAL ANNUAL MEETING.

(2) In the absence of both the chairperson and the vice-chairperson, an OFFICE-BEARER elected by the present REPRESENTATIVES and ALTERNATES, shall act as chairperson of the GENERAL ANNUAL MEETING.

(3) After the chairperson has satisfied himself at the commencement of such meeting that every REPRESENTATIVE or ALTERNATE present at the meeting has been duly appointed or elected in terms of section 5, he declares the meeting legally constituted.

(4) The chairperson of the GENERAL ANNUAL MEETING shall have a casting vote in addition to his deliberative vote.

8. ELECTION AND APPOINTMENT OF TRUSTEES, CHAIRPERSON AND VICE-CHAIRPERSON

(1) For the period from the COMMENCEMENT DATE to the day before the first GENERAL ANNUAL MEETING, held in 2003, the TRUSTEES shall consist of the following persons of the PENSION FUND:

a. two EMPLOYER designated persons who are members of the Management of the EMPLOYER concerned.

b. two EMPLOYEE elected persons, elected from among the EMPLOYEES of the PENSION FUND, in a manner determined by the CHIEF EXECUTIVE OFFICER of the PENSION FUND.

(2) At the first meeting of the TRUSTEES held after the COMMENCEMENT DATE, the TRUSTEES shall elect a chairperson and vice-chairperson from its own ranks by way of voting per secret ballot.

(3) At the first GENERAL ANNUAL MEETING, held in 2003, and at every second GENERAL ANNUAL MEETING held thereafter, four OFFICE-BEARERS shall be elected by way of voting per secret ballot and appointed for a period of two years in the following manner:

(a) two OFFICE-BEARERS shall be EMPLOYERS' REPRESENTATIVES,

(b) two OFFICE-BEARERS shall be EMPLOYEES' REPRESENTATIVES

(4) At the first meeting of the TRUSTEES held after the closing of a GENERAL ANNUAL MEETING, the TRUSTEES shall elect a chairperson and vice-chairperson from its own ranks by way of voting per secret ballot.

(5) An OFFICE-BEARER shall be entitled to a remuneration for the performance of the duties of the FUND, as determined by the TRUSTEES from time to time.

9. PERIOD OF OFFICE OF OFFICE-BEARERS AND REPRESENTATIVES ON THE REPRESENTATIVES

(1) Subject to the provisions of section 8(1), an OFFICE-BEARER accepts his office immediately after the close of the GENERAL ANNUAL MEETING during which he was appointed or elected as OFFICE-BEARER and vacates his office immediately after the close of the GENERAL ANNUAL MEETING of the year in which his term of office expires, but may be re-elected.

(2) (a) A REPRESENTATIVE on the REPRESENTATIVES accepts his office immediately before the opening of the first GENERAL ANNUAL MEETING after his appointment or election and vacates his office immediately before the opening of the GENERAL ANNUAL MEETING of the ensuing year.

(b) An ALTERNATE for a REPRESENTATIVE shall remain an ALTERNATE for the period contemplated in paragraph (a).

(3) REPRESENTATIVES and ALTERNATES, as the case may be, may be re-elected or re-appointed.

10. VACATING OF OFFICE BY OFFICE-BEARERS

(1) An OFFICE-BEARER shall vacate his office -

(a) if he resigns or dies;

(b) in the case of an EMPLOYERS' REPRESENTATIVE, if he ceases to be a member of the Management of the EMPLOYER concerned;

(c) in the case of an EMPLOYEES' REPRESENTATIVE, if he ceases to be a MEMBER of the FUND;

(d) if he ceases to be an EMPLOYEES' or EMPLOYERS' REPRESENTATIVE, as the case may be;

(e) if his estate is sequestrated, he is found guilty of a criminal offence of which dishonesty is an element, or is declared unfit to manage his own affairs by a capable Court;

(f) if he is absent from three consecutive meetings of the TRUSTEES without the consent of such TRUSTEES.

(2) (a) In the case of a vacancy in respect of an OFFICE-BEARER who is an EMPLOYERS' REPRESENTATIVE, it shall be filled from the ranks of the EMPLOYERS' REPRESENTATIVES by the remaining EMPLOYERS' REPRESENTATIVES who are OFFICE-BEARERS:

Provided that if no such remaining OFFICE-BEARERS being EMPLOYERS' REPRESENTATIVES remain, the vacancy shall be filled by the remaining OFFICE-BEARERS who are EMPLOYEES' REPRESENTATIVES from the ranks of the EMPLOYERS' REPRESENTATIVES.

(b) In the case of a vacancy in respect of an OFFICE-BEARER who is an EMPLOYEES' REPRESENTATIVE, it shall be filled from the ranks of the EMPLOYEES' REPRESENTATIVES by the remaining EMPLOYEES' REPRESENTATIVES who are OFFICE-BEARERS:

Provided that if no such remaining OFFICE-BEARERS being EMPLOYEES' REPRESENTATIVES remain, the vacancy shall be filled by the remaining OFFICE-BEARERS who are EMPLOYERS' REPRESENTATIVES from the ranks of the EMPLOYEES' REPRESENTATIVES.

(3) An OFFICE-BEARER elected to fill a vacancy on the TRUSTEES, holds office for the unexpired portion of the period for which his predecessor was elected.

(4) If an OFFICE-BEARER who vacates his office is a chairperson or vicechairperson, the TRUSTEES shall elect a chairperson or vice-chairperson from its ranks.

(5) An OFFICE-BEARER may be removed from office before the expiration of his period of office by a majority decision of the REPRESENTATIVES, *mutates mutandis* in accordance with the provisions of section 220 of the Companies Act, 1973 (Act 61 of 1973). The resultant vacancy shall be filled -

(a) in the event of an OFFICE-BEARER who is an EMPLOYERS′ REPRESENTATIVE, by way of voting per secret ballot by the EMPLOYERS′ REPRESENTATIVES present at the meeting from among themselves;

(b) in the event of an OFFICE-BEARER who is an EMPLOYEES′ REPRESENTATIVE, by way of voting per secret ballot by the EMPLOYEES′ REPRESENTATIVES present at the meeting from among themselves.

11. VACATING OF OFFICE BY REPRESENTATIVE OR ALTERNATE

(1) A REPRESENTATIVE or ALTERNATE shall cease to hold office -

(a) if he resigns or dies;

(b) in the case of an EMPLOYERS' REPRESENTATIVE or ALTERNATE, if he ceases to be a member of the Management of the EMPLOYER concerned;

(c) in the case of an EMPLOYEES' REPRESENTATIVE or ALTERNATE, if he ceases to be a MEMBER of the FUND;

(d) if his estate is sequestrated, he is found guilty of a criminal offence of which dishonesty is an element, or is declared unfit to manage his own affairs by a capable Court.

(2) Within sixty five days of the arising of a vacancy in terms of subsection (1), such vacancy shall -

(a) in the case of an EMPLOYERS' REPRESENTATIVE or ALTERNATE, be filled in the manner determined in section 5(1); or

(b) in the case of an EMPLOYEES' REPRESENTATIVE, be filled by the ALTERNATE elected in the manner determined in section 5(2); or

(c) in the case of both an EMPLOYEES' REPRESENTATIVE and ALTERNATE, be filled by a MEMBER appointed by the CHIEF EXECUTIVE OFFICER of the EMPLOYER concerned in respect of the EMPLOYEES' REPRESENTATIVE only. Accordingly the vacancy of the ALTERNATE shall be left vacant. If no MEMBER remains at the EMPLOYER concerned, both vacancies shall be left vacant.

(3) A REPRESENTATIVE or ALTERNATE appointed to fill a vacancy on the REPRESENTATIVES, shall hold office for the unexpired portion of the period for which his predecessor was appointed or elected.

12. MEETINGS OF THE TRUSTEES AND THE REPRESENTATIVES

(1) (a) The TRUSTEES shall hold an ordinary meeting as often as may be necessary for the dispatch of business, but at least two times a year.

(b) The PRINCIPAL OFFICER shall give at least fifteen days′ written notice to every OFFICE-BEARER of the time, date and place of each ordinary meeting.

(2) The CHAIRPERSON may at any time and shall, at the written request of at least half of the number of OFFICE-BEARERS controlling the FUND in terms of section 4, convene a special meeting of the TRUSTEES within thirty days of such request and shall give seven days' prior written notice to every OFFICE-BEARER of the time, date and place of such meeting and the purpose thereof.

(3) In addition to the GENERAL ANNUAL MEETING, the TRUSTEES may at its discretion from time to time, or shall, at the written request of at least 25 per cent of the REPRESENTATIVES, within thirty days of such request, convene a meeting of REPRESENTATIVES for the purpose of making recommendations to the TRUSTEES, and the chairperson shall ensure that seven days' prior written notice is given to every REPRESENTATIVE of the time, date and place of such meeting and the purpose thereof.

(4) A motion submitted at any meeting of the TRUSTEES shall be accepted if the majority of the OFFICE-BEARERS present at the particular meeting, vote in favour of such motion. Such voting shall be by way of show of hands or, if requested by any OFFICE-BEARER present at the meeting, by secret ballot.

13. QUORUM AND MINUTES FOR MEETINGS OF THE TRUSTEES AND THE REPRESENTATIVES

(1) A quorum for a meeting of the TRUSTEES shall be constituted by the four TRUSTEES contemplated in section 8.3.

(2) A quorum for a GENERAL ANNUAL MEETING shall be one quarter of the total number of REPRESENTATIVES.

(3) (a) If a quorum is not present at a scheduled meeting of the TRUSTEES within thirty minutes from the time determined for the start of the meeting, the PRINCIPAL OFFICER may, if the provisions of subsection (1) are complied with, extend the starting time of the meeting for not more than two hours, whereafter the OFFICE-BEARERS present will form a quorum and proceed with the business of that meeting.

(b) If a quorum is not present at a scheduled GENERAL ANNUAL MEETING within thirty minutes from the time determined for the start of the GENERAL ANNUAL MEETING, the PRINCIPAL OFFICER may extend the starting time of the GENERAL ANNUAL MEETING for not more than two hours, whereafter the REPRESENTATIVES present will form a quorum and proceed with the business of that GENERAL ANNUAL MEETING.

(4) Proper minutes shall be kept of all meetings. Minutes shall be signed by the chairperson of the meeting pertaining thereto and will be *prima facie* evidence of the business of such meeting.

14. VICE-CHAIRPERSON AND ACTING CHAIRPERSON OF THE TRUSTEES

(1) If the chairperson is absent at any meeting of the TRUSTEES, the vice-chairperson shall act as chairperson of that meeting.

(2) If both the chairperson and the vice-chairperson are absent from any meeting of the TRUSTEES, the OFFICE-BEARERS present at that meeting shall elect an acting chairperson from their ranks for that meeting.

15. POWERS OF THE TRUSTEES

(1) Subject to the provisions of these Rules, the TRUSTEES may -

(a) decide whether any person is qualified to be a MEMBER of the FUND;

*4 (b) determine the method whereby the annual PENSIONABLE EARNINGS of hourly paid, daily paid, weekly paid and other MEMBERS shall be calculated for purposes of calculating the monthly CONTRIBUTIONS and give such directions in connection therewith as the TRUSTEES may deem fit;

(c) settle all questions in respect of CONTRIBUTIONS not otherwise provided for in these Rules;

(d) decide upon the periods of service in respect of which CONTRIBUTIONS may be made, or which may be included for pension purposes;

(e) settle and decide upon any claim instituted by or against the FUND;

(f) authorise the payment of any claim made against the FUND;

(g) authorise the payment of any benefit payable in terms of these Rules;

(h) open banking accounts and use it in the customary manner;

(i) borrow money (including bank overdrafts) at interest or otherwise, for the purpose of bridging a temporary cash shortage or to complete an investment;

(j) institute or defend any legal proceedings in any court of law;

(k) perform any registration in any deeds office;

*4 (l) appoint a PRINCIPAL OFFICER as required by the ACT as well as such officers as may be required for the proper control of the business of the FUND, prescribe the conditions of service of officers of the FUND and engage professional or other assistance for the FUND: Provided that the PRINCIPAL OFFICER shall not be discharged in terms of section 36 or 37, nor his SALARY or PENSIONABLE EARNINGS reduced, without the prior approval of the TRUSTEES;

(m) purchase, sell, hire, let, borrow, lend and acquire in any other way, movable and immovable property for the use of the FUND;

(n) accept any property on behalf of the FUND by way of donation or bequest;

(o) write off any amount which is or may be due to the FUND and which, in the opinion of the TRUSTEES, is irrecoverable or unprofitable to recover;

(p) receive, administer and apply the moneys of the FUND;

(q) delegate any of its powers to a sub-committee or any other person or administrator, subject to the conditions determined by it;

(r) insure any benefits for which provision is made in terms of these Rules, with an INSURER;

(s) do everything which is incidental or conducive to the attainment of the objectives of these Rules.

(2) The TRUSTEES may authorise and designate any of its OFFICE-BEARERS and/or officers to sign any contract or other document binding the FUND or any document authorising any act on behalf of the FUND, subject to such conditions as it may impose: Provided that any document to be furnished to the REGISTRAR shall be signed in the manner prescribed in the ACT.

(3) (a) If a complaint arises, the complainant shall lodge such complaint in writing with the FUND, who shall acknowledge receipt thereof within four working days after receipt thereof.

(b) All complaints lodged with the FUND shall be dealt with by the FUND. If the FUND requires further information regarding the complaint to enable it to properly deal therewith, it may request the complainant or any other person to submit such information.

(c) The FUND shall furnish the complainant with its reply to the complaint in writing within thirty days after receipt thereof or, if such complaint is not capable of being duly considered within thirty days, then within such longer period of time (to be agreed upon in writing with the complainant) as is reasonably required for the due consideration of such complaint.

(d) If the complainant is not satisfied with the reply of the FUND, or should the FUND fail to reply to the complaint within thirty days after receipt thereof, the complainant may lodge the complaint with the adjudicator appointed in terms of the ACT for further investigation.

(e) The investigation shall be conducted in accordance with the provisions of the ACT.

(f) Any determination of the adjudicator shall be deemed to be a civil judgement of a court of law and shall be binding on the FUND, the complainant and any other party concerned.

16. INVESTMENT OF FUNDS

Subject to the provisions of section 19 of the ACT, the TRUSTEES shall be authorised:

(1) to lend, invest, place on deposit or otherwise deal with any money not immediately required for current expenditure by the FUND, against security or not and in a manner determined by the TRUSTEES, and to realise any investment, or otherwise deal with such investment in the manner determined by the TRUSTEES, and to grant loans on security of a first mortgage bond on fixed property;

(2) to purchase, sell, hire, let, borrow, lend and acquire in any other way movable and immovable property as an investment;

(3) to grant a loan contemplated in section 19(5) of the ACT;

(4) to invest in participation mortgage bonds under any registered participation mortgage bond scheme contemplated in the Participation Bonds Act, 1981 (Act 55 of 1981);

(5) to invest in deposit administration policies issued to the FUND by an INSURER;

(6) to transfer their investment powers and/or portfolio administration responsibilities in respect of the full or a part of the FUND'S assets to a financial institution as defined in section 4 of the Stock Exchange Control Act, 1985 (Act 1 of 1985) and/or section 5 of the Financial Markets Control Act, 1989 (Act 55 of 1989) and to recover the costs arising as a result hereof from the FUND: Provided that -

(a) any financial institution may, on behalf of the FUND, execute any act which is necessary in connection with the purchase and/or sale of investments, the settlement of the underlying transactions and/or the keeping of investments in the financial institutions′ nominee companies, approved by the REGISTRAR as such, and/or Central Depository Nominees (Pty) Ltd, as well as the receipt, payment and investment of monies, with the inclusion of interest and dividends in respect of transactions concluded and/or investments held on behalf of the FUND; and

(b) the appointment of a financial institution shall be effectual until it is terminated by anyone of the parties concerned. When the financial institution concerned is no longer approved as such in terms of the Stock Exchange Control Act, 1985 (Act 1 of 1985), the appointment shall cease to exist as soon as all responsibilities which both parties have already acquired at that stage have been disposed of and executed;

(7) to buy any property mortgaged to the FUND and lease, maintain, control, sell, or otherwise make good use of such property;

*4 (8) “deleted”

17. INDEMNIFICATION OF THE TRUSTEES AND OFFICERS OF THE FUND AGAINST LEGAL COSTS

The TRUSTEES, every OFFICE-BEARER or former OFFICE-BEARER thereof, as well as every other serving officer or former officer of the FUND shall be indemnified by the FUND against any claim, howsoever or whensoever arising, brought against the TRUSTEES or any such OFFICE-BEARER or officer by any person or authority by reason of the conduct, acts or omissions of such TRUSTEES or any other such OFFICE-BEARER or officer in the course of the discharge of his duties as TRUSTEE, OFFICE-BEARER or officer. This indemnity shall not apply where the said TRUSTEE, OFFICE-BEARER or officer is guilty of acts of dishonesty or fraud. The FUND bears all costs (including legal costs on an attorney-and-own-client scale) incurred by such TRUSTEE, OFFICE-BEARER or officer in defending or settling any such claim: Provided that the FUND may recover all such costs and expenses from such TRUSTEE, OFFICE-BEARER or officer, if it appears that such TRUSTEE, OFFICE-BEARER or officer was guilty of gross negligence, dishonesty or fraud.

18. FIDELITY GUARANTEE INSURANCE

The TRUSTEES shall insure the FUND against loss, damage, liabilities or claims which are caused by the negligence, dishonesty, theft or fraud of any of its officers (including the OFFICE-BEARERS) who conducts any business of the FUND or who receives, controls, expends, invests or supervises funds, assets or supplies which are due to the FUND or which belong to the FUND.

19. PAYMENT OF MONEYS AND EXPENSES OF THE FUND

(1) All payments due to or in respect of MEMBERS shall be made at the registered office of the FUND in the currency of the Republic of South Africa: Provided that the TRUSTEES may make or accept payments elsewhere on such terms as it may determine.

*4 (2) The fund shall effect payments of any benefit payable to any person in terms of the RULES by means of bank transfer unless the FUND and the person agree that payment shall take place by other means.

(3) All expenses in connection with or incidental to the management and administration of the FUND shall be borne by the FUND.

20. CUSTODY OF TITLE DEEDS AND SECURITIES

The TRUSTEES shall provide for the custody of title deeds and securities which belong to or are held by the FUND in such a manner as it may determine from time to time.

21. KEEPING OF RECORDS

(1) The TRUSTEES shall keep record of all necessary particulars of all the MEMBERS of the FUND, of all persons entitled to benefits, of all deaths, withdrawals and of all other matters essential to the working of the FUND.

(2) The TRUSTEES shall, in terms of section 15 of the ACT, balance the books and accounts for every FINANCIAL YEAR and shall draw up a balance sheet and revenue account showing the assets, liabilities, revenue and expenditure of the FUND for the FINANCIAL YEAR.

(3) A copy of the balance sheet and revenue account shall be distributed to the EMPLOYERS at least fourteen days prior to the GENERAL ANNUAL MEETING.

(4) The books and all other documents of the FUND shall during office hours be open to inspection by any REPRESENTATIVE or ALTERNATE.

(5) A copy of the Rules of the FUND and a copy of the last revenue account and balance sheet referred to in section 15 of the ACT shall be provided on demand by the FUND to any MEMBER on payment of such sum as the TRUSTEES may from time to time determine.

(6) Any MEMBER shall be entitled to inspect without charge at the registered office of the FUND the following documents and make extracts therefrom:

(a) the documents referred to in subsection (5) (if any);

(b) the last valuation report prepared in terms of section 16 of the ACT;

(c) any scheme which is being carried out by the FUND in accordance with section 18 of the ACT.

22. APPOINTMENT OF AUDITOR AND ANNUAL AUDIT

(1) The FUND'S books and accounts shall be audited annually by an AUDITOR appointed by the TRUSTEES and approved by the REGISTRAR in terms of section 9 of the ACT.

(2) Within six months from the expiration of every FINANCIAL YEAR, the TRUSTEES shall furnish to the REGISTRAR in terms of section 15 of the ACT, a revenue account which shows the revenue and expenditure of the FUND for that year, and a balance sheet showing the financial position of the FUND at the close of that year, duly certified in each case by the AUDITOR of the FUND.

23. APPOINTMENT OF AN ACTUARY AND HIS DUTIES

(1) The TRUSTEES shall from time to time appoint an ACTUARY approved by the REGISTRAR in terms of section 9A of the ACT.

(2) The ACTUARY shall also be the valuator of the FUND, as contemplated in section 9A of the ACT, for purposes of having the FUND'S financial condition investigated and reported upon in compliance with section 16 of the ACT.

(3) A copy of the report shall be deposited with the REGISTRAR in terms of section 16 of the ACT.

24. MEMBERSHIP OF THE FUND

(1) An EMPLOYEE who was a member of a PREVIOUS FUND immediately prior to the COMMENCEMENT DATE, shall become a MEMBER of the FUND on the COMMENCEMENT DATE. The transfer of such EMPLOYEES to the FUND from the PREVIOUS FUND shall be in accordance with the Rules of the PREVIOUS FUND and in terms of Section 14 of the ACT.

(2) A person who becomes an EMPLOYEE from 1 November 2002, shall become a MEMBER from the date on which he becomes an EMPLOYEE.

(3) A MEMBER shall not cease to be a MEMBER while he remains in the service of his EMPLOYER.

(4) A MEMBER who leaves the service of his EMPLOYER shall, subject to the provisions of section 39(2), cease to be a MEMBER.

25. EVIDENCE OF AGE AND OTHER PARTICULARS TO BE PRODUCED

(1) Subject to the provisions of section 48(3), every MEMBER shall, within six months after the date whereupon he became a MEMBER, produce evidence of his age to the satisfaction of the TRUSTEES, failing which, the age of such MEMBER shall be determined by the TRUSTEES.

(2) Every MEMBER shall, within such a period as the TRUSTEES may determine, produce evidence of any other matter which the TRUSTEES may require and in such format as the TRUSTEES may determine.

26. CONTRIBUTIONS BY MEMBERS

*5 (1) Subject to the provisions of subsections (2), (3), (4) and (5), every MEMBER shall every month contribute to the FUND at the rate of 5 - 9 per cent of his monthly PENSIONABLE EARNINGS.

(2) Any person who becomes a MEMBER -

(a) before or on the fifteenth day of any month, shall contribute to the FUND from the first day of that month;

(b) after the fifteenth day of any month, shall contribute to the FUND from the first day of the subsequent month:

Provided that -

(i) if such MEMBER left the service of the same or another EMPLOYER earlier during the same month and did not contribute to the FUND in terms of subsection (3)(b)(i) in respect of that month, the MEMBER shall contribute to the FUND from the first day of that month at the new EMPLOYER and for the purposes of these Rules it shall be deemed that the MEMBER in respect of that month had been a MEMBER of the FUND without any break in service;

(ii) no CONTRIBUTIONS shall be paid by a MEMBER in respect of the month in which he attained the age of sixteen years.

(3) If a MEMBER -

(a) leaves the service of an EMPLOYER in terms of section 33, 34, 35 or 36, or dies, CONTRIBUTIONS shall be paid to the FUND in full for the month in which he has left the service or died, as the case may be;

(b) for any other reason leaves the service of an EMPLOYER -

(i) before or on the fifteenth day of any month, he shall not contribute to the FUND in respect of that month; or

(ii) after the fifteenth day of any month, he shall contribute in full to the FUND in respect of that month.

(4) If a MEMBER receives less than full pay in respect of any CALENDAR MONTH, subject to the provisions of subsection (3)(a) -

(a) he shall contribute to the FUND in respect of that CALENDAR MONTH on the basis of his full PENSIONABLE EMOLUMENTS as if he has received full pay for fifteen or more days in respect of that CALENDAR MONTH;

(b) he shall not contribute to the FUND in respect of that CALENDAR MONTH if he has received pay for less than fifteen days in respect of that CALENDAR MONTH.

(5) If a MEMBER contributed in full in respect of a month in terms of subsection (2)(a), (3)(a), (3)(b)(ii) or (4)(a), that month, in full, shall be deemed to be part of his PENSIONABLE SERVICE.

(6) (a) If a person who becomes a MEMBER in terms of section 24 and is in terms of section 26(1) obliged to make CONTRIBUTIONS, fails to do so, such person shall, on the date of it coming to the notice of the TRUSTEES, pay the arrear CONTRIBUTIONS in one sum or by instalments, as the TRUSTEES may decide, together with INTEREST, calculated from the date on which the said person should have commenced making CONTRIBUTIONS, up to the date of payment: Provided that such MEMBER is not entitled to any benefits in terms of these Rules before he has paid such arrear CONTRIBUTIONS or at least one instalment of such arrear CONTRIBUTIONS.

(b) If an EMPLOYER fails to make CONTRIBUTIONS in terms of section 30 (1)(b) due to the fact that the person referred to in paragraph (a) fails to make CONTRIBUTIONS, such EMPLOYER shall pay the arrear CONTRIBUTIONS in one sum, together with INTEREST, calculated from the date on which that person should have commenced making CONTRIBUTIONS, up to the date of payment.

27. PAYMENT OF CONTRIBUTIONS AND RECOVERY OF ARREAR CONTRIBUTIONS AND OTHER AMOUNTS

*4 (1) Subject to contrary provisions contained in any law, the CONTRIBUTIONS payable in terms of sections 26(1) and 28 and the instalments payable in terms of sections 39 and 48 shall be a first charge upon the SALARY payable to the MEMBER and shall be deducted monthly from his SALARY by the EMPLOYER concerned and paid to the FUND.

*4 (2) Where payment of arrear CONTRIBUTIONS or other amounts are being made by a MEMBER in instalments in terms of section 26, 28, 39 or 48 and membership ends before such arrear payments have been completed, the benefits to which the MEMBER, his estate or his DEPENDANTS are entitled, shall be calculated with due regard to any outstanding CONTRIBUTIONS or other amounts on a basis as determined by the TRUSTEES.

28. CONTRIBUTIONS WHILST ON LEAVE

*4 (1) If a MEMBER is on leave with full pay or with pay less than full pay, he shall continue to contribute to the FUND on the basis of his full PENSIONABLE EARNINGS.

*4 (2) “deleted”.

29. REDUCTION IN PENSIONABLE EMOLUMENTS OR HOURS OF DUTY

*4 (1) Subject to the provisions of subsection (2), if the PENSIONABLE EARNINGS of a MEMBER are reduced for any reason, he may elect to contribute to the FUND on the basis of his PENSIONABLE EARNINGS immediately before such reduction, in which event his PENSIONABLE EARNINGS shall, for purposes of these Rules, be deemed to be equal to his PENSIONABLE EARNINGS before such reduction.

*4 (2) If a MEMBER leaves the service of an EMPLOYER and enters the service of another EMPLOYER, and his PENSIONABLE EARNINGS at the latter EMPLOYER are lower than his PENSIONABLE EARNINGS at the former EMPLOYER, the provisions of subsection (1) shall apply *mutatis mutandis*:

Provided that -

(a) he enters the service of the latter EMPLOYER within twenty four months after he left the service of the former; and

(b) he obtained the consent of the latter EMPLOYER first.

*4 (3) If the normal working hours of a MEMBER are reduced as a measure of economy, as a result of which his PENSIONABLE EARNINGS are reduced, such MEMBER shall contribute on the basis of his PENSIONABLE EARNINGS on which he was contributing immediately before the reduction, and for the purposes of these Rules, his PENSIONABLE EARNINGS shall be deemed to be equal to his PENSIONABLE EARNINGS before such reduction.

30. CONTRIBUTIONS BY EMPLOYERS

(1) An EMPLOYER shall, in respect of MEMBERS in its service, deliver to the FUND on or before the seventh day of every month a return in such format as the TRUSTEES may determine, containing such information as the TRUSTEES may determine and which shall be accompanied by the following:

(a) the CONTRIBUTIONS payable by each MEMBER in respect of the preceding month;

*5 (b) an amount equal to 5 - 22 per cent of each MEMBER'S PENSIONABLE EARNINGS;

(c) the CONTRIBUTIONS or instalments payable in terms of section 28(2);

*5 (d) an amount equal to 5 - 22 per cent of the PENSIONABLE EARNINGS on which the MEMBER'S CONTRIBUTIONS in terms of section 28(2) is based, and INTEREST thereon until date of payment;

(e) amounts payable in terms of sections 26(6) and 45, if any:

Provided that if the MEMBER is paying by instalments, the EMPLOYER shall make a lump sum payment to the FUND in respect of its instalments and INTEREST.

(2) (a) If the return or payment in terms of subsection (1) is received by the FUND after the seventh day of any month, the TRUSTEES may charge INTEREST on the amount outstanding, or, if the payment has been received, on an amount equivalent to the amount represented by the outstanding return, calculated from the first day of the month in which such return must be delivered and payment is due, up to the date on which the return and payment are received.

(b) Any failure to pay CONTRIBUTIONS within seven days after the end of any month is a criminal offence punishable with a fine in terms of section 13A read with section 37 of the ACT.

31. FUND ACCOUNTS

The assets of the FUND shall be held in two accounts, to be known as the Share Account and the Reserve Account. Each account shall be maintained separately from the other and transfers between accounts shall take place only as specified in the Rules.

32. COMPOSITION OF ACCOUNTS

(1) Share Account

The Share Account shall comprise the MEMBER'S SHARES. It shall be maintained for each MEMBER. The following transactions shall be recorded in this account:

(a) Credits

*4 (i) The MEMBER'S CONTRIBUTIONS in terms of section 26;including any voluntary contributions

*4 (ii) a portion of the EMPLOYER'S CONTRIBUTIONS in respect of the MEMBER in terms of section 30(1), as determined by the TRUSTEES, towards the provision of retirement benefits;

(iv) transfer values received in respect of a MEMBER in terms of section 48(1);

*4 sections (iv) to (vii) “deleted”

(b) Debits

(i) Attributable valuation losses as determined by the ACTUARY in terms of section 23(2);

(ii) commutation values paid to the MEMBER in terms of section 34(3);

(ii) payments on termination in terms of section 37;

(iii) transfer of any balance of the MEMBER’S SHARE to the risk reserve in terms of section 35 and section 40.

*4 **(2)** “deleted”

33. RETIREMENT AT OR WITHIN FIVE YEARS OF PENSION AGE

*5 (1) When a MEMBER reaches the PENSION AGE, he shall retire from the permanent service of the EMPLOYER and such retirement shall take effect from the first day of the month immediately after the month in which he reaches the PENSION AGE: Provided that, where his PENSION AGE is under sixty years, the MEMBER may, by mutual agreement between himself and the EMPLOYER, be retained in the service of such EMPLOYER on a yearly basis up to the age of sixty years.

(2) When a MEMBER retires in terms of subsection (1), he shall be entitled to a retirement benefit in terms of section 34.

(3) A MEMBER who has attained an age which is five years or less from the PENSION AGE, and who has at least ten years' PENSIONABLE SERVICE, may be required by an EMPLOYER to retire, in which case he shall be entitled to a retirement benefit in terms of section 34: Provided that the difference between the value of the MEMBER′S increased MEMBER'S SHARE in terms of section 34(2)(b) and the MEMBER'S SHARE, shall be refunded to the FUND by the EMPLOYER concerned within seven days after such benefit has been paid by the FUND: Provided further that, if the EMPLOYER concerned fails to refund this amount to the FUND within the required seven days, the TRUSTEES may charge INTEREST on the amount due, calculated from the day on which the amount concerned became due up to and including the date on which payment is received by the FUND.

(4) Notwithstanding the provisions of subsection (1), a MEMBER who has attained an age of fifty five years, shall have the right to retire with benefits calculated in terms of section 34(2).

34. RETIREMENT BENEFITS

(1) When a MEMBER retires on reaching his PENSION AGE, he shall be entitled to a benefit referred to in subsection 3 below;

(2) (a) If a MEMBER retires in terms of section 33(4), he shall be entitled to a benefit referred to in subsection 3 below;

(b) If such MEMBER retires in terms of the provisions of section 33(3), his MEMBER'S SHARE shall be increased in the ratio A/B, where

A = PENSIONABLE SERVICE, with a maximum of fifty years, as it would have been on reaching the PENSION AGE; and

B = PENSIONABLE SERVICE on date of retirement.

(3) Subject to the approval of the TRUSTEES and the provision of one months' written notice to the FUND, a MEMBER may:

(a) elect to commute up to one third of his MEMBER'S SHARE (or the totality thereof if permitted by Income Tax legislation) to a lump sum. The balance of the MEMBER'S SHARE, if any, shall be utilized to purchase and ANNUITY in his own name from any registered INSURER. Upon the payment to the MEMBER of such lump sum and on the purchase of such ANNUITY, the FUND shall have no further liability in respect of such MEMBER.

(b) request that the full value of his MEMBER'S SHARE be utilized to purchase a

(c) n ANNUITY in his own name from any registered INSURER. On the purchase of such ANNUITY the FUND shall have no further liability in respect of such MEMBER.

(4) The retirement benefit payable in terms of this section 34 shall bear INTEREST, calculated from the date following the retirement of the MEMBER, until the date of payment of such benefit.

35. TERMINATION OF SERVICE OWING TO ILL-HEALTH

(1) Any MEMBER or the EMPLOYER in whose service a MEMBER is, may apply to the TRUSTEES for the termination of service of such MEMBER owing to ill health.

(2) On receipt of the application contemplated in subsection (1), the MEMBER shall be requested to nominate a medical practitioner within fourteen days of such request (failing which the EMPLOYER concerned shall nominate a medical practitioner), who shall then be appointed by the FUND to examine the MEMBER. Simultaneously the FUND shall appoint another medical practitioner to examine the MEMBER on behalf of the FUND.

(3) If it appears from the reports of the two medical practitioners that they do not agree upon the case, or if the TRUSTEES, in its sole discretion, requires further evidence, the TRUSTEES may appoint such additional medical practitioners as the TRUSTEES consider fit to examine the MEMBER.

(4) If the TRUSTEES, acting upon the advice of the medical practitioners, finds a MEMBER, by reason of an infirmity of mind or body, to be totally and permanently incapable of discharging the duties for which he was appointed, and (with of without further training) any other duties which such MEMBER would reasonably be capable of discharging by virtue of his training and/or experience, and if such infirmity was, in the opinion of the TRUSTEES, not deliberately caused by the MEMBER, his service shall be terminated, and if –

*4 - *5 (a) he has at least ten years' SERVICE, he shall be entitled to his MEMBER'S SHARE plus (3 - m/20) times the average of his annual PENSIONABLE EARNINGS during the last year of his PENSIONABLE SERVICE, where m is equal to :

(i) 0, if he has not yet reached the age five years younger than his PENSION AGE;

(ii) the number of completed months from reaching the age five years younger than his PENSION AGE, after he has reached the age five years younger than his PENSION AGE, but not yet his PENSION AGE;

(iii) 60, after he has reached his PENSION AGE:

*4 (b) he has less than ten years' SERVICE, and

(i) he is accepted by the INSURER as contemplated in subsection (6)(a) for such benefit, he shall be entitled to the benefit as contemplated in subsection (a) above;

(ii) he is not accepted by the INSURER as contemplated in subsection (6)(a) for the benefit in terms of subsection (a) above, he shall be entitled to a benefit in terms of section 37:

Provided that the benefit shall be subject to the limitations as contemplated in subsection (6)(a), if any:

Provided further that the MEMBER may commute up to one third of the benefit to a lump sum. The balance of the benefit must then be utilized by the MEMBER to purchase an ANNUITY from any INSURER in the MEMBER'S name. Such MEMBER'S membership of the FUND shall cease as soon as the purchase of the ANNUITY is concluded. Once the ANNUITY is purchased, the FUND will have no further liability in respect of such MEMBER.

(5) The costs of the medical practitioners shall be paid by the MEMBER or the EMPLOYER, whoever applied for termination of service by reason of ill-health.

(6) (a) Notwithstanding contrary provisions in sections 35(4) and 40, the TRUSTEES may, in consultation with the ACTUARY, reinsure the benefits described in sections 35(4) and 40 with an INSURER. Where such benefits are re-insured with an INSURER, it shall be subject to the conditions and limits imposed by the INSURER concerned and the MEMBER shall only be entitled to the said benefits to the extent that he is accepted by the said INSURER for such benefits: Provided that the TRUSTEES may, in its absolute discretion and after consultation with the ACTUARY, make provision for payment out of the Reserve Account of part of any benefit which has been reduced or for payment of the whole benefit, where the said INSURER has refused to admit a claim in respect of any benefit: Provided further that the benefit payable in respect of such MEMBER shall not be less than his reinsured benefit.

(b) Any MEMBER in respect of whom the benefits are restricted in terms hereof, shall be informed of the extent of such restriction by the TRUSTEES.

(c) If the EMPLOYER′S CONTRIBUTIONS in terms of section 32(2)(a)(i), together with any provision in the Reserve Account set aside for this purpose, after payment of the FUND'S expenses, is insufficient to finance benefits in terms of sections 35(4) and 40, the said benefits shall be reduced, or the portion of the EMPLOYER′S CONTRIBUTIONS as contemplated in section 32(2)(a)(i) be increased, to prevent a loss. Such reduction shall be determined by the TRUSTEES after consultation with the ACTUARY.

36. DISCHARGE OWING TO RE-ORGANISATION

(1) If a MEMBER′S service is terminated owing to a reduction in, or re-organisation of staff, or to the abolition of his post, or in order to effect improvements in efficiency or organisation, or owing to retrenchments in general, he shall be entitled to a GRATUITY equal to his MEMBER'S SHARE on the date of his leaving service, plus the following amount payable by the EMPLOYER concerned:

(a) in the case of a MEMBER who has at least ten years′ PENSIONABLE SERVICE,

(i) an amount equal to a x b x c, where

(aa) a equals the MEMBER′S average annual PENSIONABLE EMOLUMENTS over the last three years of his PENSIONABLE SERVICE;

(bb) b equals the MEMBER′S PENSIONABLE SERVICE plus ADDITIONAL SERVICE; and

(cc) c equals the applicable factor according to the MEMBER′S age, as shown on the following table:

AGE	FACTOR
20	0,434
21	0,430
22	0,426
23	0,422
24	0,418
25	0,413
26	0,409
27	0,404
28	0,399

AGE	FACTOR
29	0,394
30	0,389
31	0,383
32	0,378
33	0,372
34	0,366
35	0,359
36	0,353
37	0,346
38	0,339
39	0,331
40	0,323
41	0,315
42	0,307
43	0,299
44	0,290
45	0,281
46	0,271
47	0,261
48	0,251
49	0,240
50	0,229
51	0,218
52	0,206
53	0,194
54	0,181
55	0,168
56	0,154
57	0,139
58	0,125
59	0,109
AGE	FACTOR

60	0,093
61	0,076
62	0,058
63	0,040
64	0,020;

1 plus

*4 (ii) an amount equal to three months′ PENSIONABLE EARNINGS on the date on which his service terminates;

(b) in the case of a MEMBER who has less than ten years′ PENSIONABLE SERVICE,

(i) an amount equal to (a x b) - c, where

*4 (aa) a equals 20% of the MEMBER′S average annual PENSIONABLE EARNINGS over the last three years of his PENSIONABLE SERVICE or, if such service is less than three years, over the full period of his PENSIONABLE SERVICE;

(bb) b equals the MEMBER′S PENSIONABLE SERVICE; and

(cc) c equals the MEMBER′S SHARE;

plus

*4 (ii) six months′ PENSIONABLE ERNINGS on the date on which his service terminates:

Provided that if the MEMBER′S SHARE is greater than a x b, the amount payable by the EMPLOYER shall be limited to the amount contemplated in paragraph (ii) above.

(2) If a MEMBER′S service is terminated in terms of the provisions of subsection (1) above, the EMPLOYER shall pay the percentage payable in terms of subsections (1)(a) and (b) hereof to the FUND:

Provided further that if the EMPLOYER concerned fails to pay such amount to the FUND within seven days after a MEMBER has been declared redundant or retrenched, the TRUSTEES may charge INTEREST on the amount due, calculated from the day on which the amount became due up to and including the date on which payment is received by the FUND.

37. RESIGNATION, DISCHARGE OR LEAVING OF THE SERVICE IN CIRCUMSTANCES NOT ELSEWHERE PROVIDED FOR

(1) If a MEMBER who is not qualified to retire in terms of section 33, leaves the service of his EMPLOYER voluntarily or is dismissed by the EMPLOYER for reasons other than those provided for in section 36 and is not entitled to benefits in terms of any other section of these Rules, he shall be entitled to a GRATUITY equal to his MEMBER′S SHARE at the date of his leaving service.

(2) The benefit payable in terms of this section shall be paid to the MEMBER as a GRATUITY. Payment shall be made as soon as possible, but not later than ninety days after the date of the MEMBER'S leaving service.

(3) A MEMBER may elect –

(a) to preserve any amount of his benefits in terms of the above provisions which he does not take in cash in the FUND in terms of section 38, if approved by the TRUSTEES; or

(b) by transferring his benefit to –

(i) an APPROVED RETIREMENT ANNUITY FUND or PRESERVATION FUND of his choice; or

*4 (ii) another APPROVED FUND established for the benefit of the employees of the employer with whom the resigning MEMBER takes service and which he is compelled to join.

38. DEFERRED BENEFIT

(1) If a MEMBER leaves the service of an EMPLOYER as contemplated in section 37(1) and elects not to take a part of his benefit in cash, he shall become entitled to a benefit equal to his full MEMBER'S SHARE at that stage, which shall be preserved according to the following provisions.

(2) Where a MEMBER preserves his whole benefit in terms of subsection (1) above, or a part thereof in terms of section 37(3), such MEMBER shall become a deferred PENSIONER and his benefits shall be calculated as follows:

(a) The value of the MEMBER'S right to benefits on the date of his leaving service, less any amount paid in cash, shall be the opening balance of his Share Account on the date of his leaving service;

(b) no further CONTRIBUTIONS shall be payable by or on behalf of the deferred PENSIONER after the date of his leaving service;

(c) investment earnings shall be credited to his MEMBER'S SHARE in terms of section 32(1)(a)(v);

(d) the deferred PENSIONER shall only be entitled to benefits in terms of this section 38.

(3) The deferred PENSIONER concerned may choose to receive the deferred benefits from the first day of any month after reaching his fifty fifth birthday but before or on reaching his PENSION AGE.

Such deferred PENSIONER shall be entitled to benefits in terms of section 34 of the Rules of the FUND.

(4) If such deferred PENSIONER dies after his leaving the service but prior to the deferred benefits becoming payable in terms of subsection (3), his MEMBER'S SHARE as at the date of his death shall be paid to his DEPENDANTS.

(5) The deferred PENSIONER concerned may at any time between the date of his leaving the service in terms of this section 41 and the date of his retirement in terms of subsection (3) above, transfer his MEMBER'S SHARE to an APPROVED RETIREMENT ANNUITY FUND or PRESERVATION FUND, whereafter the FUND shall have no further obligation towards the deferred PENSIONER.

39. REJOINING OF SERVICE

(1) If a MEMBER leaves the service of an EMPLOYER and is entitled to a benefit in terms of section 35(4)(b), 36(1)(b) or 37(1) and he is thereafter re-employed by the same or another EMPLOYER before such benefit is paid to him, he shall no longer be entitled to such benefit and it shall not be paid to him.

(2) If a MEMBER leaves the service of an EMPLOYER, receives a benefit in terms of section 35(4)(b), 36(1)(b) or 37(1) and is thereafter re-employed by the same or another EMPLOYER within two years after he has left such service, he may elect to become a rejoining MEMBER. If he exercises such option, he shall refund the full benefit received by him to the FUND, -

(a) in one amount, or

(b) by instalments approved by the TRUSTEES,

together with INTEREST on the outstanding balance, calculated from the date on which he became entitled to such benefit to the date or dates of repayment, whereafter the break in service will be condoned: Provided that if the MEMBER concerned fails to exercise his option in writing within four months after the date of his re-employment, he shall be considered as a new MEMBER.

40. BENEFITS PAYABLE ON DEATH

*4 **(1) Death while in service**

If a MEMBER dies while he is still in the service of an EMPLOYER, the following benefits shall be paid, subject to the provisions of section 35(6):

(a) A GRATUITY equal to -

*4 (i) three times the MEMBER'S annual PENSIONABLE EARNINGS immediately prior to his death;

plus

(ii) the MEMBER'S SHARE at the date of his death;

*4 (b) “deleted”

*4 **(2) Reinsurance**

(a) The Gratuity benefit payable in terms of sub-section (1)(a)(i) above shall be insured under a separate policy with an INSURER. Provided that:

(i) such benefits will only be payable if the INSURER pays the benefit;

(ii) if the CONTRIBUTIONS in terms of section 30, together with any provision made therefore through establishment of a reserve account, are insufficient to finance these benefits after payment of the FUND’S expenses, the benefits shall be reduced to prevent a loss. Such reduction shall be determined by the TRUSTEES.

(b) Any MEMBER in respect of whom the benefits in terms of section 40(2)(a) and 35(4) are restricted in terms hereof shall be informed of the extent of such restriction by the TRUSTEES

*4 (3) Payment of Death Benefit

Payment of the death benefit, together with INTEREST, calculated from the date following the death of the MEMBER to the date of payment, shall be made in terms of section 37C of the ACT, whereafter there shall be no further claim against the FUND in respect of the MEMBER concerned. (The contents of section 37C of the ACT are contained in the Annexure to the Rules).

41. MONEYS DUE MAY BE DEDUCTED FROM BENEFIT

The TRUSTEES may, in accordance with the powers conferred in terms of section 37D of the ACT, deduct from any benefit due in respect of any MEMBER in terms of these Rules the amount of any debt contemplated in that section and incurred by such MEMBER.

*4 42. A BENEFIT CANNOT BE CEDED, PLEDGED OR ATTACHED

(1) Unless specifically permitted in terms of the Pension Funds Act, the Divorce Act, the Maintenance Act or the Income Tax Act, no benefit payable in terms of the Rules may be reduced, transferred, ceded, pledged or hypothecated or be attached or sold in satisfaction of debt. If a beneficiary attempts to transfer, cede, pledge or hypothecate a benefit, the FUND will suspend the payment of the benefit and may pay it directly to a dependant or the beneficiary or to a guardian or Trustee for the benefit of the beneficiary.

(2) Subject to the provisions of the Act if the estate of a beneficiary is sequestrated or surrendered, the benefit will be deemed not to form part of the assets in the estate and may not be attached or sold by the curator of the estate or the beneficiary's creditors.

(3) If a person purports or attempts to transfer or otherwise cede, pledge or hypothecate any benefit in terms of these Rules in contravention of section 37A of the ACT, the TRUSTEES may exercise the powers vested in the FUND in terms of that section

(4) Amounts due in respect of housing loans or housing guarantees:

If the FUND has issued a guarantee to an EMPLOYER or to another person who has granted a loan to a MEMBER for HOUSING PURPOSES, or if the FUND has issued such a loan itself, it may deduct from the benefit payable to the MEMBER or any person entitled to a benefit on the death of the MEMBER the amount of the loan or the amount for which it is liable in respect of the guarantee. The amount may also be deducted from any amount to be transferred to another Fund for the benefit of the MEMBER. Subject to the provisions of the Act the amount may be deducted and paid to the person or body which granted the loan before the MEMBER'S membership terminates.

(5) Amounts due to Member's Employer for losses caused by the MEMBER:

The TRUSTEES may, where an EMPLOYER has instituted legal proceedings in a court of law against the MEMBER concerned for compensation in respect of damage caused to the EMPLOYER as contemplated in section 37D of the Act, withhold payment of the cash withdrawal benefit until such time as the matter has been finally determined by a competent court of law or has been settled or formally withdrawn, provided that:

(i) the TRUSTEES are satisfied that the EMPLOYER has made out a prima facie case against the MEMBER concerned and there is reason to believe that the EMPLOYER has a reasonable chance of success in the proceedings that have been instituted; and

(ii) the TRUSTEES are satisfied that the EMPLOYER is not at any stage of the proceedings responsible for any undue delay in the prosecution of the proceedings; and

(iii) once the proceedings have been determined, settled or withdrawn, any benefit to which the MEMBER is entitled, is paid forthwith, or, if any amount is lawfully deducted from the benefit in terms of section 37D, the balance thereof is paid forthwith.

(6) Amounts due to a Member’s former spouse

The FUND will comply with any order properly issued by a court in terms of the Divorce Act by deducting any amount due to the former spouse of a MEMBER in terms of the order from the MEMBER’S benefit.

(7) How Benefits are affected by Insolvency

If the estate of any person entitled to a benefit in terms of these Rules is sequestrated or surrendered, section 37B of the ACT shall apply.

43. NATURE OF ANNUITIES

(1) Any ANNUITY purchased by the FUND in the name of the MEMBER shall be compulsory and shall not be convertible into cash or assignable to any other person.

(2) The ANNUITY must be payable for and based on the lifetime of the MEMBER and must not be capable of being transferred, assigned, reduced, hypothecated or attached by creditors. Provided that such ANNUITY may, however, be a “living annuity”.

(3) Once the ANNUITY has been purchased from the INSURER, the FUND shall have no further liability towards the MEMBER and/or his DEPENDANTS.

*4 **44. GUARANTEES FOR HOSING LOANS**

(1) If a financial institution grants to a MEMBER a loan to be used for HOUSING PURPOSES, the FUND, at the sole discretion of the TRUSTEES, may grant to that financial institution a guarantee that, if the MEMBER fails to repay the loan, the financial institution will have a claim against the FUND for the amount owed to it by the MEMBER on the following conditions:

(i) the claim by the financial institution against the FUND will be limited to the amount the MEMBER would be entitled if he or she left the FUND before his or her retirement; and

(ii) the MEMBER must in writing pledge that amount to the FUND.

(2) If the MEMBER fails to pay the amounts due by him to the financial institution to which the FUND has issued a guarantee, the FUND may pay what is due to the financial institution and treat that amount as a loan granted to the MEMBER for HOUSING PUROSES unless it has granted him a loan for HOUSING PURPOSES in relation to another property. If a loan is granted to him by the FUND –

(i) the loan must be repayable over a period of not more than 30 years in equal monthly instalments;

(ii) it must be secured by a pledge of the MEMBER'S benefits or a mortgage on the property;

(iii) if the period of the loan extends beyond the MEMBER'S retirement at PENSION AGE, the outstanding balance of the loan on that date must be able to be repaid out of not more than one third of his or her MEMBER'S AGE as at that date,

(a) and if secured by a mortgage on the property, the loan must not exceed 90% of the fair value as defined in the ACT of property; and

(b) if it is secured by a pledge, it must not exceed the amount that the MEMBER would receive from the FUND if he or she voluntarily stopped being a MEMBER before his or here PENSIONABLE AGE or 90% of the fair value as defined in the ACT, of the property concerned whichever is the lesser.

(iv) if it is secured by both a mortgage and a pledge, it must not exceed the aggregate of:

(a) 90% of the fair value as defined in the ACT; and

(b) the amount that the MEMBER would receive from the Fund if he or she voluntarily stopped being a MEMBER before his or her retirement.

(v) the loan will bear interest at not less than the minimum rate provided for in the regulations to the ACT.

*4 **45. ADDITIONAL PENSIONABLE SERVICE**

(1) A MEMBER or his EMPLOYER can, subject to the provisions of the Rules, elect to increase his PENSIONABLE SERVICE, subject to the following provisions:

(a) An amount equal to the CONTRIBUTIONS which would have been payable for a similar period of current SERVICE shall be paid to the FUND in respect of such SERVICE; and

(b) neither the MEMBER'S nor the EMPLOYER'S CONTRIBUTIONS in terms of section 26 and 30 respectively shall be affected by payment of the sum referred to in paragraph (a).

(2) Any amount due to the FUND in terms of subsection (1)(a), together with INTEREST, calculated from the date of the exercising of his election to the date or dates of repayment, shall be paid to the FUND over such a period as the TRUSTEES may determine: Provided that the whole or part of the balance due may be paid at any time.

(3) If a benefit in terms of the Rules becomes payable in respect of a MEMBER, the total amount paid in terms of subsection (2) shall be credited to the MEMBER'S SHARE.

46. UNCLAIMED MONEYS

If an amount due to or in respect of a former MEMBER is not claimed within three years after he left the service of an EMPLOYER, the beneficiary shall nevertheless at any time thereafter be entitled to claim the said amount from the FUND. The FUND shall pay INTEREST to the beneficiary on the said amount calculated from a date twelve months after the beneficiary became entitled to the benefit to the date of payment.

47. EMPLOYERS BECOMING ASSOCIATED WITH THE FUND

(1) Subject to the provisions of section 14 of the ACT and subsections (2) and (3), an organisation of a kind comparable to the PENSION FUND that is not associated with the FUND and which has an existing pension fund, may become associated with the FUND.

(2) An organisation wishing to become associated with the FUND, shall prepare a scheme which shall be submitted to the ACTUARY for his approval and which shall, *inter alia*, provide -

(a) that the rights of existing members of its pension fund shall be safeguarded;

(b) that future employees shall, subject to the provisions of section 24, become MEMBERS of the FUND;

(c) that the investments, assets and other moneys of such pension fund or such part thereof as may be required, shall be transferred to the FUND, and that such further payment by or refunds to the organisation and/or employees shall be made as may be described in the scheme;

(d) for the date of commencement of such scheme.

(3) Such scheme shall commence on the date referred to in subsection (2)(d) after compliance with the provisions of section 14 of the ACT and after the approval of the scheme by the ACTUARY and after the following has been delivered:

(a) The written approval of the trustees, if any, of such pension fund and the TRUSTEES of the FUND; and

(b) a certificate from the REGISTRAR that all the requirements of section 14(1) of the ACT have been complied with.

48. TRANSFER OF PENSION VALUES BETWEEN PENSION FUNDS

The TRUSTEES may, subject to the provisions of section 14 of the ACT, after consultation with the ACTUARY and on such conditions as the TRUSTEES may determine, approve special arrangements for the preservation of accumulated pension rights, which may make provision, *inter alia*, for the following:

(1) In respect of a person who was a member of another APPROVED FUND that provided benefits for its members on their retirement and who becomes a MEMBER of the FUND:

(a) for the amendment of the conditions of the FUND in respect of such MEMBER, with regard to the conditions that applied to him under such other APPROVED FUND;

(b) for the recognition of a certain period of former service as PENSIONABLE SERVICE or for an additional pension in recognition of any former service;

(c) for the payment by such person or such other APPROVED FUND of CONTRIBUTIONS in respect of such recognition of former service. Provided that the reference to APPROVED FUND in section 48(1) and subsections (a) and (c) thereof shall specifically exclude retirement annuity funds, in line with the prohibition on transfer of pension values from a retirement annuity fund to a pension or provident fund.

(2) In respect of a person who was a MEMBER of the FUND and within twelve months of his withdrawal from the FUND becomes a member of another APPROVED FUND which provides retirement benefits for its members:

(a) that no withdrawal benefit shall be paid by the FUND in terms of section 37(1) in respect of such MEMBER;

(b) for the payment to such other APPROVED FUND of an amount equal to the MEMBER'S SHARE,

and such special arrangements and the conditions determined in respect thereof, shall have the effect of amending any provision of the Rules not compatible therewith.

(3) In respect of a person who was a member of a PREVIOUS FUND and in terms of section 24(1) elected to transfer his TRANSFER VALUE to the FUND and in respect of whom such TRANSFER VALUE has been received by the FUND:

(a) that the MEMBER shall not be required to satisfy the FUND'S requirements relating to evidence of health and age if he was entitled to unrestricted benefits at the PREVIOUS FUND: Provided that such evidence has been produced to the PREVIOUS FUND;

*4 (b) “deleted”

49. AMENDMENT OF RULES

(1) The Rules of the FUND may at any time be amended, rescinded or added to by the TRUSTEES with a majority of votes, subject to the provisions of section 12 of the ACT and provided that -

(a) the value of an established benefit before such amendment shall not be decreased; and

(b) the amendment shall not be in conflict with the provisions of the ACT or the Income Tax Act, 1962 (Act 58 of 1962):

Provided that the restriction in paragraph (a) shall not be applicable in respect of necessary amendments to ensure that the FUND will be able to fulfill its obligations in terms of a certificate issued by the ACTUARY: Provided further that any amendment of the Rules that affects the financial position of the FUND, shall be referred to the ACTUARY before it is accepted.

(2) The TRUSTEES shall notify the REGISTRAR and the COMMISSIONER in writing of any amendment of the Rules.

(3) As soon as any amendment of the Rules is approved by the REGISTRAR, or at least once annually, the TRUSTEES shall notify the MEMBERS in writing of any amendment of the Rules.

50. RECONSTRUCTION AND DISSOLUTION OF THE FUND

(1) Reconstruction and transfer of contracts of employment by EMPLOYER

(a) If an EMPLOYER ceases to exist as the result of its reconstruction in a different form, such reconstructed EMPLOYER shall have the right to take the place of the former EMPLOYER, and if it exercises such right, the FUND shall not be affected by this, except that "EMPLOYER" shall then include the reconstructed EMPLOYER.

(b) If an EMPLOYER (hereinafter referred to as the "first employer") transfers certain of its EMPLOYEE'S contracts of employment to another EMPLOYER (hereinafter referred to as the "second employer") in terms of the provisions of section 197 of the Labour Relations Act 1995 (Act 66 of 1995), as amended, the following shall apply:

(i) Both the first employer and the second employer shall have the right to take the place of the first employer. If such right is exercised, the FUND shall not be affected by this, except that "EMPLOYER" shall then include the first employer and the second employer.

(2) Complete Dissolution

(a) If at least 90 per cent of the MEMBERS of the FUND and at least 90 per cent of the EMPLOYERS decide to dissolve the FUND, the TRUSTEES shall, with the approval of the REGISTRAR, appoint a liquidator who shall dissolve the FUND by dividing all moneys of the FUND, after payment of all debts and costs of the dissolution, between MEMBERS and other beneficiaries in such a way as recommended by the ACTUARY, with due allowance for the rights and benefit expectations of the persons concerned and with due allowance for the payment of additional benefits by the FUND which has become an established practice, and approved by the liquidator, subject to the provisions of section 28 of the ACT.

(b) The dissolution procedure in terms of paragraph (a) shall be subject to the following provisions:

(i) the amount available for a person who will become entitled to an ANNUITY in the future, shall, according to the decision of the liquidator, after consultation with the ACTUARY, -

(aa) be transferred for such person′s benefit to an APPROVED FUND; or

(bb) be applied to purchase an ANNUITY for such person at an INSURER; or

(cc) be paid to such person in cash;

(ii) if a beneficiary cannot be traced, the benefit shall, notwithstanding the provisions of section 46, be paid into the Guardian's Fund.

(c) If legislation requires all the EMPLOYERS to establish or participate in another APPROVED PENSION FUND, the legislator, as alternative to the above-mentioned procedure, may instruct the TRUSTEES to transfer the assets of the FUND to the other APPROVED PENSION FUND in order that the liabilities of the FUND in respect of the MEMBERS, deferred PENSIONERS and other beneficiaries be taken over by the other APPROVED PENSION FUND. Such transfer shall be subject to the provisions of section 14 of the ACT.

(3) Partial Dissolution

(a) An EMPLOYER may, for any reason whatsoever, give notice in writing to the TRUSTEES of its intention to cease its participation as an EMPLOYER in the FUND. In such case, the provisions of Rule 50(2) shall apply; provided that, that part of the Fund which is to be liquidated in terms of the ACT shall be limited to the total assets and liabilities attributable to the MEMBERS related to the withdrawing EMPLOYER as determined by the liquidator in consultation with the ACTUARY.

(b) When all payments have been made by the FUND in terms of Rule 50(2) in respect of the withdrawing EMPLOYER, the FUND shall have no further liability to any person related to that EMPLOYER in respect of whom the FUND held assets and liabilities at the date of partial liquidation.

(4) Establishment of new fund or scheme

(a) It the majority of EMPLOYERS (determined according to number of members) decide to establish a new fund or scheme with the main object of providing retirement benefits for their EMPLOYEES or for certain of their EMPLOYEES, or to participate in another fund or scheme for this purpose, the TRUSTEES may, notwithstanding anything to the contrary contained in these Rules, apply each MEMBER'S share in the FUND, as calculated by the ACTUARY, to acquire benefits for the MEMBERS concerned under the new FUND or scheme, in such manner as the TRUSTEES, after consultation with the ACTUARY and with the approval of the REGISTRAR, may determine, subject to the provisions of section 14 of the ACT.

(b) In the calculation of a MEMBER′S share in the FUND for purposes of paragraph (a) above, the ACTUARY considers the reasonableness between the groups of MEMBERS belonging to the FUND and then recommends which portion of the Reserve Account, referred to in section 32(2), if any, shall be transferred with the MEMBER′S share in the FUND.

51. SHORT TITLE AND DATE OF COMMENCEMENT

(1) These Rules shall be known as the Rules of the Bokamoso Provident Fund and shall commence on 1 November 2002.

(2) The Afrikaans appellation of the FUND is Bokamoso Voorsorgfonds.

ANNEXURE 1

"dependant," in relation to a member, means-

(a) a person in respect of whom the member is legally liable for maintenance;

(b) a person in respect of whom the member is not legally liable for maintenance, if such person –

(i) was, in the opinion of the board, upon the death of the member in fact dependant on the member for maintenance;

[sub-para. (i) amended by s. 6 of Act No. 22 of 1996]

(ii) is the spouse of the member, including a party to a customary union according to Black law and custom or to a union recognised as a marriage under the tenets of any Asiatic religion;

(iii) is a child of the member, including a posthumous child, an adopted child and an illegitimate child;

[sub-para (iii) added by s. 1 (b) of Act. No. 22 of 1996]

(c) a person in respect of whom the member would have become legally liable for maintenance, had the member not died;

[Definition of "dependant" inserted by s. 21 (a) of Act No. 101 of 1976, substituted by s. 10 of Act No. 80 of 1978, amended by s. 38 of Act No. 99 of 1980 and substituted by s. 20 of Act No. 54 of 1989.]

SECTION 37C

37C. Disposition of pension benefits upon death of member – (1) Notwithstanding anything to the contrary contained in any law or in the rules of a registered fund, any benefit payable by such a fund upon the death of a member, shall, subject to a pledge in accordance with section 19 (5) (b)(i) and subject to the provisions of section 37A (3) and 37D, not form part of the assets in the estate of such a member, but shall be dealt with in the following manner:

(a) If the Fund within twelve months of the death of the member becomes aware of or traces a dependant or dependants of the member, the benefit shall be paid to such dependant or, as may be deemed equitable by the board, to one of such dependant or, as may be deemed equitable by the board, to one of such dependants or in proportions to some or all such dependants.

[Para. (a) substituted by s. 5 (a) of Act No. 22 of 1996.]

(b) If the fund does not become aware of or cannot trace any dependant or dependants of the member within twelve months of the death of the member, and the member, and the member has designated in writing to the fund a nominee who is not a dependant of the member, to receive the benefit or such portion of the benefit shall be paid to such nominee: Provided that where the aggregate amount of the debts in the estate of the member exceeds the aggregate amount of the assets in his estate, so much of the benefit as is equal to the difference between such aggregate amount of debts and such aggregate amount of assets shall be paid into the estate and the balance of such benefit or the balance of such portion of the benefit as specified by the member in writing to the fund shall be paid to the nominee.

[Para. (b) substituted by s. 21 of Act No. 54 of 1989.]

(bA) If a member has a dependant and the member has also designated in writing to the fund a nominee to receive the benefit or such portion of the benefit as is specified by the member in writing to the fund, the fund shall within twelve months of the death of such member pay the benefit or such portion thereof to such dependant or nominee in such proportions as the board may deem equitable: Provided that this paragraph shall only apply to the designation of a nominee made on or after 30 June 1989: Provided further that, in respect of a designation made on or after the said date, this paragraph shall not prohibit a fund from paying the benefit, either to a dependant or nominee contemplated in this paragraph or, if there is more than one such dependant or nominee, in proportions to any or all of those dependants and nominees.

[Para (bA) inserted by s. 21 of Act No. 54 of 1989 and substituted by s. 5 (b) of Act No. 22 of 1996.]

(c) If the Fund does not become aware of or cannot trace any dependant of the member within twelve months of the death of the member and if the member has not designated a nominee or if the member has designated a nominee to receive a portion of the benefit in writing to the Fund, the benefit or the remaining portion of the benefit after payment to the designated nominee, shall be paid into the estate of the member or, if no inventory in respect of the member has been received by the Master of Supreme Court in terms of Section 9 of the Estates Act, 1965 (Act No 66 of 1956) into the Guardian's Fund.

[Sub-s. (1) amended by s. 28 of Act No. 104 of 1993, Para. (c) substituted by s. 21 of Act No. 54 of 1989.]

(2) For the purpose of this section, a payment by a registered fund to a trustee contemplated in the Trust Property Control Act, 1988 (Act No. 57 of 1988), for the benefit of a dependant or nominee contemplated in this section shall be deemed to be a payment to such dependant or nominee.

[Sub-s (2) added by s. 6 (b) of Act No. 51 of 1988 and substituted by s. 29 of Act No. 83 of 1992.]

(3) Any benefit dealt with in terms of this section, payable to a minor dependant or minor nominee, may be paid in more than one payment in such amounts as the board may from time to time consider appropriate and in the best interests of such dependant or nominee: Provided that interest at a reasonable rate, having regard to the investment return earned by the fund, shall be added to the outstanding balance at such times as the board may determine: Provided further that any balance owing to such a dependant or nominee at the date on which he or she attains majority or dies, whichever occurs first, shall be paid in full.

[Sub-s (3) added by s. 5 (c) of Act No. 22 of 1996.]

(4) (a) Any benefit dealt with in terms of this section, payable to a major dependant or major nominee, may be paid in more than one payment if the dependant or nominee has consented thereto in writing: Provided that –

(i) the amount of payments, intervals of payment, interest to be added and other terms and conditions are disclosed in a written agreement, and

(ii) the agreement may be cancelled by either party on written notice not exceeding 90 days;

(b) If the agreement contemplated in paragraph (a) is cancelled the balance of the benefit shall be paid to the dependent or nominee in full.

[S. 37C inserted by s. 24 of Act No. 101 of 1976 and substituted by s. 13 of Act No. 80 of 1978 and by s. 41 of Act No. 99 of 1980. Sub-s (4) added by s. 5 (c) of Act No. 22 of 1996.]