

METAL INDUSTRIES PROVIDENT FUND

RULES

1. MEMBERSHIP

- (1) The following Employees 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 that Agreement to be members of this Fund. (The contents of Section 4 of the Industrial Agreement are contained in Appendix 1 to the Rules);
 - (ii) those other classes of Employees in the employ of the same Employer as the Employer in clause (i) who contribute to the Fund and for whom the Employer makes contributions.

- (2) 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.

- (3) When required to do so, a Member shall produce evidence of age acceptable to the Board and shall also produce such other information as the Board may reasonably require for the purposes of the Fund. In the case of a Member who was a member of the Pension Fund, the Board may accept his age as stated in the records of that fund.
- (4) If a Member does not comply with the requirements of paragraph (3) when so requested, the Board may suspend the payment of the benefit to which he may have become entitled until such time as such provisions are complied with.
- (5) A Member shall cease to be a Member of the Fund –
 - (i) on death or on retirement whichever is the sooner;

- (ii) on ceasing service in the Industries;
- (iii) on joining the Engineering Industries Pension Fund (formerly Metal Industries Group Life and Provident Fund) and electing to transfer his Fund Credit to that fund.

2. CONTRIBUTIONS

(1) Current Contributions

Contributions to the Fund shall be made in accordance with the provisions of the Industrial Agreement relating to the Fund as published in terms of the relevant sections of the Labour Relations Act, 1956 on the following basis:-

- (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.

provided that out of the amounts in (a) and (b) above

- (aa) the amount required to meet the cost of the death benefit referred to in rule 3 (2) (i) (b) and such administration and other expenses as may be determined by the Board shall be applied for this purpose; and

(bb) the balance shall be applied towards the Member's retirement benefit under the Fund Credit.

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 to the Metal Industries Benefit Funds Administrators.

(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) No deduction or contribution in terms of clause (i) or clause (ii) shall be made or paid in respect of:-

(a) periods of a Member's absence which relate to unpaid leave, absences due to sickness, injury on duty or absences on military training when no payment is due to the Member by his Employer concerning the foregoing occurrences in terms of an Industrial Agreement or under any law; or

(b) periods of a Member's absence which were caused by strike action and where the Member receives no remuneration during such periods.

(2) Member's Transferred Benefits from Pension Fund

(i) In the case of each Member who was a member of the Pension Fund the Fund shall receive the benefit to which the Member became entitled by reason of his ceasing to be a member of that fund, after payment of any income tax thereon.

(ii) That part of the amount received in terms of clause (i) which is notified to the Board by the Board of Management of the Pension Fund as representing the contributions made by

the Member to that fund in accordance with the provisions of the industrial agreement relating to that fund, increased by such interest as was added thereto under that fund but reduced by such income tax as was apportioned thereto by the Board of Management of the Pension Fund, shall be applied as the Member's Current Contributions.

- (iii) The remainder (if any) of the amount received in terms of (i) shall be applied as the Member's Additional Contributions.

(3) Member's Additional Contributions

- (i) Subject to the approval of the Board and to such maximum as the Board may from time to time allow, a Member may make additional contributions, regular in rate and frequency of payment, of such amounts as the Board may agree.
- (ii) A Member who was a member of any other Approved Provident Fund or of an Approved Pension Fund (other than the Pension Fund) prior to becoming a Member of the Fund may transfer the benefit to which he became entitled on leaving that fund into the Fund.
- (iii) Amounts paid to the Fund in terms of clauses (i) and (ii) shall be applied as the Member's Additional Contributions.

(4) Remainder of assets transferred from Pension Fund

The Fund shall receive such amounts as are payable to the Fund by the Pension Fund by reason of the cessation of membership of that fund of those Members who were members of that fund, after allowing for the amounts received in terms of paragraph (2).

(5) Member's Conversion Credits under Pension Fund

Over and above the amounts received in terms of paragraphs (2) and (4) the Fund shall receive any Conversion Credit (1978) which in terms of the rules of the Pension Fund is payable to the Fund.

(6) Members in receipt of benefits from the Permanent Disability Scheme

- (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 Remuneration of the Member as deducted from his benefit by the Permanent Disability Scheme, with the Permanent Disability Scheme paying the amounts referred to in paragraph (1)(ii).
- (ii) Contributions in terms of clause (i) shall be paid to the Fund by the Permanent Disability Scheme within 7 days of the final date of the period for which the contributions are payable.

3. BENEFITS

(1) Retirement

- (i) A Member shall retire on reaching his Normal Retirement Date unless he and his Employer agree to his remaining in service after that date.
- (ii) A Member who has reached age 55 may retire at any time before he reaches his Normal Retirement Date.
- (iii) A Member who has not retired in terms of clause (i) shall retire on such date after his Normal Retirement Date as is acceptable to his Employer.
- (iv) On his retirement in terms of clauses (i), (ii) or (iii) the Member shall be paid:-

his Fund Credit at the date of his retirement.
- (v) Payment of a benefit due in terms of clause (iv) shall be made as a lump sum and when such payment has been made the Fund shall have no further liability in respect of the Member.
- (vi) If a Member who has retired in terms of clause (i) is subsequently employed in the Industries and becomes a Member of the Fund he shall, on his subsequent retirement, be paid his Subsequent Fund Credit on the date of his retirement.

(2) Death in Service

(i) If a Member dies in service in the Industries there shall be paid an amount equal to

(a) his Fund Credit at the date of his death; plus

(b) three times his Annual Remuneration at the date of his death.

(ii) Payment of the benefit in terms of clause (i) shall be subject to the following conditions:-

(a) (i) in the case of a Member who after reaching age 55 was admitted to membership of the Pension Fund on or after the Conversion Date (1978); or

(ii) a Member not referred to in (i) who was admitted to membership of the Fund after reaching age 55;

the benefit referred to in clause (i)(b) shall not be payable in the event of his death in service and there shall instead be payable an amount equal to 10% of three times his Annual Remuneration at the date of his death during his first year of service in the Industries increasing by a similar percentage for each year of service in the Industries thereafter, but not exceeding three times his Annual Remuneration at the date of his death;

(b) if a Member who has been paid the benefit referred to in clause (i)(b), i.e. three times Annual Remuneration, under the old Incapacity benefit Rules is subsequently employed in the Industries and becomes a member of the Fund, the benefit referred to in clause (i)(b) shall not be payable in the event of his death in service;

(c) in the case of a Member who in terms of paragraph (1)(iii) has remained in service after his Normal Retirement Date the benefit referred to in clause (i)(b) shall not be payable in the event of his death in service unless at the date of his death he had completed 15 or more years of Continuous Service;

- (d) in the case of a Member who in terms of paragraph (1)(vi) is re-admitted to membership subsequent to his retirement the benefit referred to in clause (i) shall not be payable in the event of his death in service and there shall instead be payable his Subsequent Fund Credit at the date of his death.
- (iii) Payment of a benefit due in terms of clause (i) shall be made as a lump sum and shall be made in terms of Section 37C of the Act. When such payment has been made the Fund shall have no further liability in respect of the Member. (The contents of Section 37C of the Act are contained in the Annexure to the Rules).

(3) Retrenchment or Redundancy

- (i) If a Member leaves the service of an Employer in the Industries before the Normal Retirement Date due to retrenchment or redundancy then, provided he is not employed by another Employer in the Industries and has not retired in terms of paragraph (1), the Board shall pay him:-

his Fund Credit calculated as at the date of leaving service.

Such benefit shall be paid as a lump sum and provided circumstances so permit, the Board shall aim to pay the benefit as soon as possible after the date of the Member" leaving service. When payment of the benefit has been made, the Fund shall have no further liability in respect of the Member.

- (ii) If a Member dies before payment of a benefit has been made to him in terms of this paragraph (3), then payment of the benefit shall be made forthwith in terms of Section 37C of the Act. When payment has been made the Fund shall have no further liability in respect of the Member.

(4) Withdrawal from Service

- (i) If a Member leaves service in the Industries before the Normal Retirement Date for reasons other than those referred to in paragraph (3) then, provided that he has not retired in terms of paragraph (1), he shall be entitled to a benefit equal to his Fund Credit.

- (ii) A benefit payable in terms of clause (i) shall be paid as a lump sum as soon as possible after the Member ceases to be in service in the Industries. When payment has been made the Fund shall have no further liability in respect of the Member.
- (iii) If a Member dies before payment of a benefit has been made to him in terms of this paragraph (4), then payment of the benefit shall be made forthwith in terms of Section 37C of the Act. When payment has been made the Fund shall have no further liability in respect of the Member.

4. SPECIAL BENEFIT PROVISIONS

(1) Special Circumstances

The benefits provided for in Rule 3 shall apply in respect of the following circumstances and to the extent herein specified:-

(i) Death whilst unemployed

The benefit set out in Rule 3(2)(i) shall *mutatis mutandis* apply and be paid in the event of the death of a former Member within a period of six consecutive weeks after his ceasing to be employed in the Industries; provided that

- (a) he was in fact unemployed throughout the whole period;
- (b) immediately preceding the date on which he ceased to be employed in the Industries he had been employed in the Industries for a period of at least two consecutive years and had contributed to the Fund or to the Pension Fund for such period.

(ii) Death whilst unemployed due to sickness or works accident

The benefit set out in Rule 3(2)(i) shall *mutatis mutandis* apply and be paid in the case of a former Member if he has ceased to be employed in the Industries because of sickness or a works accident and his death occurs during the period in which he received payments from the National Industrial Council for the Iron, Steel, Engineering and Metallurgical Industry

Sick Pay Fund or a sick pay fund recognised by the Board or from the Workmen's Compensation Accident Fund (other than for total permanent disability) or within a period of 26 calendar weeks calculated from the date on which his unemployment in fact commenced, whichever is the shorter.

(iii) General Powers

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

(2) Members referred to in Clause (8) of Section 4 of the Industrial Agreements

If an employee becomes a Member in circumstances to which Clause (8) of Section 4 of the Industrial Agreement applies, the provisions of Rules 2(2), 2(4) and 2(5) shall apply to any benefit which may have remained in the Pension Fund in his case.

(3) Members becoming members of the Engineering Industries Pension Fund

(a) If a Member is promoted to a position which qualifies him to become a member of the Engineering Industries Pension Fund (formerly Metal Industries Group Life and Provident Fund) and becomes a member of that fund, he may elect either

(i) that his Fund Credit at the date on which he becomes a member of the Engineering Industries Pension Fund shall be transferred to that fund to be applied under that fund in terms of the rules of that fund;

or

(ii) that his Fund Credit at the date on which he becomes a member of the Engineering Industries Pension Fund shall remain in the Fund.

(b) If a Member elects option (i) in (a) the Fund shall have no further liability in respect of him when payment of the amount referred to therein has been made.

- (c) If a Member elects option (ii) in (a) his Fund Credit shall accrue interest as from the date on which the Member joins the Engineering Industries Pension Fund, shall remain subject to the provisions of these Rules and shall be paid out on the occurrence of an event referred to in Rule 3(1) or Rule 3(2). The Board in its sole discretion may also pay out the Member's Fund Credit on the occurrence of an event referred to in Rule 3(3) if the requirements contained in that Rule are satisfied. No other benefit shall be paid out on the occurrence of any of the above events.
- (d) If the circumstances referred to in Rule 3(4) at any time apply in the case of a Member who elects option (ii) in (a), the benefit provided for in Rule 3(4) shall be payable, with
 - (i) Continuous Service for the purposes of the table in Rule 3(5)(i)(a) including Service from the date on which the Member joins the Engineering Industries Pension Fund up to the date of his ceasing Service in the Industries;
 - (ii) Interest for the purposes of Rule 3(5)(i)(d) being calculated up to the date of his ceasing Service in the Industries.

5. TRANSFER TO THE PENSION FUND

- (1) If, in terms of Section 4 of the Industrial Agreement, a Member withdraws from membership of the Fund and becomes a member of the Pension Fund, his Fund Credit at the date of his withdrawal from membership shall be transferred to the Pension Fund to be applied under the Pension Fund in terms of the rules of that fund.
- (2) When payment of the amount referred to in paragraph (1) has been made the Fund shall have no further liability in respect of the Member.

6. APPOINTMENT OF AUDITOR AND ACTUARY

The Board shall appoint and remunerate an Auditor and an Actuary.

The Board may terminate any such appointment at any time and make another appointment in its place.

7. FINANCIAL AND RELATED PROVISIONS

(1) Investments

- (i) All moneys received on account of the Fund shall be paid into a banking account, or banking accounts, in the name of the Fund. Two officers of the Fund duly authorised by the Board shall sign all cheques drawn against the Fund.
- (ii) 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 officers of the Fund duly authorised by the Board.
- (iii) The Board shall have full power, subject to the provisions of the Act and the requirements of the Registrar, to receive, administer and apply the moneys of the Fund and in its absolute discretion to lend, invest, put out at interest, place on deposit, make advances, or otherwise deal with the moneys of the Fund such security and in such manner as it may from time to time determine and to realise, vary, reinvest or otherwise deal with the investments of the Fund in such manner as it may from time to time determine. For such purposes the Board shall nominate such number of members of the Board, or other officers of the Fund, as it may from time to time decide to act as signatories on behalf of the Fund, the signature of not less than two of whom, on such basis as authorised by the Board, shall be sufficient to give effect to resolutions of the Board. Such signatories shall hold office for this purpose indefinitely or for such period, as the Board shall prescribe when appointing them.
- (iv) The Board may, subject to the requirements of the Registrar, obtain an overdraft from a bank or borrow from any other party, on such terms as may be agreed upon, such sums as it approves for the purpose of bridging any unforeseen cash shortage and for this purpose may give such security as it decides.
- (v) All mortgage bonds; title deeds and other securities shall be registered in the name of the Fund.

The documents of title in connection with any investment or asset of the Fund shall, except when in the temporary custody of others for the purposes of the Fund, be kept in safe custody at the registered office of the Fund or in a banking institution, as decided by the Board.

The fund may, at its discretion, register equities, gilts, semi-gilts and any other assets deemed necessary, in the name of an approved Nominee Company to be appointed by the Board of Management.

- (vi) The powers of the Board to make investments and to realise, vary, reinvest or otherwise deal with the securities concerned, may be delegated by the Board, on such terms and conditions as it may specify, to
- (a) a sub-committee of such of the members of the Board as it may nominate;
or
 - (b) a financial institution as defined in the Financial Institutions (Investment of Funds) Act, 1984;
or
 - (c) person approved in terms of Section 4(1)(f) of the Stock Exchanges Control Act, 1985.

The Board shall not be liable for the negligence, dishonesty or fraud of an institution referred to in (b) or a person referred to in (c).

- (vii) Any profits or losses entailed by the realisation of investments of the Fund shall be to the credit or debit of the Fund, as the case may be.
- (viii) The Board shall have the Power, if it sees fit, to take transfer of the assets or a part thereof of another Approved Provident Fund or of an Approved Pension Fund or to transfer part of the assets of the Fund to another Approved Provident Fund or an Approved Pension Fund.
- (ix) 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.
- (x) In addition to receiving contributions referred to in Rule 2, the Fund may act as a conduit for the payment of contributions to the Permanent Disability Scheme.

(2) Housing Loans and Guarantees

- (i) The Board shall have the power, if it sees fit, to grant a loan to a Member for a purpose referred to in Section 19(5)(a) of the Act. Such loan shall be subject to the provisions set out in Section 19(5)(b), (c) and (cA) of the Act. (The contents of Section 19(5) of the Act are contained in the Annexure to these Rules).
- (ii) The Board shall also have the power, if it sees fit, to furnish a guarantee in respect of a loan by some other person to a Member for a purpose referred to in Section 19(5)(a) of the Act and, if so required for such purpose, may make a deposit in pledge with a building society as collateral security. Such guarantee shall be subject to the requirements of the Registrar.
- (iii) In the case of a Member who, while a member of the Pension 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.

(3) Expenses

Except where otherwise provided, the whole of the expenses of the Fund shall be paid by the Fund.

(4) Accounts

- (i) The Board shall cause full and true accounts of the Fund to be kept, such accounts to be made up as at the end of each Financial Year, to be audited by the Auditor and then to be submitted to the Registrar.
- (ii) The Board shall produce 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 the relevant Financial Year. Such documents shall be posted as soon as they are available to the Employers' Organisations and to the Employees' Organisations.

Such documents shall also be published for the information of the Employers and the Members by such means as the Board may from time to time determine.

8. SPECIAL PROVISIONS

- (1) Except for the cases provided for in the Rules, no Member or other person shall have any 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.
- (2) 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.
- (3) All benefits and rights to benefits in terms of these Rules shall be subject to the prohibitions as to reduction, cession, etc. contained in Sections 37A and 37B of the Act. (The contents of these Sections are contained in the Annexure to these Rules).
- (4) 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.
- (5) 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.
- (6) Whenever the Board is satisfied that a benefit was granted or refused by reason either of evidence not being then 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.
- (7) 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.

- (8) No benefits payable under the provisions of these Rules to any Member or 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.
- (9) 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 Employers' Organisations 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 remaining members of the Board or, failing them, the remaining Employers' Organisations and Employees' Organisations, shall jointly 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 Employers' Organisations ceasing to exist, the Employees' Organisations may on a unanimous vote assume and exercise the above rights in respect of appointing a manager to take over the control of the assets of the Fund and to administer the Fund in accordance with these Rules.
- (10) In the event of a manager being appointed under paragraph (10), 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, for so long as the manager remains in office, shall 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.

(11) Any expenses incurred in implementing the provisions of paragraph (10) shall be a charge on the Fund.

9. 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.

10. 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 established under the operation of any Law the Members shall have the right to decide that the benefits accruing them at such time be retained on their account and be held in trust on their behalf in terms of the Rules until their retirement, prior incapacity or death.

11. WINDING UP

- (1) 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, subject to the unanimous approval of the Employers' Organisations and the Employees' Organisations, 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 the Members and other beneficiaries on such terms and in such manner as the liquidator, acting on the advice of the Actuary and with the approval of the Employers' Organisations and the Employees' Organisations, may determine.
- (2) In exercising his powers in terms of paragraph (1), the liquidator shall, inter alia, have power to direct that the assets of the Fund shall be transferred to another Approved Provident Fund or Preservation Provident Fund; provided that transfer to a Preservation Provident Fund is subject to the requirements of the Commissioner for the South African Revenue Service as specified from time to time.
- (3) 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.

- (4) Every former Member whose service in the Industries ceased in the circumstances provided for in Rule 3(3) or Rule 3(4) (as the case may be) during the period of twelve months ending on the date of the Registrar's approval of the liquidator's appointment shall be regarded as having been a Member on the date of the Registrar's approval of the liquidator's appointment. His apportionment shall be reduced by the amount of the benefit, which he received on the cessation of his service.

12. INTERPRETATIONS

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 there under.
- (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) "Annual Remuneration" shall mean a Member's Remuneration multiplied by 52; provided that
- (i) in the case of a monthly-paid Member it shall mean his remuneration multiplied by twelve;
- (ii) if the Board considers that a Member's increases in Remuneration during the twelve month period ending on the date of his death are abnormal, it shall, in its absolute discretion, have the power to substitute for the amount of his Annual Remuneration such other amount as it may determine to be reasonable, having regard to
- (a) statutory wage increases; and
- (b) the level of wage increases related to similar occupations in the Industries

- (iv) “Approved Pension Fund” shall mean a pension fund, other than a Preservation Pension Fund, approved as such by the Commissioner for the South African Revenue Service for the purposes of these Rules.
- (v) “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.
- (vi) “Auditor” shall mean an auditor registered under the Public Accountants and Auditors Act, 1991, appointed in terms of these Rules.
- (vii) “Constitution” shall mean the Constitution of the Fund.
- (viii) “Continuous Service” shall mean the unbroken period in the Industries up to the date at which a benefit is required to be determined during which a Member was a Member of the Fund including any period during which the Member was in receipt of a benefit in terms of the rules of the Permanent Disability Scheme, increased by the unbroken period (if any) immediately prior to the commencement of that period which qualified in his case as service for the purpose of calculating retirement benefits in terms of the rules of the Pension Fund. In calculating Continuous Service, breaks in service in the Industries not exceeding twelve consecutive months shall be condoned and the Board may also condone such breaks in service in excess of twelve consecutive months in any case where medical evidence acceptable to the Board is produced confirming that the Member was unfit for work during the duration of the break in service.
- (ix) “Conversion Credit (1978)” shall mean in the case of a Member who was a member of the Pension Fund the value on the day before the date of his joining the Fund, as notified to the Board by the Board of Management of the Pension Fund, of his pensionable credit under the Pension Fund in respect of pensionable service (including pensionable service for which contributions were paid by the Employer in terms of Rule 2(i)(b) of the Pension Fund) before the Conversion Date, reduced by any income tax, which may have been apportioned thereto by the Board of Management of the Pension Fund.

- (x) "Conversion Date (1978)" shall mean
 - (a) 1 July 1978 in respect of a Member who was a member of the Pension Fund on that date and was at that date employed in the group of industries known as the Iron, Steel, Engineering and Metallurgical Industries; or
 - (b) 23 October 1978 in respect of a Member who was a member of the Pension Fund on that date and was on that date employed in the Electrical Industry, Natal.
- (xi) "Council" shall mean the National Industrial Council for the Iron, Steel, Engineering and Metallurgical Industry.
- (xii) "Date of Commencement" shall mean the date of coming into operation of the Industrial Agreement, which makes initial provision for the payment of contributions to the Fund.
- (xiii) "Employee" shall mean an employee in a class of employees whom the Industrial Agreement makes eligible for membership of the Fund.
- (xiv) "Employer" shall mean a person as defined in the Labour Relations Act, 1956 who is required to observe the Industrial Agreement.
- (xv) "Financial Year" shall mean
 - (a) the period commencing on 22 March 1991 and ending on 31 December 1991;
 - (b) each twelve-month period between 1 January 1992 and 31 December 2001;
 - (c) the fifteen-month period from 1 January 2002 to 31 March 2003;and thereafter each twelve-month period ending on 31 March.
- (xvi) "Fund Credit" shall mean for a Member at any particular date the sum of the following amounts:
 - (a) the Member's Current Contributions;
 - (b) the Member's Additional Contributions if applicable;

- (c) that part of the Employer's contributions that is applied towards retirement funding in terms of Rule 2 (1) (ii) proviso (bb);
- (d) the Member's Conversion Credit (1978) if applicable;

increased or decreased by the Investment Return of the Fund.

- (xvii) "Industries" shall mean the group of industries known as the Iron, Steel, Engineering and Metallurgical Industries.
- (xviii) "Industrial Agreement" shall mean any current gazetted Agreement/s relating to the Fund published under the authority of the National Industrial Council for the Iron, Steel, Engineering and Metallurgical Industry.
- (xix) "Investment Return" shall mean any income (received or accrued) including any capital gains and losses (realised and unrealised) of the Fund, less an allowance for any tax and such expenses (paid or accrued) as may be determined by the Board; provided that
 - (a) such Investment Return may be positive or negative;
 - (b) the Investment Return shall be allocated to each Member's Fund Credit on such equitable basis as the Board in its absolute discretion, in consultation with the Actuary and in accordance with the agreed practice of the Fund, may determine from time to time.
- (xx) "Member" shall mean a person who, having been admitted to membership of the Fund, has not ceased to be a Member.
- (xxi) "Member's Additional Contributions" shall mean for a Member at any particular date the contributions so referred to in paragraphs (2)(iii) and (3) of Rule 2.
- (xxii) "Member's Current Contributions" shall mean for a Member at any particular date the contributions so referred to in paragraphs (1)(i) and (2)(ii) of Rule 2.
- (xxiii) "Normal Retirement Date" shall mean the day on which a Member reaches age 65.
- (xxiv) "Pension Fund" shall mean the Metal Industries Group Pension Fund.

- (xxv) “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.
- (xxvi) “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.
- (xxvii) “Principal Officer” shall mean the Principal Officer of the Fund appointed in terms of the Constitution.
- (xxviii) “Registrar” shall mean the Registrar of Pension Funds appointed under the Act.
- (xxix) “Remuneration” shall mean the actual wages payable to a Member by the Employer each week in respect of the ordinary hours worked by such Member 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 Remuneration shall be his Remuneration at the date of ceasing employment due to permanent disablement, plus any increase declared by the Permanent Disability Scheme in terms of that scheme.

For the purposes of this definition

- (a) in the case of a monthly-paid Member his Remuneration shall be the amount determined as above converted on the basis that one month equals 4 $\frac{1}{3}$ weeks;
- (b) “shift” means that period of work ordinarily worked by a Member in any period of 24 hours.
- (xxx) “Rules” shall mean these Rules and such alterations hereof as may at any time be in force.
- (xxxi) “Subsequent Fund Credit” shall mean at any particular date for a Member to whom Rule 3 (1) (vi) applies the sum of the following amounts:
- (a) the Member’s Current Contributions made after the Member became a Member in terms of Rule 3 (1) (vi);

(b) the Member's Additional Contributions (if any) made after the Member became a Member in terms of Rule 3 (1) (vi);

(c) that part of the Employer's contributions made after the member become a Member in terms of Rule 3 (1) (vi) that is applied towards retirement funding in terms of Rule 2 (1) (ii) (bb);

increased or decreased by the Investment Return of the Fund.

13. 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 is entitled, on application to the Principal Officer, 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.

After the end of each Financial Year each Member shall be furnished with a certificate setting out the total amount paid by him to the Fund as at the end of the relevant Financial Year.

APPENDIX 1

SECTION 4 OF THE INDUSTRIAL AGREEMENT

- (1) Each employee falling within the scope of this Agreement on the date of coming into operation hereof, and who as a member of the Pension Fund on the day immediately prior to that date, shall have the choice of remaining a member of the Pension Fund or of becoming a member of the Provident Fund. Such choice shall be made within 18 months of the date of coming into operation of this Agreement and shall be irrevocable. If the employee chooses to become a member of the Provident Fund, his membership shall commence on the day on which his choice is made.
- (2) If an employee to whom (1) applies has not chosen to become a member of the Provident Fund within 18 months from date of commencement of this Agreement he shall continue as a member of the Pension Fund and shall have no further option to join the 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 be required to choose either to become a member of the Pension Fund or a member of the 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) applies does not choose either to become a member of the Pension Fund or a member of the Provident Fund on the dated on which he becomes an employee falling within the scope of this Agreement, he shall automatically become a member of the Provident Fund.
- (5) An employee to whom (3) and/or (4) applies shall be entitled for a period of 3 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 the Pension Fund.

In such case, membership of the Fund to which the employee transfers shall be made retrospective to the date on which contributions commenced 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 sub-section shall terminate on the expiry of the above 3 months' period.

- (6) If a member of the Pension Fund or Provident Fund is promoted to a position which is governed by and falls within the scope of the Engineering Industries Pension Fund (formerly Metal Industries Group Life and Provident Fund) Agreement he shall, provided that he and his employer are granted exemption from that Agreement, be entitled to remain a member of the Pension Fund or Provident Fund as the case may be, in which case he 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 the Pension Fund or Provident Fund ceases to fall within the scope of this Agreement as the 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 the Pension Fund or Provident Fund has been paid out, he shall have the choice provided for in (3);
 - or
 - (b) if his benefit under the Pension Fund or Provident 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 had been a member of the Pension Fund before the date of coming into operation of this Agreement but had ceased to fall within the scope of the industrial agreement applicable to that 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 the Pension Fund has been paid out, he shall have the choice provided for in (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 the Pension Fund or Provident Fund unless specifically exempted under Section 8 of this Agreement.

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 person managing the business of the fund, upon the death of the member in fact dependant on the member for maintenance;
 - (ii) is the spouse of the member, including a party to a customary union according to Black law and custom or to a union recognised as a marriage under the tenets of any Asiatic religion;
 - (iii) is a child of the member, including a posthumous child, an adopted child and an illegitimate child;
- (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 to the regulations, grant a loan to a member by way of investment of its funds or furnish a guarantee in favour of a person other than the fund in respect of a loan granted or to be granted by such other person to a member to enable the member –
 - (i) To redeem a loan granted to the member against security of, either a pledge by the member concerned to the fund of the benefit contemplated in paragraph (c)(ii), or immovable property which either belongs to the member or his or her spouse or the member and his or her spouse and on which a residence has been or will be erected which is occupied or, as the case may be, will be occupied by the member or a dependant of the member;

(ii) To acquire immovable property on which a residence has been or will be erected, or to erect a residence on immovable property in respect of which, either the member or his or her spouse, or the member and his or her spouse, has or have obtained ownership or the right to ownership through a right of occupation, for occupation by the member or a dependant of the member;

or

(iii) To make additions or alterations to or to maintain or repair a residence of which ownership or the right to ownership was obtained through a right of occupation by either the member or his or her spouse or the member and his or her spouse and which is occupied or will be occupied by the member or a dependant of the member,

If the right of occupation of the immovable property or residence is secured by virtue of the operation of any custom or law, other than an agreement of lease or similar temporary measure, entitling such member, or his or her dependants, to the right of occupation of such immovable property or residence or any specified portion thereof.

(b) A loan or guarantee by a fund, contemplated in paragraph (a), shall not be granted or furnished, respectively, after the commencement of the Pension Funds Amendment Act, 2001 –

(i) unless secured by –

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

or

(bb) a pledge by the member concerned to the fund 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 or guarantee granted or furnished in respect of the member in respect of other immovable property;

- (iii) unless, in the case of a loan granted by the fund, the rate of interest on the loan is equal to or exceeds the rate of interest which may from time to time be prescribed by regulation;
 - (iv) in the case of a loan granted to the member by some other person in respect of which a guarantee has been furnished by the fund, or in respect of a loan by the fund to the member, unless the capital sum in respect of any such loan together with interest thereon, is redeemable over a period not exceeding 30 years in equal weekly or monthly instalments: Provided that if such period in a particular case extends beyond the normal retirement date of the member concerned, the outstanding balance of the loan on that date must be able to be repaid out of no more than one third of the total value of the benefit due to the member at that date.
- (c) A loan or guarantee contemplated in paragraph (a) shall not exceed, at the time it is granted or furnished, where it is secured in accordance with –
- (i) paragraph (b)(i)(aa), 90 per cent of the fair value of the hypothecated immovable property concerned;
 - (ii) paragraph (b)(i)(bb), the lesser of the amount of –
 - (aa) the lowest benefit in terms of the rules which the member would receive on termination of his or her membership of the fund, nett of income tax as envisaged in Section 37D(a); or
 - (bb) the fair value of the immovable property concerned; or
 - (iii) paragraph (b)(i)(cc), the lesser amount of –
 - (aa) the amount equal to the aggregate of 90 per cent of the fair value of the hypothecated immovable property concerned and the amount of the lowest benefit in terms of the rules which the member would receive on termination of his or her membership of the fund, nett of income tax as envisaged in Section 37D(a); or
 - (bb) the fair value of the hypothecated immovable property concerned.

- (d) The percentages referred to in subparagraphs (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 or the amount of the guarantee as may exceed 90 per cent.
- (e) For the purposes of this section “immovable property” includes a land tenure right as defined in Section 1 of the Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991).
- (5A) (a) Where a transaction for the purchase of an immovable property is pending and a purchase price has already been agreed upon, or where such an immovable property was acquired by purchase not more than six months before the date on which the estimate is made, the fair value of the property shall not be fixed at an amount higher than the true purchase price of the property, as declared or to be declared by the parties concerned for transfer duty purposes; and
- (b) where a transaction for the erection of, or additions or alterations to, or to maintain or repair a residence is contemplated, the estimate of the fair value of the immovable property shall not be fixed at an amount higher than the fair value contemplated in paragraph (a) plus an amount equal to the cost of such erection, additions, alterations, maintenance or repairs, as the case may be.
- (5B) Notwithstanding anything to the contrary contained in the rules of a registered fund, such a fund shall not, directly or indirectly after the commencement of the Pension Funds Amendment Act, 2001 –
 - (a) grant a loan to, or furnish a guarantee in respect of, a member or make any of its funds available, whether by way of an investment or otherwise, to be utilised in any manner by the fund or someone else for a loan to a member or a guarantee on behalf of a member, other than –
 - (i) a loan contemplated in subsection (5) and which complies with the provisions of that subsection; and
 - (ii) a guarantee contemplated in subsection (5) and which complies with the provisions of that subsection; or

- (b) grant a loan to, or invest in the shares of –
 - (i) a company controlled by an officer or a member of the fund or a director of a company which is an employer participating in the scheme or arrangement whereby the fund has been established; or
 - (ii) a subsidiary company or a controlled company (as defined in the Companies Act, 1973 (Act No. 61 of 1973)), of such a first-mentioned company.

(5C) A registered fund may, if its rules so permit, contribute to any other pension fund registered under this Act, or any fund of any kind whatsoever, which is conducted for the benefit of the employees of the said registered fund.

- (6) (a) The registrar may, under exceptional circumstances, and on such conditions and for such periods as he may determine, temporarily exempt any fund from compliance with any provision of subsection (5) or (5B)(a).

SECTIONS 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 the Maintenance Act, 1963 (Act No. 23 of 1963), 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 judgement 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 a judgement debtor's 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 a 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 in respect of a deceased member, 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 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, in such proportions as may be deemed equitable by the person managing the business of the fund, to 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 benefits 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 person managing the business of the fund may deem equitable:

Provided that this paragraph shall only apply to the designation of a nominee after the coming into operation of this paragraph.

- (c) If the fund does not become aware of or cannot trace any dependant of the member within twelve months of the death of the member and if the member has not designated a nominee or if the member has designated a nominee to receive a portion of the benefit in writing to the fund, the benefit or the remaining portion of the benefit after payment to the designated nominee, shall be paid into the estate of the member or, if no inventory in respect of the member has been received by the Master of 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 shall be deemed to include a payment made by the fund to a trustee contemplated in the Trust Moneys Protection Act, 1934 (Act No. 34 of 1934), for the benefit of a dependant contemplated in this section.

37D. Fund may make certain deductions from pension benefits

- (1) A registered fund may –
- (a) deduct any amount due on the benefit in question by the member in accordance with the Income Tax Act, 1962 (Act No, 58 of 1962), and 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 becomes liable under a guarantee furnished in respect of a member for a loan granted by some other person to the member in terms of section 19(5), from -
- (aa) the amount of the benefit to which the member or a beneficiary becomes entitled in terms of the rules of the fund; or
- (bb) in the case of a transfer of the member to another fund, the amount of the benefit which the fund is so entitled to transfer, if the board of the transferor fund is satisfied that it is not otherwise reasonably possible to negotiate the repayment or to transfer the loan or the guarantee; or

- (cc) 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 effected as a last resort after the board of the fund is satisfied that no other arrangement for the required repayment 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 purpose 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) judgement 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 Schemes 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.

- (2) For the purposes of paragraph (a)(ii)(bb) and (cc) of subsection (1), the amounts so deducted shall be deemed to be a benefit to which the member becomes entitled on termination of his or her membership of the fund for reasons other than as a result of retirement or death arising at the date of the transfer or the default.
- (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 interest of such dependant or nominee: Provided that interest at a reasonable rate, having regard to the investment return earned by the fund, shall be added to the outstanding balance at such times as the board may determine: Provided further that any balance owing to such a dependant or nominee at the date on which he or she attains majority or dies, whichever occurs first, shall be paid in full.
- (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.