



Engineering Industries
Pension Fund

RULES

APPLICATIONS FOR BENEFITS

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1. GENERAL

- (a) The Fund known as the METAL INDUSTRIES GROUP LIFE AND PROVIDENT FUND was established on 29 July 1957 as a provident fund.

The Fund was converted to a pension fund without change of name as from

- (i) 2 June 1975 in respect of the group of industries known as the Iron, Steel, Engineering and Metallurgical Industries;
- (ii) 15 September 1975 in respect of the Electrical Contracting and Servicing Industry, Cape;
- (iii) 4 April 1977 in respect of the Electrical Industry, Natal.

With effect from 31 March 1990 the name of the Fund was changed to the ENGINEERING INDUSTRIES PENSION FUND.

With effect from 1 January 1995 the Metal Industries Group Pension Fund was merged with the Fund.

- (b) These Rules incorporate all amendments up to and including 1 January 1995 and shall replace the Rules previously in force for all MEMBERS. Payment of benefits to or in respect of a person who became entitled to a benefit from the Fund before 1 January 1995 shall continue to be made in terms of the Rules in force on the date on which that person became entitled to the benefit or in the case of a DEFERRED PENSIONER, the date on which he became a DEFERRED PENSIONER.
- (c) The special provisions applicable to those persons who were members of the Metal Industries Group Pension Fund on 31 December 1994 or who were receiving benefits from that fund on that date are set out in Appendix 1.

- (d) If the registration of these Rules in terms of the Act is effected later than 1 January 1995, the Rules shall nevertheless take effect from 1 January 1995.

2. INTERPRETATION

In these Rules words defined in the ACT and not in the Rules shall have the meanings assigned to them in the ACT and words defined in the CONSTITUTION and not in the Rules shall have the meanings assigned to them in the CONSTITUTION and, unless inconsistent with the context, all words and expressions signifying the singular shall include the plural and vice versa, words and expressions implying the masculine gender shall include the feminine, and the following words and expressions shall have the following meanings:-

- (i) "ACT" shall mean the Pension Funds Act, 1956 and the regulations framed thereunder.
- (ii) "ACTUARY" shall mean a Fellow of the Institute of Actuaries of London or of the Faculty of ACTUARIES in Scotland, appointed in terms of these Rules.
- (iii) "APPROVED PENSION FUND" shall mean a pension fund, for other than a PRESERVATION PENSION FUND, approved as such by the Commissioner for the South African Revenue Service the purposes of these Rules.
- (iv) "APPROVED PROVIDENT FUND" shall mean a provident fund, other than a PRESERVATION PROVIDENT FUND, approved as such by the Commissioner for the South African Revenue Service for the purposes of these Rules.
- (v) "AUDITOR" shall mean an auditor registered under the Public Accountants and AUDITORS ACT, 1991 appointed in terms of these Rules.
- (vi) "BOARD" shall mean the Board of Management established in terms of the CONSTITUTION.
- vii) "CONSTITUTION" shall mean the CONSTITUTION of the Fund.
- viii) "CONTRIBUTING MEMBER" shall mean a MEMBER who at any given time is contributing together with his EMPLOYER or the PERMANENT DISABILITY SCHEME to this Fund.

- (ix) "COUNCIL" shall mean the Metal & Engineering Bargaining Council, the Electrical Industrial Council, Natal and the Industrial Council for the Electrical Contracting and Servicing Industry, Cape.
- (x) "DATE OF CONVERSION" shall mean:
- (i) 2 June 1975 in respect of the group of INDUSTRIES known as the Iron, Steel, Engineering and Metallurgical Industries;
 - (ii) 15 September 1975 in respect of the Electrical Contracting and Servicing Industry, Cape;
 - (iii) 4 April 1977 in respect of the Electrical Industry, Natal.
- (xi) "DEFERRED PENSIONER" shall mean a MEMBER for whom a PENSION in terms of Rule 6(I) has been secured.
- (xii) "ELIGIBLE SPOUSE" shall mean;
- (i) the widow, or widower, of a CONTRIBUTING MEMBER, or PENSIONER, at the date of the CONTRIBUTING MEMBER'S, or PENSIONER'S death; provided that such persons either the CONTRIBUTING MEMBER'S, or PENSIONER'S legal spouse, by whatsoever rites married or was a person with whom the CONTRIBUTING MEMBER or PENSIONER, was living in a customary union as defined in the Black Administration Act, 1927, or in a union recognised as a marriage under the tenets of an Asiatic religion; or
 - (ii) women, or man, with whom a CONTRIBUTING MEMBER, or PENSIONER, was, although not legally married, living as man and wife at the date of their death whom the Trustees, in their absolute discretion, may regard as the Contributing MEMBER'S, or PENSIONER'S ELIGIBLE SPOUSE; provided that such person, in the case of the death of a PENSIONER, was a person as specified above when the PENSIONER retired.

- (xiii) "EMPLOYEE" shall mean a person to whom the INDUSTRIAL AGREEMENT makes reference and those EMPLOYEES referred to under Rule 3(b).
- (xiv) "EMPLOYER" shall mean a person as defined in the Labour Relations Act, 1956 who is required to observe the Industrial Relations Agreement.
- (xv) "FINANCIAL YEAR" shall mean:
 - (a) each twelve-month period ending on 31 December 2001;
 - (b) the fifteen-month period from 1 January 2002 to 31 March 2003;and thereafter each twelve-month period ending on 31 March.
- (xvi) "INDUSTRIES" shall mean the groups of INDUSTRIES known as the Iron, Steel, Engineering and Metallurgical Industries, the Electrical Industry, Natal and the Electrical Contracting and Servicing Industry, Cape.
- (xvii) "INDUSTRIAL AGREEMENT" shall mean any current gazetted Agreement relating to the Fund published under the authority of the Metal and Engineering Industries Bargaining Council and/or the Electrical Industrial Council, Natal and/or Industrial Council for the Electrical Contracting and Servicing Industry, Cape.
- (xviii) "MEMBER" shall mean a person who having been admitted to membership of the Fund, has not ceased to be a MEMBER.
- (xix) "MINIMUM INDIVIDUAL RESERVE" shall mean in relation to each MEMBER, the amount determined in accordance with Section 14B(2)(b) of the ACT.
- (xx) "OLD FUND CREDIT" shall mean the value, as determined by the ACTUARY, as at 1 August 1993 of a MEMBER'S Pensionable Credits arising from the conversion of a MEMBER 'S credits established in terms of the Rules of Scheme " A " a n d Scheme "B" as defined in Rule 8(e) and (f), up to the Date of Conversion together, except for the purposes of Rule 6 I(i), with such interest as may from time to time be determined by the BOARD.

- (xxi) "OLD FUND MEMBER" shall mean:
- (a) a MEMBER who was a member of Scheme "A" and Scheme "B" prior to the DATE OF CONVERSION; or
 - (b) a MEMBER who was a member of Scheme "B" only prior to the DATE OF CONVERSION.
- (xxii) "PENSION" shall mean the annual pension payable in terms of these Rules to a PENSIONER or ELIGIBLE SPOUSE
- (xxiii) "PENSIONABLE REMUNERATION" shall mean the actual wages payable to an EMPLOYEE by the EMPLOYER each week in respect of the ordinary hours worked by such EMPLOYEE in the shifts of the establishment concerned during such week, including moneys payable in terms of any Agreement or under any law but excluding amounts paid in respect of overtime, shift and other allowances and holiday leave bonuses; provided that while an EMPLOYEE is in receipt of a benefit in terms of the Rules of the PERMANENT DISABILITY SCHEME his PENSIONABLE REMUNERATION shall be his PENSIONABLE REMUNERATION at the date of ceasing employment due to permanent disablement, plus any increases declared by the PERMANENT DISABILITY SCHEME in terms of the Rules of that Scheme.
- (xxiv) "PENSIONER" shall mean a retired MEMBER who is in receipt of a PENSION from the Fund.
- (xxv) "PERMANENT DISABILITY SCHEME" shall mean the Metal and Engineering Industries Permanent Disability Scheme.
- (xxvi) "PRESERVATION PENSION FUND" shall mean an APPROVED PENSION FUND recognised as a preservation fund, subject to the conditions set out by the Revenue Authorities from time to time.
- (xxvii) "PRESERVATION PROVIDENT FUND" shall mean an APPROVED PROVIDENT FUND recognised as a preservation fund, subject to the conditions set out by the Revenue Authorities from time to time.
- (xxviii) "REGISTRAR" shall mean the REGISTRAR of Pension Funds appointed under the ACT.
- (xxix) "RETIREMENT AGE" shall mean 65 years of age.

3. MEMBERSHIP

- (a) The following EMPLOYEES of EMPLOYERS in the INDUSTRIES shall be eligible for membership:-
- (i) those classes of EMPLOYEES who fall within the scope of the INDUSTRIAL AGREEMENT and who elect or are required in terms of Section 4 (Membership) of the Agreement to be MEMBERS of the Fund. (The contents of Section 4 of the INDUSTRIAL AGREEMENT are contained in Appendix 2 to the Rules).
 - (ii) those other classes of EMPLOYEES in the employ of the same EMPLOYER who contribute to the Fund and for whom the EMPLOYER makes contributions.
- (b) The BOARD shall be empowered in its discretion to accept contributions to this Fund in respect of EMPLOYEES of Trade Unions which are parties to the INDUSTRIAL AGREEMENT and in respect of EMPLOYEES of the COUNCIL and of the Steel and Engineering Industries Federation of South Africa.
The Rules of the Fund shall mutatis mutandis apply to such persons.
- (c) When required to do so, a MEMBER shall produce evidence of age acceptable to the BOARD and shall also give further information as the BOARD may reasonably require for the purposes of the Fund.
- (d) If a MEMBER does not comply with the provisions of paragraph (c) when so requested, the BOARD shall have the right to suspend the payment of any benefit to which he/she may become entitled until such time as such provisions are complied with.
- (e) A MEMBER shall cease to be a MEMBER of the Fund:-
- (i) on death;
 - (ii) on ceasing Service in the INDUSTRIES, provided that:-

- (a) the rights of such persons under Rule 6(I) shall remain entrenched;
- (b) a MEMBER who becomes entitled to a benefit in terms of the Rules of the PERMANENT DISABILITY SCHEME shall not for this purpose be regarded as having ceased Service in the INDUSTRIES;
- (iii) on joining a fund referred to in Rule 9.

4. CONTRIBUTIONS

- A. (i) Each MEMBER while in service in the INDUSTRIES shall contribute an amount equal to 6,6% of his remuneration. Such contributions shall be deducted from his earnings and paid by his EMPLOYER to the Metal Industries Benefit Funds Administrators as required by the INDUSTRIAL AGREEMENT. Such amounts shall be applied as the Member's Current Contributions.
- (ii) The EMPLOYER shall contribute in respect of each MEMBER in his service in the INDUSTRIES an amount equal to:-
- (a) 5,1% of the Member's Remuneration; plus
 - (b) with effect from 1 January 2000, an additional amount equal to 1,5 % of the Member's Remuneration for such period as the BOARD in consultation with the ACTUARY may decide.
- Such contributions shall be paid by the EMPLOYER to the Metal Industries Benefit Funds Administrators at the same time as the contributions in terms of clause (i) are paid.
- (iii) The contributions paid to the Metal Industries Benefit Funds Administrators in terms of clauses (i) and (ii) shall be accompanied by a statement containing such details for recording purposes as may from time to time be prescribed by the Metal Industries Benefit Funds Administrators.
- (iv) All contributions received by the Metal Industries Benefit Funds Administrators shall be paid within seven days of receipt by the Metal Industries Benefit Funds Administrators to the Fund.

- (v) Notwithstanding the provisions of this section, failure on the part of the EMPLOYER to make the deduction of MEMBER'S contributions which he is required to make shall not absolve the EMPLOYER from having to submit the total amount of the MEMBERS' contributions and his own contributions to the COUNCIL.
- B.
- (i) Contributions to the Fund in respect of a MEMBER who is in receipt of a benefit from the PERMANENT DISABILITY SCHEME shall be an amount equal to 6,6% of the PENSIONABLE REMUNERATION of the MEMBER as deducted from his benefit by the PERMANENT DISABILITY SCHEME, with the PERMANENT DISABILITY SCHEME paying the amount referred to in section(A)(i)(b) and (c).
 - (ii) Contributions in terms of subsection B (i) shall be paid to the Metal Industries Benefit Funds Administrators by the PERMANENT DISABILITY SCHEME within 7 days of the final date of the period for which the contributions are payable.

5. SERVICE AND PENSIONABLE CREDITS

- (a) "Service" of a MEMBER shall mean:-
 - (i) the period of actual employment within the Industries with an EMPLOYER or EMPLOYERS after 29 July 1957 including any period during which a MEMBER was in receipt of a benefit in terms of the Rules of the PERMANENT DISABILITY SCHEME, in respect of which contributions have been actually paid to the Fund;
 - (ii) the period of employment within the INDUSTRIES with an EMPLOYER or EMPLOYERS when such EMPLOYER / EMPLOYERS have provided pension/provident or other benefit recognised by the BOARD as falling within reciprocal arrangements established between the Fund and such other fund/s.
- (b) "Pensionable Credits" shall mean contributions paid to the Fund by a Member and by the EMPLOYER of such MEMBER and shall include the Member's OLD FUND CREDIT.

- (c) Provided that for the purpose of the Fund, "Service" and "Pensionable Credits" shall at all times be subject to the following conditions:-
- (i) MEMBER ceasing Service in the Industries for any reason with less than four years' Continuous Service-Pensionable Credits in respect of such Service shall be forfeited but the MEMBER shall be credited with :-
- (a) his OLD FUND CREDIT;
- and
- (b) that part of his own contributions which is not included in his OLD FUND CREDIT.

The MEMBER will be paid the greater of the minimum benefit or the withdrawal value in the Fund.

- (ii) MEMBER ceasing Service in the Industries after having completed four years' Continuous Service - all Pensionable Credits in respect of such Service shall stand in respect of such MEMBER.
- (iii) any absence from employment caused by strike action to which the MEMBER is a party shall not be included as Service and shall be disregarded also for the purpose of Pensionable Credits nor shall contributions be payable by the MEMBER or EMPLOYER for the duration of such strike.
- (iv) where a MEMBER who has taken the benefits to which he was entitled on retirement or early retirement or has received a benefit under Rule 6 (l)(ii), Rule 6 (m) or Rule 6(n), returns to the INDUSTRIES and recommences to contribute in terms of these Rules and / or the INDUSTRIAL AGREEMENT he shall be deemed to be a new MEMBER for the purposes of establishing Pensionable Credits.
- (v) where a MEMBER who has been refunded his own contributions in full under Rule 7B and/or C returns to the Industries and re-commences to contribute in terms of these Rules and/or the INDUSTRIAL AGREEMENT, he shall be deemed to be a new MEMBER for the purpose of establishing Pensionable Credits, unless he shall have made payments to reinstate either in Full or in part his benefit entitlement in the Fund under Rule 7E.

- (d) "Continuous Service" - For the purpose of establishing Continuous Service breaks in Service in the INDUSTRIES not exceeding twelve consecutive calendar months shall be condoned.

The BOARD shall be empowered to condone breaks in Service in excess of twelve consecutive calendar months where medical evidence acceptable to the BOARD is produced confirming that the MEMBER was unfit for work for the duration of the break in Service; provided that such a break in Service shall not be condoned by the BOARD where the MEMBER received a benefit under Rule 6(l)(ii), Rule 6(m) or Rule 6(n).

The period of such breaks shall not, however, be taken into account in calculating Continuous Service.

6. BENEFITS

Retirement - including early and late retirement

- (a) (i) Any MEMBER who reaches RETIREMENT AGE shall be entitled to receive a PENSION in accordance with the Rules; provided that a MEMBER may elect to retire at any time after reaching age 55 and receive a reduced PENSION determined by the ACTUARY by reference to his Pensionable Credits and age at retirement.

The MEMBER will be paid the greater of the minimum benefit or the withdrawal value in the Fund.

- (ii) Notwithstanding the provisions of this Rule any MEMBER who ceases employment in the INDUSTRIES prior to age 55 may elect to retire at any time after attaining age 55 and receive a reduced PENSION as of such amount as is determined by the ACTUARY by reference to his age at retirement and Service and Pensionable Credits established at the date of cessation of employment in the INDUSTRIES.

(b) Any MEMBER who elects to continue in Service after RETIREMENT AGE shall on eventual retirement:-

(i) if he has not taken the benefits to which he was entitled at RETIREMENT AGE, be entitled to the PENSION payable at RETIREMENT AGE, increased by such amount as is determined by the ACTUARY by reference to his Pensionable Credits established after RETIREMENT AGE;

or

(ii) if he has taken the benefits to which he was entitled at RETIREMENT AGE, be entitled to a further PENSION of such amount as is determined by the ACTUARY by reference to his Pensionable Credits established after RETIREMENT AGE.

Any MEMBER who becomes a MEMBER after RETIREMENT AGE shall be entitled when he retires to receive such benefit as is determined by the ACTUARY.

(c) The PENSION payable to a MEMBER on retirement at RETIREMENT AGE shall be as follows:-

(i) in the case of an OLD FUND MEMBER:-

(aa) if the MEMBER has Continuous Service from a date prior to the Date of Conversion to RETIREMENT AGE:- 2% of the Member's average annual PENSIONABLE REMUNERATION during the best three consecutive years within the last fifteen years of Service, multiplied by the number of years of Service (including fractions of a year) from the date of commencement of Continuous Service to RETIREMENT AGE;

or

(bb) in the case of a MEMBER who is not referred to in (aa) the sum of:-

(i) 2% of the MEMBER'S average annual

PENSIONABLE REMUNERATION during the best three consecutive years within the last fifteen years of Service, multiplied by the number of years of continuous Service (including fractions of a year) which the BOARD, in consultation with the ACTUARY, shall determine to have been secured by the MEMBER'S OLD FUND CREDIT at 1 August 1993;

Plus

- (ii) 2% of the MEMBER'S average annual PENSIONABLE REMUNERATION during the best three consecutive years within the last fifteen years of Service, multiplied by the number of years of Continuous Service (including fractions of a year) from the DATE OF CONVERSION to the RETIREMENT AGE;

or

- (iii) in the case of a MEMBER who is not referred to in (i): -2% of the MEMBER'S average annual PENSIONABLE REMUNERATION during the best three consecutive years within the last fifteen years of Service, multiplied by of years of Continuous Service (including fractions of a year) from the date of commencement of Continuous Service the RETIREMENT AGE.

If the BOARD considers that a MEMBER'S increases in PENSIONABLE REMUNERATION during the last three years of Service are abnormal it shall, in its absolute discretion, be entitled to base the MEMBER'S PENSION on a lower amount than his actual PENSIONABLE REMUNERATION having regard to:

- statutory wage increases;

- the level of wage increases related to similar occupations in the INDUSTRIES.

If the BOARD so decides, the MEMBER'S and the EMPLOYER'S contributions relating to that part of the MEMBER'S PENSIONABLE REMUNERATION which is not taken into account for the purposes of (i) or (ii) above shall be applied to secure for the MEMBER an additional PENSION of such amount as shall be determined by the ACTUARY.

The decision of the in consultation with the ACTUARY as to the amount payable under this Rule shall be final and binding. In the event of a deadlock, the view of the ACTUARY shall prevail.

The amount of PENSION determined in terms of this Rule shall not be reduced during the life of any PENSIONER, or where an ELIGIBLE SPOUSE'S PENSION is payable during the life of the ELIGIBLE SPOUSE, except as provided for in Rule 6(h).

- (d) Should a MEMBER'S total annual PENSION be less than R1 800, or such other figure as may be set by the relevant legislation from time to time for full commutation of pension, the BOARD shall be empowered to make payment to such MEMBER a lump sum in lieu of the PENSION. In this event the ELIGIBLE SPOUSE'S PENSION under Rule 6(h)(iii) shall not be payable.
- (e) A MEMBER on retirement may elect to commute for a lump sum cash payment:-
 - (i) the whole of his PENSION if it does not exceed the limit set by the relevant legislation from time to time for full commutation of pension. In this event the ELIGIBLE SPOUSE'S PENSION under Rule 6(h)(iii) shall not be payable;
 - or
 - (ii) if his PENSION exceeds the limit referred to in (i), not more than one-third of the PENSION, may be commuted.

- (f) PENSIONS payable in terms of these Rules shall be payable monthly, the first payment being made at the end of the month following the month in which the MEMBER retires.
- (g) The PENSION shall be payable for the life of the PENSIONER. In the event of the death of a PENSIONER before he has drawn the PENSION for five years, the PENSION for the balance of the five years shall be paid to his ELIGIBLE SPOUSE or, failing an ELIGIBLE SPOUSE, in terms of Section 37C of the Act. (The contents of Section 37C of the Act are contained in the Annexure to these Rules).

SPOUSE'S PENSION

- (h) (i) **ELIGIBLE SPOUSE'S PENSION on death in Service of a CONTRIBUTING MEMBER**

Subject to Rule 6(h)(ii), in the event of the death of a CONTRIBUTING MEMBER on or before RETIREMENT AGE his ELIGIBLE SPOUSE shall be entitled to receive until his/her death a PENSION equal to 40% of the PENSION to which the MEMBER would have been entitled under Rule 6(c) if he/she had remained a MEMBER of the Fund until RETIREMENT AGE and his/her remuneration being received at the time of death had remained constant thereafter.

- (ii) Notwithstanding the provisions of Rule 6(h)(i), in the event of the death in Service on or before RETIREMENT AGE of a CONTRIBUTING MEMBER who became a new Member after reaching age 55, his ELIGIBLE SPOUSE shall be entitled to receive until his/her death a PENSION equal to the PENSION to which the MEMBER would have been entitled in terms of Rule 6(c) if he/she had retired at the date of his death. Such PENSION shall be payable for a period of five years, after which the PENSION shall be reduced to a PENSION equal to 60% of the PENSION to which the MEMBER would have been entitled in terms of Rule 6(c) if he/she had retired at the date of his death.

(iii) **ELIGIBLE SPOUSE'S PENSION on death of a PENSIONER**

In the event of the death of a PENSIONER, his/her ELIGIBLE SPOUSE shall be entitled to receive until his/her death a PENSION equal to 60% of the PENSION entitlement of such PENSIONER before any commutation under Rule 6(e), provided that in the event of the death of a PENSIONER before he/she has drawn his/her PENSION for the full five-year period referred to in Rule 6(g) the ELIGIBLE SPOUSE'S PENSION in terms of this Rule shall only commence after the end of that five year period.

Death in Service of CONTRIBUTING MEMBER

- (i) (i) Subject to Rule 6(i)(ii), in the event of the death in Service of a CONTRIBUTING MEMBER on or before RETIREMENT AGE there shall be paid a lump sum benefit equal to the greater of:-
- (a) twice the Member's annual PENSIONABLE REMUNERATION at the time of death;
 - or
 - (b) the value, as determined by the ACTUARY, of the Member's Pensionable Credits at the time of death.
- (ii) Notwithstanding the provisions of Rule 6(i)(i), in the event of death in Service of a CONTRIBUTING MEMBER on or before RETIREMENT AGE who became a new MEMBER after reaching age 55, there shall be payable a lump sum benefit equal to 10% of twice the Member's annual PENSIONABLE REMUNERATION at the date of death during his first year of Service, increasing by a similar amount for each year of Service thereafter, provided that the benefit payable under this Rule shall not exceed the amount payable under Rule 6 (i)(i).

- (iii) In the event of the death in Service of a CONTRIBUTING MEMBER after RETIREMENT AGE he shall be deemed to have retired in terms of these Rules on the date of his death, subject to Rule 7A(iii)(a).

- (iv) In the event of the death in Service of a CONTRIBUTING MEMBER after the attainment of age 60 he shall be deemed to have retired in terms of these Rules on the date of his death if the value, as calculated by the ACTUARY, of the resultant PENSION benefits, including the ELIGIBLE SPOUSE'S PENSION under Rule 6(h)(iii), where applicable, exceeds the value of the benefits payable in terms of Rule 6(i)(i) and, where applicable, the ELIGIBLE SPOUSE'S PENSION under Rule 6(h)(i).

Death of a DEFERRED PENSIONER

- (j) If a DEFERRED PENSIONER dies before payment of his PENSION has commenced, a lump sum benefit shall be payable on an amount equal to the capital value of his DEFERRED PENSION at the date of his death, as determined by the ACTUARY.

- (k) Benefits payable in respect of a MEMBER shall be made in terms of Section 37C of the Act. (The contents of Section 37C of the ACT are contained in the Annexure to these Rules).

MEMBERS ceasing Service in the INDUSTRIES for any reason having completed four years' Continuous Service

- (l) (i) A MEMBER who has completed four years' Continuous Service on ceasing Service in the Industries prior to RETIREMENT AGE for reasons other than early retirement shall on reaching RETIREMENT AGE be entitled to receive a PENSION calculated in the manner prescribed in Rules 6(c)(i)(bb) and (ii) in respect of Pensionable Credits as a MEMBER of this Fund.
- (ii) Notwithstanding the provisions of this Rule a MEMBER shall be entitled on ceasing Service in the INDUSTRIES to:-
- (a) his OLD FUND CREDIT;
- plus
- (b) that part of his own contributions which is not included in his OLD FUND CREDIT, together with such interest as may from time to time be determined by the BOARD;
- plus
- (c) that part of the EMPLOYER'S contributions in respect of him which remains after deduction of the cost of administration and death benefits provided in terms of these Rules and which is not included in his OLD FUND CREDIT, together with such interest as may from time to time be determined by the BOARD.

Payment of the benefit shall be made not less than eight weeks after the date of ceasing Service, provided that the MEMBER has not returned to Service in the INDUSTRIES during such period.

MEMBERS ceasing Service in the INDUSTRIES for any reason with less than four years' Continuous Service

- (m) A MEMBER who has completed less than four years' Service on ceasing Service in the INDUSTRIES prior to RETIREMENT AGE for reasons other than early retirement shall be entitled to:-
- (a) his OLD FUND CREDIT;

plus

 - (b) that part of his own contributions which is not included in his OLD FUND CREDIT, together with such interest as may from time to time be determined by the BOARD;

plus

 - (c) the following percentage of that part of the EMPLOYER'S Contributions in respect of him which remains after deductions of the cost of administration and death benefits provided in terms of these Rules and which is not included in his OLD FUND CREDIT, together with such interest as may from time to time be determined by the BOARD:-

Payment of the benefit shall be made not less than eight weeks after the date of ceasing Service, provided that the MEMBER has not returned to Service in the INDUSTRIES during such period.

Retrenchment or Redundancy

- (n) (i) If a MEMBER ceases Service in the INDUSTRIES prior to RETIREMENT AGE due to retrenchment or redundancy

then, provided that he is not employed by another EMPLOYER in the Industries and has not retired, the BOARD, in its sole discretion, in lieu of any other benefit to which he may have become entitled in terms of these Rules, may pay him a lump sum benefit of an amount equal to:-

- (a) his OLD FUND CREDIT;

plus
- (b) that part of his own contributions which is not included in his OLD FUND CREDIT, together with such interest as may from time to time be determined by the BOARD, the total amount then being multiplied by 1,59 or such other factor which may be determined by the ACTUARY from time to time.

If circumstances so permit, payment of the benefit be made within six weeks of the date of the MEMBER'S Leaving service, provided that the MEMBER has not returned to service in the INDUSTRIES during such period.

- (ii) For the purposes of clause (i):-

“retrenchment” shall mean the termination of a MEMBER'S Service by his EMPLOYER due to shortage of work or other economic circumstances beyond the control of the EMPLOYER, involving the leaving vacant of the post occupied by the MEMBER with a view to filling it again when work becomes available or economic circumstances permit. Termination of Service due to the completion of a construction contract, or part thereof, shall not be regarded as retrenchment;

“redundancy” shall mean the termination of a MEMBER'S Service by his EMPLOYER due to technological change or rationalisation, involving the total or partial closing of the post to any future occupant.

- (iii) The BOARD shall not consider payment of a benefit in terms of clause (i) unless:-
 - (a) application for the benefit is made to it by the MEMBER and documentary evidence, preferably evidence that the EMPLOYER has complied with the provisions of Section 35 of the Main Agreement, is produced that is considered by the BOARD to be satisfactory evidence of the MEMBER'S retrenchment or redundancy; and
 - (b) It is satisfied that the MEMBER has not been employed by another EMPLOYER in the INDUSTRIES prior to the time for payment of the benefit in terms of clause (i).

The BOARD'S decision under this Rule shall be final and binding.

- (o) Notwithstanding any other provision of Rule 5 or Rule 7 or Rule 8, or this Rule 6, it is specifically provided that the benefit payable to a MEMBER of the Fund prior to retirement in circumstances other than the liquidation of the Fund shall not be less than his MINIMUM INDIVIDUAL RESERVE.
- (p) It is specifically provided that pension increases in the PENSIONS payable in terms of this Rule 6 shall be paid to PENSIONERS in accordance with the PENSION Increase Policy adopted by the Trustees in consultation with the ACTUARY from time to time and communicated to the PENSIONERS. Increases in PENSIONS shall be payable from the date set out in the PENSION Increase Policy, having regard to the minimum PENSION increase in terms of the ACT and subject to affordability.

7. SPECIAL BENEFIT PROVISIONS

The benefits provided for under Rule 6 apply in respect of the following special circumstances and to the extent herein laid down:-

- A. (i) Death whilst unemployed - The benefits specified in Rules 6(i)(i) or 6(ii)(ii) and 6(h)(i) or 6(h)(ii), as applicable, shall mutatis mutandis apply and be paid in respect of an ex-MEMBER in the event of death occurring within a period of six consecutive weeks after his ceasing Service in the INDUSTRIES, provided that during this total period he as actually unemployed; and provided further that immediately preceding his unemployment he was employed in the INDUSTRIES for a period of not less than two consecutive years and established Pensionable Credits for such period.
- (ii) Death whilst unemployed due to sickness or a works accident - The benefits specified in Rules 6(i)(i) and 6(i)(ii) and 6(h)(i) or 6(h)(ii), as applicable, shall mutatis mutandis apply and be paid in respect of an ex-MEMBER if he has ceased to be employed in the INDUSTRIES because of sickness or a works accident and his death occurs during the actual period he received payment from the Metal & Engineering Industries Bargaining Council Sick Pay Fund or a Silk Pay Fund recognised by the Board or a benefit payable in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (other than for total permanent disability) or within a period of 26 calendar weeks reckoned from the date the unemployment actually commenced, whichever is the shorter.
- (iii) Old EMPLOYEES:-
- (a) Notwithstanding the provisions of Rules 6(i)(ii) and 6(i)(iii) in the case of any MEMBER with at least fifteen years' membership of the Fund who continues in Service after RETIREMENT AGE and who has not taken the benefits to which he/she is entitled at RETIREMENT AGE in terms of these Rules there shall in the event of death during such employment be payable the benefits set out in Rule 6(i)(i), and, where applicable, the ELIGIBLE SPOUSE'S PENSION under Rule 6(h)(i)

or the PENSION benefits payable under Rule 6(c) (subject to Rule 6(g)) and the ELIGIBLE SPOUSE'S PENSION under Rule 6(h)(ii) or 6(h)(iii), whichever is determined by the ACTUARY to be the greater in value.

- (b) MEMBERS who have at least fifteen years' Service in the INDUSTRIES prior to 29 July 1957 and who have continued in Service but are not able to work after RETIREMENT AGE, may apply to the BOARD for special consideration. The BOARD shall be empowered in such cases, depending on the circumstances and subject to the applicant complying with such conditions as may be determined by the BOARD, to make regular weekly or monthly payments of amounts as it may determine. Amounts so paid under this Rule may be varied, suspended or withheld and be for such duration as the BOARD may in its absolute discretion determine.

B. The BOARD shall have the power in its discretion to relax, waive or extend any period, provision, contingency or requirement in the Rules in regard to the qualification for and payment of benefits in the event of unemployment or other special circumstances.

C. The following provisions shall apply with regard to any payments by the Fund in the event of unemployment:-

- (i) "Unemployment" shall mean unemployment in the INDUSTRIES, any particular sector or sectors thereof, in any specific geographical area or in any specific class of work where such employment is deemed by the BOARD to be of such magnitude as to cause economic hardship and to warrant the payment of benefits under this Rule.
- (ii) Applications for payments under this Rule shall be made to the Fund and shall be supported by such proof or evidence as may be required by the BOARD from time to time.

- (iii) Payments under this Rule shall be subject to such conditions and requirements as the BOARD shall from time to time determine.
- (iv) The amounts, duration and mode of payments shall be determined by the BOARD, provided that the amounts payable to an ex-MEMBER shall not exceed in aggregate the value of the contributions paid by such ex-MEMBER to the Fund together with such interest as may be determined by the BOARD.
- (v) No payments shall be made to an ex-MEMBER during unemployment:
 - (a) Unless he is registered as unemployed, is actively seeking work and complies with the conditions relating to qualification for unemployment and illness benefits prescribed in the Unemployment Insurance Act, 1966 and regulations thereto from time to time.
 - (b) Unless and until he has exhausted all benefits due under the provisions of the Unemployment Insurance Act, 1966 in force from time to time, including any further or extended benefits which may be authorised under such ACT.
 - (c) Whilst he is undergoing training for employment under a scheme provided for under the Unemployment Insurance Act, 1966.
- (vi) Payments shall be made weekly, monthly or on such other basis as is determined by the BOARD.
- (vii) These provisions shall mutatis mutandis apply to any ex-MEMBER who was not a contributor in terms of the Unemployment Insurance Act, 1966 immediately prior to becoming unemployed, provided such ex-MEMBER has been unemployed for a continuous period of 26 weeks or such lesser period as may be determined by the BOARD,

And determined by the BOARD, and provided further that where such ex-MEMBER is entitled to benefits under the Unemployment Insurance Act, 1966 because of his having previously been a contributor in terms thereof, payments shall not be made under this Rule until he has exhausted all benefits due under the provisions of the said Act.

- D. (i) Where a MEMBER'S contributions are refunded in full under Rule 7B and/or C, the contributions paid by the EMPLOYER during the Service concerned shall be forfeited. The MEMBER shall have no further entitlement to benefits in respect of the service for which his contributions were refunded, subject to reinstatement in full or in part under Rule 7E.
 - (ii) (a) Where part of a MEMBER'S contributions are refunded under Rule 7B and/or C, the contributions paid by the EMPLOYER during the Service concerned shall be forfeited. The actual period of Service relating to the contributions refunded and in respect of which Pensionable Credits shall be reduced shall be determined by the BOARD, in consultation with the ACTUARY, having regard to the best interests of the MEMBER relative to his Service and Pensionable Credits in the Fund.
 - (b) The provisions of these Rules relating to such reduced Service shall apply in the same manner as if no contributions were paid during the period for which contributions were refunded, subject to reinstatement in full or in part under Rule 7E.
- E. (i) The value of any benefits payable in terms of these Rules shall be reduced by any payments made under Rule 7B and/or C on such basis as the BOARD in consultation with the ACTUARY, decides, provided that any person who has received payments under Rule 7B and/or C due to unemployment shall be entitled on re-employment in the INDUSTRIES to make

payments to the Fund of such amount/s and on such basis as the BOARD, in consultation with the ACTUARY, decides and as may be arranged with the Fund, to reinstate either in full or in part his Service in terms of the Rules.

- (ii) Where payments are made by a MEMBER in terms of (b) hereof to reinstate his Service, the BOARD shall in consultation with the ACTUARY, determine the period of Service to be reinstated. The EMPLOYER'S contributions of such Service shall likewise be reinstated in determining Pensionable Credits.

- F. Without detracting from the generality of the provisions of Rule 7B, where a MEMBER has been retrenched or made redundant and remains unemployed but the BOARD has not granted him a benefit in terms of Rule 6(n), the BOARD, if it considers the economic and/or unemployment situation to be such as to cause hardship, may, in its discretion, reduce the period stipulated in Rule (6)(l)(ii) or Rule 6(m) to not less than six weeks to enable the payment of the benefit referred to in such Rule.

8. CONVERSION – SCHEME “A” AND SCHEME “B”

- (a) Benefits in respect of Service or credits established by MEMBERS in terms of the Rules of Scheme “A” and Scheme “B” up to the Date of Conversion shall be converted to “Pensionable Credits” on such basis as is determined by the ACTUARY and be subject to the Rules.
- (b) The benefits being paid at the Date of Conversion to any MEMBER under the Rules of Scheme “A” and Scheme “B” shall in no way be prejudiced by the conversion of the Fund to an APPROVED PENSION FUND.
- (c) A MEMBER of Scheme “B” who retired prior to the Date of Conversion shall continue to be entitled to a death benefit of R1400, subject to the value of such benefit being reduced at the rate of 1% per month from the date on which such MEMBER actually retired.

(d) MEMBERS of Scheme "B" who were not participants in Scheme "A" and are EMPLOYEES of EMPLOYERS who were not required to contribute to Scheme "A" prior to the DATE OF CONVERSION but who made deductions prior to that date from the wages of EMPLOYEES in terms of the Scheme "B" INDUSTRIAL AGREEMENT shall, notwithstanding anything to the contrary contained in these Rules, have the choice of the following to be determined by a majority vote of the affected EMPLOYEES of the EMPLOYER in the establishment concerned:-

(i) for benefits in respect of credits established under the Scheme "B" Rules to be preserved and secured and to become payable as and when provided for under the Rules;

or

(ii) to be paid the current value, as determined by the ACTUARY, of credits established under the Scheme "B" Rules.

The decision of the majority of such affected EMPLOYEES shall be final and binding on all such EMPLOYEES.

(e) "Scheme A" shall mean Scheme "A" of the Fund, to which contributions were payable by EMPLOYERS in terms of the relevant INDUSTRIAL AGREEMENTS from 29 July 1957 to the DATE OF CONVERSION.

(f) "Scheme B" shall mean Scheme "B" of the Fund, to which contributions were payable by EMPLOYEES in terms of the relevant INDUSTRIAL AGREEMENTS from 2 May 1964 to the DATE OF CONVERSION.

9. TRANSFER TO PROVIDENT FUND

If a MEMBER elects to join an APPROVED PROVIDENT FUND (other than the Metal Industries Provident Fund) in which an EMPLOYER participates and reciprocal arrangements are established between the fund and such fund, then:-

- (a) (i) his own contributions, which shall include contributions paid to the Retirement Provisions of Scheme “B”, increased by such interest as may from time to time be determined by the BOARD;

Plus

- (ii) any amount accepted for his credit in terms of Rule 11(m), increased by such interest as may from time to time be determined by the BOARD; shall, after deduction of such income tax as may be applicable thereto, be transferred to the APPROVED PROVIDENT FUND concerned to be applied under that fund in terms of the rules of that fund;

- (b) an amount equal to the greater of

- (i) the remainder of the Fund’s actuarial liability, as determined by the Actuary, in respect of his Service up to the date of his joining the APPROVED PROVIDENT FUND concerned;

And

- (iii) the difference between

- (aa) the amount which the MEMBER would have received:-

- (i) in terms of Rule (6)(l)(ii) if his Service in the INDUSTRIES had ceased on the date of his transfer to the APPROVED PROVIDENT FUND concerned and he had elected the option contained in that Rule;

Or

- (ii) in terms of Rule (6)(m) if his Service in the Industries had ceased on the date of his transfer to the APPROVED PROVIDENT FUND concerned;

together with any amount referred to in (a)(ii) above, all before deduction of such income tax as may be applicable thereto;

and

- bb) the amount referred to in (a), before deduction of such income tax as may be applicable thereto; shall be transferred to the APPROVED PROVIDENT FUND concerned to be applied under that fund in terms of the rules of that fund.

10. APPOINTMENT OF ACTUARY AND AUDITOR

- (a) The BOARD shall appoint and remunerate an AUDITOR, and every such appointment shall be for a period of one year unless the AUDITOR is removed by the BOARD before the expiration of that period.

The AUDITOR shall have access to all books, papers, vouchers, accounts and documents connected with the Fund and shall certify, in writing, the result of each audit.

- (b) The BOARD shall appoint and remunerate an ACTUARY.

11. FINANCIAL PROVISIONS

- (a) All moneys received on account of the Fund shall be paid into a bank or banks and all cheques drawn against the Fund shall be signed by two representatives of the Secretaries appointed by the BOARD in terms of the Constitution.
- (b) In respect of all moneys not immediately required to meet the current charges upon the Fund, the BOARD may invest such moneys as it may from time to time determine in the following manner and such investments shall at all times be made in conformity with the requirements of the ACT and any;

Regulations thereunder and/or directives issued by the REGISTRAR:-

- (i) in fixed deposits or savings accounts of any bank or building society governed by the laws of the Republic of South Africa;
- (ii) in Bills, bonds, certificates, debentures or stocks issued or guaranteed by the Government of the Republic of South Africa;
- (iii) in deposits in the Republic of South Africa Post Office Savings Bank;
- (iv) in stock of, or in loans to any local authority in the Republic of South Africa incorporated or constituted by or under any general or special statute, ordinance or statutory enactment and which is authorised by law to levy rates upon immovable property;
- (v) in debentures or stock of any water works, electricity supply corporation or other corporation created by special legislative enactments within the Republic of South Africa and which is approved under Section 19(1) of the ACT;
- (vi) in building society shares or preference shares of any company quoted on the Johannesburg Stock Exchange;
- (vii) in the purchase of immovable property, including the purchase of land and the erection of buildings thereon;
- (viii) in first mortgage upon immovable property in the Republic of South Africa or participation in such mortgage bonds on conditions laid down by the BOARD from time to time. No moneys shall be advanced on the security of immovable property which is subject to a prior mortgage bond unless such prior mortgage bond is in favour of the Fund, provided always that the total of the loan shall not exceed 90% of the market value of the property

concerned; provided further that the percentage may be increased to 100%, subject to the furnishing to the Fund by the EMPLOYER of the MEMBER of an irrevocable guarantee in respect of so much of the loan as may exceed 90%;

- (ix) and without limitation by the foregoing, in any other form of investment which the BOARD may deem good and sufficient, whether it is of a similar nature to those enumerated above or not;
 - (x) the BOARD may obtain an overdraft from a bank or borrow from other parties on such terms as may be agreed upon such sum as may be approved from time to time by the BOARD for the purpose of bridging unforeseen cash shortages; provided that unless the prior written consent of the REGISTRAR has been Obtained thereto, the aggregate amount of such loans shall not at any time exceed one-half of the Fund's gross income from all sources during the immediately preceding FINANCIAL YEAR.
- (c) (i) All securities, mortgage bonds, title deeds and other documents shall be registered in the name of the Fund and shall not be transferred, alienated or otherwise disposed of except with the approval of the BOARD. The BOARD shall nominate members of the BOARD and other officers of the Fund as signatories for the above purpose, the signatures of not less than two of whom, on such basis as is authorised by the BOARD, shall be sufficient for the purpose of giving effect to the resolutions of the BOARD. Such signatories shall hold office indefinitely or for such period as the BOARD when appointing them shall designate. The Fund may, at its discretion register all equities, gilts, semi gilts and other assets deemed necessary in the name of a Nominee company to be appointed by the BOARD OF MANAGEMENT.
- (ii) Any mortgage bond, title deed or other security belonging to or held by the Fund shall, except when in the temporary custody of others for the purposes of the Fund, be kept in safe custody in the safes or

strongrooms at the registered office of the Fund or with any bank or building society or other financial institution approved by the BOARD.

- (d) The BOARD shall cause full and true accounts of the Fund to be kept, such accounts to be balanced and audited by the AUDITOR as at the end of each FINANCIAL YEAR.
- (e) The BOARD shall present an annual report on the working of the Fund, together with a copy of the AUDITOR'S report and balance sheet of the Fund and a statement of the revenue and expenditure for each FINANCIAL YEAR which shall be posted annually as soon as available to the Steel and Engineering Industries Federation of South Africa and the Employees' Organisations listed in Annexure 1 of the Constitution and published for the information of the EMPLOYERS and MEMBERS by such means as the BOARD may from time to time determine.
- (f) The BOARD shall keep such records of the Fund as shall enable an actuarial valuation to be made at any time; such records shall also give such other particulars and information as the BOARD may consider desirable. The Fund shall be valued by the ACTUARY each cycle of three years ending on the last day of a FINANCIAL YEAR for the purpose of determining whether it continues to be capable of meeting the charges provided for in these Rules. The result of any such actuarial valuation shall be embodied in a report which shall be submitted to the BOARD, which shall transmit a copy to the REGISTRAR within a period described in the ACT. The Steel and Engineering Industries Federation of South Africa, and the Employees' Organisations listed in Annexure 1 of the Constitution shall be provided with a copy of such report(s).
- (g) The BOARD shall also publish for the information of EMPLOYERS and MEMBERS particulars of the report referred to in (f) or a summary thereof in such form and by such means as the BOARD may determine.
- (h) The expenses in connection with or incidental to the management or administration of the Fund and to the investment thereof, including the cost of audit and actuarial investigation, shall be borne by the Fund.

- (i) All contracts entered into by the Fund and binding the Fund shall be entered into by the BOARD and all documents in respect thereof shall be signed by not less than two MEMBERS of the BOARD duly authorised by the BOARD.
- (j) Any profits or losses entailed in the realisation of investments of the Fund shall be to the credit or debit of the Fund, as the case may be.
- (k) No loans shall be made to MEMBERS or guarantees furnished in respect of loans by EMPLOYERS, building societies, banks, financial institutions and other persons to MEMBERS, other than for purposes as provided for and under the conditions prescribed in the ACT. Such loans or guarantees shall be secured by a pledge of the benefits to which the MEMBER is entitled in terms of the Rules and shall not exceed the amount of the benefit which the MEMBER would receive if he were to terminate his membership of the Fund voluntarily.
- (l)
 - (i) The BOARD shall have the power to transfer the assets and liabilities of the Fund or a portion thereof to another APPROVED PENSION FUND or to take transfer of the assets and liabilities or a portion thereof of another APPROVED PENSION FUND.
 - (ii) The BOARD shall have the power to transfer such amount as it considers, on the advice of the ACTUARY, to be appropriate in the circumstances to the PERMANENT DISABILITY SCHEME.
 - (iii) In addition to receiving contributions referred to in Rule 4, the Fund may act as a conduit for the payment of contributions to the PERMANENT DISABILITY SCHEME.
- (m) The Fund shall be entitled to accept amounts transferred from other funds for the credit of persons who become MEMBERS of the Fund.

The PENSION payable to any such MEMBER in terms of these

Rules on retirement shall be augmented by a PENSION as may be determined the ACTUARY in respect of the amount transferred from any such other fund.

In the case of the death of any such MEMBER before RETIREMENT AGE the Eligible Spouse's Pension payable in terms of these Rules shall be augmented by a PENSION of such amount as is determined by the ACTUARY in respect of the amount transferred from such other fund or, if an ELIGIBLE SPOUSE'S PENSION is not payable, there shall be payable in addition to any other benefits payable under these Rules a lump equal to the amount transferred to the Fund together with such interest as may be determined by the BOARD.

Where a MEMBER receives a benefit under Rule 6(l)(ii), Rule 6(m) or Rule 6(n), he shall be entitled to a lump sum equal to the additional amount/s paid to the Fund in terms of this Rule together with such interest as may be determined by the BOARD.

- (n) Subject to the approval of the BOARD, a MEMBER shall be entitled to pay to the Fund such additional contributions as the MEMBER may wish to contribute for the purpose of adding to his Continuous Service such period as may be determined by the ACTUARY to have been secured by such additional contributions; provided that such contributions shall not exceed an amount approved by the BOARD from time to time.

The PENSION payable to any such MEMBER in terms of these Rules on retirement shall be augmented by a PENSION of such amount as is determined by the Actuary in respect of the additional contributions.

In the case of the death of any MEMBER on or before RETIREMENT AGE the ELIGIBLE SPOUSE'S PENSION payable in terms of these Rules shall be augmented by a PENSION of such amount as is determined by the ACTUARY in respect of the additional contributions or, if an ELIGIBLE SPOUSE'S PENSION is not payable, there shall be payable in addition to any other benefits payable under these Rules a lump sum equal to the amount of the additional contributions together With such interest as may be determined by the BOARD.

Where a MEMBER receives a benefit under Rule 6(l)(ii), Rule 6(m) or Rule 6(n), the member shall be entitled to a lump sum equal to the additional amount/s paid to the Fund in terms of this Rule together with such interest as may be determined by the BOARD.

- (o) The BOARD shall be entitled to pay the EMPLOYER of a MEMBER who has terminated his employment before repaying a loan granted by the EMPLOYER for any purpose referred to in Section 19(5) of the ACT, the amount outstanding on the loan within the limits of the amount which can be deducted from the benefit payable to the MEMBER or his dependants or legal representative or estate. Where benefits are not payable in terms of these Rules at the time when payment is made to an EMPLOYER under this Rule, such payment to the EMPLOYER in repayment of the MEMBER'S loan shall be deemed to be a loan by the Fund to such MEMBER under Rule 11(k) and shall be secured by a pledge of benefits and subject to interest at a rate determined by the BOARD from time to time.

12. SPECIAL PROVISIONS

- (a) Except for the cases provided for in the Rules, a MEMBER shall have no claim on the Fund for any benefits whatsoever. No MEMBER or other person shall have any claim concerning the Fund except in accordance with the Rules.
- (b) The BOARD shall have the right to make such deductions from the benefit to which a MEMBER or other beneficiary is entitled in terms of the Rules as are permitted in terms of Section 37D of the ACT and in respect of which a claim has been lodged in writing with the BOARD within such reasonable time of the event giving rise to the benefit as the BOARD may from time to time fix for making such claims. (The contents of Section 37D of the ACT are contained in the Annexure to these Rules).

If a MEMBER is retiring on PENSION, the BOARD shall have the right to commute for a lump sum an amount of the PENSION up to the maximum amount which may be commuted in terms of Rule 5(e) and to make the deduction from such lump sum.

(c) All benefits and rights to benefits in terms of these Rules shall be subject to the prohibitions as to reduction, cession, etc. contained in Section 37A and 37B of the Act. (The contents of these Sections are contained in the Annexure to these Rules).

(d) **Unclaimed Benefits**

Unclaimed benefits will be held in the Fund until such time as the MEMBER comes forward to claim the benefit.

(e) In deciding any question of fact the BOARD may, unless otherwise provided for in these Rules, act upon such evidence as it may deem adequate whether amounting to legal proof or not.

(f) Any decision of the BOARD upon any question of fact and any exercise by the BOARD of any discretion entrusted to it by these Rules shall be final.

(g) Whenever the BOARD is satisfied that a benefit was granted or refused by reason either of evidence not being given which was afterwards produced or of a mistake of fact, the BOARD may on its own resolution grant such benefits or after due notice to the beneficiary cancel the benefit granted or make any other decision in accordance with these Rules.

(h) If at any time the BOARD is satisfied that any benefit awarded under these Rules has been obtained by fraud or in any other improper manner or that any benefit has been erroneously granted or paid under these Rules, the BOARD may on its own resolution, after due notice to the beneficiary, set aside or vary the benefit and may, in the event of a variation, award such further, lesser or other benefits or make an adjustment in respect of any benefit as in the circumstances the BOARD deems fit subject to the provisions of these Rules.

(i) No benefits payable under the provisions of these Rules to any MEMBER or any other person shall be reduced or avoided by reason of such MEMBER or other person becoming entitled to payment of compensation under any law or any insurance contract with an EMPLOYER governing accidents happening to or industrial diseases contracted by MEMBERS during the course of their employment with EMPLOYERS in respect of the happening of the accident or the contracting of an industrial disease.

(j) Notwithstanding anything to the contrary contained in these Rules, if the BOARD is unable to function or ceases to function by reason of the resignation of the representatives on the BOARD or on account of the failure or refusal of the organisations to nominate representatives or in the event of the Employees' Organisations listed in Annexure 1 of the Constitution ceasing to exist for any reason whatsoever

or

the Chairman of the BOARD and/or members of the BOARD and/or the AUDITOR or AUDITORS of the Fund report that the assets of the Fund are being disposed of or benefits are being refused or awarded without due and proper regard to the Rules, the Steel and Engineering Industries Federation of South Africa may in its discretion, should in its opinion such course be desirable or necessary in the interests of the Fund and its MEMBERS and/or beneficiaries, appoint a manager to take over the control of all the assets of the Fund and to administer the Fund in accordance with these Rules. Conversely, in the event of the Steel and Engineering Industries Federation of South Africa and the Employer's Organisations ceasing to exist, the Employees' Organisations listed in Annexure 1 of the Constitution may on a unanimous vote assume and exercise the rights vested in the Steel and Engineering Industries Federation of South Africa in respect of appointing a manager to take over the control of the assets of the Fund and administer the Fund in accordance with these Rules.

(k) In the event of a manager being appointed under (j), he shall take over all the assets, documents, records, and papers of the Fund, and occupy any premises leased or owned by the Fund, assume all powers of the BOARD in connection with the administration and control of the Fund

including the receipt of contributions and moneys and the granting and payment of benefits; and generally perform any ACT in connection with the Fund in accordance with these Rules.

Upon the appointment of a manager as herein provided all the representatives of the BOARD shall resign and vacate office and cease to be in control of or to administer the Fund or do any ACT in connection with the Fund after the appointment of a manager whilst he remains in office.

- (l) Any expenses incurred in implementing the provisions of paragraph (j) shall be a charge on the Fund.

13. EXEMPTIONS

The BOARD shall be empowered under this clause to grant exemptions to EMPLOYERS and MEMBERS from any provision contained in the Rules on such conditions as it may from time to time determine.

14. MEMBERS RIGHTS IN THE EVENT OF MERGERS AND TAKEOVERS

In the event of the Fund being merged and/or taken over by any other fund or scheme derived under the operation of any Law the MEMBERS shall have the right to decide that the benefits accruing them at such time to be retained on their account and to be held in trust on their behalf in terms of the Rules until RETIREMENT AGE, prior incapacity or death.

15. WINDING UP

- (a) If circumstances arise at any time which, in the opinion of the BOARD, render the winding up of the Fund desirable or necessary, the BOARD shall, with the unanimous approval of the Steel and Engineering Industries Federation of South Africa, and the Employees' Organisations listed in Annexure 1 of the Constitution, appoint a liquidator approved by the REGISTRAR in terms of Section 28(2) of the Act. Such liquidator shall be empowered to wind up the Fund in which event the assets shall be divided among

MEMBERS and beneficiaries on such terms and in such manner as the liquidator, acting on the advice of the ACTUARY with the approval of the Steel and Engineering Industries Federation of South Africa and the Employees' Organisations listed in Annexure 1, may determine

- (b) In exercising his powers in terms of section (a), the liquidator shall, inter alia, have power to direct that the assets of the Fund shall be transferred to another APPROVED PENSION FUND or PRESERVATION PENSION FUND; provided that transfer to a PRESERVATION PENSION FUND is subject to the requirements of the Commissioner for the South African Revenue Service as specified from time to time.
- (c) The MEMBERS of the Fund shall be treated as deferred creditors, and their claims against the Fund in their capacity as MEMBERS shall not be settled until the claims of ordinary creditors have been paid.
- (d) In making an apportionment of assets to MEMBERS in terms of (a), the liquidator shall take into consideration every former MEMBER who, during the period of twelve months ending on the date of commencement of liquidation, left Service. The former MEMBER'S apportionment shall be reduced by the amount of the benefit which he received on leaving Service.

16. MEMBERS MAY OBTAIN COPIES OF DOCUMENTS

Every EMPLOYEE on acceptance as a MEMBER of the Fund shall be furnished with a copy of the Rules. Every MEMBER shall be entitled, on application, to one copy of each of the following:

- (i) the latest revenue account of the Fund;
- and
- (ii) the latest balance sheet of the Fund.

On payment of a fee to be determined by the BOARD any member may obtain further copies of the Rules, revenue account and balance sheet of the Fund.

APPENDIX 1

SPECIAL PROVISIONS APPLICABLE TO MEMBERS AND OTHER BENEFICIARIES OF THE METAL INDUSTRIES GROUP PENSION FUND

The following special provisions shall apply in the case of MEMBERS and other beneficiaries of the Metal Industries Group Pension Fund (hereinafter referred to as the "Group Fund").

- A. The Fund shall receive such amount as is payable to the Fund by the Group Fund as a result of the merger of that fund with the Fund on 1 January 1995. Of the amount so received,
- (a) such amount as is notified to the Fund by the Group Fund as constituting each Member's pensionable credit under the Group Fund as at 31 December 1994 shall be regarded as his Pensionable Credit under the Fund;

and

 - (b) such amount as is notified to the Fund by the Group Fund as constituting each MEMBER'S contributions to the Group Fund as at 31 December 1994 shall be regarded as his contributions under the Fund.
- B. The Fund shall undertake the liabilities of the Group Fund for
- (a) continued payment of all pensions which were in course of payment by the Group Fund as at 31 December 1994;
 - (b) the payment of benefits arising after 31 December 1994 and contingent on the benefits referred to in (a);
 - (c) the payments of benefits which were being retained in the Group Fund in respect of MEMBERS of that Fund who had ceased to be contributing MEMBERS of that Fund, as and when such benefits would have fallen due if the Rules of the Group Fund had continued to apply thereto.

All payments under (a), (b) and (c) shall be made by reference to the Rules of the Group Fund applicable thereto prior to 1 January 1995.

C. The Rules shall be amended as follows:-

1. Definition (x) in Rule 2 shall be replaced by the following:-

(x) "DATE OF CONVERSION" shall mean

- (i) 1 July 1978 in respect of the group of Industries known as the Iron, Steel, Engineering and Metallurgical Industries;
- (ii) 23 October 1978 in respect of the Electrical Industry, Natal.

2. Definition (xix) in Rule 2 shall be replaced by the following:-

(xix) "MINIMUM INDIVIDUAL RESERVE" shall mean the value, as notified to the Fund by the persons managing the business of the Group Fund, of a MEMBER'S pensionable credits under that Fund arising from the conversion of his benefits in respect of pensionable service established by him in terms of the Rules of that Fund prior to the DATE OF CONVERSION.

3. Definition (xxi) in Rule 2 shall be replaced by the following:-

(xxi) "OLD FUND MEMBER" shall mean a MEMBER who was a MEMBER of the Group Fund prior to the DATE OF CONVERSION.

4. The following shall be added to Rule 3(c):-

In the case of a MEMBER who was a MEMBER of the Group Fund, the BOARD may accept his age as stated in the records of that Fund.

5. Clause (i) in Rule 5(a) shall be replaced by the following:-

(i) the period of actual employment within the Industries with an EMPLOYER or EMPLOYERS after 7 February 1966, including any period during which a MEMBER was in receipt of a benefit in terms of the rules of the PERMANENT DISABILITY SCHEME, in respect of which contributions have been actually paid to this Scheme and to the Group Fund;

6. Rule 5(b) shall be replaced by the following:-
- (b) "Pensionable Credits" shall mean contributions paid to this Fund and to the Group Fund by a MEMBER and by the EMPLOYER of such MEMBER and shall include the MEMBER'S OLD FUND CREDIT.
7. Clause (b) in Rule 7A(iii) shall be replaced by the following:-
- (b) MEMBERS who have at least fifteen years' Service in the INDUSTRIES prior to 7 February 1966 and who have continued in Service but are not able to work after RETIREMENT AGE, may apply to the BOARD for special consideration. The BOARD shall be empowered in such cases, depending on the circumstances and subject to the applicant complying with such conditions as may be determined by the BOARD, to make regular weekly or monthly payments of amounts as it may determine. Amounts so paid under this Rule may be varied, suspended or withheld and be for such duration as the BOARD may in its absolute discretion determine.
8. Rule 11(m) shall be replaced by the following:-
- (m) In the case of a MEMBER in respect of whom the amount received from the Group Fund includes an amount received for his credit by that fund from another fund the PENSION payable in terms of these Rules on retirement shall be augmented by a PENSION as may be determined by the ACTUARY in respect of the amount transferred from any such other fund.
- In the case of death of any such MEMBER before RETIREMENT AGE the ELIGIBLE SPOUSE'S PENSION payable in terms of these Rules shall be augmented by a PENSION of such amount as is determined by the ACTUARY in respect of the amount transferred from such other fund or, if an ELIGIBLE SPOUSE'S PENSION is not payable, there shall be payable in addition to any other benefits payable under these Rules a lump sum equal to the amount transferred to the Fund together with such interest as may be determined by the BOARD.

Where a MEMBER receives a benefit under Rule 6(l)(ii), Rule 6(m) or Rule 6(n), he shall be entitled to a lump sum equal to the amount transferred to the Fund together with such interest as may be determined by the BOARD.

9. Rule 11(n) shall be replaced by the following:-

- (n) In the case of a MEMBER in respect of whom the amount received from the Group Fund includes an amount equal to the additional contributions which he was making to that Fund for the purpose of increasing his continuous service under that Fund, the MEMBER shall continue to make such additional contributions for such purpose. In such case his Continuous Service shall be increased by such period as may be determined by the ACTUARY to have been secured by the total of his additional contributions.

In the case of the death of any such MEMBER on or before RETIREMENT AGE the ELIGIBLE SPOUSE'S PENSION payable in terms of these Rules shall be augmented by a PENSION of such amount as is determined by the ACTUARY in respect of the additional contributions or, if an ELIGIBLE SPOUSE'S PENSION is not payable, there shall be payable in addition to any other benefits payable under these Rules a lump sum equal to the amount of the additional contributions together with such interest as may be determined by the BOARD.

Where a MEMBER receives a benefit under Rule 6(l)(ii), Rule 6(m) and Rule 6(n), the MEMBER shall be entitled to a lump sum equal to the additional amount/s paid to the Fund in terms of this Rule together with such interest as may be determined by the BOARD.

10. The following shall be added to Rule 11:-

- (p) In the case of a MEMBER who, while a MEMBER of the Group Fund, pledged the benefit to which he would have become entitled in terms of the Rules of that Fund for a purpose referred to in Section 19(5)(a) of the ACT, such pledge shall be endorsed so that it may remain in force in relation to the benefits to which he will become entitled in terms of the Rules of the Fund.

APPENDIX 2

SECTION 4 OF THE INDUSTRIAL AGREEMENT

- (1) Membership of the Fund shall be compulsory, subject to (2) and (3) below, for all employees in the Industry as defined in section 3 of this Agreement.
- (2) Every EMPLOYEE falling within the scope of this Agreement shall have the choice, in terms of the rules and/or discretion of the Board of Management of the Fund, of remaining a MEMBER of this Fund or becoming a member of the Metal Industries Provident Fund.
- (3) Each EMPLOYEE who becomes an EMPLOYEE falling within the scope of this Agreement on or after the date of coming into operation of this Agreement shall, subject to (7)(b) below, be required to choose either to become a member of this Fund or a member of the Metal Industries Provident Fund. Such choice shall be made on the date on which he becomes an EMPLOYEE falling within the scope of this Agreement. Membership of the relevant Fund shall commence on that date.
- (4) If an EMPLOYEE to whom (3) applied does not exercise his choice either to become a member of this Fund or a MEMBER of the Metal Industries Provident Fund on the date on which he becomes an EMPLOYEE falling within the scope of this Agreement, he shall automatically become a member of the Engineering Industries Pension Fund on that date.
- (5) An EMPLOYEE to whom (3) and/or (4) applies shall be entitled for a period of three months from the date on which he becomes an EMPLOYEE falling within the scope of this Agreement to withdraw from membership of the Fund chosen under (3) and become a MEMBER of the other Fund or, in the case of (4), to transfer to this Fund. In such case, membership of the Fund to which the EMPLOYEE transfers shall be made retrospective to the date on which contributions commence to the other Fund under (3) and/or (4) above and the benefits earned in the name of the EMPLOYEE concerned shall be transferred to the Fund chosen in terms hereof.

There shall be no refund of contributions to either the EMPLOYEE or EMPLOYER. The right of an EMPLOYEE to transfer membership in terms of this subsection shall terminate on the expiry of the above three-month period.

- (6) If a MEMBER of this Fund is employed in a scheduled occupation which falls within the scope of the Engineering Industries Pension Fund, he/she shall, provided he/she and his EMPLOYER are granted exemption from the Agreement, remain a member of this Fund, in which case he/she shall be deemed to be governed by and fall within the scope of this Agreement and this Agreement shall *mutatis mutandis* apply to such member and his EMPLOYER.
- (7) If an EMPLOYEE who has become a member of this Fund on or after the date of coming into operation of this Agreement, ceases to fall within the scope of this Agreement as a result of his ceasing to be in service in the INDUSTRIES or as a result of a specific exemption under section 8 of this Agreement, but subsequently falls within the scope of this Agreement then:-
 - (a) if his benefit under this Fund has been paid out, he shall have the choice provided for in (3);
 - (b) if his benefit under this Fund has not been paid out, he shall not have the choice provided for in (3) but shall automatically become a member of the Fund of which he was previously a MEMBER.
- (8) If an EMPLOYEE who has been a MEMBER of this Fund before the date of coming into operation of this Agreement but has ceased to fall within the scope of the Industrial Council Agreement applicable to this Fund before the date of coming into operation of this Agreement, subsequently falls within the scope of this Agreement, then regardless of whether or not his benefit under this Agreement has been paid out, he shall have the choice provided for in (3)3.
- (9) The provisions of (4) and (5) shall also apply to an EMPLOYEE referred to in (7)(a) and (8).
- (10) Except as provided in this section, an EMPLOYEE who remains in service in the INDUSTRIES and continues to fall within the scope of this Agreement may not withdraw from membership of this Fund unless specifically exempted under section 8 of this Agreement.

- (11) All EMPLOYEES who, in terms of the section, are MEMBERS of the Engineering Industries Pension Fund shall be deemed to be MEMBERS of the PERMANENT DISABILITY SCHEME.

ANNEXURE

EXTRACTS FROM THE ACT

DEFINITION OF “DEPENDANT” IN TERMS OF THE ACT

“DEPENDANT”, in relation to a MEMBER, means –

- (a) a person in respect of whom the MEMBER is legally liable for maintenance;
- (b) a person in respect of whom the MEMBER is not legally liable for maintenance, if such person –
 - (i) was, in the opinion of the BOARD, upon the death of the MEMBER in fact 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.

SECTION 19(5) OF THE ACT

- (a) A registered fund may, if its rules so permit, grant a loan to a MEMBER by way of investment of its funds to enable the MEMBER
 - (i) to redeem a loan granted to the MEMBER by a person other than the fund, against security of immovable property which belongs to the MEMBER or his or her spouse and on which a dwelling has been or will be erected which is occupied by a member or a DEPENDANT of the MEMBER;
 - (ii) to purchase a dwelling, or to purchase land and erect a dwelling on it, for occupation by the MEMBER or a DEPENDENT of the MEMBER;

or

- (iii) to make additions or alterations to or to maintain or repair a dwelling which belongs to the MEMBER or his or her spouse and which is occupied by the MEMBER or a DEPENDANT of the MEMBER

- (b) A loan contemplated in paragraph (a) shall not be granted after the commencement of the Financial Institutions Amendment Act, 1986

- (i) unless secured by -

- (aa) a first mortgage on the immovable property in respect of which it is granted;

or

- (bb) a pledge of the benefits to which the MEMBER is entitled in terms of the rules of the fund;

or

- (cc) both such mortgage and such pledge;

- (ii) in respect of immovable property if the MEMBER concerned is liable to the fund in respect of a loan granted to him in respect of other immovable property;

- (iii) at a lower rate of interest than that which may from time to time be prescribed by regulation;

- (iv) unless the capital sum is redeemable over a period not exceeding 30 years in equal weekly or monthly instalments, which shall include the interest on the capital sum outstanding.

- (c) A loan contemplated in paragraph (a) shall not exceed where it is secured in accordance with –

- (i) paragraph (b)(i)(aa), ninety per cent of the market value of the hypothecated property concerned;

(ii) paragraph (b)(i)(bb), the amount of the benefit which the MEMBER would receive if he were to terminate his membership of the fund voluntarily or the market value of the immovable property concerned, whichever is the lesser Amount;

or

(iii) paragraph (b)(i)(cc), the amount equal to the aggregate of ninety per cent of the market value of the hypothecated property concerned and the amount of the benefit which the MEMBER would receive if he were to terminate his membership of the fund voluntarily or the market value of the property, whichever is the lesser amount.

(cA) The percentages referred to in subparagraph (i) and (iii) of paragraph (c), may be increased to 100 per cent, subject to the furnishing to the fund by the employer of the MEMBER of an irrevocable guarantee in respect of so much of the loan as may exceed 90 per cent.

(d) For the purposes of this section "immovable property" includes a surveyed site in respect of which a right of leasehold is registered in terms of Section 6A of the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945).

SECTION 30A OF THE ACT

30A. Submission and consideration of complaints

- (1) Notwithstanding the rules of any fund, a complainant may lodge a written complaint with a fund for consideration by the board of the fund.
- (2) A complaint so lodged shall be properly considered and replied to in writing by the fund or the employer who participates in a fund within 30 days after the receipt thereof.
- (3) If the complainant is not satisfied with the reply contemplated in subsection (2), or if the fund or the employer who participates in a fund fails to reply within 30 days after the receipt of the complaint the complainant may lodge the complaint with the Adjudicator.
- (4) Subject to section 30I, the Adjudicator may on good cause shown by any affected party –
 - (a) extend a period specified in subsection (2) or (3) before or after expiry of that period; or
 - (b) condone non-compliance with any time limit specified in subsection (2) or (3).

SECTION 35 OF THE ACT

35. Right to obtain copies of or to inspect certain documents

- (1) Every registered fund shall deliver to any MEMBER on demand by such member, and on payment of such sum as may be determined by the rules of the fund, a copy of any of the following documents, that is to say –
 - (a) the rules of the fund;
 - (b) the last revenue account and the last balance sheet prepared in terms of subsection (1) of section fifteen.
- (2) Any MEMBER shall be entitled to inspect without charge at the registered office of a registered fund, a copy of any of the following Documents and to make extracts therefore, that is to say
 - (a) the documents referred to in subsection (1);
 - (b) the last report (if any) by a valuator prepared in terms of section sixteen;
 - (c) the last statement (if any) and report thereon prepared in terms of section seventeen;
 - (d) any scheme which is being carried out by the fund in accordance with the provisions of section eighteen.

SECTION 37A, 37B, 37C AND 37D OF THE ACT

37A. PENSION benefits not reducible, transferable or executable

- (1) Save to the extent permitted by this ACT, the Income Tax Act, 1962 (Act No. 58 of 1962), and Article 29 of the Maintenance Act 1998 (Act no. 99 of 1998), no benefit provided for in the rules of a registered fund (including an annuity purchased or to be purchased by the said fund from an insurer for a MEMBER) or right to such benefit, or right in respect of contributions made by or on behalf of a MEMBER, shall, notwithstanding anything to the contrary contained in the rules of such a fund, be capable of being reduced, transferred or otherwise ceded, or of being pledged or hypothecated, or be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, or to the extent of not more than three thousand rand per annum, be capable of being taken into account in a determination of judgment debtors financial position in terms of section 65 of the Magistrates' Court Act, 1944 (Act No. 32 of 1944), and in the event of the MEMBER or beneficiary concerned attempting to transfer or otherwise cede, or to pledge or hypothecate, such benefit or right, the fund concerned may withhold or suspend payment thereof:

Provided that the fund may pay any such benefit or any benefit in pursuance of such contributions, or part thereof, to any one or more of the dependants of the member or beneficiary or to a guardian or trustee for the benefit of such dependant or dependants during such period as it may determine.

- (2) (a) If in terms of the rules of a fund the residue of a full benefit, after deduction of any debt due by the person entitled to the benefit, represents the benefit due to that person, such reduction shall for the purposes of subsection (1) be construed as a reduction of the benefit.
- (b) The set-off of any debt against a benefit shall for the purposes of subsection (1) be construed as a reduction of the benefit.
- (3) The provisions of subsection (1) shall not apply with reference to anything done towards reducing or obtaining settlement of debt –
 - (a) which, in the case of a fund to which the Financial Institutions Amendment Act, 1976 (Act No. 101 of 1976), applies, arose before the commencement of that Act;
 - (b) which, in the case of a fund to which the Financial Institutions Amendment Act, 1976, does not apply, arose before the commencement of the Financial Institutions Amendment Act, 1977; or
 - (c) which a fund may reduce or settle under section 37D, to the extent to which a fund may reduce or settle such debt.

37B. Disposition of PENSION benefits upon insolvency

If the estate of any person entitled to a benefit payable in terms of the rules of a registered fund (including an annuity purchased by the said fund from an insurer for that person) is sequestrated or surrendered, such benefit or any part thereof which became payable after the commencement of the Financial Institutions Amendment Act, 1976 (Act No. 101 of 1976) shall, subject to a pledge in accordance with section 19(5)(b)(i) and subject to the provisions of sections 37A (3) and 37D, not be deemed to form part of the assets in the insolvent estate of that person and may not in any way be attached or appropriated by the trustee in his insolvent estate or by his creditors, notwithstanding anything to the contrary in any law relating to insolvency.

37C. Disposition of PENSION benefits upon death of MEMBER

- (1) Notwithstanding anything to the contrary contained in any law or in the rules of a registered fund, any benefit payable by such a fund upon the death of a member shall, subject to a pledge in accordance with section 19(5)((b)(i) and subject to the provisions of section 37A (3) and 37D, not form part of the assets in the estate of such a member, but shall be dealt with in the following manner:
- (a) If the fund within twelve months of the death of the MEMBER becomes aware of or traces a DEPENDANT or DEPENDANTS of the MEMBER, the benefit shall be paid to such DEPENDANT or, as may be deemed equitable by the board, to one of such DEPENDANTS or in proportions to some of or all such DEPENDANTS.
 - (b) If the fund does not become aware of or cannot trace any DEPENDANT of the MEMBER within twelve months of the death of the MEMBER, and the MEMBER has designated in writing to the fund a nominee who is not a DEPENDANT of the MEMBER, to receive the benefit or such portion of the benefit as is specified by the MEMBER in writing to the fund, the benefit or such portion of the benefit shall be paid to such nominee: Provided that where the aggregate amount of the debts in the estate of the MEMBER exceeds the aggregate amount of the assets in his estate, so much of the benefit as is equal to the difference between such aggregate amount of debts and such aggregate amount of assets shall be paid into the estate and the balance of such benefit or the balance of such portion of the benefit as specified by the MEMBER in writing to the fund shall be paid to the nominee.
 - (bA) If a MEMBER has a dependant and the MEMBER has also designated in writing to the fund a nominee to receive the benefit or such portion of the benefit as is specified by the MEMBER in writing to the fund, the fund shall within twelve months of the death of such MEMBER pay the benefit or such portion thereof to such dependant or nominee in such proportions as the board may deem equitable: Provided that this paragraph shall only apply to the designation of a nominee made on or after 30 June 1989: Provided further that, in respect of a designation made on or after the said date, this paragraph shall not prohibit a fund from paying the benefit, either to a DEPENDANT or nominee contemplated in this paragraph or, if there is more than one such DEPENDANT or nominee, in proportions to any or all of those DEPENDANTS and nominees.

- (c) If the fund does not become aware of or cannot trace any DEPENDANT of the member within twelve months of the death of the member and if the MEMBER has not designated a nominee or if the MEMBER has designated a nominee to receive a portion of the benefit in writing to the fund, the benefit or the remaining portion of the benefit after payment to designated nominee, shall be paid into the estate of the member or, if no inventory in respect of the member has been received by the Master of the Supreme Court in terms of Section 9 of the Estates Act, 1965 (Act No. 66 of 1965), into the Guardian's Fund.
- (2) For the purpose of this section, a payment by a registered fund to a DEPENDANT or nominee shall be deemed to include a payment made by the fund to a trustee contemplated in the Trust Property Control Act, 1988 (Act No. 57 of 1988), for the benefit of a DEPENDANT or nominee contemplated in this section.
- (3) Any benefit dealt with in terms of this section, payable to a minor DEPENDANT or minor nominee, may be paid in more than one payment in such amounts as the board may from time to time consider appropriate and in the best interests of such dependant or nominee: Provided that interest at a reasonable rate, having regard to the investment return earned by the fund, shall be added to the outstanding balance at such times as the board may determine: Provided further that any balance owing to such DEPENDANT or nominee at the date on which he or she attains majority or dies, whichever occurs first, shall be paid in full.
- (4) (a) Any benefit dealt with in terms of this section, payable to a major DEPENDANT or major nominee, may be paid in more than one payment if the DEPENDANT or nominee has consented thereto in writing.

Provided that –

- (i) the amount of 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 90 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.

37D. Fund may make certain deductions from PENSION benefits

A registered fund may –

- (a) deduct any amount due to the fund in respect of:-
 - (i) a loan granted to a MEMBER in terms of section 19(5)(a);
or
 - (ii) any amount for which the fund is liable under a guarantee furnished in respect of a loan by some other person to a MEMBER for any purpose referred to in section 19(5)(a), from the benefit to which the member or a beneficiary is entitled in terms of the rules of the fund, to an amount not exceeding the amount which in terms of the Income Tax Act, 1962 (Act No. 58 of 1962), may be taken by a MEMBER or beneficiary as a lump sum benefit as defined in the Second Schedule to that ACT;
 - (iii) in the case of default on the repayment of any such loan by the MEMBER concerned in circumstances where his or her membership of the fund is not terminated, the amount of the benefit which the member would have received on termination of membership on the date of default, if such a deduction is only affected as a last resort after the board of the Fund is satisfied that no other arrangement for the required payment can be made;

- (b) deduct any amount due by a MEMBER to his EMPLOYER on the date of his retirement or on which he ceases to be a MEMBER of the fund, in respect of –
 - (i) (aa) a loan granted by the EMPLOYER to the MEMBER for any purpose referred to in section 19(5)(a);
or
 - (bb) any amount for which the EMPLOYER is liable under a guarantee furnished in respect of a loan by some other person to the member for any purposes referred to in section 19(5)(a), to an amount not exceeding the amount which in terms of the Income Tax Act, 1962, may be taken by a MEMBER or beneficiary as a lump sum benefit as defined in the Second Schedule to that ACT; or

- (ii) compensation (including any legal costs recoverable from the MEMBER in a matter contemplated in subparagraph (bb) in respect of any damage caused to the EMPLOYER by reason of any theft, dishonesty, fraud or misconduct by the MEMBER, and in respect of which –
 - (aa) the MEMBER has in writing admitted liability to the EMPLOYER;
 - or
 - (bb) judgment has been obtained against the MEMBER in any court, including a magistrate's court, from any benefit payable in respect of the MEMBER or a beneficiary in terms of the rules of the fund, and pay such amount to the EMPLOYER concerned;
- (c) deduct any amount which the fund has paid or will pay by arrangement with, and on behalf of a member or beneficiary in respect of –
 - (i) such MEMBER'S or beneficiary's subscription to a medical scheme, registered otherwise than provisionally in terms of the Medical Scheme Act, 1967 (Act No. 72 of 1967);
 - (ii) any insurance premium payable by such MEMBER or beneficiary to an insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943);
 - (iii) any purpose approved by the registrar, on the conditions determined by him, upon a request in writing from the fund; from the benefit to which the MEMBER or beneficiary is entitled in terms of the rules of the fund, and pay such amount, if due, to such medical scheme, insurer or person concerned, as the case may be.