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**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

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## GOVERNMENT NOTICE

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### **SOUTH AFRICAN NATIONAL DEFENCE FORCE**

**No. R. 631****31 May 2004**

#### **DEFENCE ACT, 2002**

#### **AMENDMENT OF THE GENERAL REGULATIONS FOR THE SOUTH AFRICAN NATIONAL DEFENCE FORCE**

I, Mosiuoa Gerard Patrick Lekota, Minister of Defence, hereby under sections 52(2), 53(2), 82(1) and 82(2) of the Defence Act, 2002 (Act No. 42 of 2002), with the approval of the Minister of Finance, makes the regulations in the Schedule.

#### **SCHEDULE**

The General Regulations of the South African National Defence Force, promulgated under Government Notice No. R.203 of 13 February 1970, as amended by Government Notices Nos. R.169 of 12 February 1971, R.1394 of 10 August 1973, R.439 of 7 March 1975, R.905 of 27 April 1990, R.1060 of 17 May 1991, R.1723 of 26 July 1991, R.1723 of 26 July 1991, R. 1142 of 11 September 1998, R.181 of 26 February 2001 and R.1391 of 21 December 2001, are hereby amended by the substitution for Chapter XV thereof of the following Chapter:

## CHAPTER XV

### MEDICAL MATTERS

#### Definitions

1. In this Chapter any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and unless the context otherwise indicates –

**"accommodation expenses"** means expenses relating to accommodation and meals described in the Department of Defence Instruction on inland accommodation expenditure, but does not include the cost of travel;

**"administrator"** means the person contemplated in regulation 19(4)(a)(i);

**"allotted category"** means a category of fitness allotted to a person in terms of regulation 3;

**"authorised patient"** means a specific patient who has been approved by the Department of State Expenditure or its delegatee in writing;

**"beneficiary"** means any beneficiary contemplated in regulation 21 or 31;

**"Board"** means the Management Board contemplated in regulation 19(1) and 29(1);

**"category of fitness"** means a standard of physical and mental fitness determined and described in terms of regulation 2;

**"child"** means any –

- (a) natural child of a member or beneficiary, including the natural child of an unmarried member or beneficiary born outside of marriage;
- (b) natural child of a member or beneficiary born out of wedlock and later legitimised by the subsequent marriage of the member or beneficiary with the other natural parent as contemplated in section 4 of the Children's Status Act, 1987 (Act No. 82 of 1987);
- (c) adopted child of a member or beneficiary as defined in section 1 of the Child Care Act, 1983 (Act No. 74 of 1983);
- (d) natural or adopted child for whose health care a member or beneficiary is legally responsible or liable in terms of a divorce or maintenance court order;
- (e) minor step child of a member or beneficiary, which child is not a beneficiary of a registered medical scheme to which the natural or the legal father or mother is a contributor, but excluding any child who is in foster care of the member or beneficiary or his or her spouse: Provided that when the relevant marriage is



terminated, the child is no longer regarded as a child with regard to this Chapter, except if the child lives with the member or beneficiary on a permanent and continuous basis; and

- (f) a child born from a child referred to in paragraphs (a), (b), (c), (d) and (e), but only until such time as the child born from the child is discharged for the first time from the health care facility where the child was born;

**"compelled to demilitarise"** means when a military post must be converted to that of a grading in terms of the Public Service Act, 1994 (Act No. 103 of 1994) and a South African National Defence Force member in a military post consented to be a Department of Defence employee serving in terms of the aforementioned Public Service Act;

**"dependant"** means –

- (a) the spouse or spouses of a member of the Regular Force or of any Auxiliary Service under the Act (not being the Service Corps) or beneficiary of the Fund, but excluding the spouse of a member serving in the STS or of any member of the said Service Corps: Provided that –
- (i) any such spouse is not a member or beneficiary of a registered medical scheme or receives no medical or health support from any other provider;
  - (ii) where any such spouse is an employee and his or her service conditions and benefits provide that he or she as an employee is compelled to belong to a registered medical scheme designated by his or her employer, such spouse shall not be entitled to any medical or other benefits provided for in this Chapter; and
  - (iii) in the case of more than one spouse, the member or beneficiary shall be liable to pay the contribution to the fund that may be set for a second or any additional spouse in terms of regulation 7(1)(c).
- (b) a child who is of necessity non-self-supporting and permanently part of a member's or a beneficiary's household: Provided that such child –
- (i) has not attained the age of 18 years and is still attending school;
  - (ii) is 18 years or older but has not yet attained the age of 21 years and is a full-time student studying towards obtaining Grade 12;
  - (iii) is 18 years or older and is on account of a mental or a physical defect that occurred during his or her period of dependence as described in subparagraph (i), subparagraph (ii) or paragraph (c), permanently unfit to obtain or perform remunerative employment and the total of any

income, earnings, maintenance or compensation for damages of such child from any source, does not exceed the sum of –

- (aa) the appropriate maximum basic social pension that is regulated in terms of a law which is in force in the Republic;
  - (bb) the maximum allowance for a war veteran to whom a war veteran's pension has been awarded by/or in terms of a law which is in force in the Republic; and
  - (cc) the maximum allowance paid to a person as a result of a late application for social pension or a war veteran's pension;
- (iv) is found permanently medically unfit by the Surgeon-General or his or her delegatee and such finding is irreversible, permanent inclusion on the medical strength of the parent will be granted. Should there be any doubt as to the permanence of the condition, a follow-up medical report will be requested after a period of 12 to 36 months from the Surgeon-General or his or her delegatee;
- (v) is 18 years or older and a registered student at an accredited education, training and development service provider or accepted institution, in the sole opinion of the Chief of the South African National Defence Force, for post-school education, whether intramurally or extramurally, in order to obtain the minimum qualification in preparation for a career, but only –
- (aa) if such a child is unemployed after leaving school or does not take up any full-time employment, including any type of vocational training to which remuneration is attached, voluntary military service or sabbatical either within or outside the Republic, but excluding work during the vacation between leaving school and the commencement of the academic year immediately following the year of leaving school; until –
  - (bb) such child attains the minimum post school qualification which will enable such child to take up employment in his or her chosen field of study; or
  - (cc) the minimum recommended duration of the course of study as prescribed by the institution concerned for such course plus a maximum of one academic year, has expired, if it takes such child longer than such prescribed period to obtain the relevant qualification as a result of poor academic performance; or
  - (dd) such child discontinues the relevant initial course of study for the second time; or

- (ee) such child changes the direction of study and the total period of study exceeds the minimum normal period of study contemplated in subparagraph (cc) plus one academic year;

whichever of the four events referred to in subparagraph (v) occurs first: Provided that should such child temporarily interrupt such studies due to medical reasons through no fault of the child concerned with the view to recommence such studies, the Chief of the SANDF may recognise such child as a dependant during such interruption and for the remainder of the period of study: Provided that dependant children older than 18, who are students, must submit proof of registration, annually or per semester, as the case may be, to apply for readmission as a dependant;

**"employee of the DOD"** means a person who is employed by the Department of Defence in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

**"Fund"** means the Regular Force Medical Continuation Fund contemplated in regulation 17, or the Regular Force Medical Fund B contemplated in regulation 27, as the case may be;

**"hospital"** includes a medical or nursing institution, a sickbay, a military medical clinic or a private medical nursing institution or any other facility designated as such by the Surgeon-General;

**"manager"** means a person appointed as such under regulation 19(4)(a)(i);

**"marital status"** includes the status or condition of being single, divorced, widowed or in a life-partner relationship, whether with a person of the same or the opposite sex, involving a commitment to reciprocal support in a relationship;

**"medical aid"** means an appliance or apparatus that assists a patient to be self-supporting and increases the functional abilities of the patient;

**"medical officer"** means a person entitled to practise as a medical practitioner in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974), and who –

- (a) is serving as a medical officer or dental officer or specialist medical or dental officer in the Regular Force;
- (b) is undergoing training or is performing service as a medical officer, dental officer or specialist in the Reserve Force;
- (c) is employed on a whole or part-time basis by the State as an employee of the DOD and holds the post and carries the responsibility of a medical officer or dental officer or medical or dental specialist;

- (d) is employed on a contractual basis by the State and carries the responsibility of a medical officer or dental officer or medical or dental specialist; and
- (e) has, in terms of regulation 11(2)(f), been designated as a medical officer either generally or in relation to a specific patient;

**"medical prosthesis"** means the replacement of part of the body with an artificial apparatus for example, but not restricted to an artificial limb, artificial eye, electronic pacemaker, implant or dentures;

**"member of the Fund"** includes a widow or widower who has, in terms of regulation 21 or regulation 30, become a member of the Fund;

**"patient"** means a "member", "dependant", "beneficiary" or an authorised patient;

**"principal officer"** means the person contemplated in regulation 19(4)(a)(iv);

**"registered medical scheme"** means any medical scheme registered under section 24(1) of the Medical Schemes Act, 1998 (Act No. 131 of 1998);

**"sabbatical"** means any period between leaving school and the date where the person involved was not in gainful employment or full-time study and includes travel in or outside the Republic for whatever reason, as the case may be, for any period exceeding the period between leaving school and the commencement of the academic year in the year immediately succeeding the final school year;

**"SANDF"** means the South African National Defence Force;

**"spouse"** means –

- (a) a person who is married to a member or a beneficiary and which marriage is recognised as a valid marriage in terms of the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998), or the Marriage Act, 1961 (Act No. 25 of 1961); or
- (b) a life-partner, the partnership being either heterosexual or homosexual, but specifically excluding parents and other family members, in a permanent life partnership, if such a partnership is –
  - (i) contained in a duly signed Notarial Agreement prepared and executed by a Notary Public with a protocol number; or
  - (ii) registered in terms of any specific legislation regarding life-partnerships;

but does not include the spouse of a beneficiary, which beneficiary became the main beneficiary after the death of his or her former spouse;

**"STS"** means a person serving in a temporary capacity in terms of the Short Term Service system in the Regular Force, including a person serving in the Military Skills Development service;

**"Surgeon-General"** includes a medical officer to whom the Surgeon-General has delegated specified functions;

**"temporary category"** means a category of fitness which is temporarily allotted to a member;

**"the Accountant"** means the person contemplated in regulation 19(4)(a)(ii);

**"the Act"** means the Defence Act, 2002 (Act No. 42 of 2002);

**"widow"** means the surviving spouse of a deceased male member of the Regular Force or a beneficiary contemplated in the definition of "dependant";

**"widower"** means the surviving spouse of a deceased female member of the Regular Force or a beneficiary contemplated in the definition of "dependant".

**PART I**  
**MEDICAL FITNESS**

**Establishment of category of fitness**

2. The Surgeon-General or a medical officer designated by him or her for that purpose must, from time to time, in consultation with the Chief of the Service or Staff Division or Supporting Service concerned, determine the standard of physical and mental fitness required in peace or war time for the efficient work performance of a member in every Service or Division in each branch, corps or unit thereof and in each mustering, appointment, post or job classification in the SANDF, taking into account requirements laid down by the relevant Code of Remuneration or Personnel Management Code and the Chief of the SANDF, and in so doing –

- (a) fully describe the standards and categories of fitness and classify them in order of stringency;
- (b) designate a suitable category of fitness for each branch, corps, unit, mustering, appointment, post or job classification; and
- (c) promulgate the classification and application of the said categories of fitness in the Orders of the SANDF.

**Determination of and employment according to medical fitness**

3. (1) The Surgeon-General is responsible for the determination of the standard of physical and mental fitness of any person who –

- (a) has applied for appointment or enrolment in any part of the SANDF;
- (b) is, in terms of the Act, obliged to report for training or to render service in any part of the SANDF; and
- (c) is serving in any part of the SANDF.

(2) The Surgeon-General must allocate the category of fitness contemplated in regulation 2 to a person contemplated in regulation 4(1) and must advise the Chief of the Service, Staff Division or Supporting Service concerned of such fitness category and may –

- (a) restrict the nature, extent and place of that person's employment permanently or temporarily;
- (b) allocate a temporary fitness category to that person; and
- (c) at any time alter the allotted category of that person.



(3) No member shall be appointed, enrolled, mustered or employed in any post or mustering of the SANDF or be required to serve or to undergo training in such post or mustering unless the allotted fitness category of that member equals or exceeds the category designated for that post or mustering in terms of regulation 2(b).

(4) The Surgeon-General may –

(a) with regard to medical facts of a member contemplated in subregulation (3), which are brought to his or her attention by whatever means, if the Surgeon-General has any doubt with regard to that member's medical fitness, appoint a Medical Board, which must –

(i) consist of at least three medical officers for an envisaged amendment of an existing category to a category of purely administrative duties or permanently unfit for further service in the SANDF or at least one medical officer and two registered health care professionals with at least three years experience in the South African Military Health Service for an envisaged amendment to a category other than the categories mentioned here above;

(ii) report about –

(aa) the medical condition of that member;

(bb) the nature, origin, extent or possible future development of the disability or disease;

(cc) the future utilisation or management of the member; and

(dd) the nature and extent to which service in the SANDF has caused or aggravated the disability or disease;

(b) with regard to medical facts of a dependant of a member of the Regular Force or of an Auxiliary Service or an employee of the Department of Defence employed in the SANDF or Department of Defence, which are brought to the attention of the Surgeon-General by whatever means, if the Surgeon-General has any doubt with regard to such dependant's medical fitness, and if that dependant enjoys the medical benefits provided by the SANDF, appoint a Medical Board, which must –

(i) consist of at least one medical officer;

(ii) report about –

(aa) the medical condition of that dependant;

- (bb) the nature, origin, extent or possible future development of the disability or disease; and
- (cc) the future management of the dependant.

(5) The Surgeon-General determines in which format the report referred to in subregulation (4) must be submitted and when and where the medical examination must take place.

(6) The expenses of a medical examination in terms of subregulation (5), which may include a special medical test which the Surgeon-General has ordered, as well as the expenses of the hospitalisation of the member concerned in a military hospital or other applicable institution for a period not exceeding 21 days, is paid from State funds.

(7) The accommodation and travel expenses of a member, but excluding dependants, to whom subregulations (4), (5) and (6) are applicable, may be reimbursed in terms of the prescribed tariffs, which are from time to time approved by the Department of State Expenditure on the recommendation of the Chief of the SANDF.

(8) (a) A member or a dependant of a member who is not satisfied with a determination of the standard of physical and mental fitness contemplated in regulation 3, 4 or 5, may request the Surgeon-General in writing, within 30 days after the notification of the outcome of the Medical Board, to review that classification.

(b) The Surgeon-General must appoint a review board to investigate a request contemplated in paragraph (a) and to make an appropriate recommendation of upholding or amending the original classification: Provided that such a review board shall consist of the Surgeon-General as chairperson and three medical officers of which at least one shall be a specialist in the applicable discipline.

(9) A member or dependant who is not satisfied with any decision of a Review Board contemplated in subregulation (8), may approach the Minister for a final decision: Provided that the Minister must elicit professional medical expertise, which may be external to the Department, in making his or her decision.

#### **Allocation, restriction and alteration to categories of fitness**

4. (1) The category of fitness, allocated in terms of regulation 3(2) to a member who serves in any post of the Regular Force or who has in terms of section 53 of the Act been found medically fit and has been allocated to the Reserve Force but has on the said date not commenced service or training therein, must, in the absence of evidence to the contrary, be regarded to have the category of fitness applicable to the post or mustering in which that member was serving or to which that member was allotted on that date.

- (2) An alteration to the medical category with regard to –
  - (a) a member, occurs in terms of regulation 3(4)(a);
  - (b) a post or mustering occurs through negotiations between the Chief of the Service, Staff Division or Supporting Service concerned and the Surgeon-General, and the final decision is made known by the Surgeon-General; and
  - (c) any other case, occurs in terms of regulation 3(4)(b);

Provided that the fitness category of a member or dependant is not altered unless the recommendation is approved by the Surgeon-General.

(3) Where in any case, in the opinion of the Surgeon-General, it is necessary on account of a member's state of health to restrict, temporarily or permanently, the nature or extent of the service or duties in respect of which, or the area or place in which the allocated category of any member shall apply, even though such state of health does not justify the alteration of the member's allocated category or the allocation to such member of a temporary category, the Surgeon-General may define the extent of such restriction and apply it in accordance with subregulation (4) to the member concerned and such restriction shall only be altered or revoked on the authority of the Surgeon-General.

- (4) If a member or a dependant's state of health is of such a nature that –
  - (a) the member must be dealt with in terms of regulation 3(4) or subregulation (2) and if the result is that a lower fitness category is temporarily allocated to that member:
    - (i) the Surgeon-General must inform the Chief of the Service and the Officer Commanding concerned, in writing and in layman's terms, of the restriction with regard to the utilisation of the member as well as the nature, extent and duration of the restriction or temporary fitness category, and
    - (ii) the Officer Commanding must inform the member accordingly; and
    - (iii) if a member transfers during such restriction or temporary category, the member's new Officer Commanding must be informed accordingly;
  - (b) the dependant must be dealt with in terms of regulation 3(4)(b) or subregulation (2), if the result is that a lower fitness category is temporarily allocated to such dependant, the Surgeon-General must inform both the dependant and the employer concerned, in writing and in layman's terms, of the restriction with regards to the utilisation of the

dependant as well as the nature, extent and duration of the restriction or temporary fitness category.

(5) If a member or a person, who has in terms of the Act been allotted to the Reserve Force, but who has not commenced serving therein, fails at any time to comply with the requirements of the allocated category because of a disability or disease and the Surgeon-General is of the opinion that the condition of the member or person concerned will after medical treatment improve to such an extent that it will, in time, warrant the reinstatement of that member or person's allocated category, the Surgeon-General may suspend that member or person's allocated category and allocate a temporary category to the member or person concerned for a period –

- (a) not exceeding three months in the case of a member serving in terms of Chapter X of these Regulations or section 53 of the Act;
- (b) not exceeding 12 months in the case of any other member or person;

and the Surgeon-General, in consultation with the Chief of the Service, Staff Division or Supporting Service concerned, may, subject to regulation 5(1)(b), extend that period from time to time.

(6) If a Commanding Officer is in doubt whether a member serving or undergoing training is physically fit to perform any duty which may in the course of the member's service or training be performed, that Officer Commanding may prohibit the performance of the duty concerned by that member and shall immediately report the reasons for the prohibition to the medical officer concerned for action in terms of regulation 5(2).

#### **Subjection to medical examination**

5. (1) A member must, in accordance with regulation 3 subject himself or herself to a medical examination for the purpose of determining that member's medical fitness for any service, course or category of fitness referred to in this Chapter, prior to –

- (a) appointment from the ranks to commissioned rank;
- (b) re-appointment or re-enrolment of a member for service or training on the expiration of a specified period of service, the duration of which has been determined by or in terms of the Act or these Regulations, except when that member has served without a break in service in the Regular Force in a permanent or temporary capacity or served in terms of section 53 of the Act;
- (c) termination of service in any part of the SANDF or in the Reserve Force if the member is appointed or enrolled in any other part of the SANDF;

- (d) transfer to or mustering in any post, branch, classification or mustering in respect of which a higher category of fitness than the member's allotted category has been designated in terms of regulation 2;
  - (e) the member being permitted to leave the Republic on duty of any kind or attending a course or any other training opportunity outside the borders of the Republic;
  - (f) the member being permitted to attend a course in the Republic designated for the purpose by the Chief of the Service, Staff Division or Supporting Service concerned in consultation with the Surgeon-General, and promulgated in DOD Instructions;
  - (g) his or her allotted category, suspended in terms of regulation 4(5), being reinstated or altered; and
  - (h) him or her being employed if called up from the Reserve Force for service in terms of section 53 of the Act.
- (2) Notwithstanding the provisions of regulation 3(3), 3(4), 4(2) and 5(1), the Surgeon-General may, with regard to a member –
- (a) who performs duties which, in the opinion of the Surgeon-General, require that in the member's own interest and that of the SANDF the member be medically examined periodically to confirm the member's medical fitness to continue performing such duties, direct that such examination be conducted in terms of regulation 3(1);
  - (b) whose medical fitness is in doubt, order that such member's medical category be re-evaluated; and
  - (c) who has become seriously ill and hospitalised, order that such member's medical category be re-evaluated.
- (3) No member referred to in subregulation (1) may refuse to undergo a medical examination required in terms of subregulation (2).
- (4) The Surgeon-General may, upon receipt of payment determined by the Department of State Expenditure, perform medical examinations on members and dependants requested by a member of the Regular Force or the Auxiliary Service or a dependant of such a member.
- (5) Any member or employee of the Department of Defence, may be requested by the Surgeon-General or his or her delegatee, to submit and if so required shall submit to undergo a Comprehensive Health Assessment (CHA), or any other health assessment or immunisation or prophylaxis against any communicable, infectious or epidemic illness that may be determined from time to time by a prescribed authority: Provided that –



- (a) any CHA or any other health assessment will be determined by the Surgeon-General in accordance with the requirements for such an evaluation;
- (b) such immunisation or prophylaxis may be carried out by means of vaccination or injection with or oral administration of the specific antigen or prophylactic medicament determined for the purpose by a medical officer.

#### **Medical unfitness for retention in service**

6. (1) The Surgeon-General must submit a report to the Service or Division concerned with regard to a member of the Reserve Force who has been allotted to the Reserve Force but has not commenced serving therein, to whom a category of fitness has been allotted permanently, which, in terms of regulation 3(3) is incompatible with the employment or continued employment of that member or person in the allotted classification or mustering.

- (2) After the submission of a report contemplated in subregulation (1) –
  - (a) the Minister may order the discharge or termination of service of the member concerned in terms of Chapter III or Chapter IV of these Regulations, as the case may be; and
  - (b) the Chief of the SANDF may, if the member concerned can, in the new allocated category, be used efficiently and in the interest of the SANDF in any classification or mustering in the part of the Reserve Force in which such member serves, order that the member concerned be reclassified or remustered in terms of Chapter III or Chapter IV of these Regulations, as the case may be: Provided that a member of the Reserve Force shall not be reclassified or remustered in terms of this regulation without that member's written consent, except when such member renders service in pursuance of Chapter X of these Regulations or section 53 of the Act.

(3) The service of a member of the Regular Force is terminated if the Surgeon-General or his or her delegate issues a certificate to the effect that due to medical or psychological reasons, such member is permanently unfit to serve in the SANDF.



**PART II****NATURE, EXTENT AND ADMINISTRATION OF MEDICAL TREATMENT****Extent and authorisation of medical treatment**

7. (1) The Chief of the SANDF may issue orders in terms of these Regulations, relating to –

- (a) the provision, management and control of medical, dental, hospital, psychiatric and rehabilitative services, assistance and support to serving members of the SANDF and authorised patients;
- (b) the class of members of the said SANDF, including members who are intended attachés and the dependants of such classes of members of the said Regular Force, the Auxiliary Service, the class of members of the said Auxiliary Service including the dependants of the members of the said Auxiliary Service, the Reserve Force or other persons, who shall be or may gain access to such services, assistance and support;
- (c) the scale or aggregate amount of contributions to be made by any member or class of member or any dependant for the provision of such services, assistance and support provided for by the SANDF; and
- (d) the rights, privileges and obligations of serving members and their dependants where applicable and generally all matters reasonably necessary for the administration, regulation, operation, maintenance and extension of such services, assistance and support.

(2) The Surgeon-General must, subject to the provisions of the Act and this Chapter, arrange for the offering to an authorised patient of –

- (a) medical, dental and hospital treatment which is required in respect of an injury, disease, latent disease, physical defect or other disability from which the patient concerned is suffering, in order to –
  - (i) effect the recovery of such patient or to promote his or her state of health; and
  - (ii) promote or improve the functioning or use of any limb, organ, bodily function or faculty of such patient or to reinforce, supplement or replace such limb, organ, bodily function or faculty.
- (b) medical and hospital treatment in addition to the treatment referred to in subregulation (a) required during the pregnancy and confinement, including pre-natal and post-natal care of the mother and child concerned;

- (c) medical and or other treatment according to the prescripts of the Compensation Commissioner with regard to treatment for members whose claims for compensation for injuries or diseases have been accepted in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993); and
  - (d) preventative, prophylactic or immunising treatment which shall or may be administered in terms of any Act or which the Surgeon-General deems necessary in the interest of the SANDF or any patient.
- (3) The Surgeon-General must from time to time determine the nature and extent of the treatment required in accordance with subregulation (2) by a patient and may, subject to the other provisions of this Chapter, authorise the offering or administration of such treatment to the patient concerned in terms of regulation 11(1).

#### **Dental treatment**

8. The Surgeon-General must, subject to the provisions of the Act and this Chapter, arrange for the offering of all categories of dental treatment to –

- (a) a member of the Regular Force and the Auxiliary Service and any dependant of that member, excluding the dependants of members of the STS; and
- (b) authorised patients.

#### **Plastic and reconstructive surgery**

9. The Surgeon-General may authorise plastic and reconstructive surgery, to the extent to which, in the Surgeon-General's opinion, such treatment is necessary for the normal functioning of the patient in the community or job environment.

#### **Additional requirements and services**

10. The treatment which may be authorised in terms of regulation 7, must include the provision of the requisite medicaments, bandages, wrappings, catgut, gloves, medical, dental or surgical instruments, apparatus, Röntgen films: chemicals or organic materials or derivatives thereof (including blood or plasma), consumer goods for occupational therapy or such other medical aids or apparatus and medical prostheses as may be necessary for the promotion of the recovery of a patient, and also the required hospital facilities and maintenance, paramedical services and nursing, which is obtained in a manner determined by the Surgeon-General.

11. (1) The Surgeon-General must make arrangements for, and exercise professional, executive and administrative control over the provision and administration of any treatment which is or may be provided to a patient in terms of

this Chapter: Provided that such patient is in possession of a suitable identification document as required by the Surgeon-General.

(2) For the purposes of subregulation (1) the Surgeon-General must, as far as it is professionally and administratively practicable, make use of the facilities of the military medical service and such other medical facilities that may be at the Surgeon-General's disposal and may –

- (a) delegate any function vested in the Surgeon-General by this regulation to any other medical officer designated by the Surgeon-General for that purpose, whether generally or in respect of a specific case;
- (b) administer treatment in terms of this Chapter at a patient's place of residence, a hospital, clinic, out-patients' department of a hospital or at the consulting rooms of a medical officer or at any other place designated by the Surgeon-General for that purpose;
- (c) where a patient is at a place where there is no military hospital or where a military hospital is unable to accommodate or to treat the patient concerned effectively because of lack of space or the absence of facilities which, in the opinion of the Surgeon-General, are required for the treatment of such patient, authorise the admission to or the treatment of such patient at any other hospital or institution which may be designated by the Surgeon-General for that purpose;
- (d) authorise the conveyance of a patient to and from any place, designated in terms of subparagraphs (b) or (c) for any treatment in terms of this Chapter or in such manner whether in general or with regard to the circumstances of a particular case that he or she deems suitable;
- (e) authorise the escort or nursing of a patient by any person who, in the opinion of the Surgeon-General, is deemed fit to act as escort while such member or dependant is being conveyed in terms of subparagraph (d);
- (f) where a suckling or the mother of such suckling is admitted to a hospital, also authorise the admission to the hospital as hospital patient of the mother or child concerned, as the case may be;
- (g) where for any medical reason which he or she deems sufficient the examination or treatment of a patient cannot be undertaken by a medical officer of the South African Military Health Service or where the Surgeon-General considers a second opinion necessary in the interest of a patient, designate a registered medical or dental practitioner or specialist who is not employed on a full-time basis by the State as a medical or dental practitioner, whether in general or for the examination

or treatment of a specific patient in a temporary or part-time capacity; and

- (h) on behalf of the State accept liability for the cost of medical, dental or hospital treatment provided in a case of emergency to any patient by any medical or dental practitioner or hospital, if in the opinion of the Surgeon-General, it was in the interest of such patient to be provided such treatment in an emergency.

(3) In case of death during hospitalisation or the administering of medical services, the Surgeon-General or his or her delegatee, may authorise the transportation of the remains of the deceased to a place designated for that purpose by the next of kin.

(4) The treatment provided for in this Chapter may be provided at any place in the Republic of South Africa and shall, in accordance with arrangements made by the Surgeon-General, be provided to any member performing whole time service outside the Republic, and, in the case of a member of the Regular Force performing such service, also to a dependant of such member who, with the approval of the Chief of the SANDF is accompanying such member abroad.

(5) Any member who reports at a hospital for any medical examination or treatment and is not necessarily hospitalised, is deemed to be on official duty and the Chief of the SANDF may reimburse a member and an escort of that member, appointed in terms of subregulation (2)(e), who reports at a hospital for medical examination or treatment, and is not necessarily hospitalised, the accommodation expenses for that official duty that were incurred to facilitate the medical examination or treatment: Provided that the escort is the dependant of a member as defined in regulation 1, or if the member has no dependants, such suitable person as appointed for the escort purposes.

(6) The Surgeon-General may contract any registered medical or dental practitioner or specialist, in a temporary, part time or any other appropriate capacity, for the examination or treatment of patients.

#### **Provision of prosthesis and medical aids**

12. (1) Where, the Surgeon-General deems it necessary for maximum recovery and productive employment in the socio-economic environment of any patient, within the framework of such patient's disability, the Surgeon-General may, subject to other provisions of this Chapter, authorise the provision, to the patient concerned, of a prosthesis or medical aids: Provided that –

- (a) the Surgeon-General shall determine the serviceable life of any article or category of articles provided in terms of this regulation and any such article shall, subject to subparagraph (b), in accordance with the directions of the Surgeon-General, be serviced, maintained, repaired,

modified or replaced or supplied with a source of power or other expendable part or material required for its operation; and

- (b) any article referred to in subparagraph (a) may, in accordance with the directions of the Surgeon-General, be modified or replaced at State expense on the expiration of its serviceable life so determined or where a medical officer designated by the Surgeon-General for the purpose has, before such expiration, certified that such modification or replacement is necessary because the article concerned has become unserviceable as a result of a physical or pathological change in the patient.
- (c) the Department of Labour's (Compensation Commissioner's) prescript with regard to prosthesis and medical aids for members whose claims for compensation for injuries and diseases have been accepted in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), must be taken into consideration.

(2) To curtail costs, but without forfeiting functional efficiency, the Surgeon-General may stipulate standards for any prosthesis or medical aid.

(3) When a patient, for whatever reason, prefers another type of medical prosthesis or medical aid than the prescribed one, the patient may be supplied with the medical prosthesis or medical aid of such patient's choice: Provided that the medical prosthesis or medical aid so chosen meets the standards stipulated by the Surgeon-General and that all extra expense in acquiring or maintaining the said medical prosthesis or medical aid is borne by the patient.

#### **Defrayment of expenses**

13. (1) The South African Medical Health Service must at all times be structured and funded at State cost to provide an all-inclusive multi-disciplinary health capability to the SANDF and its members: Provided that the cost of services to serving members shall be the liability of the State.

(2) The cost of any treatment, service or medical prosthesis or medical aid authorised in terms of this Chapter and provided to a patient is, apart from conditions to the contrary in this Chapter, defrayed from State funds, obtained for this purpose through the normal budget programme: Provided that –

- (a) services rendered by private medical and dental practitioners and specialists must be paid from State funds;
- (b) any patient to whom this Regulation is applicable, shall be accommodated in a general ward of the hospital concerned, unless –

- (i) the patient's medical condition requires treatment in a private ward, or intensive or high care unit, in which case the extra cost is paid from State funds; and
- (ii) the patient, for whatever reason, prefers to be receiving nursing care in a private ward, in which case such patient accepts prior responsibility for the additional costs and settles the difference directly with the relevant hospital authorities.



**PART III****MEDICAL BENEFITS****Benefits and obligations: Members of the Regular Force and the Auxiliary Service and their dependants**

14. (1) The medical, dental and hospital treatment contemplated in regulations 7, 8, 9, 10, 11, 12 and 13 may, subject to the provisions of subregulation (6), be offered to a member of the Regular Force (including a Regular Force member who was compelled to demilitarise) and of an Auxiliary Service, and any dependant of such a member, but does not include the dependants of members of the STS and the Service Corps: Provided that, before any medical, dental and hospital treatment may be offered to any person or category of person regarded as a dependant, written approval must be obtained from the Chief of the SANDF to regard such person as a dependant of the member concerned: Provided further that such approval may be granted only in respect of –

- (a) the spouse of a member;
- (b) the child of a married member if the provisions of regulation 1 with regard to the definition of child have been complied with: Provided further that in the event the court orders that the member be given custody of the child or responsibility for the provision of medical, dental and hospital treatment for the child; and
- (c) the child, born out of wedlock, of a single member if the provisions of regulation 1 with regard to the definition of child have been complied with and the said child is of necessity non-self supporting as contemplated in the said definition: Provided that –
  - (i) if the member is the natural mother or the father of the child, such member shall, on request of the Chief of the SANDF, submit conclusive medical evidence as may be required by the Surgeon-General, at his or her own cost of this fact: Provided further, that if such medical evidence proves to be conclusive, such member's costs in obtaining such medical evidence shall be reimbursed by the Chief of the SANDF;
  - (ii) the member is, in terms of an order by a competent court, responsible for the payment of maintenance and the provision of medical, dental and hospital treatment for the child;
  - (iii) the member is the mother and the child is in her care and the natural father of the child is not responsible for the payment of maintenance and the provision of medical, dental and hospital treatment for the child.

(2) A child in respect of whom maintenance is paid or is payable by any person other than the member concerned or by or in respect of whom any income or earnings of whatsoever nature or compensation for damages is received, must be regarded to be entirely dependent on the member concerned unless, in the opinion of the Chief of the SANDF, such maintenance, earnings, income or compensation for damages is sufficient to provide such child with sufficient food, accommodation, education and medical treatment.

(3) The determination contemplated in subregulation (1) and (2), shall not be granted where –

(a) the member concerned is estranged from his or her spouse and such estrangement is, in the opinion of the Chief of the SANDF not transitory or of a passing nature: Provided that such authority may be granted in cases where a wife does not reside with her husband in a marriage in terms of the Recognition of the Customary Marriages Act, 1998 (Act No. 120 of 1998); or

(b) the child concerned has been removed from the member's custody in terms of any law and has been admitted to a State or a State-aided institution for children in need of care or similar institution or has in accordance with an order of a competent court at State expense been placed in the custody of a foster parent;

(4) No medical, dental or hospital treatment may be offered to –

(a) a member of the Regular Force or Auxiliary Service who is absent from duty without leave;

(b) a member or a dependant of a member or any other person who may be entitled to the treatment contemplated in subregulation (1), while that member or that member's dependant or any other person who may be entitled to such treatment is on leave, tour or visit or for any other reason outside the borders of the Republic;

(c) a member of the Regular Force or Auxiliary Service who has not fulfilled his or her financial obligations contemplated in regulation 7(1)(c).

(5) If a member of the Regular Force or of an Auxiliary Service or the dependant of such member is, on the day of the termination of such member's service, being treated in terms of subregulation (1) as an inpatient in a hospital, such treatment may, with the approval of the Surgeon-General, be continued in terms of this Chapter for 90 days.

(6) The treatment referred to in regulation 7(1)(a) is offered at places or locations designated by the Surgeon-General depending on the availability of the required medical and nursing facilities in connection with the military medical

service and if the said facilities are not available the necessary medical and hospital treatment may, with the prior approval of the Surgeon-General, be provided by a provincial hospital or other institution at State expense.

(7) A member of the Regular Force or of an Auxiliary Service shall, within 14 days of the event, report in writing to his or her Officer Commanding any change whatsoever in the circumstances affecting the provision of the treatment or services referred to in subregulation (1) to such member's dependant, but the costs of any such treatment, services or articles offered contrary to this regulation to or in respect of such dependant owing to such member's failure to report such change, must be recovered from the member concerned.

(8) A member of the Regular Force or of an Auxiliary Service and a dependant of such a member, shall at all times, including any period of leave of absence –

- (a) carry on his or her person the necessary identification as prescribed by the Surgeon-General and leave certificate, to ensure access to medical treatment whenever required; and
- (b) immediately inform, in writing, his or her Officer Commanding of any incident where medical treatment was obtained at any place other than a hospital: Provided that such treatment shall only be rendered within the borders of the Republic of South Africa: Provided further that a member who is absent without leave is not entitled to such medical treatment.

#### **Benefits for members of the Reserve Force**

15. (1) Subject to the provisions of subregulation (2) treatment, services and prosthesis provided for in regulation 7, 8, 9, 10, 11 and 12(1) must be offered to a member of the Reserve Force, if required for a wound or injury or illness which was contracted while on military service or undergoing training, notwithstanding that the duration of such treatment may extend beyond the period of the service, camp, course, parade or other training on which the member was engaged when the member received the wound or injury or contracted the illness.

(2) The treatment referred to in subregulation (1) shall be provided to the member concerned for the duration of the period of military service or training in which that member was engaged when he or she received the wound or injury or contracted the disease in question or through which a disability was caused or aggravated and such treatment –

- (a) shall in the case of a disability to which subregulation (1) applies, be continued after the expiration of the said period until the member has recovered therefrom or until compensation in terms of the provisions of the Military Pensions Act, 1976 (Act No. 84 of 1976), has been made in respect of such disability;

- (b) may in any other case be continued with the approval of the Surgeon-General, for a period not exceeding 90 days after the expiration of the said period of service or training or for a longer period that the Surgeon-General may approve in an exceptional case: Provided that the Surgeon-General may at any time after the expiration of the relevant period of military service or training, authorise the treatment or the resumption of the treatment of a disability to which subregulation (1) applies and in respect of which no compensation referred to in subparagraph (a) has been awarded;
  - (c) shall be provided with due consideration, and where applicable, in compliance with the prescripts with regard to medical treatment for such members whose claims for compensation for injuries or diseases have been accepted in terms of the Military Pensions Act, 1976 (Act No. 84 of 1976); and
  - (d) shall not be offered to a member of the Reserve Force who absented him or herself from duty without leave.
- (3) Regulations 8, 9 and 12 are applicable to a member of the Reserve Force at all times for any period which such member is serving in terms of section 53 of the Act: Provided that –
- (a) dental treatment is confined to emergency treatment and preventive services; and
  - (b) the Surgeon-General may, in an exceptional case for professional reasons, suspend any provision of service contemplated in this regulation with regard to a specific member of the Reserve Force.
- (4) A member of the Reserve Force must, for the purposes of this regulation, be regarded as performing military service or to be undergoing training during any period in which such member –
- (a) is serving in terms of section 53 of the Act;
  - (b) is undergoing any training in terms of the Act;
  - (c) is performing special duty approved in terms of the Act or these Regulations;
  - (d) has, owing to unavoidable circumstances, to remain longer than the stipulated duration of any military service or training, at the place designated therefor;
  - (e) is in terms of this Chapter treated as an inpatient in a hospital;
  - (f) in the course of a period of full-time or continuous service or training –

- (i) is, in terms of these Regulations, temporarily absent on leave from such service or training;
- (ii) is absent from such service or training owing to treatment in terms of this Chapter, including any period required for convalescence;
- (g) is required to travel with Government or other public transport to or from any military service or training or is compelled in the course of such journey to stop over at any place:

Provided that this regulation shall not be so construed as to mean that any member who is absent from any service or training without leave or has been temporarily exempted from service or training in terms of the Act, shall be deemed to be performing service or to be undergoing training while he or she is so absent or exempted.

(5) A member to whom treatment in terms of subregulation (1) has been offered, shall receive pay of rank for each day on which –

- (a) that member has, owing to such treatment, not undergone or performed full-time or continuous service or training for which that member would otherwise have been paid; and
- (b) after the expiration of a period of service or training, such treatment has been offered to the member as an inpatient in a hospital: Provided that –
  - (i) any payment in terms of this regulation shall be in accordance with the pay of rank approved by the Department of Defence on the recommendation of the Department of Public Service and Administration; and
  - (ii) this regulation shall not apply to a member to whom such treatment is provided in respect of a disability, injury or illness which is due to such member's own misconduct.

#### **Exceptional circumstances**

16. If circumstances arise which in the opinion of the Chief of the SANDF justify a departure from any provision of this Chapter, he or she may, on approval of the Department of State Expenditure where expense to the State is involved, authorise such departure.



**PART IV****REGULAR FORCE MEDICAL CONTINUATION FUND**

17. The fund established, known as the Regular Force Medical Continuation Fund, provides medical, dental and hospital treatment to members of the Regular Force who retired or retire on pension on or after 1 January 1964, their dependants and of the dependants of members of the said Force who died or die on or after the said date.

**Authority of the Fund**

18. Without derogating from the provisions of regulation 19(5), 20 and 25, the Fund is an autonomous fund which is authorised to –

- (a) receive and keep in trust any income that may become due to it in terms of this Chapter from contributions or levies on members or from interest on investment that may accrue by way of a donation, a grant, a subsidy or in any other manner;
- (b) defray any expenses from revenue due to it and thus received –
  - (i) which have been incurred as a result of treatment contemplated in regulation 17; and
  - (ii) which have been incurred for the management and functioning of the Fund;
- (c) invest any part of such income for the benefit of the Fund or recall such investments.

**Establishment of the Management Board**

19. (1) A Management Board is hereby established for the Fund, which consists of the following board members who will also have the same fiduciary duties as Trustees:

- (a) the Surgeon-General as the Chairperson;
- (b) one member appointed by each of the Chiefs of the Services of the SANDF;
- (c) the Chief Financial Officer of the DOD or a member appointed by him or her;
- (d) a Service Systems Specialist from Chief Director HR Policy and Planning;
- (e) the Sergeant-Major of the SANDF;



- (f) three retired members of the Regular Force who are beneficiaries of the Fund, nominated by the other members of the Board at their first meeting of any year, of which one shall be a Warrant Officer or Non-Commissioned officer;
- (g) four members from the ranks of registered military trade unions, provided that no military trade union shall have more than two members at any given time;
- (h) a registered medical officer nominated by the Surgeon-General;
- (i) a medico-legal qualified officer from the Medico-Legal Services of the South African Military Health Services nominated by the Surgeon-General; and
- (j) a communications officer nominated by the Surgeon-General in consultation with the Chief of Defence Corporate Communication as a co-opted member.

(2) Each member of the Board, including the chairperson, must appoint a specific person as a representative who has to attend the meeting of the Board in the absence of that member and participate in the proceedings of the meeting and have a right to cast a vote at such a meeting.

(3) The Board may at any time co-opt or appoint any number of persons or relevant institution to assist the Board in any advisory capacity, including but not limited to financial planning, management of the Fund and the administration and control of the Fund: Provided that where such a co-opted person or institution is not a member of the SANDF or in the employ of the Department of Defence, the Fund shall carry all reasonable expenses relating to such co-option or appointment.

(4) (a) The Board may -

- (i) appoint a competent officer or retired officer of the Regular Force or any employee of the Department of Defence, or any civilian person or institution as Administrator of the Fund to control, co-ordinate and perform the administrative duties relating to the Fund on behalf of the Board on a day-to-day basis;
- (ii) appoint a competent officer or retired officer or the Regular Force or any employee or the Department of Defence, or any civilian person or institution as Manager of the Fund to control, co-ordinate and perform the managerial duties relating to the Fund on behalf of the Board on a day-to-day basis;
- (iii) appoint a competent officer or retired officer of the Regular Force or any employee of the Department of Defence, or any

civilian person or institution as the Accountant of the Fund to control, co-ordinate and perform financial duties relating to the Fund on behalf of the Board on a day-to-day basis;

- (iv) appoint any number of competent officers or retired officers of the Regular Force, employees of the Department of Defence, or civilian persons or any institution to provide full- or part-time administrative, secretarial and support duties relating to the Fund on behalf of the Board on a day to day basis;
- (v) appoint a competent officer or a retired officer of the Regular Force or any employee of the Department of Defence, or any civilian person or institution as the principal officer of the Fund to control, co-ordinate and perform the duties relating to the statutory functions of a principal officer to the Fund on behalf of the Board on a day to day basis;
- (vi) delegate certain responsibilities, including but not limited to the making of decisions on the payment of benefits or any other matter relating to the functioning of the Fund: Provided that such decisions must be legal and must comply with the provisions of this Chapter; and
- (vii) outsource the managerial, administrative and any other functions to an Administrator in order to execute, control, co-ordinate or perform such functions required for the efficient management and control of the Fund on behalf of the Board or the Fund, or both, on a day-to-day basis.

- (b) The Secretary for Defence or his or her delegatee may approve the establishment of posts on the fixed establishment of the Regular Force for appointing personnel to perform the co-ordinating and administrative functions required for the efficient management and control of the Fund.

(5) If any institution or person, who is not a member of the SANDF or an employee of the Department of Defence, is co-opted or appointed, or any function outsourced in terms of subregulation (3) or (4), the Fund carries the full cost with regard to the co-option or employment of such a person, institution or for such outsourcing.

(6) The Fund is a body corporate, independent of its members and is the owner of its assets and is competent to procure rights and incur liabilities in its own name and to act as claimant and defendant in litigation.

### **Duties and powers of the Management Board**

20. (1) The Board must exercise control over the assets of the Fund in such a manner that at all times sufficient liquid assets are available to cover expenditure and for this purpose the Board is authorised to –

- (a) open an account at a financial institution in the name of the Fund, to operate the account and to decide on the availability of cash from that account, before defraying any expenses or making any investment in terms of regulation 18(b) and (c);
- (b) exercise general control over the scope and manner in which treatment shall be provided in terms of this Chapter and with regard to such provision, to repeal a decision or instruction given in terms of this Chapter by the Surgeon-General or an official of the Fund, or to amend or replace it with another decision or instruction; and
- (c) do anything deemed necessary to organise or operate the Fund or the provision of medical, dental or hospital treatment to a beneficiary of the Fund.

(2) The Surgeon-General is the chairperson of the Board and in his or her absence the most senior member of the members contemplated in regulation 19(1)(b), (c) and (d) shall act as chairperson.

(3) The Board may implement any additional measures regarding its method of work: Provided that such measures are not in conflict with the provisions of this Chapter.

(4) The Board convenes as often as the Chairperson deems necessary but at least twice annually, which meeting shall be attended by the Board members or their specific representatives unless the serving chairperson, for sound reasons, exempts them from attending the meeting.

- (5) (a) A quorum for a meeting consists of a two-third majority of the total number of members serving on the Board.
- (b) A decision is reached by majority vote of Board members attending the meeting and in the event of an equality of votes the chairperson of the meeting shall have a casting vote.
- (c) A two-third-majority vote of the Board members attending the meeting is required to revoke, amend or replace any of the decisions regarding the rendering of a service contemplated in subregulation (1)(b) and (1)(c).

(6) The minutes of every meeting of the Board shall be recorded in a book kept for that purpose by the Manager, and the minutes of the previous meeting shall,

after approval, and after the Chairperson has signed them, serve as *prima facie* proof that the business, as recorded, is the business of that previous meeting.

(7) Any deed, contract, power of attorney, promissory note or other document must be regarded to have been executed on behalf of the Fund or the Board, if it has been signed under the name of the Fund by one member of the Board designated by the Board for that purpose and by the Manager thereof and a promissory note or a cheque drawn against an account of the Fund, must be signed by two persons designated by the chairperson for that purpose.

(8) (a) The Manager of the Fund may, with the consent of the Board, or if the Board cannot be convened in time, the chairperson of the Board, according to the circumstances of the case, on behalf of the Fund sue, institute action, appear in any action against the Fund, lodge an appeal or give notice of intention to defend;

(b) Any such action contemplated in subparagraph (a) which was taken with the consent of the chairperson must be submitted by the Manager to the Board for confirmation at the next meeting.

(9) (a) Any member of the Board, excluding specific representatives of members, may request the chairperson, in writing and through the office of the Manager or Administrator, to convene a meeting of the Board to discuss matters raised in the request.

(b) The chairperson must, without delay, inform the other members of the Board of a request contemplated in subparagraph (a) and convene a meeting of the Board within 30 days after having been informed of the request.

(c) If the chairperson fails to convene a meeting contemplated in subparagraph (a), the members of the Board may, after informing the chairperson in writing, convene a meeting themselves.

(d) If a quorum is present at a meeting contemplated in subparagraph (a), the decision of the two thirds of members of the Board present at that meeting, subject to the provisions of this Chapter is binding.

(10) The Department of Defence, the members of the Board, any member of the SANDF and anyone who makes a contribution to or is benefiting from the Fund, is not, without an undertaking to the contrary, liable for any debt of the Fund.

**Members of and contributions to the Fund****21. (1) Every –**

- (a) member of the Regular Force who contributes to the Government Employees Pension Fund in terms of the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996);
- (b) person who, in terms of subregulation (3), becomes a beneficiary of the Fund; and
- (c) former member of the Regular Force who, through compelled demilitarisation, becomes an employee of the Department of Defence,

is a member of the Fund and compelled to contribute towards the Fund according to the tariffs, which the Board may determine from time to time.

**(2) Any amount contemplated in subregulation (1) that is payable from time to time by –**

- (a) any such member contemplated in subregulation (1)(a) and former member contemplated in subregulation (1)(c), is deducted monthly from that member's salary; or
- (b) any beneficiary contemplated in subregulation (1)(b), is deducted monthly from that beneficiary,

is paid to the Fund subject to the provisions of subregulation (4) and (13).

**(3) A contributor to the Fund who has contributed for a continuous period of at least ten years towards the Fund becomes a beneficiary of the Fund if -**

- (a) he or she retires and is in terms of the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996), or Special Pensions Act, 1996 (Act No. 69 of 1996) entitled to an annuity;
- (b) he or she reaches a retirement age determined by or in terms of Chapter III or Chapter IV of these Regulations and is discharged and is entitled to an annuity in terms of the Government Employees Pension Law, 1996 (Proclamation No. 21 of 1996);
- (c) his or her service is terminated prior to his or her retirement age as a result of voluntary acceptance of a severance package offered to him or her in terms of the Government Employees Pension Fund or any other severance package or measure approved by the Minister of Defence, including any severance package or measure offered, designed to facilitate and enhance the achievement of representivity in the SANDF, on the conditions prescribed by the Chief of the SANDF: Provided that any person who elects to accept a single sum gratuity must, for the purpose of Chapter XV of these Regulations, be regarded to have retired as if with a gratuity and annuity;



- (d) he or she voluntarily terminates his or her services prior to retirement age, but not prior to attaining the age of 50, other than by retirement or with a severance package or measure as contemplated in subregulation (3)(c): Provided that any person who so terminates his or her services and who is not entitled to a gratuity and an annuity as provided for in the Government Employees Pension Fund, must for the purposes of this Chapter, be regarded as having retired with a gratuity and annuity;
  - (e) A person contemplated in subregulation (3)(d), is liable for his or her and his or her dependants' own medical expenses until the age of 60;
  - (f) In the event that a person contemplated in subregulation (3)(d) dies before reaching the age of 60, any dependant will become a beneficiary of the Fund only on the date on which the deceased would have attained the age of 60;
  - (g) any member or employee contemplated in subparagraphs (c), (d), (e) and (f) must pay to the Fund an amount as determined by the Board on recommendation of the actuary from time to time, which amount must be a realistic and justifiable amount to carry the cost of services provided by the Fund.
- (4) Any member of the Regular Force who, in terms of his or her employment contract, will not be able to render ten years' continuous service or who will not be able to render such service prior to attaining the age of 60 years, may be allowed by the Board to become a member of the Fund in exceptional cases on such conditions as the Board may determine.
- (5) (a) A spouse, who is a dependant of a contributing member who dies whilst serving, becomes a beneficiary of the Fund.
  - (b) A contributor to the Fund becomes a beneficiary of the Fund if he or she is discharged from the Regular Force as the result of a Medical Board declaring the member unfit for further service in the SANDF.
- (6) Notwithstanding any provision of this Chapter –
- (a) a beneficiary in terms of subregulation (3) who, prior to the commencing date of the regulations in this Chapter was a contributor to the Fund and who, between 1 January 1964 and 31 March 1990 (both dates inclusive), retired or was discharged in terms of subregulation (3) and the spouse of such beneficiary in the case where the beneficiary dies or has died, are exempted from any obligations regarding the payment of any further monthly contributions to the Fund or any increases thereof;



- (b) a beneficiary who was a contributor and who, between 1 April 1990 and the commencing date of this Chapter (both dates inclusive), retired or was discharged in terms of subregulation (3) and the spouse of such beneficiary in the case where such beneficiary dies or has died, must pay in one sum monthly contributions that were applicable on the date of retirement, discharge or death calculated until the contributor would have attained the age of 60 years to the Fund: Provided that –
  - (i) the beneficiary is responsible and compelled to pay any subsequent increase in the monthly contributions applicable to serving members of the Regular Force in one sum, calculated from the date on which such increase becomes effective and until the beneficiary attains or would have attained the age of 60 years, to the Fund; and
  - (ii) should the beneficiary not be in a position to pay the increase in one sum to the Fund, the Board may allow the beneficiary to settle the outstanding amount plus interest in monthly instalments as arranged with the Manager of the Fund from time to time;
- (c) any beneficiary who is a contributor to the Fund who retires or is discharged in terms of subregulation (3) or (5)(b) as from the commencing date of the regulations in this Chapter and the spouse of that beneficiary in the case where the beneficiary dies after that date, must pay to the Fund in one sum, the monthly contributions that were applicable on the date of retirement, discharge or death for the period until the contributor would have attained the age of 60 years: Provided that –
  - (i) the beneficiary is responsible and compelled to pay any subsequent increase in the monthly contributions applicable to serving members of the Regular Force in one sum, calculated from the date on which such increase becomes effective and until the beneficiary attains or would have attained the age of 60 years, to the Fund; and
  - (ii) should the beneficiary not be in a position to pay the increase in one sum to the Fund, the Board may allow the beneficiary to settle the outstanding amount plus interest in monthly instalments as arranged with the Manager of the Fund from time to time;
- (d) any contributor who enrolled in the Regular Force under contract and whose contract expires after completion of ten years' continuous service, but prior to attaining the age of 60 years, may at his or her own request, be allowed by the Board to continue the payment of monthly contributions to the Fund that may be determined from time to time

until the contributor attains the age of 60 years in exceptional cases and on such conditions that the Board may determine; and

- (e) any beneficiary contemplated in subregulations (6)(b) to (d) may, notwithstanding the provisions of those provisions, be compelled by a decision of the Board to continue with monthly contributions to the Fund after attaining the age of 60 years at a rate determined from time to time in respect of the beneficiary and dependants, until the beneficiary attains the age of 75 years.

(7) The provisions of subregulation (6) are applicable, with the necessary changes, to a widow or widower who becomes a beneficiary of the Fund owing to the death of a person referred to in subregulations (3)(a) to (3)(d) or (5)(a) or (5)(b).

(8) Without derogating from the provisions of regulation 23, the Board may, subject to subregulation (6) above, authorise that a child who is a dependant be entitled to the benefits of the Fund if –

- (a) the child is a child of a deceased beneficiary contemplated in subregulation (6) who is not survived by a spouse or whose widow or widower dies after the death of a beneficiary; and
- (b) the Board is satisfied that the child will otherwise not be adequately provided for in respect of medical, dental and hospital expenses.

(9) The Board may authorise that a child be entitled to the benefits of the Fund in terms of subregulation (8) on condition that regular monthly contributions applicable to serving members in respect of the child are paid and that any otherwise applicable stipulations of subregulation (5) determined by the Board, are complied with.

(10) Notwithstanding the other provisions of this Chapter, the Board may, on the conditions that it may determine, admit as a beneficiary of the Fund a member of the SANDF who is not or who in terms of this Regulation may not be such a beneficiary if, in the discretion of the Board such a person should on account of considerations of fairness, be such a beneficiary, and such conditions may provide for –

- (a) any amount or amounts which the beneficiary is liable to pay and any future contributions which he or she, or, if he or she dies within a period determined by the Board, his widow or her widower or other dependant who is entitled to benefits under the Fund, shall be liable to the Fund;
- (b) circumstances under which the benefits of the beneficiary or, in the event of his widow or her widower being compelled to pay future contributions to the Fund, his or her benefits, or the benefits of his or her dependants, as the case may be, may lapse,

and thereupon the provisions of regulation 24 and 25 shall apply to such beneficiary or to his widow or her widower if he or she becomes a beneficiary by virtue of the conditions laid down by the Board and to his or her dependants, as the case may be.

(11) The Board may, in cases which the Board deems to be exceptional and deserving, without prejudicing a person's right to benefits from the Fund, grant exemption from payment of contributions referred to in subregulation (6) or any provision thereof.

(12) Notwithstanding any provision of this Chapter, it is the responsibility of a member who wishes to be registered as a beneficiary of the Fund, to ensure that such application is submitted through the prescribed channels, to the administrative offices of the Fund, before he or she leaves the service of the SANDF, but in any event not later than three months after his or her last day of service.

(13) A serving member of the Regular Force who obtains beneficiary status of the Fund due to the death of her or his spouse, is exempted from the provisions of regulation 21(2)(a).

(14) The Board may prescribe the circumstances and conditions under which the Manager may refund the value of contributions received by the Fund, as determined by the Fund's Actuary from time to time, to a member or beneficiary.

#### **Termination of membership**

22. The membership of a member who is a contributor to the Fund as well as his or her dependant's claim to the benefits emanating from the Fund, lapses with effect from the date on which that contributor's service in the Regular Force is terminated if –

- (a) that service is terminated for any reason other than the reasons mentioned in regulation 21(3);
- (b) the contributor is serving in terms of a Service Term System in the Regular Force and such term of service is terminated –
  - (i) prior to the completion of ten years' continuous service, but after attaining the age of 60 years; and
  - (ii) on completion of ten years' continuous service, but before attaining the age of 60 years and the contributor does not elect in terms of regulation 21(6)(d) to continue contributing to the Fund, or the Board refuses his or her request to continue to contribute, or if such contributor neglects to continue with the payment of monthly contributions to the Fund as authorised by the Board.

**Inclusion of dependant to participate in benefits of the Fund**

23. A dependant may only participate in the benefits offered by the Fund if prior written approval has been obtained from the Manager for such persons or category of person's inclusion as a dependant of a beneficiary: Provided that such dependant conforms to the requirements contemplated in regulation 14.

**Rights, privileges and duties in respect of the Fund**

24. (1) Notwithstanding any provision in this Chapter, the dependants of a member who has contributed to the Fund for a continuous period of not less than ten years and whose payments are up to date, are entitled to the benefits offered by the Fund with effect from the date on which the contributor's service in the Regular Force is terminated for any one of the reasons referred to in regulation 21(4): Provided that such member has met all financial obligations provided for in this Chapter.

(2) Any person, including a beneficiary contemplated in regulation 21(6) and a dependant of such a beneficiary who is entitled to benefits from the Fund or at State expense (subsistence and travel allowance) in terms of this Chapter, is only entitled to the treatment and service referred to in regulations 7, 8, 9, 10, 11 and 12, on condition that any contribution that is due or payable to the Fund, by him or her is paid and that all provisions or requirements of this Chapter are complied with.

(3) The Board may, with due regard to the circumstances, age, mental development of, the custody and the guardianship of a child contemplated in regulation 21(8), determine conditions deemed to be necessary for the control and administration of the treatment of such child in terms of this Chapter.

(4) Notwithstanding any other provision of this Part –

- (a) every person who is entitled to benefits from the Fund and to whom medical, dental or hospital treatment or any prescriptions or copies of such prescriptions, medicine, dressings, medical prosthesis, medical aids or any other service is supplied on conditions determined by the Surgeon-General, shall pay to the Fund a contribution in the form of a levy contemplated in subregulation (14): Provided that different levies in respect of different categories of beneficiaries or suppliers of such services may be determined;
- (b) every beneficiary and every other person who is entitled to the benefits from the Fund, must comply with prescripts and furnish the particulars which the Board may determine or require from time to time in connection with any levy contemplated in subregulation (a); and
- (c) every person who is entitled to benefits from the Fund must, in order to receive any treatment –

- (i) furnish at the times, in the manner and to the person as the Board may, either in general or in a particular instance, designate such personal or other particulars for the proper application of this Chapter and for properly exercising control over the provision of such treatment; and
- (ii) comply with the instructions issued from time to time by the Board with regard to the identification of the person to whom the treatment is given and that person shall comply with the procedures which have been laid down by the Surgeon-General with regard to the provision of such treatment.

(5) If a beneficiary or the dependant of a beneficiary fails to comply with any of the requirements of subregulation (4)(b) or (c) or an instruction issued in terms thereof, the Surgeon-General or the Manager shall arrange that, for the duration of such failure, all treatment and benefits derived from the Fund, be discontinued in respect of that beneficiary or the dependant of a beneficiary.

(6) If a beneficiary, his or her dependant or any other person entitled to the benefits from the Fund, fails to inform the Manager within 30 days from the date of any change in marital status or the status of the dependant concerned, which change affects the right of the beneficiary or his or her dependant to treatment in such a manner that the right must be suspended, or if such beneficiary or any other person concerned fails to comply with the provisions of subregulation (4)(b) or (c) or with any of the instructions issued in terms thereof, and as a result of such failure treatment is given to any person contrary to subregulation (5), the Manager must report the failure to the Board who may order that the expenses incurred for the treatment be refunded to the Fund and the Surgeon-General must arrange that, for the duration of the failure, all treatment and benefits derived from the Fund be discontinued in respect of that beneficiary or his or her dependant or any other person.

- (7) The Surgeon-General must report any –
- (a) treatment received by a beneficiary of the Fund or by his or her dependant or by any other person who is entitled to benefits from the Fund which has been provided in contravention of this Chapter; and
  - (b) unprofessional conduct or irregularity that occurs with regard to the provision by a pharmacist, doctor or any other person of medicine, dressings, medical prosthesis, treatment or service to a beneficiary, his or her dependant or to another person entitled to benefits from the Fund,

which comes to his or her notice to the Board, and the Board may terminate the benefits received by the beneficiary, his or her dependant or any other person, or instruct the beneficiary concerned or the other person to repay the unauthorised expenditure to the Fund.



- (8) (a) Whenever the Surgeon-General deems it necessary, in respect of the admission or future admission of a person to a hospital in terms of subregulation (2) and the person's medical condition makes him or her unfit to provide his or her own transport, the Surgeon-General may authorise the transportation of such person to and from hospital in an ambulance or any Government or public transport and for this purpose authorise the issue authority for the most economical method of transport against repayment: Provided that authorisation for the use of private transport, where Government or public transport is not available or feasible, may be granted by the Manager of the Fund on a standing authorisation of the Surgeon-General;
- (b) the Fund must pay for the use of any transport authorised in terms of subparagraph (a) according to –
- (i) the tariffs laid down by Treasury for Government transport;
  - (ii) the public tariffs laid down in respect of transport by rail or by air; and
  - (iii) the tariffs applicable to any other form of transport,

as the case may be.

(9) Notwithstanding any provision of this Chapter, a beneficiary must make use of the medical facilities offered by a military medical or nursing institution, sickbay or a military medical clinic of the SANDF or any other institution designated by the Surgeon-General: Provided that –

- (a) any person who is entitled to make use of the benefits offered by the Fund may, for sound reasons, obtain prior approval from the Surgeon-General in consultation with the Manager to make use of the services of a medical or dental practitioner who does not have any of the facilities of the mentioned institutions;
- (b) any beneficiary or person entitled to benefits from the Fund may, without creating liability for the Fund, obtain medical treatment elsewhere at own expense;
- (c) the Board may, on the recommendation of the Surgeon-General, authorise the Fund to defray the expenses incurred for urgent medical, dental or hospital treatment by any medical or dental practitioner or hospital in a case of emergency to any person who is entitled to the benefits offered by the Fund; and
- (d) the beneficiaries of the Fund who retired in Namibia before its independence or to whom benefits had been extended individually and in writing before a certain date (21 March 1990 (1 March 1994 in



respect of Walvis Bay)), may utilise private medical facilities in Namibia at the expense of the Fund: Provided further that they are liable to pay a levy at the rate prescribed under subregulation (14) on such services.

(10) If any person who is entitled to the benefits offered by the Fund wishes to obtain treatment additional to the treatment provided for in terms of this Chapter or the use of alternative hospital facilities, he or she must obtain prior written approval from the Surgeon-General, who may lay down conditions regarding the nature and provision thereof or may authorise that it or any part thereof be provided at the expense of the Fund: Provided that if the conditions laid down are not complied with, the Fund will not be liable for the payment of those expenses.

(11) The Fund may claim from the beneficiary or any other person entitled to benefits from the Fund, the costs of any treatment provided to the beneficiary, his or her dependant or to such other person for any injury or illness caused by a third party against whom such a beneficiary, his or her dependant or such other person, would otherwise have had a right to claim damages if the Fund had not paid such costs, irrespective of whether the beneficiary, his or her dependant or such other person has exercised that right or not: Provided that the said costs will not be recovered from the beneficiary or the person concerned if –

- (a) the Manager is notified in writing of the cause for such claim within 30 days after a claim has arisen;
- (b) the beneficiary or any other person entitled to benefits from the Fund has at no time accepted an unauthorised settlement of such claim or, if it is applicable, has not agreed to the acceptance of a settlement by a dependant of the person concerned, or has not made an admission to the detriment of the Fund to a third party; and
- (c) the beneficiary or any other person entitled to benefits from the Fund has recovered the costs of such treatment and has reimbursed the Fund, or has ceded any claim for the reimbursement of such treatment or expenses to the Fund.

(12) This Chapter does not authorise the provision, at the expense of the Fund, of treatment contemplated in regulation 14(3), irrespective of whether such treatment is provided in terms of subregulation (11) or in terms of any other Act.

- (13) (a) The Manager may withdraw a document issued in terms of this Chapter for the identification of a beneficiary or his or her dependant or any other person entitled to benefits from the Fund which authorises any treatment in terms of this Chapter, if the benefits of a person referred to therein or the right of such a person to treatment in terms of this Chapter, has been suspended or cancelled or if such person's right thereto has been terminated.

(b) If the Manager demands the document contemplated in subparagraph (a), the person in whose possession the document may be, must hand or cause it to be handed over to the Manager.

(14) A contribution in the form of a levy must be paid by a beneficiary as an additional payment and consists of a percentage determined by the Board from time to time on all medical services rendered by a private practitioner, other than the Surgeon-General: Provided that such levy is not payable in cases where the beneficiary has been referred to an authority outside the SANDF by the Surgeon-General or his or her delegate for such treatment or service.

#### **Basis for provision of treatment**

25. (1) The Surgeon-General regulates and controls the provision of medical, dental and hospital treatment to a person entitled to it in terms of this Chapter and such treatment is, subject to subregulation (2), given to that person as if he or she is a serving member of the Regular Force or a dependant of any such member or any other person entitled to benefits from the Fund.

(2) The Surgeon-General or a medical officer delegated by the Surgeon-General may, subject to subregulation (3), when authorising the treatment contemplated in subregulation (1) –

- (a) use any military medical service or facility under the control of the Surgeon-General;
- (b) without derogating from the provisions of regulation 24(9) and (10) if any beneficiary or, if applicable, his or her dependant or any other person entitled to benefits from the Fund resides at a place where there is no military hospital or where a military hospital is unable to accommodate or to treat the person concerned, because of lack of space or the absence of facilities which, in the opinion of the Surgeon-General or the medical officer are required for the treatment of such person, authorise the admission to or the treatment of that patient at any other hospital or institution that may be designated for the purpose;
- (c) without derogating from the provisions of regulation 24(9)(b) and (10), grant prior authorisation for the provision of such service or facility by a private medical practitioner or medical institution in addition to the services and facilities referred to in subregulation (2)(a) and (b); and
- (d) provide any person referred to in subregulation (1) with medicine, dressings, medical prostheses, medical aid and other services from Government supplies as part of such person's treatment, or give prior authorisation for the provision thereof in another manner.

(3) The Fund must reimburse the State for any treatment and for the medicine, dressings, medical prostheses, medical aids as well as any other services

provided in terms of this Chapter, subject to the conditions and at the rates laid down from time to time by the Surgeon-General with the approval of the Treasury in respect of –

- (a) the use of military services and facilities and the provision of medicine, dressings and medical prostheses, medical aids and other items from Government supplies;
- (b) the provision of a service or the use of a facility referred to in subregulation (2)(b); and
- (c) a service or facility referred to in subregulation (2)(c), by agreement with the institution or person concerned: Provided that –
  - (i) the tariffs laid down for the purpose of subregulation (3)(a) and (b) do not include the provision of anything which does not form part of Government supplies and which has to be procured by the State for the treatment, or of medicine, dressings, medical prostheses, medical aids or services which, for the purposes of this Regulation, are supplied by a private pharmacist on prescription to a beneficiary, his or her dependant or any other person who is entitled to benefit from the Fund, and any such acquired article, medicine, dressing, medical prostheses, medical aids or service shall be paid for in full by the Fund; and
  - (ii) the tariffs laid down for the purposes of this subregulation do not exceed the preferential scale applicable to the provision of similar services and facilities to members of other medical aid societies.

#### **Administrative provisions**

26. (1) The Accountant and other personnel of the Fund shall –
- (a) open and keep up to date account books of the Fund;
  - (b) undertake the financial administration of the Fund in accordance with the decisions of the Board; and
  - (c) arrange for the auditing, by a chartered accountant appointed by the Board, of the account books and accounts of the Fund and for submission to the Board of the report and statements referred to in subregulation (5).
- (2) The Manager controls, co-ordinates and carries out the administrative duties relating to his or her office, keeps a record of contributors and beneficiaries and exercises control over contributors and beneficiaries in accordance with regulation 24.

(3) The Chief of Finance must deduct the contributions of a member contemplated in regulation 21(1)(a) and (1)(c) from his or her salary and deposit the total amount of contributions into the Fund every month and notify the Accountant of the total amount thus deposited.

(4) The Surgeon-General shall regularly submit to the Accountant for settlement –

- (a) accounts drawn up in accordance with tariffs laid down in terms of regulation 25(3) for services, facilities, medicine, dressings and medical prostheses and any other services which the military medical organisation has rendered in terms of this Chapter;
- (b) accounts submitted by any institution or person in accordance with regulation 25 after examining and certifying them as payable; and
- (c) any account referred to in subparagraph (b) which has not been certified, but the payment of which has been specially authorised by the Board.

(5) The Board shall submit annually within six months of the closing of the financial year of the Fund –

- (a) audited statements of accounts of the assets and liabilities and of the income and expenditure of the Fund for the financial year concerned; and
- (b) a report on the execution of the control functions for the period and the aims and planning for future activities,

to the Chief of the SANDF.

(6) The statements referred to in subregulation (5)(a) must be made available to a contributor or beneficiary on submission of a written application.

## PART V

### MEDICAL FUND B FOR REGULAR FORCE MEMBERS WHO RETIRED ON PENSION BEFORE 7 JANUARY 1964 AND THEIR FAMILIES

#### Establishment of the Fund

27. There is hereby established a fund that is known as the Regular Force Medical Fund B for the Regular Force to provide medical, dental and hospital treatment to members of the Regular Force who retired on pension before 1 January 1964, their families and to the families of members of the said Force who died before the said date.

#### Authority of the Fund

28. Without derogating from the provisions of regulation 35, the Fund is authorised to –

- (1) receive and keep in trust any income that may become due to it in terms of this Chapter from contributions or levies on members or from interest on investments, which may accrue by way of donations, grants, or a subsidy or in any other manner;
- (2) defray any expenses from revenue due to it and received –
  - (a) which result from treatment contemplated in regulation 27;
  - (b) which have necessarily been incurred for the organisation and functioning of the Fund; and
- (3) invest any part of such income for the benefit of the Fund or recall any such investments.

#### Establishment of Management Board

29. (a) A Management Board is established for the Fund.

(b) The provisions of regulations 19 and 20 of this Chapter apply subject to the necessary changes to this Part.

#### Members of and contributions to the Fund

30. Every person who retired on pension before 1 January 1964 –

- (1) who, during that period of service in the Regular Force, contributed to a Government Pension Fund in terms of the applicable pension laws and receives an annuity therefrom;



(2) who before the said date was discharged as medically unfit and instead of or in addition to the annuity referred to in subparagraph (1) receives an annuity in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993); or

(3) who is the widow or widower of a person who died during his or her period of service,

may, subject to the provisions of this Chapter, be admitted as a member of the Fund: Provided that any widow or widower who is admitted to the Fund shall contribute to the Fund.

31. (1) Every beneficiary of the Fund shall contribute annually an amount of R36 in advance to the Fund, which contribution may from time to time be increased by the Board, by not more than 15% annually.

(2) Every person who in terms of this Chapter is entitled to become a member of the Fund, shall on acceptance of his or her application, sign an undertaking to the effect that all financial and other obligations referred to in this Chapter towards the Fund shall be met.

(3) If a beneficiary of the Fund dies, his widow or her widower may, on payment of the contribution referred to in subregulation (1) and on signing the undertaking referred to in subregulation (2), remain a beneficiary of the Fund and enjoy the medical benefits contemplated in regulation 34.

#### **Termination of Membership**

32. (1) No person whose membership has been terminated in terms of regulation 33(1), is entitled to any reimbursement of contributions made by or on his or her behalf to the Fund.

(2) The Board may authorise that a dependant be entitled to the benefits of the Fund if –

- (a) the child is a child of a member or beneficiary referred to in regulation 30 who dies as a member or beneficiary of the Fund; and
- (b) the Board is satisfied that the child of a deceased member or beneficiary will otherwise not be adequately provided for in respect of medical, dental and hospital expenses.

#### **Rights, privileges and responsibilities of members of the Fund**

33. (1) A beneficiary and his or her dependant or any other person contemplated in regulation 30 who, in terms of this Chapter is entitled to benefits from the Fund is, while his or her membership of the Fund continues, but subject to the provisions of this Chapter and subregulation (2), restricted to the treatment and services referred to in regulations 7, 8, 9, 10, 11 and 12, and receives them as if he



or she has not retired, on condition that any contribution or contributions payable to the Fund by any person is paid and that any instruction or condition laid down in terms of this Chapter has been complied with: Provided that no such beneficiary or his or her dependant or any other person who is entitled to benefits from the Fund is entitled to any treatment and services in terms of this Chapter unless he or she has made contributions for three months in terms of regulation 34(1) to the Fund: Provided further that the Board may determine the treatment to which a beneficiary of the Fund is entitled.

(2) The Board may, with due regard to the circumstances, age, mental development of, the custody and the guardianship of a dependant referred to in regulation 32, determine conditions deemed necessary for the control and administration of the treatment of such dependant in terms of this Chapter.

(3) Every person who is entitled to benefits from the Fund must, in order to receive any treatment –

- (a) furnish, at times, in a manner determined by the Board and to a person whom the Board may, whether in general or in a particular instance designate, personal or other particulars required for the proper application of this Chapter and for the proper exercise of control over the provision of such treatment;
- (b) comply with the instructions issued from time to time by the Board with regard to the identification of a person to whom treatment is given or service is rendered and that person shall also comply with the procedures that have been laid down by the Surgeon-General with regard to the provision of such treatment; and
- (c) notwithstanding the provisions of subregulation (1), pay a levy determined under subregulation (13) to the Fund for any prescription or copy of a prescription or for any medicine, dressings, medical prosthesis, medical aid or any other service supplied on such conditions as may be determined by the Surgeon-General: Provided that different levies in respect of different categories of beneficiaries or suppliers can be determined.

(4) If a beneficiary or his or her dependant or any other person entitled to benefits from the Fund, fails to comply with any of the requirements of subregulation (3)(b) or (c) or an instruction issued in terms thereof, the Surgeon-General or the Manager shall arrange that, for the duration of such failure, all treatment and benefits derived from the Fund be discontinued in respect of such beneficiary, his or her dependant or such other person.

(5) If a beneficiary or any other person entitled to benefits from the Fund fails to inform the Manager within 30 days from the date, of any change in his or her marital status or the status of a dependant, which affects the right of the beneficiary or that of his or her dependant to receive treatment to an extent that his or her right

must be suspended, or if the beneficiary or any other person fails to comply with the provisions of subregulation (3)(a) and (b) or with any of the instructions issued in terms thereof and as a result of such failure treatment is given to any person contrary to subregulation (4), the Manager must report the failure to the Board, who may order the person concerned to repay the costs of the treatment to the Fund, and the Surgeon-General must arrange that, for the duration of the failure, all treatment and benefits derived from the Fund be discontinued in respect of that beneficiary, his or her dependant or any other person.

- (6) The Surgeon-General must report any –
- (a) treatment received by a beneficiary of the Fund or by his or her dependant or by any other person who is entitled to benefits from the Fund, which has been provided contrary to this Chapter; and
  - (b) unprofessional conduct or irregularity that occurs with regard to the provision by a pharmacist, doctor or any other person of medicine, dressings, medical prosthesis, treatment or service to a beneficiary, his or her dependant or to another person entitled to benefits from the Fund,

which comes to his or her notice to the Board, and the Board may terminate the benefits received by the beneficiary, his or her dependant or any other person, or instruct the beneficiary concerned or the other person, to repay the unauthorised expenditure to the Fund.

- (7) (a) Whenever the Surgeon-General deems it necessary, in respect of the admission or future admission of a person to a hospital in terms of subregulation (1) and the person's medical condition makes him or her unfit to provide his or her own transport, the Surgeon-General may authorise the transportation of such person to and from hospital in an ambulance or any government or public transport and for this purpose authorise the issue authority for the most economical method of transport against repayment: Provided that authorisation for the use of private transport, where Government or public transport is not available or feasible, may be granted by the Manager of the Fund on a standing authorisation of the Surgeon-General;
- (b) the Fund must pay for the use of any transport authorised in terms of subparagraph (a) according to –
- (i) the tariffs laid down by Treasury for Government transport;
  - (ii) the public tariffs laid down in respect of transport by rail or by air; and
  - (iii) the tariffs applicable to any other form of transport,

as the case may be.

(8) Notwithstanding any provision of this Chapter, a beneficiary must make use of the medical facilities offered by a military medical or nursing institution, sickbay or a military medical clinic of the SANDF or any other institution designated by the Surgeon-General: Provided that –

- (a) any person who is entitled to make use of the benefits offered by the Fund may, for sound reasons, obtain prior approval from the Surgeon-General in consultation with the Manager to make use of the services of a medical or dental practitioner who does not have any of the facilities of the mentioned institutions;
- (b) any beneficiary or person entitled to the benefits from the Fund may, without creating liability for the Fund, obtain medical treatment elsewhere at own expense; and
- (c) the Board may, on the recommendation of the Surgeon-General, authorise the Fund to defray the expenses incurred for urgent medical, dental or hospital treatment by any medical or dental practitioner or hospital in a case of emergency to any person who is entitled to the benefits offered by the Fund.

(9) If any person who is entitled to the benefits offered by the Fund wishes to obtain treatment additional to the treatment provided for in terms of this Chapter or the use of alternative hospital facilities, he or she must obtain prior written approval from the Surgeon-General who may lay down conditions regarding the nature and provision thereof or may authorise that it or any part thereof be provided at the expense of the Fund: Provided that if the conditions laid down are not complied with, the Fund will not be liable for the payment of those expenses.

(10) The Fund may claim from the beneficiary or any other person entitled to benefits from the Fund, the costs of any treatment provided to the beneficiary, his or her dependant or such other person for any injury or illness caused by a third party against whom such a beneficiary, his or her dependant or such other person, would otherwise have had a right to claim damages if the Fund had not paid such costs, irrespective of whether the beneficiary, his or her dependant or such other person has exercised that right or not: Provided that the said costs will not be recovered from the beneficiary or the person concerned if –

- (a) the Manager is notified in writing of the cause for such claim within 30 days after a claim has arisen;
- (b) the beneficiary or any other person entitled to benefits from the Fund has at no time accepted an unauthorised settlement of such claim or, if it is applicable, has not agreed to the acceptance of a settlement by the dependant of the person concerned, or has not made an admission to the detriment of the Fund to a third party; and

- (c) the beneficiary or any other person entitled to benefits from the Fund has recovered the costs of such treatment and has reimbursed the Fund, or has ceded any claim for the reimbursement of such treatment or expenses to the Fund.

(11) This Chapter does not authorise the provision, at the expense of the Fund, of treatment contemplated in regulation 14(3), irrespective of whether such treatment is provided in terms of subregulation (10) or in terms of any other Act.

- (12) (a) The Manager may withdraw a document issued in terms of this Chapter for the identification of a beneficiary, his or her dependant or any other person entitled to benefits from the Fund, which authorises any treatment in terms of this Chapter, if the benefits of a person referred to therein or the right of such a person to treatment in terms of this Chapter, has been suspended or cancelled or if such person's right thereto has been terminated.

- (b) If the Manager demands the document contemplated in subparagraph (a), the person in whose possession the document may be, must hand or cause it to be handed over to the Manager.

(13) A contribution in the form of a levy must be paid by a beneficiary as an additional payment and consists of a percentage determined by the Board from time to time on all medical services rendered by a private practitioner, other than the Surgeon-General. Provided that such levy is not payable in cases where the beneficiary has been referred to an authority outside the SANDF by the Surgeon-General or his or her delegate for such treatment or service: Provided further that this levy is not payable on dental or ophthalmological services.

#### **Basis for provision of treatment**

34. (1) The Surgeon-General regulates and controls the provision of medical, dental and hospital treatment to a person entitled to it in terms of this Chapter and such treatment is, subject to subregulation (2), given to that person as if he or she is a serving member of the Regular Force or a dependant of any such member or any other person entitled to benefits from the Fund.

(2) The Surgeon-General or a medical officer delegated by the Surgeon-General may, subject to subregulation (3), when authorising the provision of any treatment contemplated in subregulation (1) –

- (a) use any military medical service or facility under the control of the Surgeon-General;
- (b) without derogating from the provisions of regulation 33(8) and (9), if any beneficiary or, if applicable, his or her dependant or any other person entitled to benefits from the Fund resides at a place where there is no military hospital or where a military hospital is unable to



accommodate or to treat the person concerned, because of lack of space or the absence of facilities which, in the opinion of the Surgeon-General or the medical officer are required for the treatment of such person, authorise the admission to or the treatment of that patient at any other hospital or institution that may be designated for that purpose;

- (c) without derogating from the provisions of regulation 33(8)(b) and (9), grant prior authorisation for the provision of such service or facility by a private medical practitioner or medical institution in addition to the services and facilities referred to in subregulation (2)(a) and (b); and
- (d) provide any person referred to in subregulation (1) with medicine, dressings, medical prosthesis, medical aid and other services from Government supplies as part of such person's treatment, or give prior authorisation for the provision thereof in another manner.

(3) The Fund must reimburse the State for any treatment and for the medicine, dressings, medical prosthesis, medical aids as well as any other services provided in terms of this Chapter, subject to the conditions and at the rates laid down from time to time by the Surgeon-General with the approval of the Treasury in respect of –

- (a) the use of military services and facilities and the provision of medicine, dressings and medical prosthesis, medical aids and other items from Government supplies;
- (b) the provision of a service or the use of a facility referred to in subregulation (2)(b); and
- (c) a service or facility referred to in subregulation (2)(c), by agreement with the institution or person concerned: Provided that –
  - (i) the tariffs laid down for the purpose of subregulation (3)(a) and (b) do not include the provision of anything which does not form part of Government supplies and which has to be procured by the State for the treatment, or of medicine, dressings, medical prosthesis, medical aids or services which, for the purposes of this Regulation, are supplied by a private pharmacist on prescription to a beneficiary, his or her dependant or any other person who is entitled to benefits from the Fund, and any such acquired article, medicine, dressing, medical prosthesis, medical aids or service shall be paid for in full by the Fund; and
  - (ii) the tariffs laid down for the purposes of this subregulation do not exceed the preferential scale applicable to the provision of similar services and facilities to members of other medical aid societies.

**Administration provisions**

35. (1) The Accountant and other personnel of the Fund shall –
- (a) open and keep up to date account books for the Fund;
  - (b) undertake the financial administration of the Fund in accordance with the decisions of the Board; and
  - (c) arrange for the auditing, by a chartered accountant appointed by the Board, of the account books and accounts of the Fund and for submission to the Board of the report and statements referred to in subregulation (4).
- (2) The Manager controls, co-ordinates and carries out the administrative duties relating to his or her office, keeps a record of contributors and beneficiaries and exercises control over contributors and beneficiaries in accordance with regulation 34.
- (3) The Surgeon-General shall regularly submit to the Accountant for settlement –
- (a) accounts drawn up in accordance with tariffs laid down in terms of regulation 34 for services, facilities, medicine, dressings and medical prosthesis and any other services which the military medical organisation has rendered in terms of this Chapter;
  - (b) accounts submitted by any institution or person in accordance with regulation 34(3) after examining and certifying them as payable; and
  - (c) any account referred to in subparagraph (b) which has not been certified, but the payment of which has been specially authorised by the Board.
- (4) The Board shall submit annually within six months of the closing of the financial year of the Fund –
- (a) audited statements of accounts of the assets and liabilities and of the income and expenditure of the Fund for the financial year concerned; and
  - (b) a report on the execution of the control functions for the period and the aims and planning for future activities,
- to the Chief of the SANDF.
- (5) The statements referred to in subregulation (4)(a) must be made available to a contributor or beneficiary on submission of a written application.



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(6) If the Medical Fund B is for any reason disestablished, the assets of the said Fund shall be disposed of on the conditions determined by the Board after consultation by the Board with the Finance Division of the Department of Defence and the Medico-Legal Services of the SAMHS.

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