



# **RULES**

**GENERAL RULES OF THE MUNICIPAL EMPLOYEES PENSION FUND**

**CONTROL SHEET**

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**SERVICE ISSUE NUMBER 2**

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

Control Sheet p. 1	-	Issue 2
Amendment list p. (i)	-	Issue 2
Index A to D	-	Issue 2
p. 1 to p. 121	-	Issue 2

**GENERAL RULES OF THE MUNICIPAL EMPLOYEES PENSION FUND**

Original Rules registered on 14 April 1988.

Consolidated Rules registered on 17 January 2001 and amended by the following:

- \*1 Amendment registered by the Registrar on 17.01.2001 (Definition of BONUS SERVICE; paragraph (b) of definition of PENSIONABLE SERVICE)**
  
- \*2 Amendment registered by the Registrar on 28 February 2002 (Privatization– Definition of Reorganization section 35(1) and preservation of Resignation Benefit section 37(4))**
  
- \*3 Amendment registered by the Registrar on 29 October 2002 with effect from 01 January 2001**
  
- \*4 Amendment registered by the Registrar on 19 December 2002 with effect from 01 July 2002 (Special Rules applicable to LOCAL AUTHORITIES contributing at 18% of PENSIONABLE EMOLUMENTS)**
  
- \*5 Amendment registered by the Registrar on 25 March 2003 re Amalgamations and Transfers.**
  
- \*6 Amendment regarding Registered Address of the Fund and Buy Back of Pensionable Service registered by the Registrar on 17 August 2004.**
  
- \*7 Amendment regarding Benefits payable upon Death registered by the Registrar on 12 May 2006.**

(i)

- \*8      Amendment regarding Funeral Benefits Structure registered by the Registrar on. 15 February 2010**
  
- \*9      Amendment regarding Election of Committee, Chairman and Vice-Chairman registered by the Registrar on 11 June 2009.**
  
- \*10     Amendment regarding Pension Age registered by the Registrar on 22 February 2010**

INDEX

CONTENTS	PAGE
1. INTERPRETATION	1
2. OBJECT, BODY CORPORATE, REGISTERED OFFICE AND BINDING FORCE	13
3. SOURCES OF THE FUND	14
4. CONTROL OF THE FUND	15
5. CONSTITUTION OF THE GENERAL COMMITTEE	16
6. ANNUAL MEETING OF THE GENERAL COMMITTEE	21
7. CHAIRMAN OF THE GENERAL COMMITTEE	22
8. ELECTION OF COMMITTEE, CHAIRMAN AND VICE-CHAIRMAN	23
9. PERIOD OF OFFICE OF OFFICE-BEARERS AND REPRESENTATIVES ON THE GENERAL COMMITTEE	26
10. VACATING OF OFFICE BY OFFICE-BEARERS	27
11. VACATING OF OFFICE BY REPRESENTATIVE OR ALTERNATE ON THE GENERAL COMMITTEE	30

12.	MEETINGS OF THE COMMITTEE AND THE GENERAL COMMITTEE	32
13.	QUORUM AND MINUTES FOR MEETINGS OF THE COMMITTEE AND THE GENERAL COMMITTEE	33
14.	VICE-CHAIRMAN AND ACTING CHAIRMAN OF THE COMMITTEE	34
15.	POWERS OF THE COMMITTEE	35
16.	INVESTMENT OF FUNDS	38

INDEX

CONTENTS	PAGE
17. INDEMNIFICATION OF THE COMMITTEE AND OFFICERS OF THE FUND IN RESPECT OF LEGAL COSTS	41
18. FIDELITY GUARANTEE INSURANCE	42
19. PAYMENT OF MONEYS AND EXPENSES OF THE FUND	43
20. CUSTODY OF TITLE DEEDS AND SECURITIES	44
21. KEEPING OF RECORDS	45
22. APPOINTMENT OF AUDITOR AND ANNUAL AUDIT	46
23. APPOINTMENT OF ACTUARY AND HIS DUTIES	47
24. MEMBERSHIP OF THE FUND AND EVIDENCE OF HEALTH	48
24A AMALGAMATIONS AND TRANSFERS	60
25. EVIDENCE OF AGE AND OTHER PARTICULARS TO BE PRODUCED	62
26. CONTRIBUTIONS BY MEMBERS	63

27.	PAYMENT OF CONTRIBUTIONS AND RECOVERY OF ARREAR CONTRIBUTIONS AND OTHER AMOUNTS/	65
28.	CONTRIBUTIONS WHILST ON LEAVE	66
28A.	SENIOR BONUS SERVICE	67
29.	PENSIONABLE SERVICE AND NON-PENSIONABLE EMOLUMENTS OF CERTAIN MEMBERS	68
30.	REDUCTION IN PENSIONABLE EMOLUMENTS OR HOURS OF DUTY	69



## INDEX

CONTENTS	PAGE
31. CONTRIBUTIONS BY LOCAL AUTHORITIES	70
32. RETIREMENT AT OR WITHIN FIVE YEARS OF PENSION AGE	72
33. METHOD OF CALCULATING RETIREMENT BENEFITS	74
34. DISCHARGE OWING TO ILL-HEALTH	77
35. DISCHARGE OWING TO RE-ORGANISATION	78
36. MONEYS DUE MAY BE DEDUCTED FROM BENEFIT	79
37. RESIGNATION, DISCHARGE AND LEAVING OF SERVICE IN CIRCUMSTANCES NOT ELSEWHERE PROVIDED FOR	80
38. DEFERRED BENEFITS	82
39. REJOINING OF SERVICE OF LOCAL AUTHORITY	84
40. A PENSION CANNOT BE CEDED, PLEDGED OR ATTACHED	85
41. BENEFITS PAYABLE UPON DEATH	86
42. PAYMENT AND INCREASE OF ANNUITIES	95

43.	HOW ANNUITIES ARE AFFECTED BY INSOLVENCY	97
44.	HOW ANNUITIES ARE AFFECTED BY CONVICTION FOR CRIME	98
45.	UNCLAIMED MONEYS	99
46.	LOCAL AUTHORITY BECOMING ASSOCIATED WITH THE FUND	100

## INDEX

CONTENTS	PAGE
47. TRANSFERRING OF PENSION VALUES BETWEEN PENSION FUNDS	101
47A. MUTUAL TRANSFER AGREEMENT WITH THE GOVERNMENT EMPLOYEES PENSION FUND	107
48. AMENDMENT OF RULES AND ADJUSTMENT OF BENEFITS	109
49. RECONSTRUCTION AND DISSOLUTION OF THE FUND	
(1) Reconstruction	110
(2) Complete Dissolution	110
(3) Partial Dissolution	112
(4) Establishment of new fund or scheme	113
50. ELECTION OF MEMBER TO INCREASE PENSIONABLE SERVICE	114
50A. SPECIAL EMPLOYEE	126
51. RIGHTS AND OBLIGATIONS IN TERMS OF PRIOR PROVISIONS	118
52. REPEAL OF REGULATIONS	119

53.	SHORT TITLE AND DATE OF COMMENCEMENT	120
54.	TRANSITION PROVISIONS FOR THE PERIOD FROM 1 JUNE 1995 TO 30 JUNE 1996	
(1)	Election of REPRESENTATIVES and ALTERNATES on the GENERAL COMMITTEE	121
(2)	Election of COMMITTEE	122
	SPECIAL RULES APPLICABLE TO LOCAL AUTHORITIES CONTRIBUTING AT EIGHTEEN PER CENT OF PENSIONABLE EMOLUMENTS	123
	RULES APPLICABLE TO LOCAL AUTHORITIES CONTRIBUTING AT FIFTEEN PER CENT OF PENSIONABLE EMOLUMENTS	127
	RULES APPLICABLE TO LOCAL AUTHORITIES CONTRIBUTING AT EIGHTEEN PER CENT OF PENSIONABLE EMOLUMENTS	130

**GENERAL RULES OF THE MUNICIPAL EMPLOYEES PENSION FUND ESTABLISHED IN TERMS OF SECTION 79quat OF THE LOCAL GOVERNMENT ORDINANCE, 1939 (ORDINANCE 17 OF 1939) (TRANSVAAL) AS AMENDED**

**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) and any regulation promulgated thereunder;

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

"ADMINISTRATOR" the Administrator as defined in section 2 of the ORDINANCE;

"ADVISORY BOARD" the advisory board as it existed on 28 February 1992;

"ALTERNATE" the alternate for a REPRESENTATIVE on the GENERAL COMMITTEE;

"ANNUAL MEETING" the meeting as referred to in section 6(1);

"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 MUNICIPAL RETIREMENT FUND" a fund registered in terms of the ACT, or a fund established pursuant to a collective agreement concluded by a LOCAL AUTHORITY in terms of the Labour Relations Act, 1956 (Act 28 of 1956), as amended, and approved by the COMMISSIONER as a pension fund as contemplated in paragraph (a) of the interpretation of "pension fund" in section 1 of the Income Tax Act, 1962 (Act 58 of 1962), as amended, and as agreed upon between a LOCAL AUTHORITY and the EMPLOYEES of that LOCAL AUTHORITY;

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

"ASSOCIATED FUND" the Munpen Retirement Fund;

\*1 "BONUS SERVICE" (1) in respect of a person who became a MEMBER in terms of section 24(1), (2) or (3) or who transferred from the PENSION FUND, one year for the first completed ten years' PENSIONABLE SERVICE of a MEMBER; or

(2) in respect of a MEMBER who transferred from another pension fund (excluding the PENSION FUND), one year for the first completed five years' pensionable service in the FUND: Provided that the pensionable service in the FUND and the pensionable service referred to in paragraph (b) of the definition of "PENSIONABLE SERVICE" is not less than ten years;

plus a further one year for every completed five years' PENSIONABLE SERVICE thereafter;

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

\*7 "CHILD" (1) the child of a MEMBER or PENSIONER in respect of whom the MEMBER or PENSIONER is legally liable for maintenance;

(2) a child in respect of whom the MEMBER or PENSIONER is not legally liable for maintenance, if such child was, in the opinion of the COMMITTEE, at the death of the MEMBER or PENSIONER, in fact dependent on the MEMBER or PENSIONER for maintenance;

3.

- (3) a posthumous child, an adopted child and an illegitimate child of a MEMBER or PENSIONER;
  
- (4) a child in respect of whom the MEMBER or PENSIONER would have become legally liable for maintenance, had the MEMBER or PENSIONER not died:

Provided that the CHILD -

- (a) (i) is under the age of twenty one years and unmarried; or
  
- (ii) is under the age of twenty three years, unmarried and, in the opinion of the COMMITTEE, incapable of earning an income by reason of a mental or physical defect: Provided that the COMMITTEE may for reasons considered by it in its absolute discretion as conclusive, apply this clause by substituting the age of twenty three years with an age higher than twenty three years; or
  
- (iii) is under the age of twenty three years, unmarried and, in the opinion of the COMMITTEE, is receiving full-time education: Provided further that the COMMITTEE may for reasons considered by it in its absolute discretion as conclusive, apply this clause by substituting the age of twenty three years, with an age higher than twenty three years but not exceeding twenty five years;

\*7

4.

(b) in the case of the CHILD of a PENSIONER, in addition to the requirements of paragraph (a) -

(i) was such a CHILD on the date the PENSIONER retired;  
or

(ii) was born of a marriage subsisting on the date the PENSIONER retired;

"COMMISSIONER" the Commissioner for the South African Revenue Service;

"COMMITTEE" the management committee contemplated in section 4 and any subcommittee thereof, acting under powers delegated to it, who act as trustees of the FUND;

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

"DEPENDANT" in relation to a MEMBER

**\*7**

(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 dependent on the member for maintenance;

(ii) is the spouse of the member;

(iii) is a child of the member, including a posthumous child, an adopted child and a child born out of wedlock.

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



5.

"EMPLOYEE" a person employed by a LOCAL AUTHORITY who has attained the age of sixteen years but not the age of fifty five 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;
- (iii) a person who is employed part-time or for a limited period;
- (iv) a person who has been discharged due to ill-health and who has elected not to become a MEMBER of the FUND, but not persons referred to in section 34(4)(b) who rejoins the FUND in terms of section 39(2); and
- (v) a person who is or has elected to become a member of an APPROVED MUNICIPAL RETIREMENT FUND;

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

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

**\*3** "FINANCIAL YEAR" the period from 01 March to 28 February of any year, both days inclusive, or in the case of a leap year, the period from 01 March to 29 February of any year, both days inclusive;

**\*3** "FINANCIAL YEAR END" means 28 February each year or 29 February in the case of a leap year,

"FUND" the Municipal Employees Pension Fund, established in terms of section 79*quat* of the ORDINANCE;

"GENERAL COMMITTEE" the general committee referred to in section 5;

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

"GRATUITY FUND" the Municipal Employees Gratuity Fund, established in terms of the ORDINANCE;

"INDUSTRIAL COUNCIL" the Industrial Council for the Local Government Undertaking;

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

**\*3** "LOCAL AUTHORITY" a local authority as defined in section 1 of the Income Tax Act, 1962 (Act 58 of 1962), as amended, and any municipal entity created in accordance with the provisions of the Municipal Systems Act 2000 (Act 32 of 2000) over which the LOCAL AUTHORITY exercises ownership control as contemplated by that Act;

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

"OFFICE-BEARER" the chairman, vice-chairman or any other member of the COMMITTEE;

"ORDINANCE" the Local Government Ordinance, 1939 (Ordinance 17 of 1939) (Transvaal), as amended;

\*4 "PARTICIPATION DATE" shall mean for a LOCAL AUTHORITY and its employees, the date from which the LOCAL AUTHORITY participates in the Fund as more particularly described in the special rules if applicable to such LOCAL AUTHORITY.

"PENSIONABLE EMOLUMENTS" -

- (a) SALARY; and
  
- (b) one-sixth of a MEMBER'S SALARY if -
  - (i) free quarters, whether belonging to the LOCAL AUTHORITY or not, are allowed as a portion of the MEMBER'S remuneration; or
  
  - (ii) an allowance to cover the total rental of quarters is paid to the MEMBER; and
  
- (c) any monthly repeating taxable allowance paid to a MEMBER which is not expressly excluded from PENSIONABLE emoluments from time to time by the COMMITTEE: Provided that the COMMITTEE may also include any taxable allowance in PENSIONABLE EMOLUMENTS again after it has been excluded:

Provided that a MEMBER'S PENSIONABLE EMOLUMENTS may be increased in terms of section 29;

"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 COMMITTEE on the recommendation of the LOCAL AUTHORITY concerned;
  - (iii) a period of suspension followed by reinstatement in the same or another post;
  - (iv) a break in service whilst transferring from one LOCAL AUTHORITY to another in terms of section 39, if condoned by the COMMITTEE;
  - (v) a break in service whilst transferring from a local authority not associated with the FUND to a LOCAL AUTHORITY in terms of section 47, if condoned by the COMMITTEE;

\*1

- (b) the pensionable service referred to in sections 47(2), 47(3)(b), 47(5)B and 47A(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, and the periods of BONUS SERVICE and SENIOR BONUS SERVICE, shall not be taken into account in calculating the period of his PENSIONABLE SERVICE;
- (d) the period of PENSIONABLE SERVICE shall be calculated in full years and months and a fraction of a month shall be disregarded;

(e) the PENSIONABLE SERVICE may be reduced in terms of section 29;

(f) the PENSIONABLE SERVICE of a MEMBER who is an employee of a local authority on the date upon which such local authority becomes associated with the FUND in terms of a scheme approved under section 46, shall include the period determined to be so included in terms of the said scheme;

\*4

"PENSION AGE" sixty five years in respect of both male and female MEMBERS;

"PENSIONER" a retired MEMBER who is receiving an ANNUITY from the FUND, including such persons who have been discharged in terms of section 34(4) or section 35(1);

"PENSION FUND" the Municipal Employees Pension Fund, established in terms of the ORDINANCE;

"PRESERVATION FUND" a fund registered in terms of the ACT and approved by the COMMISSIONER in terms of the Income Tax Act, 1962 (Act 58 of 1962), as amended;

"PREVIOUS EMPLOYER":

the United Municipal Executive of South Africa,

the Municipal Association of Transvaal,

the South African Institute of Organisation and Methods,

Munimed (Tvl),

the Employers Organisation for Local Authorities,

the Transvaal Municipal Pension Fund,

Transvaal Local Government Association,

the State in so far as it is the employer of a MEMBER who has been transferred to the civil service and who was previously in the service of a development body as defined in the Abolition of Development Bodies Act, 1986 (Act 75 of 1986),

the Transvaal Provincial Administration in so far as it is the employer of MEMBERS of the FUND;

"PRINCIPAL OFFICER" the principal officer of the PENSION FUND;

"PRIVATE FUND" the Private Enterprises Retirement Fund;

"PROPERTY COMPANY" a company whose main assets comprise fixed property, or one whose main assets comprise investments in the shares in, or loans to such companies;

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

"REGULATIONS" the regulations promulgated in terms of section 79*quat* of the ORDINANCE, as amended;

"REPRESENTATIVE" a representative 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;

"SENIOR BONUS SERVICE" one year for each completed year of PENSIONABLE SERVICE rendered by a MEMBER holding office as a SENIOR OFFICIAL with the last LOCAL AUTHORITY he was associated with before his retirement: Provided that if such MEMBER'S service at such LOCAL AUTHORITY was interrupted, only such PENSIONABLE SERVICE rendered after such MEMBER last commenced duties at such LOCAL AUTHORITY will be taken into consideration for the calculation of SENIOR BONUS SERVICE: Provided further that SENIOR BONUS SERVICE will be limited to a maximum of ten years in the lifetime of any person;

11.

"SENIOR OFFICIAL"

- (1) a MUNICIPAL MANAGER; and
- (2) in the case of a LOCAL AUTHORITY bound by the grading system used by the INDUSTRIAL COUNCIL -
  - (a) a MEMBER who holds a post at level 1 as indicated on the INDUSTRIAL COUNCIL'S official grading schedule of 1 January 1989;
  - (b) a MEMBER who's post is evaluated at level 1 or higher in accordance with an official post evaluation of the INDUSTRIAL COUNCIL, but not a MEMBER as contemplated in paragraph (a), who submitted documentary proof to the FUND of the above-mentioned post evaluation;
  - (c) a MEMBER who is remunerated by the LOCAL AUTHORITY where he is employed on 31 December 1989 on level 1 of the grading system of the INDUSTRIAL COUNCIL and who notified the FUND thereof in writing, notwithstanding whether such a post was evaluated by the INDUSTRIAL COUNCIL or not;
- (3) in the case of a LOCAL AUTHORITY not bound by the grading system used by the INDUSTRIAL COUNCIL, a MEMBER who holds a post which in the opinion of the COMMITTEE equals or is higher in seniority than the posts mentioned in paragraph (1) or (2), provided that such MEMBER or the LOCAL AUTHORITY concerned, within six months from the date on which such MEMBER started holding such post, applied to the COMMITTEE in writing for approval of such a post and subject to such conditions as the COMMITTEE may determine;

- (4) a MEMBER who held a post as contemplated in paragraph (1), (2) or (3) prior to the amalgamation or takeover of the LOCAL AUTHORITY where he is employed with or by another LOCAL AUTHORITY associated with the FUND, notwithstanding the post he holds after the amalgamation or take-over;

"SPECIAL EMPLOYEE" a person who was an EMPLOYEE of a PREVIOUS EMPLOYER on 28 February 1994 and who was a MEMBER of the FUND;

"MUNICIPAL MANAGER" the chief executive officer of a LOCAL AUTHORITY regardless of the designation of the post occupied by that officer.

- (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.
- \*6 (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 COMMITTEE may from time to time determine.
- (4) These Rules shall be binding on the FUND and the MEMBERS and officers thereof, on LOCAL AUTHORITIES 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 COMMITTEE elected in terms of section 8.

**5. CONSTITUTION OF THE GENERAL COMMITTEE**

(1) A GENERAL COMMITTEE shall be constituted as provided in this section.

\*3 (2) (a) The MUNICIPAL MANAGER of every LOCAL AUTHORITY which on 31 March in any year employs one or more MEMBERS, acting on the instruction of the Council of that LOCAL AUTHORITY, shall designate one EMPLOYERS' REPRESENTATIVE together with one ALTERNATE for such EMPLOYERS' REPRESENTATIVE on the GENERAL COMMITTEE, and he shall record such designation on the return contemplated in subsection (8)(a).

\*3 (b) Such EMPLOYERS' REPRESENTATIVE or ALTERNATE shall be a Councillor of the LOCAL AUTHORITY concerned and in respect of the municipal entities created in accordance with the provisions of the Municipal Systems Act 2000 (Act 32 of 2000) the Chief Executive Officer or such other person who holds a post, in the opinion of the COMMITTEE, equals or is higher in seniority than Chief Executive Officer.

(3) The MEMBERS of every LOCAL AUTHORITY which on 31 March in any year employs one or more MEMBERS, shall in the manner contemplated in subsections (6), (7) and (8), elect from among themselves one MEMBER as their EMPLOYEES' REPRESENTATIVE on the GENERAL COMMITTEE and one other MEMBER as the ALTERNATE for such EMPLOYEES' REPRESENTATIVE.

(4) If a REPRESENTATIVE referred to in subsection (2) or (3) cannot be present at any meeting of the GENERAL COMMITTEE by reason of the vacation of his office as such REPRESENTATIVE or for any other reason, his ALTERNATE shall act in his stead at such meeting and he shall be entitled to vote.

(5) No ALTERNATE designated or elected in terms of subsection (2) or (3) shall have the right to vote on the GENERAL COMMITTEE or have any other power, unless he acts in the stead of a REPRESENTATIVE at a particular meeting.

- \*3 (6) (a) Not later than seventy five days prior to the ANNUAL MEETING of every year, the MUNICIPAL MANAGER shall request all MEMBERS employed by the LOCAL AUTHORITY concerned in writing to nominate MEMBERS employed by the LOCAL AUTHORITY concerned to act as EMPLOYEES' REPRESENTATIVE and ALTERNATES.
- \*3 (b) A MEMBER shall be nominated as candidate by the delivery to the MUNICIPAL MANAGER of a nomination signed by at least fifteen MEMBERS or at least 25 per cent of the MEMBERS employed by the LOCAL AUTHORITY concerned, whichever is the lesser, which shall contain a request to such person to stand for election, together with his written acceptance of such nomination.
- \*3 (c) In such nomination it shall not be specified whether the candidate is eligible for election as an EMPLOYEES' REPRESENTATIVE or an ALTERNATE.
- \*3 (d) The MUNICIPAL MANAGER shall accept every nomination in respect of which the requirements referred to in paragraphs (b) and (c) have been complied with, if the person nominated is a MEMBER employed by the LOCAL AUTHORITY concerned and has honoured all his obligations in terms of these Rules.
- \*3 (7) (a) If only one nomination is accepted, the MUNICIPAL MANAGER shall declare the candidate to be duly elected as EMPLOYEES' REPRESENTATIVE. An ALTERNATE shall thereupon be appointed by the MUNICIPAL MANAGER.
- \*3 (b) If two or more nominations are accepted, the MUNICIPAL MANAGER shall not later than sixty days prior to the ANNUAL MEETING of the year concerned (the "ELECTION DAY") provide each MEMBER with a nomination list and ballot paper (in the format as determined by the MUNICIPAL MANAGER) with the request that each MEMBER elects one person on the nomination list as EMPLOYEES' REPRESENTATIVE.
- (c) Such poll shall take place by way of secret ballot.

- (d) Every ballot-paper, supplied by the LOCAL AUTHORITY concerned, shall contain, in alphabetical order, the names of the candidates, shall be numbered consecutively and stamped with a perforating stamp or other mark in order to ensure the secrecy of the ballot.
- \*3**
- (e) The MUNICIPAL MANAGER shall provide a ballot-box and before the commencement of the poll such ballot-box shall be sealed by him in the presence of at least two candidates after they have satisfied themselves that such ballot-box is empty.
  - (f) Every MEMBER desiring to record his vote shall draw a cross against the name of one candidate whom he desires to elect.
  - (g) Every MEMBER shall, after having recorded his vote, deposit the ballot-paper in the ballot-box before leaving the polling-station.
- \*3**
- (h) If a MEMBER accidentally spoils or defaces a ballot-paper, the MUNICIPAL MANAGER may, on return of such spoiled or defaced ballot-paper, issue a fresh ballot-paper to such MEMBER, and the MUNICIPAL MANAGER shall mark such returned ballot-paper as a returned ballot-paper.
  - (i) The poll shall commence at 08:00 on the day of the poll and close at 16:00: Provided that if a LOCAL AUTHORITY employs fewer than twenty five MEMBERS, such poll shall commence at 08:00 and close at 11:00.
  - (j) Every candidate may be present in the polling-station during the poll.
- \*3**
- (k) The MUNICIPAL MANAGER shall appoint two persons as counting officers to assist him in the counting of the votes, which shall take place immediately after the close of the poll. The candidates shall be informed of the time and place of the counting and may be present at such counting.

- \*3** (l) The MUNICIPAL MANAGER and counting officers shall reject any ballot-paper -
- (i) which is not stamped in terms of paragraph (d);
  - (ii) which records a vote for more than one candidate;
  - (iii) which bears any writing or mark by which the MEMBER who recorded the vote can be identified; or
  - (iv) which contains no indication for which candidate a vote has been cast or with any remaining uncertainty for which candidate a vote has been cast.
- \*3** (m) If any candidate questions the validity of a ballot-paper or if a dispute exists between the counting officers as to whether a ballot-paper is valid, the matter shall be referred to the MUNICIPAL MANAGER, whose decision shall be final.
- \*3** (8) (a) Upon completion of the counting of the ballot-papers, the MUNICIPAL MANAGER and the counting officers shall prepare a return showing the result of the election. This return shall, subject to the provisions of paragraph (b), contain a declaration signed by the MUNICIPAL MANAGER that the candidates who received the highest number of votes as EMPLOYEES' REPRESENTATIVE and ALTERNATE respectively, have been duly elected as such.
- \*3** (b) If two or more candidates received an equal number of votes, being the highest number of votes as contemplated in paragraph (a) above, as EMPLOYEES' REPRESENTATIVE and/or ALTERNATE respectively, the MUNICIPAL MANAGER shall determine by lot which of such candidates shall be EMPLOYEES' REPRESENTATIVE and ALTER-NATE, as the case may be, and he shall record the result of the lot on the return referred to in paragraph (a).
- \*3** (c) The MUNICIPAL MANAGER shall send such return to the PRINCIPAL OFFICER to reach him not later than 45 days prior to the ANNUAL MEETING of the year concerned .

- \*3 (d) Upon completion of the poll, the MUNICIPAL MANAGER shall enclose in one parcel all used, spoilt and unused ballot-papers and counterfoils, seal it and keep it unopened in safe custody for a period of six months, whereafter the parcel shall be destroyed unopened in the presence of a senior official of the LOCAL AUTHORITY concerned.
  
- \*3 (9) The MUNICIPAL MANAGER may authorise any official of the LOCAL AUTHORITY concerned to exercise any power and carry out any duty in terms of this section on his behalf.



**6. GENERAL MEETING OF THE GENERAL COMMITTEE**

- \*3**
- (1) The PRINCIPAL OFFICER shall convene a meeting of the GENERAL COMMITTEE after three years not later than the six months after the FINANCIAL YEAR END of the year concerned by giving at least twenty one days' written notice to each REPRESENTATIVE: Provided that should a return referred to in section 5(8) (c) not reach the PRINCIPAL OFFICER at least forty five days prior to the GENERAL MEETING of a particular year, such information must be conveyed to the persons concerned as soon as possible after such return reached the PRINCIPAL OFFICER.
  - (2) The GENERAL MEETING shall be attended only by the REPRESENTATIVES or their ALTERNATES acting in their stead.
  - (3) The purpose of such GENERAL 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 COMMITTEE on any matter relating to the business and activities of the FUND.
  - (4) If a REPRESENTATIVE, or his ALTERNATE acting in the REPRESENTATIVE'S stead wishes to discuss any matter referred to in subsection (3) at such meeting, he shall advise the PRINCIPAL OFFICER in writing at least twenty one days prior to the date of such meeting thereof.

**7. CHAIRMAN OF THE GENERAL COMMITTEE**

- (1) The chairman of the COMMITTEE or, in his absence the vice-chairman of the COMMITTEE, shall preside at any meeting of the GENERAL COMMITTEE.
- (2) In the absence of both the chairman and the vice-chairman, an OFFICE-BEARER elected by the present REPRESENTATIVES and ALTERNATES will preside at that particular meeting of the GENERAL COMMITTEE.
- (3) After the chairman 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 chairman of a meeting of the GENERAL COMMITTEE shall have a casting vote in addition to his deliberative vote.

**\*9 8. ELECTION OF COMMITTEE, CHAIRMAN AND VICE-CHAIRMAN**

- (1) From 1 July 1996 the COMMITTEE shall consist of thirteen OFFICE-BEARERS of whom -
  - (a) four OFFICE-BEARERS shall be EMPLOYERS' REPRESENTATIVES;
  - (b) four OFFICE-BEARERS shall be EMPLOYEES' REPRESENTATIVES;
  - (c) one OFFICE-BEARER shall be a PENSIONER; and
  - (d) four OFFICE-BEARERS shall be persons who, in the discretion of the COMMITTEE, possess knowledge and experience of municipal and/or pension and/or economical and/or financial and/or actuarial matters.
- (2)
  - (a) Before 31 May 1996 the COMMITTEE shall appoint the OFFICE-BEARERS envisaged in paragraphs (c) and (d) of subsection (1) above for a period of two years from 1 July 1996.
  - (b) At the ANNUAL MEETING held in 1996 eight REPRESENTATIVES shall be elected by way of voting per secret ballot as OFFICE-BEARERS of whom -
    - (i) four shall be elected by the EMPLOYERS' REPRESENTATIVES present at the meeting from among themselves;
    - (ii) four shall be elected by the EMPLOYEES' REPRESENTATIVES present at the meeting from among themselves.
  - (c) The two EMPLOYERS' REPRESENTATIVES and the two EMPLOYEES' REPRESENTATIVES who receive the highest number of votes, shall hold office for a period of four years, whilst the remaining four REPRESENTATIVES shall hold their office for a period of two years.

- (3) (a) At least one CALENDAR MONTH before the expiry of the periods of office of the OFFICE-BEARERS envisaged in paragraphs (c) and (d) of subsection (1) above, the COMMITTEE, subject to the provisions of section 9(1), shall appoint new OFFICE-BEARERS in the stead of such OFFICE-BEARERS.
  
- (b) On each second ANNUAL MEETING held after 1996, four REPRESENTATIVES shall be elected by way of voting per secret ballot as OFFICE-BEARERS of whom,
  - 
  
  - (i) two shall be elected by the EMPLOYERS' REPRESENTATIVES present at the meeting from among themselves;
  
  - (ii) two shall be elected by the EMPLOYEES' REPRESENTATIVES present at the meeting from among themselves.

**\*3**

- (4) Deleted.
  
- (5) At the first meeting of the COMMITTEE held after the closing of each ANNUAL MEETING, the COMMITTEE shall elect a Chairman and vice-chairman from its own ranks by way of voting per secret ballot: Provided that the chairman shall not be elected from the ranks of the OFFICE BEARERS as contemplated in subsection (1)(a) for two consecutive years.
  
- (6) An OFFICE BEARER shall be entitled to a remuneration for the attendance of meetings as determined by the COMMITTEE from time to time.

**\*3**

- (7) An OFFICE BEARER as contemplated in subsection 1(a) and (b) already in office immediately prior to the ANNUAL MEETING of 2002 shall continue to serve his period of office and shall vacate his office immediately after the close of the ANNUAL MEETING of the year in which his term of office expires, but may be re-appointed or re-elected.

- \*9** (8) From 14 November 2008 the COMMITTEE shall consist of twelve OFFICE-BEARERS of whom -
- (a) five OFFICE-BEARERS shall be EMPLOYERS' REPRESENTATIVES;
  - (b) five OFFICE-BEARERS shall be EMPLOYEES' REPRESENTATIVES;
  - (c) one OFFICE-BEARER shall be a PENSIONER; and
  - (d) one OFFICE-BEARERS should be independent persons who are not employed by a LOCAL AUTHORITY nor be controlled nor be in common control with the LOCAL AUTHORITY, the administrator or the sponsor of the FUND, and should preferably not provide any other services to the FUND or the LOCAL AUTHORITY or the sponsor: Provided that any variation from these stated preferences should be explained to the REGISTRAR when the relevant rules or rule amendments are submitted to the REGISTRAR for registration.
- \*3** (9) At the ANNUAL MEETING of 2009, and on each ANNUAL MEETING held after 2009, subject to the provisions of subsection 2 (c), section 9(1) and section 10, REPRESENTATIVES shall be elected by way of voting per secret ballot as OFFICE BEARERS of whom the four EMPLOYERS' REPRESENTATIVES and the four EMPLOYEES' REPRESENTATIVES who receive the highest number of votes, shall hold office for a period of three years, whilst the remaining four REPRESENTATIVES shall hold office for a period of two years.
- \*3** (10) Subject to the provisions of subsection 2(c), section 9(1) and section 10 the OFFICE BEARERS contemplated in Subsection 10(c) and (d) shall hold office for a period of three years.
- \*3** (11) The provisions of subsection (5) and (6) shall apply to OFFICE BEARERS assuming office at the ANNUAL MEETING of 2009 and on each ANNUAL MEETING held after 2009.

**9. PERIOD OF OFFICE OF OFFICE-BEARERS AND REPRESENTATIVES ON THE GENERAL COMMITTEE.**

- (1) Subject to the provisions of section 8(2)(a), an OFFICE-BEARER accepts his office immediately after the close of the ANNUAL MEETING during which he was elected and vacates his office immediately after the close of the ANNUAL MEETING of the year in which his term of office expires, but may be re-appointed or re-elected.
  
- (2)
  - (a) A REPRESENTATIVE on the GENERAL COMMITTEE shall take office immediately before the opening of the first ANNUAL MEETING after his appointment or election and vacate his office immediately before the opening of the ANNUAL MEETING two years later.
  
  - (b) An ALTERNATE for a REPRESENTATIVE shall remain an ALTERNATE for the period contemplated in paragraph (a).
  
- (3) REPRESENTATIVES on the GENERAL COMMITTEE 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 Councillor: Provided that for the purpose of applying this provision it shall be deemed that an OFFICE-BEARER who, as a result of the provisions of section 29(3) of the Ordinance on Municipal Elections No. 16 of 1970, as amended, and/or any other similar statutory provision, ceases to be a Councillor, but at the following election is re-elected as Councillor, was a Councillor without any interruption;
  - (c) in the case of an OFFICE-BEARER who is an EMPLOYEES' REPRESENTATIVE, 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;
  - (e) if he is absent from three consecutive meetings of the COMMITTEE without the consent of such COMMITTEE.
- (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.
- (c) In the case of a vacancy in respect of an OFFICE-BEARER as envisaged in sections 8(1)(c) and (d), an OFFICE-BEARER from the category concerned shall be appointed by the remaining OFFICE-BEARERS.
- (3) An OFFICE-BEARER appointed or elected to fill a vacancy on the COMMITTEE, holds office for the unexpired portion of the period for which his predecessor was appointed or elected.
- (4) If an OFFICE-BEARER who vacates his office is a chairman or vice-chairman, the COMMITTEE shall elect a chairman or vice-chairman from its ranks.
- (5) An OFFICE-BEARER as contemplated in sections 8(1)(a) and (b), may be removed from office before the expiration of his period of office by a majority decision of the GENERAL COMMITTEE, *mutatis 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 as contemplated in section 8(1)(a), 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 as contemplated in section 8(1)(b), by way of voting per secret ballot by the EMPLOYEES' REPRESENTATIVES present at the meeting from among themselves.



- (6) An OFFICE-BEARER as contemplated in sections 8(1)(c) and (d) may be removed from office before the expiration of his period of office by a majority decision of the COMMITTEE, *mutatis mutandis* in accordance with the provisions of section 220 of the Companies Act, 1973 (Act 61 of 1973). The resultant vacancy shall be filled by way of voting per secret ballot by all the remaining OFFICE-BEARERS present at the meeting, from the category concerned.

**11. VACATING OF OFFICE BY REPRESENTATIVE OR ALTERNATE ON THE GENERAL COMMITTEE**

- (1) A REPRESENTATIVE or ALTERNATE shall cease to hold office -
  - (a) if he resigns or dies;
  - (b) in the case of an EMPLOYERS' REPRESENTATIVE, if he ceases to be a Councillor: Provided that for the purpose of applying this provision it shall be deemed that an OFFICE-BEARER who, as a result of the provisions of section 29(3) of the Ordinance on Municipal Elections No. 16 of 1970, as amended, and/or any other similar statutory provision, ceases to be a Councillor, but at the following election is re-elected as Councillor, was a Councillor without any interruption;
  - (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(2); or
  - (b) in the case of an EMPLOYEES' REPRESENTATIVE, be filled by the ALTERNATE elected in the manner contemplated in sections 5(6), (7) or (8); or

- (c) in the case of both an EMPLOYEES' REPRESENTATIVE and ALTERNATE, be filled by a MEMBER appointed by the MUNICIPAL MANAGER of the LOCAL AUTHORITY concerned in respect of the REPRESENTATIVE only. Accordingly the vacancy of the ALTERNATE shall be left vacant. If no MEMBER remains at the LOCAL AUTHORITY concerned, both vacancies shall be left vacant.
  
- (3) A REPRESENTATIVE or ALTERNATE appointed or elected to fill a vacancy on the GENERAL COMMITTEE, shall hold office for the unexpired portion of the period for which his predecessor was appointed or elected.

**12. MEETINGS OF THE COMMITTEE AND THE GENERAL COMMITTEE**

- (1) (a) The COMMITTEE shall hold an ordinary meeting as often as may be necessary for the dispatch of business, but at least ten times a year, calculated from 1 July and at intervals of not more than sixty five days.
  - (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 chairman may at any time, but shall, if requested in writing by at least seven OFFICE-BEARERS controlling the FUND in terms of section 4, convene a special meeting of the COMMITTEE within thirty days and he 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 ANNUAL MEETING of the GENERAL COMMITTEE, the COMMITTEE may at its discretion from time to time, or shall, at the written request of at least 25 per cent of the REPRESENTATIVES on the GENERAL COMMITTEE, within thirty days of such request, convene a meeting of the GENERAL COMMITTEE for the purpose of making recommendations to the COMMITTEE, and the chairman 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 COMMITTEE or the GENERAL COMMITTEE shall be accepted if the majority of the OFFICE-BEARERS or REPRESENTATIVES, as the case may be, 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 or REPRESENTATIVE present at the meeting, by secret ballot.

**13. QUORUM AND MINUTES FOR MEETINGS OF THE COMMITTEE AND THE GENERAL COMMITTEE**

- (1) A quorum for a meeting of the COMMITTEE shall be seven of the OFFICE-BEARERS controlling the FUND in terms of section 4, consisting of -
  - (a) at least one OFFICE-BEARER contemplated in section 8(1)(a);
  - (b) at least one OFFICE-BEARER contemplated in section 8(1)(b); and
  - (c) at least one OFFICE-BEARER contemplated in section 8(1)(d).
- (2) A quorum for a meeting of the GENERAL COMMITTEE shall be one quarter of the total number of REPRESENTATIVES.
- (3)
  - (a) If a quorum is not present at a scheduled meeting of the COMMITTEE within thirty minutes from the time determined for the start of the meeting, the PRINCIPAL OFFICER may, if the provisions of paragraphs (a), (b) and (c) 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 meeting of the GENERAL COMMITTEE within thirty minutes from the time determined for the start of the meeting, the PRINCIPAL OFFICER may extend the starting time of the meeting for not more than two hours, whereafter the REPRESENTATIVES present will form a quorum and proceed with the business of that 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-CHAIRMAN AND ACTING CHAIRMAN OF THE COMMITTEE**

- (1) If the chairman is absent at any meeting of the COMMITTEE, the vice-chairman shall act as chairman of that meeting.
- (2) If both the chairman and the vice-chairman are absent from any meeting of the COMMITTEE, the OFFICE-BEARERS present at that meeting shall elect an acting chairman from their ranks for that meeting.
- (3) In the event of a tie in voting, the chairman, vice-chairman or the acting chairman presiding at any meeting of the COMMITTEE shall have a casting vote in addition to his deliberative vote.

**15. POWERS OF THE COMMITTEE**

- (1) Subject to the provisions of these Rules, the COMMITTEE may -
  - (a) decide whether any person is qualified to be a MEMBER of the FUND;
  - (b) determine the method whereby the annual PENSIONABLE EMOLUMENTS of hourly paid, daily paid, weekly paid and other MEMBERS shall be calculated for purposes of calculating monthly CONTRIBUTIONS and give such directions in connection therewith as the COMMITTEE 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;

- (l) appoint 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;
- (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 COMMITTEE, 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 an 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 registered in terms of the Insurance Act, 1943 (Act 27 of 1943 );
- (s) do everything which is incidental or conducive to the attainment of the objectives of these Rules.



- (2) The COMMITTEE 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 COMMITTEE 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 COMMITTEE, and to realise any investment, or otherwise deal with such investment in the manner determined by the COMMITTEE, 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, authorised in terms of the Insurance Act, 1943 (Act 27 of 1943) to carry on long term insurance business;
- (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;
- (8) to invest in immovable property, which shall also include -
- (a) any investment in the shares of a PROPERTY COMPANY where such investment exceeds 5 per cent of the total shareholding of that company;
  - (b) any unsecured loan to a PROPERTY COMPANY controlled by the FUND; and

- (c) any loan, secured by a mortgage bond, to a PROPERTY COMPANY which the FUND directly or indirectly controls or in which the FUND holds more than 25 per cent of the shares:

Provided that the total investment by the FUND in immovable property, together with -

- (i) any loan, secured by a mortgage bond, in respect of which the mortgagor has failed to comply with his obligations in terms of the mortgage bond and the property subject to the mortgage has been attached for judicial sale and bought by the FUND; and
- (ii) any unsecured amount which is owing to the FUND in respect of the sale of immovable property,

shall not exceed such percentage of its total assets as the REGISTRAR may from time to time determine, unless the REGISTRAR is satisfied that such excess is temporarily necessary to safeguard any investment of the FUND.

**17. INDEMNIFICATION OF THE COMMITTEE AND OFFICERS OF THE FUND IN RESPECT OF LEGAL COSTS**

The COMMITTEE, 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 COMMITTEE or any such OFFICE-BEARER or officer by any person or authority by reason of the conduct, acts or omissions of such COMMITTEE or any other such OFFICE-BEARER or officer in the course of the discharge of his duties as COMMITTEE, OFFICE-BEARER or officer. This indemnity shall not apply where the said COMMITTEE, 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 COMMITTEE, OFFICE-BEARER or officer in defending or settling any such claim: Provided that the FUND may recover all such costs and expenses from such COMMITTEE, OFFICE-BEARER or officer, if it appears that such COMMITTEE, OFFICE-BEARER or officer was guilty of gross negligence, dishonesty or fraud.

**18. FIDELITY GUARANTEE INSURANCE**

The COMMITTEE 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, members of the ADVISORY BOARD and ALTERNATES) 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 COMMITTEE may make or accept payments elsewhere on such terms as it may determine.

(2) Whenever a benefit becomes payable, it shall be deemed that the MEMBER has requested that the benefit be paid by means of a cheque or cheques by ordinary mail to the MEMBER'S postal address, as supplied to the FUND by the MEMBER or LOCAL AUTHORITY of whom the MEMBER is an EMPLOYEE.

The MEMBER may, however, arrange with the FUND that payment of the benefit be made in some other manner: Provided that such payment shall be made on such terms as the COMMITTEE may determine.

(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 COMMITTEE 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 COMMITTEE shall keep record of all necessary particulars of all 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 COMMITTEE shall, in terms of section 15 of the ACT, balance the books and accounts up to 31 December of every year and shall draw up a balance sheet and revenue account showing the assets, liabilities, revenue and expenditure of the FUND up to that date.
- (3) A copy of the balance sheet and revenue account shall be distributed to the LOCAL AUTHORITIES at least fourteen days prior to the ANNUAL MEETING.
- (4) The books and all other documents of the FUND shall during office hours be open for inspection by any REPRESENTATIVE or ALTERNATE on the GENERAL COMMITTEE.
- (5) The FUND shall provide any MEMBER on demand and on payment of such sum as the COMMITTEE may from time to time determine, 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.
- (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 COMMITTEE 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 COMMITTEE 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 ACTUARY AND HIS DUTIES**

- (1) The COMMITTEE 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 AND EVIDENCE OF HEALTH**

- (1) Subject to the provisions of these Rules, a person who was a MEMBER at the date of the commencement of these Rules shall continue to be a MEMBER.
  
- (2)
  - (a) A person who becomes an EMPLOYEE between 1 January 1994 and 30 June 1996, shall within three months thereafter elect in writing to become a member of the FUND or the PENSION FUND, according to salary level, or to become a member of the GRATUITY FUND: Provided that such election shall be non-recurrent and irrevocable: Provided further that such membership shall be retrospective from the date on which such person became an EMPLOYEE.
  
  - (b) A person who becomes an EMPLOYEE between 1 July 1996 and 28 February 1997, shall within three months thereafter elect in writing to become a member of the FUND or the GRATUITY FUND: Provided that such election shall be non-recurrent and irrevocable: Provided further that such membership shall be retrospective from the date on which such person became an EMPLOYEE.
  
  - (c) A person who becomes an EMPLOYEE from 1 March 1997, shall within three months thereafter, or such longer period as the COMMITTEE may in its absolute discretion determine, elect in writing to become a member of the FUND or an APPROVED MUNICIPAL RETIREMENT FUND: Provided that such membership shall be retrospective from the date on which such person became an EMPLOYEE. Once exercised, the exercise of the option cannot be withdrawn.

- (3) A person who commences work at a PREVIOUS EMPLOYER from 1 March 1994 to 28 February 1995, shall before or on 28 February 1995 elect in writing to become a member of the FUND or the PENSION FUND, according to salary level, or to become a member of the GRATUITY FUND: Provided that such election shall be non-recurrent and irrevocable: Provided further that such membership shall be retrospective from the date on which such person commenced work at the PREVIOUS EMPLOYER.
- (4) Deleted.
- (5) Deleted.
- (6) A MEMBER shall not cease to be a MEMBER while he remains in the service of a LOCAL AUTHORITY, subject to sections 24(10), (11), (13), (16), (17), (18), (19) and (20).
- (7) A MEMBER who leaves the service of a LOCAL AUTHORITY shall, subject to the provisions of section 39(1), cease to be a MEMBER.
- (8) Every EMPLOYEE who elected in terms of regulation 21(2)(a) or (b) of the REGULATIONS not to become a MEMBER of the FUND, may apply to the COMMITTEE to become a MEMBER, in which event his membership shall commence on the first day of the month following on the month wherein his membership has been approved by the COMMITTEE.
- (9) A person who was a MEMBER of the FUND immediately before entering the service of a local authority situated outside the Republic of South Africa in a state which became autonomous, may apply to the COMMITTEE in writing to remain a MEMBER of the FUND. If the application is approved, such local authority shall be deemed to be a LOCAL AUTHORITY as defined in section 1(1) in respect of such MEMBER, except for purposes of section 5 of the Rules.

- (10) Subject to the provisions of subsection (13), a person who was a MEMBER of the FUND immediately prior to 1 January 1994, may, should he comply with the membership requirements of the PENSION FUND, elect in writing on or before 31 March 1994, to transfer his actuarial interest to the said fund and to become a member of this fund with effect from 1 January 1994.

Such an election shall be non-recurrent and irrevocable and the following shall apply:

- (a) The FUND shall, in respect of the period of such MEMBER'S PENSIONABLE SERVICE with the FUND which the said fund recognises as pensionable service, pay to the said fund on a date as determined by the COMMITTEE, a transfer value ascertained by the ACTUARY or derived from tables supplied by the ACTUARY as at the date of termination of his membership of the FUND.
- (11) A MEMBER of the FUND who due to promotion no longer qualifies for membership of the FUND prior to 30 June 1996, but qualifies for membership of the PENSION FUND, may within three months after the date of promotion, but not later than 30 September 1996, apply to the COMMITTEE in writing that his actuarial interest be transferred to the PENSION FUND.

Such an election shall be non-recurrent and irrevocable and the following shall apply:

- (a) The FUND shall, in respect of the period of such MEMBER'S PENSIONABLE SERVICE with the FUND which the said fund recognises as pensionable service, pay to the said fund on the commencement date of his membership of the said fund, a transfer value ascertained by the ACTUARY or derived from tables supplied by the ACTUARY as at the date of termination of his membership of the FUND.

- (12) A MEMBER of the PENSION FUND who due to degradation no longer qualifies for membership of that fund prior to 30 June 1996, but qualifies for membership of the FUND, may within three months after the date of degradation, but not later than 30 September 1996, elect in writing to become a MEMBER of the FUND.

Such an election shall be non-recurrent and irrevocable and provided that payment of a transfer value as determined by the ACTUARY is received, the following provisions shall apply:

- (a) Such person becomes a MEMBER of the FUND from the first day of the month immediately following the date on which he exercised his election: Provided that, in the case where such election is exercised after 30 June 1996, such person shall become a MEMBER of the FUND with effect from 1 July 1996;
  - (b) the MEMBER shall not be required to satisfy the FUND'S requirements relating to evidence of health if he was entitled to unrestricted benefits at the said fund;
  - (c) the periods of service earned as a result of the transfer value shall be regarded as PENSIONABLE SERVICE by the FUND;
  - (d) the contributions paid or deemed to have been paid by the MEMBER to the said fund shall be regarded as CONTRIBUTIONS paid to the FUND.
- (13) A person who was a MEMBER of the FUND immediately prior to 1 January 1994, may elect in writing on or before 30 June 1995 to become a member of the GRATUITY FUND: Provided that such membership shall be retrospective with effect from 1 January 1994.

Such an election shall be irrevocable after 30 June 1995 and the following shall apply:

- (a) The FUND shall pay to the GRATUITY FUND on a date determined by the COMMITTEE, a transfer value ascertained by the ACTUARY or derived from tables supplied by the ACTUARY as at the date of termination of the MEMBER'S membership of the FUND.
- (14) (a) (i) A person who fails to exercise his option in terms of sub-section (2)(a) within the required three months or fails to exercise his option in terms of subsection (3) before or on 28 February 1995, shall, according to salary level, be deemed to be a member of the FUND or the PENSION FUND.
- (ii) A person who fails to exercise his option in terms of sub-section (2)(b) within three months after becoming an EMPLOYEE, shall be deemed to be a member of the FUND.
- (b) If a MEMBER fails to submit his options in terms of sub-sections (10) and (13) to the COMMITTEE in writing on or before 31 March 1994 or 30 June 1995, as the case may be, such options will lapse and the MEMBER shall remain a MEMBER of the FUND.
- (15) Notwithstanding the provisions of sub-sections (13) and (14) hereof, a person who has exercised an option in terms of sub-section (13) hereof, read together with sub-section (14) hereof, may withdraw such option by giving written notice to that effect to the FUND and the GRATUITY FUND before or on 30 June 1995. In the event of such withdrawal:
- (a) such person will be reinstated as a MEMBER of the FUND with effect from 1 January 1994 and will cease to be a member of the GRATUITY FUND with effect from 1 January 1994;



- (b) the transfer value paid by the FUND to the GRATUITY FUND in respect of such election, will be refunded by the GRATUITY FUND to the FUND within one month after such withdrawal, together with INTEREST thereon, calculated from the date of such withdrawal to the date of repayment.
- (16) Subject to the provisions of these Rules, a person who was a MEMBER of the FUND during the period 1 July 1995 to 30 June 1996, excluding a person who became a MEMBER during this period by virtue of subsection (17), has an irrevocable option to become a member of the GRATUITY FUND, subject to the following:
- (a) If such person wishes to exercise the option, then he will do so by giving written notice to that effect to the FUND and the GRATUITY FUND during the period from 1 July 1995 to 30 June 1996 (both dates included). Once exercised, the exercise of the option cannot be withdrawn.
  - (b) If the option is not exercised as aforesaid and received by the FUND before or on 30 June 1996, it will lapse.
  - (c) If such option is exercised, such person's membership of the FUND shall terminate and he shall become a member of the GRATUITY FUND with effect from the first day of the CALENDAR MONTH during which such option is exercised.
  - (d) If such person exercise such option, the FUND shall pay to the GRATUITY FUND, on a date not later than one month after such person has exercised his option, a transfer value which is ascertained by the ACTUARY of the FUND or which is derived from the tables supplied by such ACTUARY and which is determined as at the date of termination of such person's membership of the FUND.

- (17) Subject to the provisions of these Rules, a person who, by virtue of sections 24(13) and (14), was a member of the GRATUITY FUND during the period 1 July 1995 to 30 June 1996 has an irrevocable option to become a MEMBER of the FUND, subject to the following:
- (a) If such person wishes to exercise the option, then he will do so by giving written notice to that effect to the FUND and the GRATUITY FUND during the period from 1 July 1995 to 30 June 1996 (both dates included). Once exercised, the exercise of the option cannot be withdrawn.
  - (b) If the option is not exercised as aforesaid and received by the FUND before or on 30 June 1996, it will lapse.
  - (c) If such option is exercised, such person's membership of the GRATUITY FUND shall terminate and he shall become a member of the FUND with effect from the first day of the CALENDAR MONTH during which such option is exercised.
  - (d) If such person exercise such option, the GRATUITY FUND shall pay to the FUND on a date not later than one month after such person has exercised his option, a transfer value which is ascertained by the ACTUARY of the FUND or which is derived from the tables supplied by such ACTUARY and which is determined as at the date of termination of such person's membership of the GRATUITY FUND.

- (18) Subject to the provisions of these Rules, a person who is a member of the PENSION FUND during the period 1 April 1996 to 30 June 1996, has an irrevocable option to become a MEMBER of the FUND, subject to the following:
- (a) If such person wishes to exercise the option, then he will do so by giving written notice to that effect to the FUND and the PENSION FUND before or on 30 September 1996. Once exercised, the exercise of the option cannot be withdrawn.
  - (b) If the option is not exercised as aforesaid and received by the FUND before or on 30 September 1996, it will lapse.
  - (c) If such option is exercised, such person's membership of the PENSION FUND shall terminate and he shall become a MEMBER of the FUND with effect from the first day of the CALENDAR MONTH during which such option is or 1 July 1996, whichever is the first.
  - (d) If such person exercise such option, the PENSION FUND shall pay to the FUND, on a date not later than one month after such person has exercised his option, a transfer value which is ascertained by the actuary of the PENSION FUND or which is derived from the tables supplied by such actuary and which is determined as at the date of termination of such person's membership of the PENSION FUND.

- (19) Subject to the provisions of these Rules, a person who is a MEMBER of the FUND on 1 March 1997, has an irrevocable option to become a member of an APPROVED MUNICIPAL RETIREMENT FUND, subject to the following:
- (a) If such MEMBER wishes to exercise the option, then he will do so by giving written notice to that effect to the FUND and the APPROVED MUNICIPAL RETIREMENT FUND during the period from 1 March 1997 to 30 June 1998 (both dates included): Provided that should any unforeseen circumstances arise which prevent a specific LOCAL AUTHORITY from enabling its EMPLOYEES to exercise their options before 30 June 1998, the COMMITTEE may, subject to such conditions as it in its sole discretion may determine, extend this period by not more than two months. Once exercised, the exercise of the option cannot be withdrawn.
  - (b) If the option is not exercised as contemplated in subsection (a) and received by the FUND before or on 30 June 1998, or such later date as contemplated in paragraph (a) above as may be determined by the COMMITTEE, it will lapse and the MEMBER will remain a MEMBER of the FUND.
  - (c) If such option is exercised, such MEMBER'S membership of the FUND shall terminate on the last day of the CALENDAR MONTH preceding the CALENDAR MONTH during which such MEMBER'S first contribution to the APPROVED MUNICIPAL RETIREMENT FUND becomes payable and he shall become a MEMBER of the APPROVED MUNICIPAL RETIREMENT FUND with effect from the following day. As soon as such person's contributions become payable to the APPROVED MUNICIPAL RETIREMENT FUND, he shall have no further claim of whatever nature against the FUND.

- (d) If such MEMBER exercises such option, the FUND shall, subject to the provisions of section 14 of the ACT and the provisions of the Income Tax Act, 1962 (Act 58 of 1962), pay to the APPROVED MUNICIPAL RETIREMENT FUND, on a date not later than three months after such MEMBER has exercised his option, a transfer value which is ascertained by the actuary of the FUND or which is derived from the tables supplied by such actuary and which is determined as at the date on which such MEMBER'S membership of the FUND terminates as contemplated in subsection (c).
- (20) A person who is a MEMBER of the FUND on 1 March 2003, shall have the right to exercise an option as contemplated in subsection (19), subject to such change of membership being approved by the Income Tax Act, 1962 (Act 58 of 1962), as amended, or any other applicable Act.
- (21) Subject to the provisions of these Rules, a person who is a member of an APPROVED MUNICIPAL RETIREMENT FUND on 1 March 1997, has an irrevocable option to become a MEMBER of the FUND, subject to the following:
- (a) If such person wishes to exercise the option, then he will do so by giving written notice to that effect to the FUND and the APPROVED MUNICIPAL RETIREMENT FUND during the period from 1 March 1997 to 30 June 1998 (both dates included): Provided that should any unforeseen circumstances arise which prevent a specific LOCAL AUTHORITY from enabling its EMPLOYEES to exercise their options before 30 June 1998, the COMMITTEE may, subject to such conditions as it in its sole discretion may determine, extend this period by not more than two months. Once exercised, the exercise of the option cannot be withdrawn.

- (b) If such option is exercised, such person's membership of the APPROVED MUNICIPAL RETIREMENT FUND shall terminate on the last day of the CALENDAR MONTH preceding the CALENDAR MONTH during which such MEMBER'S first contribution to the FUND becomes payable and he shall become a member of the FUND with effect from the following day.
  - (c) If such person exercise such option, the APPROVED MUNICIPAL RETIREMENT FUND shall pay to the FUND on a date not later than three months after such person has exercised his option, a actuarial value, subject to the provisions of section 14 of the ACT and the provisions of the Income Tax Act, 1962 (Act 58 of 1962).
- (22) A person who was a MEMBER of the FUND and who, due to privatisation, may no longer be a MEMBER of the FUND, shall not later than the last day before termination of his membership of the FUND, elect in writing that his transfer value as determined by the ACTUARY -
- (a) be retained in the FUND as a paid-up benefit in terms of section 38, in which event the MEMBER shall become a non-contributing MEMBER of the FUND (that is to say a MEMBER that makes no CONTRIBUTIONS to the FUND as contemplated in section 26); or
  - (b) be payable to him: Provided that the transfer value, reduced by any tax that may be payable thereon, be paid to his benefit into -
    - (i) the PRIVATE FUND; or
    - (ii) another APPROVED FUND approved by the COMMITTEE: Provided that such approval may be subjected to such conditions as the COMMITTEE in its absolute discretion may determine.

The FUND shall, in respect of the period of such MEMBER'S PENSIONABLE SERVICE, pay to the PRIVATE FUND or the APPROVED FUND, as the case may be, on a date not later than three months after the MEMBER has exercised his option, the above-mentioned value calculated by the ACTUARY, whereafter the MEMBER shall have no further claim against the FUND. The value calculated by the ACTUARY as at the date of termination of membership, shall be reasonably calculated as the ACTUARY may think proper, together with INTEREST thereon, calculated from the date following the date of termination of the MEMBER'S membership of the FUND to the date of payment.

The option in terms of this subsection (22) shall be non-recurrent and irrevocable.

**\*5 24A AMALGAMATIONS AND TRANSFERS**

24A.1 THE COMMITTEE may, in terms of the relevant provisions of the Act –

24A.1.1 amalgamate any business carried on by the FUND with any business carried on by any other person;

24A.1.2 transfer any business carried on by the FUND to any other person;

24A.1.3 accept the transfer of any business carried on by another person to the FUND.

24A.2 Whenever the Fund amalgamates, transfers or accepts the transfer of any business, the COMMITTEE must ensure that a written notice is sent to every MEMBER who is to transfer into the FUND. Full details of the amalgamation or transfer scheme must appear in the notice. The notice must be sent at least 30 days before the scheme is submitted to the REGISTRAR for his or her approval.

24A.3 Subject to the provisions of Section 24 and Section 25, the Fund may accept the transfer into it of persons who were members of any APPROVED FUND to which the Council or any body which was one of its legal predecessors contributed on behalf of such persons. The FUND may simultaneously accept the transfer into it of assets in respect of such persons.



24A.4 the MEMBER shall be credited with such periods of pensionable service and contributions in relation to the MEMBER'S actuarial value transferred to the FUND as determined by the COMMITTEE in consultation with the ACTUARY.

**25. EVIDENCE OF AGE AND OTHER PARTICULARS TO BE PRODUCED**

- (1) Every MEMBER shall, within six months after the date whereupon he became a MEMBER, produce evidence of his age to the satisfaction of the COMMITTEE, failing which, the age of such MEMBER shall be determined by the COMMITTEE.
  
- (2) Every MEMBER shall, within such a period as the COMMITTEE may determine, produce evidence of any other matter which the COMMITTEE may require and in such format as the COMMITTEE may determine.

**26. CONTRIBUTIONS BY MEMBERS**

- (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 7,5 per cent of his monthly PENSIONABLE EMOLUMENTS.
  
- (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 LOCAL AUTHORITY 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 LOCAL AUTHORITY 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 attains the age of sixteen years.
- (3) If a MEMBER -
    - (a) leaves the service of a LOCAL AUTHORITY in terms of section 32, 33, 34 or 35, 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 a LOCAL AUTHORITY -
  - (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 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) 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 a person shall, on the date of it coming to the notice of the COMMITTEE, pay the arrear CONTRIBUTIONS in one sum or by instalments, as the COMMITTEE 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 the COMMITTEE may wholly or partially exempt such MEMBER from payment of arrear CONTRIBUTIONS, in which event the commencement date of a MEMBER'S PENSIONABLE SERVICE shall be determined accordingly.

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

- (1) Subject to contrary provisions in any law, the CONTRIBUTIONS payable in terms of sections 26(1) and 28 and the instalments payable in terms of sections 26(6)(a), 28(2), 39, 47 and 50 shall be a first charge upon the SALARY payable to the MEMBER and shall be deducted monthly from his SALARY by the LOCAL AUTHORITY concerned and paid to the FUND.
  
- (2)
  - (a) Where payment of arrear CONTRIBUTIONS or other amounts are being made by a MEMBER in instalments in terms of section 26(6), 28(2), 39(2)(a), 47(3)(d) or (e) and/or by a LOCAL AUTHORITY in terms of section 31(2)(c) and such MEMBER'S 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 COMMITTEE upon advice from the ACTUARY.
  
  - (b) In the event that the MEMBER and/or the LOCAL AUTHORITY fail to pay CONTRIBUTIONS as contemplated in sections 26 and 31 for a period of three months, and remain in default seven days after receipt of written notice requiring such failure to be remedied, the MEMBER, his estate or his DEPENDANTS shall only be entitled to benefits in terms of section 37.

**28. CONTRIBUTIONS WHILST ON LEAVE**

- (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 EMOLUMENTS.
  
- (2) If a MEMBER is on leave without pay, he may contribute to the FUND on the basis of his full PENSIONABLE EMOLUMENTS, which amount, together with INTEREST, shall be paid by the MEMBER in monthly instalments over such a period as the COMMITTEE may determine.

**28A. SENIOR BONUS SERVICE**

(1) The definition of "SENIOR OFFICIAL" shall not be construed to mean that more than one person holding the same post will qualify for SENIOR BONUS SERVICE, except in the following cases:

(a) where an EMPLOYEE deputizes in the post of SENIOR OFFICIAL; or

(b) where a SENIOR OFFICIAL goes on leave immediately before retiring and a new person is appointed in the same post of SENIOR OFFICIAL:

Provided that both persons contemplated in paragraph (a) or (b) will qualify for a maximum period of one year for SENIOR BONUS SERVICE in such post.

(2) If more than one MEMBER holds the same post as SENIOR OFFICIAL as contemplated in subsection (1)(a) or (b) for more than one year, only the MEMBER who held the post of SENIOR OFFICIAL first, shall qualify for SENIOR BONUS SERVICE in respect of that period which exceeds one year.

(3) If the cost of SENIOR BONUS SERVICE in the opinion of the ACTUARY at any time exceeds 0,5 per cent of the PENSIONABLE EMOLUMENTS of MEMBERS, being that portion of LOCAL AUTHORITIES' CONTRIBUTIONS allocated to SENIOR BONUS SERVICE, as a result of the payment of benefits on account of SENIOR BONUS SERVICE, the COMMITTEE shall in consultation with the ACTUARY determine in which way such deficit shall be supplemented.

**29. PENSIONABLE SERVICE AND NON-PENSIONABLE EMOLUMENTS OF CERTAIN MEMBERS**

- (1) If a MEMBER at any time during his service receives a fixed periodical non-pensionable allowance -
  - (a) his PENSIONABLE SERVICE may proportionately be reduced in such a manner as the COMMITTEE may determine after consultation with the ACTUARY; or
  - (b) his average annual PENSIONABLE EMOLUMENTS may for the purposes of sections 32, 33, 34, 35 and 41 be increased by an amount which the COMMITTEE may determine after consultation with the ACTUARY, but not exceeding the amount of his fixed periodical non-pensionable allowance.
  
- (2) If a MEMBER is at any time employed part-time by a LOCAL AUTHORITY and his conditions of service are amended in respect of the fraction of a full day that he works, the PENSIONABLE SERVICE of the MEMBER which arose from service before such amendment, shall be adjusted in the light of such amendment by the COMMITTEE in its absolute discretion after consultation with the ACTUARY.



**30. REDUCTION IN PENSIONABLE EMOLUMENTS OR HOURS OF DUTY**

- (1) Subject to the provisions of subsection (2), if the PENSIONABLE EMOLUMENTS of a MEMBER are reduced for any reason, he may elect to contribute to the FUND on the basis of his PENSIONABLE EMOLUMENTS immediately before such reduction, in which event his PENSIONABLE EMOLUMENTS shall for purposes of these Rules be deemed to be equal to his PENSIONABLE EMOLUMENTS before such reduction.
  
- (2) If a MEMBER leaves the service of a LOCAL AUTHORITY and enters the service of another LOCAL AUTHORITY, and his PENSIONABLE EMOLUMENTS at the latter LOCAL AUTHORITY are lower than his PENSIONABLE EMOLUMENTS at the former LOCAL AUTHORITY, the provisions of subsection (1) shall apply *mutatis mutandis*:  
Provided that -
  - (a) he enters the service of the latter LOCAL AUTHORITY within twenty four months after he left the service of the former; and
  
  - (b) he obtained the consent of the latter LOCAL AUTHORITY first.
  
- (3) If the normal working hours of a MEMBER are reduced as a measure of economy, as a result of which his PENSIONABLE EMOLUMENTS are reduced, such MEMBER shall contribute on the basis of the PENSIONABLE EMOLUMENTS on which he was contributing immediately before the reduction, and for the purposes of these Rules, his PENSIONABLE EMOLUMENTS shall be deemed to be equal to his PENSIONABLE EMOLUMENTS before such reduction.

**31. CONTRIBUTIONS BY LOCAL AUTHORITIES**

- (1) A LOCAL AUTHORITY 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 COMMITTEE may determine, containing such information as the COMMITTEE may determine and which shall be accompanied by the following:
- (a) the CONTRIBUTIONS and INTEREST payable by each MEMBER in respect of the preceding month: Provided that if a MEMBER'S SALARY in respect of that month is insufficient to cover the amount of the CONTRIBUTION in cases contemplated in section 26(3)(a), such CONTRIBUTIONS and INTEREST or part thereof, shall be recovered from the benefit payable;
  - (b) an amount equal to 22 per cent of the PENSIONABLE EMOLUMENTS of each MEMBER used as the basis of the MEMBER'S own CONTRIBUTION;
  - (c) the CONTRIBUTIONS or installments payable in terms of section 28(2);
  - (d) an amount equal to the total CONTRIBUTIONS payable in terms of section 28(2), increased in the ratio 44:15, and INTEREST thereon until date of payment;
  - (e) amounts payable in terms of sections 26(6), 39, 47 and 50, if any:

Provided that if the MEMBER is paying by installments, the LOCAL AUTHORITY shall make a lump sum payment to the FUND in respect of its installments 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 COMMITTEE 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.
- (c) If a LOCAL AUTHORITY fails to make CONTRIBUTIONS in terms of section 31(1), such LOCAL AUTHORITY shall pay the arrear CONTRIBUTIONS in one sum or by installments, as the COMMITTEE may decide, together with INTEREST, calculated as from the date on which the said LOCAL AUTHORITY should have commenced making CONTRIBUTIONS up to the date of payment: Provided that if the COMMITTEE wholly or partially exempted a MEMBER contemplated in paragraph section 26(6) from payment of arrear CONTRIBUTIONS, it may likewise exempt the LOCAL AUTHORITY concerned, in which event the commencement date of the MEMBER'S PENSIONABLE SERVICE shall be determined accordingly.

**32. RETIREMENT AT OR WITHIN FIVE YEARS OF PENSION AGE**

- (1) When a MEMBER attains the PENSION AGE, he shall retire from the permanent service of the LOCAL AUTHORITY and such retirement shall take effect from the first day of the month immediately after the month in which he attains the PENSION AGE.
- (2) When a MEMBER retires in terms of subsection (1), he shall be entitled to a retirement benefit in terms of section 33.
- (3) Subject to the provisions of section 62 of the ORDINANCE, a MEMBER who has attained an age which is ten years or less from the PENSION AGE and who has at least ten years' PENSIONABLE SERVICE, may be required by a LOCAL AUTHORITY to retire, in which case he shall be entitled to a retirement benefit in terms of section 33: Provided that all ANNUITY payments made before the MEMBER has reached the PENSION AGE, together with such a part of the GRATUITY as the ACTUARY may recommend, shall be refunded to the FUND by the LOCAL AUTHORITY concerned within seven days after such payment has been made by the FUND: Provided further that, if the LOCAL AUTHORITY concerned fails to refund these amounts to the FUND within the required seven days, the COMMITTEE may charge INTEREST on the amount due, calculated from the day on which the amounts 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
  - (a) has at least ten years' PENSIONABLE SERVICE and who has attained an age ten years younger than the PENSION AGE; or
  - (b) has attained an age five years younger than the PENSION AGE,shall have the right to retire on benefits calculated in terms of section 33 in respect of his PENSIONABLE SERVICE up to the date of his retirement.

- (5) A MEMBER whose services are retained in terms of subsection (1) and who resigns or is discharged, shall for purposes of these Rules be deemed to have retired on pension in terms of these Rules on the date of his resignation or discharge and he shall be granted benefits calculated in terms of section 33.

**33. METHOD OF CALCULATING RETIREMENT BENEFITS**

- (1) Subject to the provisions of subsection (2), the retirement benefit payable to a MEMBER shall consist of an ANNUITY and a GRATUITY, each equal to the appropriate percentage indicated next to his age at retirement in the table below, applicable to the MEMBER concerned, of the average of his annual PENSIONABLE EMOLUMENTS over the last three years of his PENSIONABLE SERVICE or, if such service is less than three years, over the whole period of his PENSIONABLE SERVICE, multiplied by the number of completed years and fractions of a year of his PENSIONABLE SERVICE, BONUS SERVICE and SENIOR BONUS SERVICE: Provided that -
- (a) if a MEMBER retires or is discharged in terms of section 32(3) or 35(1), the percentages upon which the ANNUITY and GRATUITY shall be based, are the maximum percentages which would have been applicable to him if he retired at the PENSION AGE;
- (b) if a MEMBER is discharged in terms of section 34(4)(a), the percentages upon which the ANNUITY and GRATUITY shall be based, are the maximum percentages which would have been applicable to him if he retired at the age of sixty years, or at his actual age if he is older than sixty years,

in accordance with the table below.

AGE IN YEARS ON RETIREMENT	ANNUITY PERCENTAGE	GRATUITY PERCENTAGE
55	1,45	5,14
56	1,54	5,48
57	1,64	5,80
58	1,73	6,13
59	1,82	6,44
60	1,90	6,77
61	2,00	7,18
62	2,10	7,61
63	2,19	8,03
64	2,28	8,47
65	2,37	8,88

- (2) The ANNUITY and GRATUITY percentages shall be calculated according to age in years and completed months. The percentage applicable to full years shall be obtained from the table above and the percentage in respect of broken years shall be calculated by interpolation.
  
- (3)
  - (a) A MEMBER who becomes entitled to a GRATUITY in terms of this section, may elect to convert a part or the whole of such GRATUITY to an additional ANNUITY and, if the MEMBER so elects, his GRATUITY shall be reduced with the part which has been so converted, and his ANNUITY shall for all the purposes under these Rules be increased by such additional ANNUITY.
  
  - (b) Such additional ANNUITY shall be determined by the ACTUARY or ascertained from tables provided by the ACTUARY.
  
  - (c) The option in terms of paragraphs (a) above shall be exercised before or on the date that the MEMBER concerned leaves the service.
  
  - (d) Such additional ANNUITY shall share in increases granted in terms of section 42(7)(a) in order to protect PENSIONERS against the effect of inflation, but not in any other increases in ANNUITIES which are granted in terms of that section.
  
- (4) The retirement benefit payable in terms of this section 33 shall bear INTEREST, calculated from the date following the retirement of the MEMBER, to the date of payment of such retirement benefit.



**34. DISCHARGE OWING TO ILL-HEALTH**

- (1) Any MEMBER or the LOCAL AUTHORITY in whose service a MEMBER is, may apply to the COMMITTEE for the termination of such MEMBER'S service 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 LOCAL AUTHORITY 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 COMMITTEE, in its sole discretion, requires further evidence, the COMMITTEE may appoint such additional medical practitioners as the COMMITTEE considers fit to examine the MEMBER.
- (4) If the COMMITTEE, acting upon the advice of the medical practitioners, finds a MEMBER to be permanently incapable of efficiently discharging his duties by reason of an infirmity of mind or body, his service shall be terminated, and if such infirmity was, in the opinion of the COMMITTEE, not deliberately caused by the MEMBER and -
  - (a) he has at least ten years' PENSIONABLE SERVICE, he shall be entitled to a retirement benefit in terms of section 33;
  - (b) he has less than ten years' PENSIONABLE SERVICE, he shall be entitled to a GRATUITY equal to three times his annual PENSIONABLE EMOLUMENTS at the date of termination of his service: Provided that such GRATUITY shall not be less than the GRATUITY which would have been payable if such MEMBER had resigned.
- (5) The costs of the medical practitioners shall be paid by the MEMBER or the LOCAL AUTHORITY, whoever applied for termination of service by reason of ill-health.

**35. DISCHARGE OWING TO RE-ORGANISATION**

- \*2** (1) If a MEMBER'S service is terminated due to –
- (a) a reduction in, or re-organisation of staff;
  - (b) the abolition of his office or post;
  - (c) his having been declared redundant or having been retrenched or retrenchment generally; or
  - (d) the facilitation of improvements in efficiency or organization,
- and such MEMBER has not been offered alternative employment (within the LOCAL AUTHORITY concerned or otherwise) which, in relation to salary and other conditions of service, is not materially different from the employment which has been so discontinued, and he has at least ten years' PENSIONABLE service, he shall be entitled to a retirement benefit in terms of section 33.
- (2) A MEMBER who's service is terminated in circumstances contemplated in subsection (1) but who does not qualify for the benefits contemplated therein, shall be entitled to a GRATUITY equal to 20 per cent of his average annual PENSIONABLE EMOLUMENTS over the last three years of his PENSIONABLE SERVICE, or if such service is less than three years, for the full period of his PENSIONABLE SERVICE, per year of his PENSIONABLE SERVICE, calculated in years and a fraction of a year: Provided that the amount of such GRATUITY shall not be less than the GRATUITY which would have been payable if that MEMBER had resigned voluntarily.
- (3) All ANNUITY payments made in terms of subsection (1) before the MEMBER has reached the PENSION AGE, together with such a part of the GRATUITY as the ACTUARY may determine, shall be refunded to the FUND by the LOCAL AUTHORITY concerned within seven days after such payment has been made by the FUND: Provided that, if the LOCAL AUTHORITY concerned fails to refund these amounts to the FUND within the required seven days, the COMMITTEE may charge INTEREST on the amount due, calculated from the day on which the amounts concerned became due up to and including the date on which payment is received by the FUND: Provided further that the LOCAL AUTHORITY concerned may with the approval of the COMMITTEE pay such amounts to the FUND in advance in a lump sum ascertained by the ACTUARY or derived from tables supplied by the ACTUARY.

**36. MONEYS DUE MAY BE DEDUCTED FROM BENEFIT**

The COMMITTEE 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.

**\*5 37. RESIGNATION, DISCHARGE OR LEAVING OF SERVICE IN CIRCUMSTANCES NOT ELSEWHERE PROVIDED FOR**

(A) Deleted.

(1) If a MEMBER resigns from the service of a LOCAL AUTHORITY or is discharged or leaves the service of a LOCAL AUTHORITY in circumstances not elsewhere provided for in these Rules, and -

(a) he was a MEMBER of the FUND on 30 June 1998, he shall be entitled to -

(i) the amount of his CONTRIBUTIONS until 30 June 1998 plus 4 percent of such amount in respect of each completed year of his PENSIONABLE SERVICE until 30 June 1998;

plus

(ii) the amount of his CONTRIBUTIONS from 1 July 1998;

plus

(iii) INTEREST in respect of his PENSIONABLE SERVICE from 1 July 1998,

multiplied by 1.5 subject to MEMBER minimum benefits;

(b) he became a MEMBER of the FUND after 30 June 1998, he shall be entitled to -

(i) the amount of his CONTRIBUTIONS;

plus

(ii) INTEREST in respect of his PENSIONABLE SERVICE,

multiplied by 1.5 (one comma five) subject to MEMBER minimum benefits.

(2) Notwithstanding the provisions of subsection (1), if a MEMBER resigns from the service of a LOCAL AUTHORITY or is discharged or leaves the service of a LOCAL AUTHORITY in circumstances not elsewhere provided for in these Rules after he attained an age which is five years less than the PENSION AGE and he has at least ten years' PENSIONABLE SERVICE, he shall be deemed to have retired in terms of section 32(3) and he shall not be entitled to a benefit in terms of subsection (1).

(3) The benefits payable in terms of subsections (1) and (2) shall bear INTEREST, calculated from the date following the resignation, discharge or leaving of service of the MEMBER, to the date of payment of such benefits.

**\*2**

(4) A MEMBER may elect-

(a) to preserve any amount of his benefits in terms of subsection (1) which he does not take in cash, in the FUND in terms of section 38; or

(b) to transfer his benefit to an APPROVED RETIREMENT ANNUITY FUND or PRESERVATION FUND of his choice.

(5) For purposes of establishing the benefit to which a MEMBER is entitled in terms of this section, the COMMITTEE shall be entitled to act without further enquiry on the particulars furnished by the LOCAL AUTHORITY concerned in respect of the reason for the MEMBER'S termination of service. The LOCAL AUTHORITY indemnifies the FUND against any claim instituted against the FUND as a result of the COMMITTEE so acting.

**38. DEFERRED BENEFITS**

A MEMBER who left the service as contemplated in section 37(1), may within three months after the date of his leaving the service, or within such longer period as the COMMITTEE in its absolute discretion may determine, elect to receive deferred benefits instead of benefits in terms of section 37(1) or (2), subject to the following provisions:

- (1) the MEMBER concerned may choose to receive the deferred benefits from the first day of any month after reaching his PENSION AGE;
- (2) the deferred benefits shall be determined in terms of section 33 with the application of the ANNUITY and GRATUITY factors which were in force in respect of the MEMBER when he left the service; in order to determine the applicable factors, the age of the MEMBER concerned at the time when the deferred benefits commence, shall be deemed to be his age at retirement;
- (3) for purposes of the implementation of section 33, the average annual PENSIONABLE EMOLUMENTS of such MEMBER shall be increased by the percentages by which ANNUITIES are being increased in terms of section 42(7) in order to protect PENSIONERS from the effects of inflation, but not for any other reason;
- (4) the MEMBER concerned may at any time after he left the service and prior to reaching his PENSION AGE, transfer his deferred benefit to an APPROVED RETIREMENT ANNUITY FUND or a PRESERVATION FUND, and then the amount which he would have received in terms of section 37(1) when he left the service, together with INTEREST, shall be so transferred. Thereafter the FUND shall have no further obligation towards the MEMBER;
- (5) if such MEMBER dies after his leaving the service but prior to the deferred benefits becoming payable, his DEPENDANTS shall receive a GRATUITY equal to the greater of the annual PENSIONABLE EMOLUMENTS of such MEMBER at the date of his death and the GRATUITY which would have been payable if such MEMBER had resigned at the date of his death and section 41(4) shall apply *mutatis mutandis*;

- (6) if such MEMBER dies after the deferred benefits have become payable, benefits in terms of section 41(5) shall be payable to his DEPENDANTS and section 41(6) shall apply *mutatis mutandis*;
- (7) if such MEMBER re-enters the service of the same or another LOCAL AUTHORITY after his leaving the service, but before the deferred benefits become payable, he may apply to the COMMITTEE that his election exercised in terms of subsection (1) lapse, in which case he shall become entitled to normal benefits in terms of these Rules and the break in service shall be condoned;
- (8) if the provisions of section 47 become applicable to such MEMBER, his election in terms of subsection (1) shall lapse.

**39. REJOINING OF SERVICE OF LOCAL AUTHORITY**

(1) If a MEMBER leaves the service of a LOCAL AUTHORITY and is entitled to a benefit in terms of section 34(4)(b), 35(2) or 37(1) and he is thereafter re-employed by the same or another LOCAL AUTHORITY before such benefit is paid to him, he shall no longer be entitled to such benefit and it shall not be paid to him: Provided that a MEMBER who leaves the service in terms of section 37(2) shall be entitled to elect that his benefits also be retained by the FUND.

(2) (a) If a MEMBER who leaves the service of a LOCAL AUTHORITY, receives a benefit in terms of section 34(4)(b), 35(2) or 37(1) and is thereafter employed by the same or another LOCAL AUTHORITY 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, -

(i) in one amount, or

(ii) by instalments approved by the COMMITTEE,

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 will be considered as a new MEMBER: Provided further that the COMMITTEE shall be entitled to accept such late elections received by the FUND as they, in their absolute discretion, may determine.

(b) MEMBERS who re-entered the service of a LOCAL AUTHORITY before 1 January 1992 and whose elections to become new MEMBERS have already been received by the COMMITTEE on 18 June 1992, will be considered as new MEMBERS in terms of section 39(2).



**40. A PENSION CANNOT BE CEDED, PLEDGED OR ATTACHED**

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

**41. BENEFITS PAYABLE UPON DEATH**

(1) If a MEMBER dies before the PENSION AGE while in the service of a LOCAL AUTHORITY, the following benefits shall be paid:

(a) To his surviving spouse, an ANNUITY equal to 1 per cent of the average annual PENSIONABLE EMOLUMENTS of the MEMBER 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, multiplied by the sum of -

(i) the period of his PENSIONABLE SERVICE, BONUS SERVICE and SENIOR BONUS SERVICE up to the date of his death; and

(ii) the period of potential service (but not potential BONUS SERVICE or SENIOR BONUS SERVICE) calculated from the date of his death up to and including the date on which he would have attained the PENSION AGE:

Provided that such sum may for the purpose of this calculation not exceed fifty years, except if the sum of the service under subparagraph (i) already amounts to more than fifty years, in which event the sum for the purpose of this calculation shall be equal to the sum of the service under subparagraph (i);

(b) to his surviving CHILDREN, an ANNUITY equal to a percentage of the ANNUITY determined in terms of paragraph (a), which percentage shall be determined according to the number of CHILDREN from time to time in accordance with the under-mentioned table:

NUMBER OF CHILDREN	PERCENTAGE
1	25
2	40
3	55
4 or more	70

Provided that if in respect of any month no benefit is payable in terms of paragraph (a) or subsection (10), the above-mentioned percentage shall be doubled in respect of that month;

\*7 (c) to his surviving spouse or children or, if an ANNUITY is payable in terms of paragraph (a), (b), a GRATUITY equal to three times the annual PENSIONABLE EMOLUMENTS of the deceased MEMBER at the date of his death.

\*7 (d) Upon the death of a MEMBER benefits payable shall be in terms of Section 37C of the ACT (Section 37C is contained in Annexure 1 of the Rules)

(2) If on the day prior to his death a MEMBER had the right to retire in terms of section 32, the COMMITTEE shall decide whether it would be in the interest of the DEPENDANTS of such MEMBER if it be deemed that the MEMBER retired in terms of that section on the day prior to his death, and if the COMMITTEE so decides, the benefits payable in terms of subsection (1) shall be equal to the benefits which would have been payable if the MEMBER had so retired.

(3) If a MEMBER who joined the FUND while he was not in a good state of health as contemplated in section 24(4)(b), dies after less than ten years' PENSIONABLE SERVICE, while he is in the service of a LOCAL AUTHORITY, an amount equal to the greater of -

(a) the annual PENSIONABLE EMOLUMENTS of such MEMBER at the date of his death; and

(b) twice the amount of his CONTRIBUTIONS,

\*7 shall be paid in terms of Section 37C of the ACT instead of any other benefits to which beneficiaries would otherwise have been entitled, except if his death was due to unnatural causes.

(4) (a) If the FUND does not become aware of or cannot trace a DEPENDANT of the MEMBER within twelve months of the death of the MEMBER, and the MEMBER has designated in writing to the FUND a nominee who is not a DEPENDANT of the MEMBER, an amount equal to the greater of -

(i) twice the MEMBER'S CONTRIBUTIONS; or

(ii) three times the annual PENSIONABLE EMOLUMENTS of the deceased MEMBER at the date of his death,

shall be paid to such nominee in terms of, and subject to, the provisions of section 37C(1)(b) of the ACT.

(b) If the MEMBER has a DEPENDANT and 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 COMMITTEE deems equitable.

(c) If the FUND does not become aware of or cannot trace a 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 which the MEMBER specifically communicated to the FUND, the benefit contemplated in subsection (a) above or the remaining portion of the benefit after payment to the designated nominee, shall be paid into the estate of the deceased MEMBER, or if no inventory in respect of the MEMBER was received by the Master of the Supreme Court in terms of section 9 of the Administration of Estates Act, 1965 (Act 66 of 1965), such amount shall be paid into the Guardian's Fund, and thereafter there shall be no further claim against the FUND in respect of such MEMBER.

(5) If a PENSIONER dies, the following benefits shall be paid:

(a) To his surviving spouse, -

(i) a GRATUITY equal to the greater of -

(aa) the monthly ANNUITY payment which the PENSIONER received immediately prior to his death; and

(bb) R1 200-00 or such other amount as may be determined by the COMMITTEE from time to time keeping in mind the depreciation of the currency;

plus

(ii) an ANNUITY equal to 50 per cent of the ANNUITY which the PENSIONER received immediately prior to his death:

Provided that in the case of a surviving spouse who was not married to the PENSIONER when he became entitled to an ANNUITY in terms of section 32, such ANNUITY shall be reduced by 3 per cent for each full year in respect of which such surviving spouse was more than three years younger than the PENSIONER, subject to the COMMITTEE reconsidering this provision due to sound reasons;

(b) if the PENSIONER leaves no surviving spouse, to his other DEPENDANTS, a gratuity EQUAL to R1 200-00 or such other amount as may be determined by the COMMITTEE from time to time keeping in mind the depreciation of the currency.

(6) (a) If the FUND does not become aware of or cannot trace a DEPENDANT of the PENSIONER within twelve months of the death of the PENSIONER, and the PENSIONER has designated in writing to the FUND a nominee who is not a DEPENDANT of the PENSIONER, an amount equal to -

(i) six times the monthly ANNUITY payment which the PENSIONER received immediately prior to his death;

less

(ii) the amount, if any, which he may have received in respect of a retirement benefit,

subject to a minimum of R500-00, or such other amount as may be determined by the COMMITTEE from time to time, keeping in mind the depreciation of the currency,

shall be paid to such nominee in terms of, and subject to, the provisions of section 37C(1)(b) of the ACT.

(b) If the PENSIONER has a DEPENDANT and 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 PENSIONER in writing to the FUND, the FUND shall within twelve months of the death of such PENSIONER pay the benefit or such portion thereof to such DEPENDANT or nominee in such proportions as the COMMITTEE deems equitable.

- (c) If the FUND does not become aware of or cannot trace a DEPENDANT of the PENSIONER within twelve months of the death of the PENSIONER, and if the PENSIONER has not designated a nominee, or if the PENSIONER has designated a nominee to receive a portion of the benefit which the PENSIONER specifically communicated to the FUND, the benefit contemplated in subsection (a) above or the remaining portion of the benefit after payment to the designated nominee, shall be paid into the estate of the PENSIONER, or if no inventory in respect of the PENSIONER was received by the Master of the Supreme Court in terms of section 9 of the Administration of Estates Act, 1965 (Act 66 of 1965), such amount shall be paid into the Guardian's Fund, and thereafter there shall be no further claim against the FUND in respect of such PENSIONER.
- (7) If a MEMBER dies while he is in the service of a LOCAL AUTHORITY and leaves a DEPENDANT, but no benefits are payable in terms of subsection (1) or (2), an amount equal to the greater of -
- (a) the annual PENSIONABLE EMOLUMENTS of such MEMBER at the date of his death; and
  - (b) twice the amount of his CONTRIBUTIONS,
- shall be paid to such DEPENDANT.
- (8) If at any stage no further ANNUITY payments in terms of subsection (1) or (2) are payable in respect of a deceased MEMBER, after such ANNUITY payments have commenced, and -
- (a) there is still a person alive who was a DEPENDANT of the deceased MEMBER at the date of his death, an amount equal to the amount determined in terms of subsection (7) less any benefits which had already been paid in terms of subsections (1) and (2) in respect of such MEMBER, shall be paid to such DEPENDANT;

- (b) there is no person alive who was a DEPENDANT of the deceased MEMBER at the date of his death, an amount equal to the greater of -
  - (i) the annual PENSIONABLE EMOLUMENTS of such MEMBER at the date of his death; and
  - (ii) twice the amount of his CONTRIBUTIONS,

less the amount of any benefits which had been paid in respect of the deceased MEMBER before such time, shall be paid to the estate of the deceased MEMBER, or if no inventory in respect of the MEMBER was received by the Master of the Supreme Court in terms of section 9 of the Administration of Estates Act, 1965 (Act 66 of 1965), into the South African Development Trust Fund.

- (9) Notwithstanding the provisions of subsections (1) to and including (8) -

- (a) an ANNUITY payable to a surviving spouse, shall cease when he dies;
- (b) an ANNUITY payable to a CHILD shall cease when he dies or when he is no longer a CHILD in terms of these Rules;

**\*7** (c) an ANNUITY or GRATUITY payable to a CHILD, shall be paid to its PARENT or guardian unless the COMMITTEE decides that such ANNUITY or GRATUITY should be paid directly to the CHILD or to any other person for the benefit of the CHILD;

**\*7** (d) a benefit payable in terms of subsection (3), (5), (7) or (8) shall be paid to such of the MEMBER'S or PENSIONER'S DEPENDANTS as the COMMITTEE may determine;



**\*7** (e) the COMMITTEE may divide any benefit payable to more than one DEPENDANT in such proportions as the COMMITTEE may determine.

**\*7** (10) The COMMITTEE may, in its discretion, pay amounts to the spouse of a deceased MEMBER whose ANNUITY ceased as a result of the re-marriage of the beneficiary and whose financial position in the opinion of the COMMITTEE justifies such payment: Provided that the total monthly amount which is paid to the spouse of the deceased MEMBER concerned, may not exceed the amount which would have been payable if such re-marriage did not take place.

(11) Notwithstanding anything else to the contrary contained in this section 41, the COMMITTEE may apply the whole of or such a portion of the death benefit of a MEMBER towards funeral costs as the COMMITTEE may decide in its sole discretion.

**\*8** (12) Notwithstanding anything to the contrary contained in these Rules, the following amounts shall be applied towards the funeral costs of the MEMBER or PENSIONER and the mentioned DEPENDANTS of the MEMBER or PENSIONER:

Funeral costs for death of -	Amount
MEMBER or PENSIONER	R20 000-00
Spouse	R20 000-00
Each CHILD:	
(a) from the age of fourteen to the one years	R12 500-00
(b) from the age of one to the age of thirteen years	R 7 500-00
(c) under the age of one year including stillborn child	R 3 000-00

Provided that these benefits shall be insured under a separate policy.

- (13) The benefits payable in terms of subsections (1) to and including (7) shall bear INTEREST, calculated from the date following the death of the MEMBER or the PENSIONER, as the case may be, to the date of payment of such benefits.
- (14) 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 COMMITTEE 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 COMMITTEE may determine: Provided further that any balance owing to such DEPENDANT or nominee at the date on which he attains majority or dies, whichever occurs first, shall be paid in full.
- (15) (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 the 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 ninety days.
- (b) If the agreement contemplated in paragraph (a) is cancelled, the balance of the benefit shall be paid to the DEPENDANT or nominee in full.

**42. PAYMENT AND INCREASE OF ANNUITIES**

- (1) Subject to the provisions of subsection (5), an ANNUITY payable in terms of these Rules shall be paid monthly to the beneficiary or his agent, authorised in writing. The ANNUITY in respect of any month is payable on the last day of that month.
- (2) An ANNUITY payable in terms of these Rules, shall commence on the first day of the month following the month in which the event as a result of which the ANNUITY concerned became payable, took place.
- (3) An ANNUITY payable to a PENSIONER, shall cease when he dies.
- (4) Notwithstanding contrary provisions in these Rules, payment of an ANNUITY in terms of these Rules shall cease on the last day of the month in which the event as a result of which payment of the ANNUITY concerned ceases, takes place.
- (5) The COMMITTEE may require from the beneficiary or agent contemplated in subsection (1), to furnish such proof as the COMMITTEE may deem necessary that the beneficiary concerned is still entitled to the payment of an ANNUITY in terms of these Rules and, if such proof is not furnished, the COMMITTEE may withhold payment until such proof is furnished.
- (6) If an ANNUITY payable by the FUND is less than or equal to such amount as the COMMITTEE may determine from time to time, the COMMITTEE shall, after consultation with the ACTUARY, pay a lump sum instead of such ANNUITY or of any part thereof.
- (7) (a) All ANNUITIES payable in terms of these Rules, may be increased at any time in accordance with a scale recommended by the ACTUARY and approved by the COMMITTEE.

- (b) The COMMITTEE may from time to time make bonus payments to PENSIONERS in accordance with a scale recommended by the ACTUARY and approved by the COMMITTEE.
  
- (c) On 30 November of each year a bonus equal to the monthly ANNUITY payment payable to such PENSIONER in respect of the month of November of that year, shall be payable to each PENSIONER at that stage. Such bonus shall *pro rata* be scaled down if the ANNUITY was payable for a period less than one year.
  
- (8) The COMMITTEE may due to sound reasons pay an ANNUITY or GRATUITY, payable to a beneficiary, to a trustee or curator for the benefit of such beneficiary.
  
- (9) Notwithstanding anything to the contrary contained in these Rules, the FUND shall pay a minimum ANNUITY, as determined by the COMMITTEE from time to time in consultation with the ACTUARY, to a PENSIONER with more than ten years' PENSIONABLE SERVICE.

**43. HOW ANNUITIES ARE AFFECTED BY INSOLVENCY**

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

**44. HOW ANNUITIES ARE AFFECTED BY CONVICTION FOR CRIME**

- (1) If a person who is receiving an ANNUITY is convicted before any court of law of any offence and is sentenced therefore to a term of imprisonment exceeding twelve months without the option of a fine, the payment to such person of any ANNUITY in terms of these Rules shall be suspended and in place thereof the ANNUITY shall, subject to the provisions of subsection (2), during such person's imprisonment be paid to his DEPENDANTS in such proportions as the COMMITTEE may determine.
  
- (2) If the payment of any ANNUITY is suspended in terms of subsection (1), it shall be revived on the discharge of the PENSIONER from prison, and he shall receive the ANNUITY at the same rate and under the same conditions as before his imprisonment, together with any arrear amount that has not been paid in terms of subsection (1), together with INTEREST.

**45. 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 a LOCAL AUTHORITY, 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.

**46. LOCAL AUTHORITY BECOMING ASSOCIATED WITH THE FUND**

- (1) Subject to the provisions of section 14 of the ACT and subsections (2) and (3), a local authority that is not associated with the FUND and which has an existing pension fund, may become associated with the FUND.
  
- (2) A local authority 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 safe-guarded;
  
  - (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 local authority and 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 COMMITTEE 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.



**47. TRANSFERRING OF PENSION VALUES BETWEEN PENSION FUNDS**

- (1) When a MEMBER ceases to be employed by a LOCAL AUTHORITY and within twelve months thereafter becomes an employee of another authority or body referred to in subsection (4) not associated with the FUND and becomes a MEMBER of a pension fund (hereinafter referred to as the second fund), with which such authority or body is associated, the following provisions shall, subject to the provisions of that subsection, apply:
  - (a) The FUND shall in respect of the period of such MEMBER'S PENSIONABLE SERVICE with the FUND which the second fund recognises as pensionable service, pay to the second fund on the date of his re-employment, a transfer value ascertained by the ACTUARY or derived from tables supplied by the ACTUARY, as at the date of leaving the service by such MEMBER, together with INTEREST, calculated from the date of leaving the service by such MEMBER to the date of payment;
  - (b) if a GRATUITY has been paid to such MEMBER by the FUND in terms of section 34(4)(b), 35(2) or 37(1) or if such MEMBER owes an amount to the FUND or if such MEMBER owes an amount to his employer which is deductible in terms of the ACT, the transfer value shall be reduced by such amounts;
  - (c) if the second fund requires payment of a lesser amount than the transfer value contemplated in paragraphs (a) and (b), the FUND shall pay such lesser amount to the second fund;
  - (d) if the FUND is aware of the MEMBER'S proposed employment by a local authority associated with the second fund, the FUND shall withhold all benefits payable to such MEMBER.

- (2) If a person who is employed by an authority or body referred to in subsection (4) which is not associated with the FUND and is a member of the pension fund (hereinafter referred to as the first fund) with which that authority or body is associated, leaves the service of that authority or body and -
- (a) a benefit is paid to him in circumstances similar to those in section 34(4)(b), 35(2) or 37(1); or
  - (b) his benefit is reduced with an amount due by him to the first fund or his employer in accordance with the provisions of the ACT,

and he is within twelve months thereafter employed by a LOCAL AUTHORITY, he may elect to -

- (i) become a new MEMBER of the FUND; or
- (ii) have his transfer value transferred from the first fund to the FUND, in which event subsection (3) is applicable:

Provided that the option referred to above lapses if he fails to exercise it in writing within four months after the date of his employment by the LOCAL AUTHORITY, in which event he is considered as a new MEMBER.

- (3) If a person who is employed by an authority or body referred to in subsection (4) which is not associated with the FUND and is a member of the pension fund (hereinafter referred to as the first fund) with which that authority or body is associated, leaves the service of that authority or body and becomes a MEMBER of the FUND within twelve months thereafter, the following provisions apply to that MEMBER, excluding a MEMBER who in terms of subsection (2) elected to become a new MEMBER of the FUND, provided payment of a transfer value has been effected by the first fund:

- (a) The MEMBER shall not be required to satisfy the FUND'S requirements relating to maximum age and evidence of health if he was entitled to unrestricted benefits at the first fund;
- (b) the periods of service recognised by the rules of the first fund as pensionable service, except service prior to the MEMBER concerned reaching the age of sixteen years, shall be regarded as PENSIONABLE SERVICE by the FUND:

Provided that, if such rules provide that any part of such service shall count for benefits at less than the full rate, the service regarded as pensionable by the FUND, shall be subject to the same condition;

- (c) the contributions paid or deemed to have been paid by the MEMBER to the first fund, shall be regarded as CONTRIBUTIONS to the FUND;
- (d) if a gratuity has been paid to such MEMBER by the first fund in circumstances similar to those in section 34(4)(b), 35(2) or 37(1) or if such MEMBER owes an amount to the first fund or if such MEMBER owes an amount to his employer which is deductible in terms of the ACT, the MEMBER shall pay to the FUND the amount by which the transfer value has been reduced due to the payment of such gratuity and debt,-
  - (i) in one amount, or
  - (ii) by instalments approved by the COMMITTEE,

together with INTEREST on the outstanding balance, calculated from the date of leaving the service to the date or dates of repayment;

(e) if the transfer value paid by the first fund is less than the amount required by the FUND as a transfer value, the MEMBER concerned shall pay the difference to the FUND, -

(i) in one amount, or

(ii) by instalments approved by the COMMITTEE,

together with INTEREST on the outstanding balance, calculated from the date of leaving the service to the date or dates of repayment, and the amount so paid, exclusive of INTEREST, shall be deemed to be CONTRIBUTIONS paid by the MEMBER to the FUND when computing any benefit payable on resignation or discharge:

Provided that instead of making payment in terms of this paragraph, the MEMBER shall have the right to reduce his period of service which would have been regarded as PENSIONABLE SERVICE in terms of paragraph (b) so that the amount payable by him is reduced or extinguished, but to no greater extent.

(4) This section shall apply in respect of the pension fund of every local authority and of any similar body situated in the Republic of South Africa or in the territory of Namibia if the pension fund of such local authority or body is governed by provisions substantially similar to the provisions of this section.

(5)A In respect of a MEMBER who was a member of the PENSION FUND prior to becoming a MEMBER of the FUND in terms of section 24(12), the FUND shall receive transfer of such MEMBER'S actuarial interest and the following shall apply:

(a) 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 PENSION FUND: Provided that such evidence has been produced to the PENSION FUND;

- (b) such periods of pensionable service recognised as pensionable service by the PENSION FUND as the COMMITTEE may decide, shall be regarded as PENSIONABLE SERVICE by the FUND;
  - (c) the contributions paid or deemed to have been paid by the MEMBER to the PENSION FUND, shall be regarded as CONTRIBUTIONS paid to the FUND.
- (5)B In respect of a MEMBER who was a member of an APPROVED MUNICIPAL RETIREMENT FUND prior to becoming a MEMBER of the FUND in terms of section 24(21), the FUND shall receive transfer of such MEMBER'S actuarial value and the following shall apply:
- (a) The MEMBER shall produce to the COMMITTEE evidence of age in accordance with section 25(1);
  - (b) the MEMBER shall be credited with such periods of pensionable service and contributions in relation to the MEMBER'S actuarial value transferred to the FUND as determined by the COMMITTEE in consultation with the ACTUARY;
  - (c) the LOCAL AUTHORITY shall pay CONTRIBUTIONS in respect of such MEMBER to the FUND.
- (6) The COMMITTEE may, subject to the provisions of section 14 of the ACT, after consultation with the ACTUARY and on such conditions as the COMMITTEE may determine, approve special arrangements for the preservation of accumulated pension rights, which may make provision, *inter alia*, for the following:
- (a) In respect of a person who was a member of another fund that provided benefits for its members on their retirement and who becomes a MEMBER of the FUND:

- (i) 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 fund;
  - (ii) for the recognition of a certain period of former service as PENSIONABLE SERVICE or for an additional pension in recognition of any former service;
  - (iii) for the payment by such person or such other fund of CONTRIBUTIONS in respect of such recognition of former service.
- (b) 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 fund which provides retirement benefits for its members:
- (i) that no withdrawal benefit shall be paid by the FUND in terms of section 37(1) in respect of such MEMBER;
  - (ii) for the payment to such other fund of an amount not less than the value of the withdrawal benefit to which the MEMBER would otherwise have been entitled to in terms of section 37(1), and not exceeding the liability of the FUND in respect of such MEMBER, as determined by the ACTUARY,

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

**47A MUTUAL TRANSFER AGREEMENT WITH THE GOVERNMENT SERVICE PENSION FUND**

- (1) When a MEMBER ceases to be employed by a LOCAL AUTHORITY and within twelve months thereafter becomes an employee of a body associated with the Government Employees Pension Fund before any benefit is paid to him, such MEMBER may within six months after such commencement of duties elect to transfer his transfer value from the FUND to the Government Employees Pension Fund, in which event the following provision shall apply:
  - (a) The FUND shall, in respect of the period of such MEMBER'S PENSIONABLE SERVICE with the FUND which the Government Employees Pension Fund recognises as pensionable service, pay to the Government Employees Pension Fund on the date of his employment, a transfer value as required by the Government Employees Pension Fund, as at the date of leaving the service by such MEMBER, together with compound interest at 5,5 per cent *per annum*, calculated from the date of leaving the service by such MEMBER to the date of payment.
  
- (2) If a person who is employed by a body associated with the Government Employees Pension Fund and is a member of the Government Employees Pension Fund, leaves the service of that body and he is within twelve months thereafter employed by a LOCAL AUTHORITY before any benefit is paid to him, such person may elect to -
  - (a) become a new MEMBER of the FUND; or
  
  - (b) have his transfer value transferred from the Government Employees Pension Fund to the FUND, in which event the provisions of subsection (3) are applicable:

Provided that the option referred to above lapses if he fails to exercise it in writing within six months after the date of his employment by the LOCAL AUTHORITY, in which event he is considered as a new MEMBER.

- (3) Provided payment of a transfer value as required by the FUND has been effected by the Government Employees Pension Fund, the following provisions are applicable:
- (a) The MEMBER shall not be required to satisfy the FUND'S requirements relating to maximum age and evidence of health if he was entitled to unrestricted benefits at the Government Employees Pension Fund;
  - (b) the periods of service recognised by the rules of the Government Employees Pension Fund as pensionable service, except service prior to the MEMBER concerned reaching the age of sixteen years, shall be regarded as PENSIONABLE SERVICE by the FUND: Provided that if such rules provide that any part of such service shall count for benefits at less than the full rate, the service regarded as pensionable by the FUND shall be subject to the same condition;
  - (c) the contributions paid or deemed to have been paid by the MEMBER to the Government Employees Pension Fund shall be regarded as CONTRIBUTIONS paid to the FUND.



**48. AMENDMENT OF RULES AND ADJUSTMENT OF BENEFITS**

- (1) The Rules of the FUND may be amended, rescinded or added to by the COMMITTEE, subject to the provisions of section 12 of the ACT and section 79quat(5) of the ORDINANCE.
  
- (2) The COMMITTEE may, at the request of the particular LOCAL AUTHORITY and the MEMBER, increase the benefits to which a MEMBER is entitled in terms of the Rules of the FUND, provided that any increase in the obligations of the FUND caused by such amendment, as calculated by the ACTUARY, is paid to the FUND.
  
- (3) The COMMITTEE may for any other reason which it after consultation with the ACTUARY deems equitable, increase the benefits to which a MEMBER is entitled in terms of the Rules of the FUND, provided that any increase in the obligations of the FUND caused by such increase, as calculated by the ACTUARY, is paid to the FUND.

**49. RECONSTRUCTION AND DISSOLUTION OF THE FUND****(1) Reconstruction**

If a LOCAL AUTHORITY ceases to exist as the result of its reconstruction in a different form, such reconstructed LOCAL AUTHORITY shall take the place of the former LOCAL AUTHORITY, and the FUND shall not be affected by this, except that "LOCAL AUTHORITY" shall then include the new reconstructed LOCAL AUTHORITY.

**(2) Complete Dissolution**

- (a) If at least 90 per cent of the MEMBERS, at least 90 per cent of the LOCAL AUTHORITIES and at least 50 per cent of the PENSIONERS decide to dissolve the FUND, the COMMITTEE 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 in receipt of an ANNUITY, shall be applied to purchase an ANNUITY for him from an INSURER;
  - (ii) the amount available for a person who will become entitled to an ANNUITY in the future, shall, according to the decision of the liquidator, -

- (aa) be transferred for such person's benefit to a fund which is approved by the REGISTRAR as a pension fund, provident fund or retirement annuity fund and approved as such by the COMMISSIONER; or
  - (bb) be applied to purchase an ANNUITY for such person at an INSURER; or
  - (cc) be paid to such person in cash;
- (iii) if a beneficiary cannot be traced, the benefit shall, notwithstanding the provisions of section 45, be disposed of in such manner as provided for in the scheme of dissolution: Provided that any remaining benefits shall be deposited into the Guardian's Fund in accordance with the provisions of section 28 of the ACT.
- (c) All EMPLOYEES who have left the service of a LOCAL AUTHORITY voluntarily or owing to re-organisation in the immediately preceding twelve months, shall for purposes of this section be deemed to be MEMBERS on the date of dissolution of the FUND: Provided that benefits already paid to such persons prior to the division of the remaining assets, shall be taken into account in the calculation of the amount payable to such persons.
- (d) If legislation requires all the LOCAL AUTHORITIES to establish or participate in another approved pension fund, the legislator, as alternative to the above-mentioned procedure, may instruct the COMMITTEE 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, PENSIONERS, 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) A LOCAL AUTHORITY may apply to the COMMITTEE in writing for the termination of its CONTRIBUTIONS to the FUND, who shall only grant their approval if the COMMITTEE, in its absolute discretion, resolves that the reason tendered by such LOCAL AUTHORITY is acceptable.
  
- (b) If such LOCAL AUTHORITY decides to establish a new fund or scheme or to participate in another fund or scheme for the purpose of providing retirement benefits for EMPLOYEES who are members thereof, and the COMMITTEE approves that, the provisions of section 49(4) shall apply in respect of such LOCAL AUTHORITY.
  
- (c) If such LOCAL AUTHORITY does not decide to establish a new fund or scheme or to participate in another fund or scheme for the purpose of providing retirement benefits for EMPLOYEES who are members thereof, and the COMMITTEE approves that, the MEMBERS who are EMPLOYEES of such LOCAL AUTHORITY, shall be entitled to withdrawal benefits in terms of section 37: Provided that the COMMITTEE, after consultation with the ACTUARY, may, within their discretion, make provision for greater benefits than the afore-said withdrawal benefits, but in total not more in value than the amount calculated in terms of section 38(2), as calculated by the ACTUARY.

**(4) Establishment of new fund or scheme**

- (a) If at least 90 per cent of LOCAL AUTHORITIES 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 COMMITTEE may, in consultation with the ACTUARY, 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 COMMITTEE, after consultation with the ACTUARY and with the approval of the REGISTRAR, may determine, subject to the provisions of section 14 of the ACT: Provided that sufficient arrangements is taken in respect of all pensions referred to in paragraph (b)(i) of subsection (2) above.
  
- (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 in respect of each MEMBER shall be transferred.
  
- (c) A LOCAL AUTHORITY has the right to request that the PENSIONERS who were in his employment before their retirement, be transferred to the new fund or scheme, in which event the COMMITTEE shall transfer the appropriate portion of the concerned PENSIONERS' share to such new fund or scheme.

**\*6 50. ELECTION OF MEMBER TO INCREASE PENSIONABLE SERVICE**

- (1) A MEMBER 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 increase in the MEMBER'S actuarial reserve value, as calculated by the ACTUARY, in respect of the additional PENSIONABLE SERVICE shall be paid to the FUND in respect of such PENSIONABLE SERVICE; and
  - (b) neither the MEMBER'S nor the LOCAL AUTHORITY'S CONTRIBUTIONS in terms of sections 26 and 31 respectively shall be affected by payment of the sum referred to in paragraph (a).
  
- (2) Such additional PENSIONABLE SERVICE –
  - (a) shall not be recognised for purposes of section 34(4)(a);
  - (b) shall only be recognised for purposes of section 35(1) if the LOCAL AUTHORITY concerned agrees thereto in writing.
  
- (3) 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 COMMITTEE may determine: Provided that the whole or part of the balance due may be paid at any time.

- (4) If a benefit in terms of the Rules becomes payable in respect of a MEMBER, the benefit would be calculated including the additional PENSIONABLE SERVICE purchased in terms of this Rule. Provided that in respect of a benefit payable in terms of Section 37(1) of the Rules, one third of the amount referred to in subsection 1(a) above shall be deemed to be part of the MEMBER'S contributions.
- (5) If a MEMBER who has exercised an election in terms of the provisions of subsection (2), leaves the service of a LOCAL AUTHORITY for any reason before the full amount due has been paid, the provisions of section 27(2) shall apply mutatis mutandis".

**50A. SPECIAL EMPLOYEES**

- (1) A SPECIAL EMPLOYEE shall become a MEMBER of the ASSOCIATED FUND from 1 March 1994 and shall elect in writing on or before 31 August 1994 -
- (a) to become a non-contributing MEMBER of the FUND (that is to say a MEMBER that makes no CONTRIBUTIONS to the FUND from 1 March 1994 as contemplated in section 26), in which event the provisions of subsections (1) to (9) of section 38 shall apply *mutatis mutandis*; or
  - (b) that his interest in the FUND be terminated by payment to him of the value thereof as calculated by the ACTUARY: Provided that the mentioned amount, reduced by any tax that may be payable thereon, be paid to his benefit to -
    - (i) the ASSOCIATED FUND; or
    - (ii) a PRESERVATION FUND approved by the COMMITTEE: Provided that such approval may be subjected to such conditions as the COMMITTEE in its absolute discretion may determine.

The FUND shall, in respect of the period of such SPECIAL EMPLOYEE'S PENSIONABLE SERVICE with the FUND, pay to the ASSOCIATED FUND or the PRESERVATION FUND, as the case may be, on a date not later than one month after the SPECIAL EMPLOYEE has exercised his option, the above-mentioned value calculated by the ACTUARY, whereafter the SPECIAL EMPLOYEE shall have no further claim against the FUND. The value calculated by the ACTUARY as at 28 February 1994 shall be reasonably calculated as the ACTUARY may think proper, together with INTEREST thereon, calculated from 1 March 1994 to the date of payment.



- (2) If a SPECIAL EMPLOYEE fails to submit his option in terms of subsection (1) to the COMMITTEE in writing on or before 31 August 1994, it will be deemed that he exercised an option in terms of paragraph (a) of the afore-mentioned subsection.
- (3) A SPECIAL EMPLOYEE who exercised an option in terms of subsection (1) hereof, shall elect in writing before or on 28 February 1995 to -
- (a) remain a member of the ASSOCIATED FUND; or
  - (b) once again become a MEMBER of the FUND, in which event the following shall apply:
    - (i) The SPECIAL EMPLOYEE'S value in terms of subsection (1), together with INTEREST thereon, shall be repaid to the FUND within one month after the SPECIAL EMPLOYEE has exercised his option, whereafter the SPECIAL EMPLOYEE shall have no further claim against the PRESERVATION FUND referred to in subsection (1)(b)(ii) and/or the ASSOCIATED FUND;
    - (ii) all benefits to which such SPECIAL EMPLOYEE is entitled in terms of the provisions of the Rules of the FUND, shall be calculated as if his membership has never terminated on 28 February 1994 and been reinstated on 1 March 1994.

The option in terms of this subsection (3) is non-recurrent and irrevocable.

- (4) If a SPECIAL EMPLOYEE fails to submit his option in terms of subsection (3)(a) or (b) to the COMMITTEE in writing before or on 28 February 1995, it shall be deemed that he exercised an option in terms of subsection (3)(a).

**51. RIGHTS AND OBLIGATIONS IN TERMS OF PRIOR PROVISIONS**

Any right or obligation originating from, and anything done in terms of the REGULATIONS shall, where appropriate, be deemed to have originated or been done in terms of the corresponding provision of these Rules.

**52. REPEAL OF REGULATIONS**

The REGULATIONS shall be repealed on the date of commencement of these Rules.

**53. SHORT TITLE AND DATE OF COMMENCEMENT**

- (1) These Rules shall be known as the Rules of the Municipal Employees Pension Fund, previously known as the Transvaal Municipal Retirement Fund, initially known as the Transvaal Joint Municipal Annuity and Gratuity Fund, which commenced on 14 April 1988.
- (2) The Afrikaans appellation of the FUND is Munisipale Werknemers Pensioenfonds.

**54. TRANSITION PROVISIONS FOR THE PERIOD FROM 1 JUNE 1995 TO 30 JUNE 1996**

**(1) Election of REPRESENTATIVES and ALTERNATES on the GENERAL COMMITTEE**

- (a) (i) Notwithstanding anything to the contrary contained in section 5, no REPRESENTATIVES or ALTERNATES shall be appointed or elected during 1995 by the LOCAL AUTHORITIES. The REPRESENTATIVES, or their ALTERNATES, who were appointed and elected by these LOCAL AUTHORITIES in 1994 and who still hold such posts on 1 June 1995, shall continue to act as such.
- (ii) Where a LOCAL AUTHORITY has appointed and elected REPRESENTATIVES and ALTERNATES before 1 June 1995, these designations are condoned and such REPRESENTATIVES and ALTERNATES continue to act as such.

The REPRESENTATIVES and ALTERNATES contemplated in sub-paragraphs (i) and (ii) above, shall vacate their offices immediately before the opening of the ANNUAL MEETING of the GENERAL COMMITTEE contemplated in paragraph (b).

- (b) The moment that the 1995/1996 municipal elections take place, an ANNUAL MEETING of the GENERAL COMMITTEE as contemplated in section 6 shall be convened as soon as possible, but not later than 30 June 1996, and the procedure and arrangements for the appointment and election of REPRESENTATIVES and ALTERNATES as set out in section 5 shall apply *mutatis mutandis*.
- (c) Should a coincidental vacancy arise, it shall be filled in accordance with the provisions of the Rules.

**(2) Election of COMMITTEE**

- (a) Notwithstanding anything to the contrary contained in section 8(6)(a), no EMPLOYERS' REPRESENTATIVES shall be elected as OFFICE-BEARERS on the ANNUAL MEETING held in 1995. The extension of the period of office of EMPLOYERS' REPRESENTATIVES elected in 1993 are condoned and all EMPLOYERS' REPRESENTATIVES who were OFFICE-BEARERS on 1 September 1995 shall remain as OFFICE-BEARERS in their personal capacities and shall only vacate their offices immediately after the close of the ANNUAL MEETING contemplated in paragraph (c). If a vacancy exists or arises, it shall be filled in accordance with section 10(2)(a) and sections 10(3) and 10(4) in respect of such OFFICE-BEARER shall apply.
- (b) Notwithstanding anything to the contrary contained in section 8(6)(b), no EMPLOYEES' REPRESENTATIVES shall be elected as OFFICE-BEARERS on the ANNUAL MEETING held in 1995. The extension of the period of office of EMPLOYEES' REPRESENTATIVES elected in 1993 are condoned and all EMPLOYEES' REPRESENTATIVES who were OFFICE-BEARERS on 1 September 1995 shall remain as OFFICE-BEARERS in their personal capacities and shall only vacate their offices immediately after the close of the ANNUAL MEETING contemplated in paragraph (c). If a vacancy exists or arises, it shall be filled in accordance with the provisions of section 10(2)(b) and sections 10(3) and 10(4) in respect of such OFFICE-BEARER shall apply.
- (c) A COMMITTEE shall be appointed and elected in the manner set out in section 8(2) by not later than 30 June 1996.

SPECIAL RULES

**\*4 MUNICIPAL EMPLOYEES PENSION FUND  
SPECIAL RULES APPLICABLE TO  
LOCAL AUTHORITIES CONTRIBUTING AT EIGHTEEN PER CENT  
OF PENSIONABLE EMOLUMENTS**

Local Authority Participation Number: 82 and such other LOCAL AUTHORITY that many contribute to the Fund at 18 (eighteen) per cent of PENSIONABLE EMOLUMENTS

**SPECIAL RULES REGISTRATION NUMBER: 01/02**

The General Rules of the Municipal Employees Pension Fund shall be read in conjunction with these Special Rules which shall apply to the Eligible Employees of the Employer with effect from the Participation Date.

- 1. LOCAL AUTHORITY in terms of General Rule 1: Such LOCAL AUTHORITY (Employer) that contributes to the FUND an amount of 18 per cent the PENSIONABLE EMOLUMENTS of each MEMBER;
- 2. Participation Date in terms of General Rule 1: 1 July 2002
- 3. Eligible Employee in terms of General Rule 1: An employee who is employed on the permanent staff of the LOCAL AUTHORITY and who has attained the age of sixteen years but not the age of fifty five years.

- 4. Benefits payable upon Death before pension age in terms of General Rule 41:

Lump sum equal to 2 (two) times the Member's Annual Salary at the date of death plus spouse and children's pension calculated at possible service;

Spouse pension is equal to 0.9% of average Pensionable Emoluments for each year of past and potential service.

Without spouse – Minor children and dependants: Lump sum equal to the greater of once annual pensionable emoluments or twice member's contributions only, whichever is greater.
  
- 5. Discharge owing to Ill Health in terms of General Rules 34:

Members with less than 10 (ten) year's service – 2 (two) times annual pensionable emoluments (lump sum only).

Members with 10 (ten) years service or more - calculated in terms of General Rules 34(a).
  
- 6. Pension Age in terms of General Rule 1:

Sixty years in respect of both male and female members.
  
- 7. Contribution by Members in terms of General Rule 26:

An amount equal to 7.5% (seven comma five percent) of the monthly PENSIONABLE EMOLUMENTS of each member.
  
- 8. Contributions by LOCAL AUTHORITIES in terms of General Rule 31:

An amount equal to 18% (eighteen percent) of the monthly PENSIONABLE EMOLUMENTS of each member.



- Resignation or Dismissal Benefit Vesting Scale: 1.2 times (one comma two) times Member's Contributions plus fund interest determined by the Management Committee in consultation with the Fund's Actuary.
10. Senior Bonus Service Not applicable.
11. Number of Employer Appointed General Committee Members in terms of General Rule 5 1 (one) EMPLOYER'S REPRESENTATIVE together with 1 (one) Alternate.
12. Number of Employer Elected General Committee Members in terms of General Rule 5 1 (one) Employer's Representative together with 1 (one) Alternate.

Local Authorities Lukhanji Municipality and such other LOCAL AUTHORITY that may contribute to the FUND at 18 (eighteen) per cent of PENSIONABLE EMOLUMENTS.

Employer's Details

Contact Name: Mr Ngxobongwana

Contact Telephone Number: (045) 838-2682

Address: 70 Cadhart Street  
Queenstown  
5320  
  
Private Bag X7111  
Queenstown  
5320

\*2

**MUNICIPAL EMPLOYEES PENSION FUND  
SPECIAL RULES APPLICABLE TO**

**DEFINED CONTRIBUTION CATEGORY**

Local Government Authorities of South Africa

All new employees that are employed on or after 1 July 2012 and are eligible to join the Municipal Employees Pension Fund shall belong to the DEFINED CONTRIBUTION category.

**SPECIAL RULES REGISTRATION NUMBER: 01/02**

The General Rules of the Municipal Employees Pension Fund shall be read in conjunction with these Special Rules which shall apply to the Eligible Employees of the Employer with effect from the Participation Date.

- |   |   |
|---|---|
| 1. LOCAL AUTHORITY in terms of General Rule 1:    | Such LOCAL AUTHORITY (Employer) that contributes to the FUND an amount of 18 per cent of the PENSIONABLE EMOLUMENTS of each MEMBER;                           |
| 2. Participation Date in terms of General Rule 1: | 1 July 2012   |
| 3. Eligible Employee in terms of General Rule 1:  | An employee who is employed by the LOCAL AUTHORITY on or after 1 July 2012 and who has attained the age of sixteen years but not the age of sixty five years. |

4. Pension Age
127. Sixty five years in respect of both male and female members.
5. Contribution by Members in terms of General Rule 26:
- An amount equal to 7.5% (seven comma five per cent) of the monthly PENSIONABLE EMOLUMENTS of each member.
6. Contributions by LOCAL AUTHORITIES
- An amount between 15% to 22% (fifteen to twenty two per cent) of the monthly PENSIONABLE EMOLUMENTS of each member as determined by the LOCAL AUTHORITIES from time to time.
7. Member Fund Credit
- Means the accumulation of contributions paid by and on behalf of a member including transfers amounts paid into the FUND in respect of a member and any voluntary contributions paid by the member less expenses and the costs of insured benefits to offset death and ill-health costs plus the bonuses declared by the BOARD (on the advice of the Actuary) provided that the bonus rate in respect of the year of exit shall be the interim rate.
- Bonuses must also take into account equity between the Defined Benefit and Defined Contribution members.
8. Resignation or Dismissal Benefit
- Lump sum equal to Member's Fund Credit plus proportionate share of Investment Reserve.
9. Retirement Benefit
- Lump sum equal to Member's Fund Credit plus proportionate share of Investment Reserve.
- NB:** Maximum of  $\frac{1}{3}$  can be taken as a Lump sum and  $\frac{2}{3}$  must purchase Annuities
10. Benefits payable upon Death
- Lump sum equal to 3 (three) times the Member's

- before pension age:
128. Annual Salary **PLUS** Member's Fund Credit plus proportionate share of Investment Reserve.
11. Discharge owing to Ill Health in terms of General Rules 34: Lump sum equal to 3 (three) times the Member's Annual Salary **PLUS** Member's Fund Credit plus proportionate share of Investment Reserve.
12. Funeral Costs payable in terms of General Rule 41(12)
- | Funeral costs for death of -                            | Amount     |
|---|------------|
| MEMBER or PENSIONER                                     | R35 000.00 |
| Spouse  | R35 000.00 |
| Each CHILD  |            |
| from the age of fourteen to the age of twenty one years | R21 875.00 |
| from the age one to thirteen years                      | R13 125.00 |
| under the age of one year including stillborn child     | R 5 250.00 |

\*3

**MUNICIPAL EMPLOYEES PENSION FUND  
SPECIAL RULES APPLICABLE TO  
LOCAL AUTHORITIES CONTRIBUTING AT FIFTEEN PER CENT  
OF PENSIONABLE EMOLUMENTS**

Local Authority Participation: such LOCAL AUTHORITY that contribute to the Fund at 15 (fifteen) per cent of PENSIONABLE EMOLUMENTS

**SPECIAL RULES REGISTRATION NUMBER: 01/02**

The General Rules of the Municipal Employees Pension Fund shall be read in conjunction with these Special Rules which shall apply to the Eligible Employees of the Employer with effect from the Participation Date.

- |  |  |
|--|--|
| 1. LOCAL AUTHORITY in terms of General Rule 1:                                 | Such LOCAL AUTHORITY (Employer) that contributes to the FUND an amount of 15 per cent the PENSIONABLE EMOLUMENTS of each MEMBER;                               |
| 2. Eligible Employee in terms of General Rule 1:                               | An employee who is employed by the LOCAL AUTHORITY and who has attained the age of sixteen years but not the age of fifty five years.                          |
| 3. Benefits payable upon Death before pension age in terms of General Rule 41: | Lump sum equal to 1,1 (one comma one) times the Member's Annual Salary at the date of death plus spouse and children's pension calculated at possible service; |

130.

Spouse pension is equal to 0.9% of average Pensionable Emoluments for each year of past and potential service.

Without spouse – Minor children and dependants: Lump sum equal to the greater of once annual pensionable emoluments or 1,5 (one comma five) member's contributions only, whichever is greater.

4. Discharge owing to Ill Health in terms of General Rules 34:

Members with less than 10 (ten) year's service – 1,5 (one comma five) times annual pensionable emoluments (lump sum only).

Members with 10 (ten) years service or more - calculated in terms of General Rules 34(a).

5. Pension Age in terms of General Rule 1:

Sixty five years in respect of both male and female members.

6. Contribution by Members in terms of General Rule 26:

An amount equal to 7.5% (seven comma five percent) of the monthly PENSIONABLE EMOLUMENTS of each member.

7. Contributions by LOCAL AUTHORITIES in terms of General Rule 31:

An amount equal to 15% (fifteen percent) of the monthly PENSIONABLE EMOLUMENTS of each member.

8. Resignation or Dismissal Benefit Vesting Scale:

1,1 (one comma one) times Member's Contributions plus fund interest determined

131.

by the Management Committee in consultation with the Fund's Actuary.

- |     |   |  |
|-----|---|--|
| 9.  | Senior Bonus Service  | Not applicable.  |
| 10. | Number of Employer Appointed General Committee Members in terms of General Rule 5 | 1 (one) EMPLOYER'S REPRESENTATIVE together with 1 (one) Alternate. |
| 11. | Number of Employer Elected General Committee Members in terms of General Rule 5   | 1 (one) Employer's Representative together with 1 (one) Alternate. |
| 12. | Retirement at or within five years of pension age in terms of General Rule 32     | Retirement calculated in terms of General Rule 33                  |