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THE MEMBERS OF PARLIAMENT AND DESIGNATED OFFICE BEARERS  
PENSION FUND ACT, 2013

Act No. 11 of 2013



**I ASSENT**

**MSWATI III**  
**KING OF SWAZILAND**

25<sup>th</sup> July, 2013

**AN ACT**  
**ENTITLED**

**AN ACT** to bring the law on pensions of members of Parliament and designated office bearers in line with the Constitution and the law regulating retirement funds, establish the defined contribution pension fund for the members of Parliament and designated office bearers and provide for other incidental matters.

**ENACTED** by the King and the Parliament of Swaziland.

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## **PART I**

### **PRELIMINARY PROVISIONS**

#### ***Short title and commencement***

1. (1) This Act shall be cited as the Members of Parliament and Designated Office Bearers Pension Fund Act, 2013.

(2) This Act shall come into force on the date of publication in the Gazette.

#### ***Interpretation.***

2. In this Act, unless the context otherwise requires -

“Board” means the supervisory Board established in terms of section 6;

“designated office” means the office of -

(a) Regional Administrator; or

(b) any other office the appointment to which depends upon the elections or nomination of the holder by proper authority and which has been designated for the purpose of this Act by the Minister by Notice in the Gazette;

“defined benefit” means benefits that are paid based on a predefined formula;

“Defined Benefit Pension Fund” means the Members of Parliament and Designated Officer Bearers Pension Fund established in terms of the repealed Order;

“defined contribution” means a contribution made either by an employer, or an employee but the employee carries the investment risk and the benefits are paid based on the total contributions made plus interest or any surplus;

“Defined Contribution Pension Fund” means the Fund established in terms of Section 3 of this Act;

“employer” means the Government or Parliament of the Kingdom of Swaziland;

“financial year” means each twelve-month period ending on 31 March;

“Fund” means the Defined Contribution Fund;

“member” means any person who becomes a member of the Defined Contribution Fund in terms of section 4;

“Principal Officer” means the Principal Officer appointed in terms of rule 9 of this Act;

“paid-up member” means a member who after retirement as member of the Defined Contribution Fund but is admitted a member because that member is re-elected or re-appointed;

“Member of Parliament” means a member of the House of Assembly or Senate;

“Minister” means the minister responsible for Finance;

“Registrar” means the Registrar of Insurance and Retirement Funds appointed in terms of the Insurance Act, 2005;

“repealed Order” means the Members of Parliament and Designated Office Bearers Order, No. 18, 1993;

“retired member” means a member of the Defined Benefit Fund established in terms of the repealed Order;

“retirement” means-

- (a) in the case of a Member of Parliament, termination of membership to Parliament;
- (b) in the case of a person who is a holder of a Designated Office, termination of appointment to that office;

“Retirement Funds Act” means the Retirement Funds Act No. 5 of 2005.

## **PART II**

### **ESTABLISHMENT OF DEFINED CONTRIBUTION PENSION FUND**

#### ***Establishment of Defined Contribution Pension Fund.***

3. (1) There is established a pension fund to be known as the Defined Contribution Pension Fund for members of Parliament and Designated Office-bearers with perpetual succession and common seal which may sue and be sued in its corporate name.

(2) The Fund may acquire, hold and dispose of any movable or immovable property or enter into such contract as may be necessary for the purposes of the Fund.

(3) There shall be paid from the Fund the pensions and other benefits for which provision is made in the Schedule to this Act.

(4) Contributions payable to the Fund by the employer shall be drawn from the Consolidated Fund.

#### ***Membership of the Fund.***

4. A person who on or after the commencement of this Act is or becomes-

- (a) a member of Parliament; or
- (b) a designated office bearer,

shall be a member in terms of this Act.

***Monies and audit of the Fund.***

5. (1) The monies of the Fund shall be exempt from income tax.

(2) At the end of the financial year of the fund, the principal officer of the Fund shall submit to the Registrar of Pension Funds the audited financial statements of the Fund in respect of that financial year, the Supervisory Board shall thereafter submit them to the Minister who shall thereafter table it in Parliament.

***Establishment of a Supervisory Board 18***

6. There is established a management board to be known as the Supervisory Board which shall be constituted in terms of the rules set out in the Schedule to this Act.

**PART III  
MISCELLANEOUS PROVISIONS**

***Liability to income tax.***

7. (1) Notwithstanding any other law, the amount of any pension payable in terms of this Act shall be liable to tax in terms of the Income Tax Order, 1975.

(2) Any tax payable under subsection (1) shall be subject to allowable deduction specified in terms of the Retirements Act, 2005 and rule 39.

***Rules of the Fund***

8. The Supervisory Board may, subject to the approval of the Minister, make rules of the Fund in the manner set out in the Schedule and in terms of section 13 of the Retirement Funds Act.

***Amendment of Schedule***

9. The Board may amend the Schedule to this Act.

***Saving.***

10. The Defined Benefit Fund shall continue to exist until the benefits of its members are paid in full and nothing in this Act shall diminish the pensions granted to a retired member at the commencement of this Act.

***Transitional provision***

11. The pension of a retired member who, after the commencement of this Act, has been re-elected as a Member of Parliament or re-appointed as a holder of a designated office shall be preserved in the Defined Benefit Pension Fund in terms of the rules applicable to the Defined Benefit Fund until the membership of the member to the Defined Contribution Fund terminates.

***Repeal***

12. The Members of Parliament and Designated Office Bearers Pension Fund Order No. 18 of 1993 shall, at the payment of the benefits of the last member or beneficiary of the Defined Benefit Pension Fund be deemed to have been repealed.

## **SCHEDULE**

(Under Section 8)

### **RULES OF THE FUND**

#### ***Interpretation***

1. In these rules~ unless the context otherwise requires -

“approved retirement fund” means a retirement fund approved as such by the Registrar of Insurance and Retirement Funds and the Commissioner General of the Swaziland Revenue Authority;

“auditor” means the auditor appointed in terms of these Rules and approved by the Registrar;

“disability” in relation to a member, means that, in the opinion of the Board, formed after it has consulted one or more medical practitioners selected by it, the member has been impaired by injury or disease to such an extent that, for the foreseeable future, the member shall be unable to perform the function required of a person in the position occupied by that member;

“fund administrator” means the administrator appointed in terms of the rule for the time being to manage the day affairs of the Fund;

“fund credit” shall mean the total amount standing to credit on behalf of each member, constituting of the contributions of a member and the contribution of the employer for that Member and any interest that may have accrued;

“pensionable salary” means the salary of a member from which contributions and or benefits are derived;

“Principal Officer” means the Principal Officer appointed under section 9 of the rules under this Act;

“retirement date” means date with effect on which, in the case of a member of Parliament, the membership to Parliament of the member terminates and in the case of a person who is a holder of a designated office, the appointment of that person to the office terminates;

“Registrar” means the Registrar of Insurance and Retirement Funds appointed in terms of the Insurance Act, 2005;

“year of service” means for each member the period of continuous service of that member from the date of joining the Fund up to the date the member terminates and any subsequent period of active membership.

#### ***Admission to membership***

2. (1) A member shall submit evidence of age acceptable to the Board and such other information as the Board may reasonably require for the purposes of admitting a member to the Fund.

(2) A member shall not be permitted to withdraw from membership of the Fund while the member remains a member of Parliament or a holder of a designated office.

(3) A member who retires from the Fund and receives all the benefits which may be due in terms of this Act shall cease to be a member.

### ***Temporary Absence***

3. (1) Membership to the Fund and benefits and contribution payable shall not be affected by the absence of a member from service while the member is in receipt of the normal remuneration of that member from the employer.

(2) Where a member is granted leave of absence with less than full pay, that member shall contribute to the Fund in accordance with rule 24 (1), and the employer shall continue to contribute in respect of the member in accordance with rule 25 (1) and the benefit under the Fund in respect of the member shall be maintained.

(3) Where a member is granted leave of absence without pay, the member shall not make a contribution in accordance with rule 24 (1) or the employer in respect of the member shall not make a contribution in terms of rule 25 (2) during such period of absence.

## **MANAGEMENT OF THE FUND**

### ***Establishment of Supervisory Board***

4. (1) There is established a management board of the Fund to be known as the Supervisory Board, which consist of nine persons, five of whom shall be elected by the members of the Fund, four of whom shall be appointed by the Minister and the Principal Officer who shall be the Secretary of the Board.

(2) The Board shall be appointed by the Minister.

(3) The members of the Board shall elect one of its members as a chairperson of the Board who shall preside at the meeting of the Board.

(4) In the absence of the chairperson, the members of the Board present may elect one of their members to act as chairperson at that meeting.

(5) A member of the Board shall remain in office for a period of three years unless that member -

(a) resigns;

(b) fails to attend three consecutive meetings of the Board without the prior approval of the Chairperson of the Board;

(c) becomes disqualified in terms of rule 5; or

(d) is withdrawn as a member of the Board by the Minister.

(6) A member of the Board may be reappointed twice as a member of the Board.

(7) The members of the Board may be paid such allowances as the Minister may determine.

(8) The Board shall submit a quarterly and yearly report to the Minister on the financial position of the Fund.

***Disqualification from Holding Office as member of Board***

5. A person shall not be eligible for appointment or election as a member of the Board or continue to hold office as a member of the Board if at any time that person is or becomes-

- (a) a minor or insane or otherwise incapable of acting;
- (b) disqualified from being a director in terms of an order of a court of law;
- (c) an un-rehabilitated insolvent;
- (d) removed from an office of trust on account of misconduct;
- (e) convicted and sentenced either to imprisonment without the option of a fine or to a fine exceeding E 100 for either theft, fraud, forgery or uttering a forged document, perjury, an offence under the law for the prevention of corruption or any offence involving dishonesty or any offence in connection with the promotion, formation or management of a company;
- (f) a member of the Board who performs an act in connection with the management of the Fund without authority of the Board; and
- (g) a Cabinet Minister.

***Functions of the Supervisory Board***

6. The Board shall direct, control and oversee with this Act and any other law applicable to the Fund and may, subject to any directive given by the Minister on matters of policy, decide on the matters relating to -

- (a) the financial position of the Fund;
- (b) the financing of the Fund; and
- (c) any matter referred to the Board by the Minister.

(3) The Board shall exercise its functions in accordance with this Act and any other law applicable to the Fund and shall ensure that the interest of members is protected at all times by-

- (a) acting with care, diligence and good faith;
- (b) avoiding conflicts of interest; and
- (c) acting impartially

(4) The Board shall ensure that.

- (a) proper registers and records including minutes of all meetings and of all resolutions passed by the Board of the operations of the Fund are kept;



- (b) true and full accounts of the Fund are kept in accordance with generally accepted accounting practice and any guidelines issued by the Auditor from time to time;
- (c) proper controls are used to protect the assets of the Fund, taking into account the advice of the Auditor;
- (d) adequate and appropriate information is given to the members informing them of their rights, benefits and obligations in terms of the rules of the Fund;
- (e) take all reasonable steps to make sure that contributions are paid to the Fund on time;
- (f) the contributions are deposited in the Fund's bank account on the first business day after they are received;
- (g) expert advice on matters on which the Board is not expert is obtained;
- (h) every title deed and other document which proves that the Fund is the owner of a particular property is kept in a safe or strong-room at an office of the Fund or in a bank; and
- (i) persons with the authority in terms of a resolution passed by the Board to sign on behalf of the Fund sign cheques, contracts or other documents on its behalf.

### ***Powers of the Board***

7. (1) The Board shall have the power in the name of the Fund subject to such direction and restriction as the Minister may issue to -

- (a) enter and sign any contracts or documents;
- (b) institute, conduct, defend, compound or abandon any legal proceedings by or against the Fund;
- (c) make bye-laws prescribing the form and the manner in which claims are to be lodged and dealt with by the Fund;
- (d) invest, lend, put out at interest, place on deposit, make advances of or otherwise deal with the monies of the Fund upon such security and in such manner as it may decide from time to time;
- (e) sell, change, reinvest or otherwise deal with shares and other investments;
- (f) obtain an overdraft from a bank or borrow from the employer or any other party, on such terms as they deem fit, such sums as they approve for the purpose of completing investment or meeting any temporary cash shortage and for this purpose may give such security as they decide provided that the aggregate of borrowings at any time shall not exceed half the gross income of the Fund during the preceding twelve (12) months;
- (g) purchase policies of insurance from one or more registered insurers for the purposes of investing the monies of the Fund in order to meet the cost of providing benefits in terms of this Act.

(2) In exercising its powers, the Board may delegate its power to make investments and to realize, vary, reinvest or otherwise deal with the securities concerned, on such terms and conditions as the Board may specify, to -

- (a) a sub-committee of such of their members as they may nominate;
- (b) the Principal Officer of the Fund; or
- (c) any provider of products or services to the Fund.

(3) A decision of a committee of the Board or an employee of the Fund shall be ratified by the Board at the next meeting of the Board, recorded in the minutes of that meeting and shall be regarded as a decision of the Fund.

(4) The Board may appoint any expert in any field as the Board may consider necessary and on such terms as the Board may determine.

(5) The Board shall do such other things as may be required for the proper fulfillment of the objects of the Fund and compliance with this Act.

#### ***Meeting of the Board***

8. (1) The Board shall meet at least once in every quarter to conduct the business of the Fund.

(2) The Board shall determine its own rules of procedure.

(3) All decisions of the Board shall be taken by simple majority vote of members present in a meeting.

(4) The quorum in meetings of the Board shall be seven members.

(5) A decision of the Board shall be set forth in a resolution which shall be recorded in the minute book of the Fund and signed by a majority of the members of the Board.

(6) A resolution in writing signed by all the members of the Board shall be of the same force and effect as a resolution passed at a meeting of Board and shall be recorded in the minute book of the Fund.

(7) In the event the equal votes are cast by the Board members, the Chairman shall have a casting vote in addition to his normal vote.

#### ***Principal Officer***

9. (1) The Board shall, in consultation with Minister, appoint a Principal Officer.

(2) Where the Principal Officer is absent or is otherwise unable to perform the duties of the Principal Officer, the Board shall, within 30 days subject to sub-rule (1), appoint another person to act as Principal Officer for the period of the absence or inability of the Principal Officer.

***Duties of a Principal Officer***

10. (1) The Principal Officer shall perform such duties as may be assigned to a Principal Officer by the Board in accordance with the law on retirement funds.

(2) Notwithstanding the generality under sub-rule (1), the Principal Officer shall submit the annual financial statements and other documents of the Fund to the Registrar as required under the law on retirement funds.

***Fund Administrator***

11. The Board may, on the approval of the Registrar, appoint one or more organisations as Fund Administrator to administer the Fund, its investments or act as custodian of some or all of its assets on such terms and conditions as the Board may determine.

***Auditor***

12. (1) The Board shall, subject to the approval of the Registrar, appoint an Auditor.

(2) The Auditor shall audit the accounts of the Fund.

(3) The Auditor shall have -

- (a) access to such information and documents as may be required by the Auditor to carry out an audit;
- (b) the right to investigate whether there are adequate measures and procedures to ensure that the Fund operates in a sound, cost-effective and cost-efficient way for the benefit of members and their dependants;
- (c) the right to investigate any aspect of the management of the Fund which has a bearing on the control and use and expenditure of its assets.

***Books and statements of Account***

13. (1) The Board shall cause full and true accounts of the Fund to be made at the end of each financial year.

(2) The Board shall prepare statements of the financial affairs of the Fund in accordance with the law on retirements and generally accepted accounting practice and submit a report to the Board, employer and the Registrar.

***Valuator***

14. The Board shall recommend to the Minister for appointment an Actuary in accordance with the law on retirements.

***Actuarial Valuations***

15. (1) The financial condition of the Fund shall be investigated, valued and reported on by the Actuary at intervals not exceeding three (3) years.

(2) The Board shall forward a copy of such report to the employer and the Registrar.

***Bank Account***

16. (1) The Board shall open and maintain a bank account with-

- (a) a banking institution registered as such in terms of the Financial Institutions Order, 1975; or
- (b) an institution registered as a banking institution in terms of the laws of the country where its head office is situated provided that the bank has been authorized by the Government to operate as a bank in Swaziland.

(2) All contributions payable to the Fund, and all benefits payable by the Fund, in terms of this Act shall be paid into or out of the bank account of the Fund.

***Fund Accounts***

17. All monies received on account of the Fund shall be paid into a banking account opened in the name of the Fund as stipulated in rule 15.

***Signing and registration of documents***

18. (1) The documents pertaining to the operations of the Fund shall be signed by-

- (a) the Chairman of the Board; or
- (b) one other member of the Board; and
- (c) the Principal Officer of the Fund.

(2) A title deed and security of the Fund shall be registered in the name of the Fund or in the name of such nominee company as the Board may appoint.

(3) The documents of title registered in the name of the Fund in connection with any investment or asset of the Fund shall be kept in safe custody at the registered office of the Fund or in a banking institution, as decided by the Board.

***Indemnification of members of Board and officers of the Fund***

19. The members of the Board and officers of the fund shall be indemnified by the Fund against proceedings, costs and expenses incurred by reason of any claim in connection with the Fund not arising from the negligence, dishonesty or fraud of the member of the Board or officer of the Fund.

***Fidelity Insurance***

20. The Board shall ensure that the Fund is insured against any loss which may result from the dishonesty or fraud or negligence or recklessness or intentional unlawful acts of -

- (a) an officer of the Fund;
- (b) a member of the Fund; or
- (c) the Principal officer.

***Expenses***

21. (1) The expenses in connection with or incidental to the management or administration of the Fund and the investment of the Fund, including-

- (a) the cost of the audit and actuarial services;
- (b) the fees charged by an institution or person who has been delegated investment powers by the Board; and
- (c) the cost of insurance of the officers of the Fund,

shall be paid by the Fund.

(2) The Board shall determine -

- (a) the amount to be held from time to time in the Expense Reserve Account as provision for the expenses of the Fund; and
- (b) the amounts of the shares of the provision for the expenses of the Fund which shall be deducted from the Fund Credits for that purpose.

(3) In determining the amounts to be deducted from Fund Credits the Board shall take into account relevant facts and considerations and may differentiate between contributory members and paid up members.

**FINANCIAL STRUCTURE OF THE FUND**

***Fund Accounts***

22. The Fund shall establish -

- (a) a Retirement Savings Account in which provision shall be made for the benefits payable to paid-up members in the future and the pensions payable members and other persons entitled to pensions in terms of these rules;
- (b) an Expense Account; and
- (c) a Contingency Reserve Account.

***Composition of Accounts***

23. (1) A Retirement Savings Account shall be composed of-

(a) credits, which shall be -

- (i) an opening balance comprising the aggregate of the fair value equivalent of the accrued deferred pensions of paid-up members and other persons entitled to pensions after the commencement of this Act;

(ii) the balance of the contributions made to the Fund by the employer after the deduction from those contributions, and allocation to -

(A) the Expense Account; and

(B) the Contingency Reserve Account,

of such amounts as the Board, on the advice of the Valuator, deems necessary to provide for the expenses of the Fund and contingent liabilities;

(iii) the return, when positive, earned by the Fund on the investment of its assets other than that attributable to the return earned on assets standing to the credit of the account;

(b) debits which shall be-

(i) the amount of the benefit payable to a paid-up member who retires and the retirement date of that member occurs within five years after that member last commenced membership;

(ii) the lump sum, the amount payable to the spouse and the pension or pensions, if any, payable to a paid up member who dies before the retirement date of that member;

(iii) the amount of the benefit payable where a paid-up member retires and the retirement date occurs on or after the expiry of five years since that member last commenced membership

(2) An Expertise Reserve Account shall be composed of amounts credited to or debited from the account as follows -

(a) amounts deducted from contributions made to the Fund by the employer and allocated to this account to provide for the expenses of the Fund;

(b) amounts payable to providers of products and services to the Fund in terms of agreements between those providers and the Fund; and

(c) other expenses approved by the Board or approved by the Principal Officer in terms of such authority as the Board may have delegated to the Principal Officer and in accordance with such policy as the Board may determine from time to time.

(3) A General Contingency Reserve Account shall be composed of amounts credited to or debited from this account as follows-

(a) amounts deducted from contributions made to the Fund by the employer and allocated to this account to provide for the contingent liabilities of the Fund other than its liabilities to pay pensions to spouses and children of deceased members;

(b) amounts for which the Fund is liable and for which provision is not made in any other account in the Fund.

## CONTRIBUTIONS

### ***Member Contributions***

24. (1) A member shall contribute to the Fund an amount equal to fifteen (15%) of the basic salary of the member.

(2) The contribution of a member shall be deducted by the employer from the salary of that member and paid to the Fund.

(3) Where a member who -

(a) was previously a member for a continuous period of less than five years was paid a lump sum benefit on the termination of that period of membership,

(b) within three months after re-joining the Fund-

(i) in the manner determined by the Board repaid the amount of that lump sum benefit to the Fund; and

(ii) paid the Fund interest on that amount in such amount as the Board may have determined,

the amounts contemplated in paragraph (b) which were paid to the Fund, plus interest on the aggregate of those amounts in respect of the period from the date of payment to the coming into force of this Act at the rate or rates determined by the Board, shall be credited to the Fund Credit Account of that member and the period of the previous service of that member shall be added to the period of continuous service ending on the retirement date of that member for the purpose of determining the amount of the benefit to which the member is then entitled.

### ***Employer contributions***

25. (1) The employer shall contribute in respect of each member in the service of the employer an amount equal to thirty percent of the basic salary of each member each month to ensure that the Fund is financially sound.

(2) Out of the amount paid under sub-rule (1)-

(a) the amount as is required to meet the expenses of the Fund month concerned;

(b) the death benefit; and

(c) the balance,

shall be applied towards the retirement benefit of a member.

### ***Payment of Contributions***

26. The employer shall deduct contributions payable to the Fund by a member and pay the contributions to the Fund within seven (7) days after the end of a month.

## RETIREMENT BENEFITS

### *Normal retirements*

27. (1) A member who is in service at the retirement date shall be entitled to retire on that date and shall thereupon become entitled to a retirement benefit determined in accordance with this rule.

### *Ill health early retirement*

28. (1) Where suitable medical evidence exist that a member can no longer discharge the duties of that member efficiently, that member shall be entitled to receive an immediate retirement benefit determined by the fund credit of the member.

(2) A member who is retires in terms of sub-rule (1) shall be entitled to receive a payment in terms of the insurance benefit as outlined in the Group Life Assurance Policy for the Fund.

(3) The benefit in sub-rule (2) shall be fully insured under the Group Life Assurance Policy for the Fund with a registered insurer.

### *Lump sum benefit*

29. (1) On the retirement of a member in terms of rule 27, the member shall become entitled to a retirement benefit calculated in the manner provided in this rule.

(2) A member who retires in terms of rule 27 shall be paid a lump sum equal to the fund credit of the member at the date of retirement,

(3) The member shall have an option of converting the entire lump sum into pension or commute up to a maximum of one third cash lump sum with the balance of two thirds purchasing pension.

(4) Where a member retires before that member attains the age of 55 years, the pension benefitS of that member shall be preserved in the Fund until the member attains the age of 55 years.

## DEATH

### *Group Life Assurance Policy*

30. The death benefit of a member shall be fully insured with a registered insurer as a Group Life Assurance Policy.

### *Death in Service*

31. (1) Where a member dies before the retirement date of that member, there shall be paid -

(a) a lump sum benefit equal to the fund credit of the member; and

(b) the payment from the Group Life Assurance Policy which shall be an amount equal two times the annual pensionable salary at the date of the death of the member.



(2) Where the paid-up member or a retired member dies before the retirement date, the value of preserved pension of the member as determined by the Board in consultation with the Valuator shall be paid to the beneficiaries of the member in terms of, in the case of a paid-up member, these rules and in the case of a retired member, the rules applicable to a retired member.

(3) Where a member dies after the retirement date of that member, the dependants of that member shall be paid in accordance with the insurance policy purchased by the member during the lifetime of the member.

### ***Beneficiary Nomination***

32. (1) A member may nominate a dependant or in the absence of a dependant, a nominee to whom in the event of the death of the member any benefits payable in term of this Schedule in respect of the member shall be payable.

(2) A member may make such nomination by lodging a written notice with the Board in such format as may be prescribed by the Board for this purpose.

(3) A member may withdraw such a nomination at any time by giving notice in writing to the Board, and file another.

(4) A nomination shall be revoked if the person nominated shall predecease the member.

### ***Permanent disability***

33. (1) A member shall be permanently disabled where-

- (a) that member has been disabled for an uninterrupted period of at least six (6) months; or
- (b) there is medical evidence that the condition is not reversible.

(2) A member who is permanently disabled shall be entitled to receive a disability payment in terms of the insurance benefit as outlined in the Group Life Assurance

### ***Policy for the Fund.***

(3) the benefit in sub-rule(2) shall be fully insured under the Group Life Assurance Policy for the Fund with a registered insurer.

### ***Withdrawal***

34. (1) Where a member who has not reached the normal retirement date tetires, that member is entitled to the Fund credit plus interest of that member based on the net rate of interest earned from the investment of the assets of the Fund.

(2) An additional interest shall be payable after 30 days from the date of withdrawal to the date of payment or transfer of the benefit.

### ***Preservation benefit***

35. Instead of receiving the benefit entirely as a lump sum, the member may transfer all or part of the benefit to another approved retirement fund.

## MISCELLANEOUS PROVISIONS REGARDING BENEFITS

***Payment of Benefit***

36. (1) Payment of a benefit in terms of these rules shall be made directly to the person entitled.

(2) At the request of the beneficiary, payment may be made in some other manner agreed upon by the beneficiary and the Board, including-

- (a) payment at the registered office of the Fund; or
- (b) postage by registered mail or by such other means as agreed to by the Board.

(3) Notwithstanding a contrary provision of the rules, where the Board, in its discretion, for some good and sufficient reason deem it not advisable to make payment of a benefit in a manner elsewhere provided for in the rule, the benefit may be paid as follows:

- (a) to a trust set up for the benefit of the beneficiary;
  - (b) where the beneficiary is a minor, to the guardian of such beneficiary, for the benefit of the beneficiary; or
  - (c) where a beneficiary is contractually incapacitated, to the curator of such beneficiary, for the benefit of the beneficiary.
- (4) The Board may, in its discretion, vary its decision.

(5) A payment made in terms hereof shall not be made in a manner which conflicts with the provisions of the relevant legislation or requirements of the Registrar or the Revenue Authority.

***Payment other than specified***

37. Payment shall not be made other than in the manner prescribed in these rules.

***Benefits Inalienable***

38. (1) A benefit and right to a benefit in terms of these rules shall not be subject to reduced, ceded, transferred, pledged or hypothecated or be attached or sold in satisfaction of a debt.

(2) Where a member or other person to whom a benefit, or a part of a benefit, is payable attempts to transfer, cede, pledge or hypothecate it, the Fund shall suspend the payment of the benefit, or the part of a benefit, to that member or other person and instead pay it directly to -

- (a) a dependant of the member other person; or
- (b) a guardian, trustee or curator for the benefit of the Member or other person.

***Deductions from Benefits***

39. A benefit payable in respect of a member for whatever reason may be subject to a deduction in respect of the following-

- (a) a debt arising from a housing loan or guarantee granted to the member by any financial institution, for the housing loan.
- (b) an amount for which the employer is liable under a guarantee furnished in respect of a housing loan granted to the Member by some other person or body;
- (c) an amount representing tile loss suffered by the employer due to any unlawful activity of the member and for which judgment has been obtained against the member in a court or a written acknowledgement of culpability has been signed by the member and provided that the aforementioned written acknowledgement is witnessed by a person selected by the member and who has had not less than eight years of formal education.

#### ***Unclaimed Monies***

40. (1) Where a benefit due under the Fund is not claimed within three years after the date on which it became due for payment, the benefit shall revert to the Insurance and Retirement Benefit Trust Account.

(2) Where a person who alleges to be beneficiary approaches the Fund at any stage subject to sub-rule (1), the Board shall consider claim of the beneficiary and where the circumstances so warrant, pay the benefit to the beneficiary, together with such interest as the Board may allow.

#### ***Right of member to Copy of Rules***

41. (1) Subject to payment of a fee as the Board may require, a member shall be entitled on application to a copy of these Rules or where the member so requests, a summary of these Rules.

(2) Subject to payment of a fee referred to in sub-rule (1), a member shall be entitled on application to a copy of the latest Balance Sheet of the Fund.

#### ***Currency***

42. All contributions to and benefits from the Fund are payable at the principal office of the Fund in Emalangeni.

#### ***Disputes***

43. (1) Any question which may arise with regard to a claim by any person under these Rules shall, subject to the law on retirement funds, be decided by the Board.

(2) In deciding on any question of fact, the Board shall act upon such evidence, as they deem adequate, whether such evidence amounts to legal proof or not.

(3) A person aggrieved by a decision of the Board shall lodge a written complaint with the Retirement Funds Adjudicator who shall deal with the complaint accordance with the law on retirement funds.

(4) The employer, the Board (or one or more of their number), or any other person having a complaint or dispute of fact or law shall, notwithstanding anything to the contrary in these rules, have the right to invoke the complaint procedures in accordance with the Act.

GENERAL

***Proof of Age and Particulars***

44. (1) A member or the dependants of a member shall produce such data information or evidence that may be reasonably required upon or with regard to the happening of any event affecting or relating to the benefits of such member or the dependants of that member.

(2) Satisfactory evidence of a date of birth of a member shall be produced before payment of any death benefit is made.

(3) Where an amount has been paid to such a person and it is later found that it was determined on the basis of incorrect information, the amount may be adjusted and any excess paid to the member or person who claims from the Fund may be recovered from that member or person.

***Registration and Approval***

45. The Fund shall be registered with the Registrar and the Swaziland Revenue Authority.

***Amendments to the Rules***

46. (1) The Board may, subject to the consent of the Minister and the approval of the Register, amend these rules.

(2) An amendment to these rules which affects the financial condition of the Fund may not be made until the Valuator certifies that the amendment is financially sound.

***Binding Power of Rules***

47. The decisions of the Board as to the meaning of or interpretation of these rules or of any particular rule or part of a Rule shall, subject to the law on retirement funds, be final and binding on the employer, members and any person claiming to be entitled to a benefit under these rules.

***Transfer or Amalgamation***

48. The assets and liabilities of this Fund may, subject to this Act or any other law on retirement funds, be transferred or amalgamated to another Fund.