



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$3.60

WINDHOEK - 27 November 2000

No.2443

CONTENTS

Page

GOVERNMENT NOTICE

No. 269	Notification of registration of members of parliament and other office-bearers pension fund and of approval of rules of fund	1
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Government Notice

MINISTRY OF FINANCE

No. 269 2000

NOTIFICATION OF REGISTRATION OF MEMBERS OF PARLIAMENT AND OTHER OFFICE-BEARERS PENSION FUND AND OF APPROVAL OF RULES OF FUND

It is hereby made known for general information that the Members of Parliament and other Office-bearers Pension Fund has been registered by the Registrar of Pension Funds under section 4 of the Pension Funds Act, 1956 (Act No. 24 of 1956) and that the rules of that Fund and the amendment thereon, as set out in Annexure A and B hereto, have in accordance with -

- (a) section 5 of the Members of Parliament and other Office-bearers Pension Fund Act, 1999 (Act No. 20 of 1999) been approved by the National Assembly; and
- (b) section 12 of the Pension Funds Act, 1956 (Act No. 24 of 1956) been approved by the Registrar of Pension Funds.

ANNEXURE A

**RULES OF THE MEMBERS OF PARLIAMENT AND OTHER
OFFICE-BEARERS PENSION FUND****ARRANGEMENT OF RULES****PART I
INTRODUCTORY PROVISIONS**

1. Definitions
2. Registered office
3. Object of fund

**PART II
MANAGEMENT OF FUND**

4. Board of trustees
5. Constitution of board of trustees
6. Persons disqualified from being trustees
7. Tenure of office
8. Meetings of board of trustees
9. Powers of board of trustees
10. Principal officer
11. Auditor

**PART III
GENERAL PROVISIONS REGARDING
ACCOUNTS AND BENEFITS**

12. Member's contributions account
13. Member's additional contributions account
14. Reserve account
15. Accounts
16. Payments by the Administrator
17. Proof of age and state of health
18. Payment of benefits
19. Deduction from benefits
20. Benefits inalienable
21. Transfer of benefits from or to other funds
22. Greater benefits
23. Valuation
24. Unclaimed benefits

**PART IV
MEMBERSHIP, TEMPORARY ABSENCE AND
CESSATION OF MEMBERSHIP**

25. Membership
26. Compulsory membership of another fund
27. Temporary absence
 - 27.1 *Absence with full remuneration or reduced remuneration*
 - 27.2 *Absence without remuneration*
28. Cessation of membership

**PART V
CONTRIBUTIONS**

29. Member contributions
30. Employer contributions
31. Transfers and voluntary contributions
32. Mode of payment of contribution

**PART VI
WITHDRAWAL BENEFIT**

- 33. Withdrawal benefit
- 34. Payment of withdrawal benefit

**PART VII
RETIREMENT BENEFIT**

- 35. Retirement benefit: When payable
- 36. Amount of retirement benefit
- 37. Payment of pensions
- 38. Commutation of pensions
- 39. Surrender of pension to provide for alternative types of pensions
- 40. Pension option
- 41. Abatement of pension

**PART VIII
DEATH BENEFIT**

- 42. Pensioner who leaves a spouse
- 43. Payment of spouse's pension
- 44. Other pensions
- 45. Death in service
- 46. Death of a deferred pensioner
- 47. Pension escalations

**PART IX
MISCELLANEOUS**

- 48. Right to obtain copies of rules and other documents
- 49. Disputes
- 50. Currency
- 51. Expenses and costs
- 52. Fidelity insurance
- 53. Restriction of liability
- 54. Safe custody of title deeds and other securities
- 55. Amendment of rules

SCHEDULE OF BENEFITS

**PART 1
INTRODUCTORY PROVISIONS**

1. Definitions

In these rules, unless the context indicates otherwise, words defined in the Act bear that meaning and -

“actuary” means an actuary as defined in section 1(1) of the Act and appointed by the board of trustees under rule 9;

“Administrator” means the person appointed by the board of trustees under rule 9 to administer the Fund;

“approved”, in relation to a fund, means a fund approved by Commissioner;

“anniversary date” means the 1st day of December in each year;

“annual salary” means the amount of the taxable annual salary payable to a member by way of remuneration in the member's capacity as a Member of Parliament, an Office-bearer or a Regional Councillor, as the case may be, but excludes any allowances;

“auditor” means an auditor appointed under rule 11;

“board of trustees” means the board of trustees referred to in rule 4;

“chairperson” means the chairperson of the board of trustees appointed in terms of rule 5.2;

“Commissioner” means the Commissioner of Inland Revenue;

“current Act” means the Members of Parliament and other Office-bearers Pension Fund Act, 1999;

“deferred benefit”, for the purposes of the definition of “deferred pensioner”, means a withdrawal benefit transferred to an approved retirement annuity fund under rule 34.2;

“deferred pensioner” means a member who is entitled to a deferred benefit;

“Employer” means -

- (a) in relation to any Member of Parliament or Office-bearer, the Government of the Republic of Namibia; or
- (b) in relation to any Regional Councillor, a regional council established in terms of section 2 of the Regional Councils Act, 1992 (Act No. 22 of 1992);

“financial institution” means a financial institution authorized to conduct business under the Banking Institutions Act, 1998 (Act No. 2 of 1998) or a building society finally registered as such under the Building Societies Act, 1986 (Act No. 2 of 1986);

“fixed date” means the 4th day of January 2000;

“Fund” means the Members of Parliament and other Office-bearers Pension Fund established by section 2 of the Members of Parliament and other Office-bearers Pension Fund Act, 1999;

“ill-health retirement date” means the last day of the month in which a member (with the consent of his or her Employer) retires from office due to ill-health: Provided that such date shall be a date prior to the date on which a member becomes 55 years of age;

“member” means any person who qualifies for membership in terms of rule 25;

“member’s additional contribution account” means the member’s additional contributions account maintained by the Administrator in terms of rule 13;

“member’s contribution account” means the member’s contributions account maintained by the Administrator in terms of rule 12;

“Member of Parliament” means a person duly elected as contemplated in the Namibian Constitution as a member of the National Assembly or the National Council;

“monthly salary” means the member’s annual salary divided by 12;

“net employer contribution” means the net employer contribution contemplated in paragraph (c) of “Contributions” in the Schedule;

“Office-bearer” means any person declared as an office-bearer under section 1(2) of the current Act for the purposes of the rules of the Fund;

“pensioner” means a member of the Fund who receives a pension in terms of these rules and includes a pensioner in respect of whom liability is transferred under the current Act;

“principal officer” means a principal officer appointed under rule 10;

“Regional Councillor” means a person duly elected as contemplated in the Regional Councils Act, 1992, as a member of a regional council established in terms of that Act;

“reserve account” means the reserve account maintained by the Administrator in terms of rule 14;

“registered insurer” means an insurer registered under any law relating to the insurance business;

“repealed Act” means the Members of the National Assembly and other Office-bearers Pensions Act, 1990 (Act No. 21 of 1990);

“retirement date” means -

- (a) in relation to a member referred to in rule 25.1.1, the last day of the month in which he or she ceases to be a member; or
- (b) in relation to a member (other than a member referred to in paragraph (a)), the last day of the month in which he or she ceases to be a member, but not before attaining the age of 55 years; or
- (c) in relation to a deferred pensioner, the last day of the month in which such pensioner becomes 55 years of age;

“risk benefits” means the death benefits and such other benefits as may be approved by the trustees in consultation with the actuary;

“Schedule” means the Schedule of Benefits annexed to these rules;

“spouse” means the surviving spouse of a member and includes a party to a customary union or to a union recognized as a marriage under the tenets of any Asiatic religion;

“the Act” means the Pension Funds Act, 1956 (Act No. 24 of 1956), and includes any regulation made thereunder;

“trustee” means any member of the board of trustees.

2. Registered office of Fund

The registered office of the Fund is situated at the Fiscus Building, 10 John Meinert Street, Windhoek.

3. Object of fund

The object of the Fund is to provide benefits for its members upon their retirement, or for their dependants or nominees upon the death of such members.

PART II MANAGEMENT OF FUND

4. Board of trustees

There shall be a board of trustees which shall be responsible for the management of the Fund.

5. Constitution of board of trustees

5.1 The board of trustees shall consist of six persons of whom three shall be appointed by Cabinet, and three shall be elected by the Members of Parliament from amongst their number.

5.2 Cabinet shall appoint one of the trustees to be the chairperson of the board of trustees and who shall preside at all meetings of the board of trustees.

5.3 At the first meeting of the board of trustees the trustees shall elect a vice-chairperson from amongst their number.

5.4 If for any reason the chairperson is absent or unable to act as chairperson, the vice-chairperson shall act in his or her stead.

5.5 If both the chairperson and the vice-chairperson are absent or unable to preside at any meeting of the board of trustees, the trustees present shall elect one from amongst their number to preside at that meeting and the person so elected to preside shall during that meeting and until the chairperson or vice-chairperson resumes duty, perform all the functions of the chairperson.

6. Persons disqualified from being trustees

No person shall be appointed as a trustee of the Fund if he or she -

6.1 is considered a mentally ill person under the Mental Health Act, 1973 (Act No. 18 of 1973);

6.2 is an unrehabilitated insolvent;

6.3 has been removed from an office of trust on account of improper conduct;

6.4 has been convicted of an offence of which dishonesty is an element and sentenced to imprisonment without the option of a fine;

6.5 is disqualified from being a director in terms of an order made under section 219 of the Companies Act, 1973 (Act No. 61 of 1973).

7. Tenure of office

7.1 Subject to rule 7.3, a trustee shall hold office for a period of three years from the date of his or her appointment and may, at the expiration of the period for which he or she was appointed, continue to hold office for a further period not exceeding three months, until his or her successor has been appointed.

7.2 A trustee, whose period of office has expired, shall be eligible for re-appointment.

7.3 A trustee shall vacate office if he or she-

7.3.1 by notice in writing to the Fund resigns as a trustee;

7.3.2 without reasonable excuse fails to attend three consecutive meetings of the board of trustees;

7.3.3 is removed from office by Cabinet or the Members of Parliament, as the case may be, on the ground that he or she is unable or unfit to discharge the functions of a trustee;

7.3.4 in the case of a trustee elected in terms of rule 5.1, ceases to be a Member of Parliament;

7.3.5 becomes subject to a disqualification referred to in rule 6.

7.4 Any vacancy on the board of trustees arising from any circumstance referred to in rule 7.3, or caused by the death of a trustee shall be filled by the appointment of another person in accordance with rule 5, and every trustee so appointed shall hold office for the unexpired portion of the period of office of the trustee who has vacated his or her office or who has died.

8. Meetings of board of trustees

8.1 The chairperson of the board of trustees shall convene the first meeting of the board of trustees and subsequent meetings shall be held at such times and places as the board of trustees may determine.

8.2 The chairperson of the board may at any time of his or her own accord or at the request of any trustee convene a special meeting of the board of trustees, but he or she shall upon the written request of at least two-thirds of the trustees, convene a special meeting of the board of trustees, to be held within 21 days after receipt of such request, and at the time and place determined by him or her.

8.3 Four trustees, of whom two shall be trustees elected by the Members of Parliament and two shall be trustees appointed by Cabinet, shall form a quorum for any meeting of the board of trustees.

8.4 The decision of the majority of the trustees present at any meeting of the board of trustees shall constitute a decision of the board of trustees, and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

8.5 No decision taken by the board of trustees or act performed under the authority of the board of trustees, shall be invalid by reason only of a vacancy on the board of trustees or of the fact that a person who was not entitled to sit as a member of the board of trustees sat as a member when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of members of the board of trustees who were present at the time and entitled to sit as members.

8.6 The board of trustees shall cause minutes to be kept of the proceedings at its meetings and such minutes shall at all reasonable times be available for inspection by any member.

8.7 At each meeting of the board of trustees the minutes of the previous meeting shall be approved by the trustees and signed by the chairperson.

8.8 A resolution, in writing, signed by all of the trustees shall be as valid and effectual as if it had been passed at a meeting of the trustees properly called and constituted.

8.9 If a member of the board of trustees or his or her spouse, or his or her child, or any other member of his or her household, or his or her partner, agent or business associate, has a direct or indirect financial interest in any matter to be considered at any meeting of the board of trustees, that member shall forthwith disclose the nature and extent of the financial interest at a meeting of the board of trustees and thereafter the board of trustees shall determine whether or not the member can participate in discussions relating to that matter.

9. Powers of board of trustees

Subject to the Act, the board of trustees shall in order to realize the objective of the Fund have the power -

- 9.1 to receive all moneys due to the Fund, and to administer and apply the moneys of the Fund;
- 9.2 to enter into a contract on behalf of the Fund and to sign contracts or other documents on behalf of the Fund, to institute any legal action or process for or against the Fund and to conduct, defend, settle or abandon such action;
- 9.3 to acquire, hold, alienate or otherwise deal with any movable or immovable property of the Fund;

- 9.4 to raise money for the purposes of the Fund or borrow money to complete an investment or to abridge a temporary cash deficit;
- 9.5 to open and operate a bank account in the name of the Fund with a financial institution;
- 9.6 to invest, lend, put out at interest, make advances, place on deposit moneys of the Fund not immediately required for the purposes of the Fund, or to otherwise deal therewith against such securities and in such manner as the board may determine, and in particular, to invest the whole or part of the moneys of the Fund for such period and on such terms as the board may determine in an investment policy issued by a registered insurer;
- 9.7 to effect policies of insurance with one or more registered insurers to ensure the payment of any benefits in terms of these rules;
- 9.8 to appoint an administrator and an actuary, and such other persons as it thinks fit as officers of the Fund and to determine their functions and remuneration;
- 9.9 to establish a committee and to appoint for such period as it may determine such persons as it may think fit to be members of the committee and to do any other act which is necessary to enable the committee to perform its functions;
- 9.10 subject to such conditions as the board may determine, to delegate or assign any of the board's powers or duties to any person, committee or financial institution and may withdraw or vary any delegation or assignment, but shall not be divested of any power or duty so delegated or assigned;
- 9.11 generally, to take such steps as are necessary for the attainment of the objective of the Fund.

10. Principal officer

10.1 The board of trustees shall appoint a person on such conditions of employment (including remuneration) as may be agreed upon to be the principal officer of the Fund.

10.2 If the principal officer is absent or unable to perform his or her duties as contemplated in subsection (2) of section 8 of the Act, the board of trustees shall appoint another person as principal officer within the period mentioned in that subsection.

10.3 The principal officer shall in addition to the powers or duties conferred or imposed upon him or her by the Act represent the Fund in all respects in as far as its dealings with the Registrar is concerned.

11. Auditor

Subject to section 9 of the Act, the board of trustees shall from time to time appoint a person contemplated in that section as auditor of the fund and each such appointment shall be for a period of two years unless the auditor is discharged by the board of trustees or he or she resigns prior to the expiry of such period.

PART III GENERAL PROVISIONS REGARDING ACCOUNTS AND BENEFITS

12. Member's contributions account

12.1 A member's contributions account shall be maintained by the Administrator in respect of each member and shall contain all member contributions and all net employer

contributions made in terms of rules 29 and 30, respectively, together with the investment returns credited to such contributions as hereinafter provided.

12.2 Subject to rule 15.4, the member's contributions account is equal to -

- 12.2.1 the balance in the member's contributions account at the most recent anniversary date; plus
- 12.2.2 member contributions and net employer contributions made since the most recent anniversary date; plus
- 12.2.3 interest as declared by the board of trustees on the advice of the actuary.

12.3 This account shall be payable as provided in these rules.

13. Member's additional contributions account

13.1 The Administrator shall maintain a member's additional contributions account for each member, which account shall contain contributions made in terms of rule 31, together with the investment returns credited to such contributions as hereinafter provided.

13.2 Subject to rule 15.4, the amount in a member's additional contributions account shall be -

- 13.2.1 the balance in the member's additional contributions account at the most recent anniversary date; plus
- 13.2.2 contributions made in terms of rule 31 since the most recent anniversary date (if any); plus
- 13.2.3 interest as declared by the board of trustees on the advice of the actuary.

13.3 This account shall be payable as provided in these rules.

14. Reserve account

14.1 The Administrator shall maintain a reserve account for the Fund, the amounts credited thereto and withdrawn therefrom being as hereinafter provided.

14.2 The amounts credited to the reserve account shall be -

- 14.2.1 the unpaid balance of the member's contributions account after payment of any benefit due to a member in terms of these rules;
- 14.2.2 the amounts required to establish a pension as specified in the Schedule;
- 14.2.3 contributions to the reserve account as agreed between the Employer and the board of trustees, including Employer contributions specified in paragraph (c) of "Contributions" in the Schedule;
- 14.2.4 investment returns not allocated to the member's contributions account or the member's additional contributions account shall remain in the reserve account, as well as all other income and expenditure items not specified in the other accounts;

- 14.2.5 such part of the Employer contributions in paragraph (b) of "Contributions" in the Schedule, that is not paid to a registered insurer to underwrite the death benefits;
 - 14.2.6 amounts claimed from a registered insurer;
 - 14.2.7 interest as declared by the board of trustees on the advice of the actuary;
 - 14.2.8 all amounts transferred to the Fund as contemplated in rule 21.
- 14.3 The amounts debited to the reserve account shall be -
- 14.3.1 pensions paid to members who elected a pension from the Fund;
 - 14.3.2 death benefits as specified in paragraph (a)(i) and (ii) of "Death Benefits" in the Schedule;
 - 14.3.3 insurance premiums;
 - 14.3.4 all amounts transferred from the Fund as contemplated in rule 21.
- 14.4 At the discretion of the board of trustees amounts may be withdrawn from the reserve account and applied to -
- 14.4.1 enhance members' benefits;
 - 14.4.2 meet the Fund's expenses;
 - 14.4.3 meet a deficit as contemplated in rule 30.2;
 - 14.4.4 offset the costs of the expenses incurred by the Fund;
 - 14.4.5 further such other purpose as approved by the trustees.

15. Accounts

15.1 All moneys received for the benefit of the Fund shall be paid into a banking account opened in the name of the Fund.

15.2 The board of trustees shall cause proper books of account and other records to be kept in respect of the Fund.

15.3 The board of trustees shall, in accordance with section 15 of the Act, furnish to the Registrar within six months of the expiration of every financial year a revenue account showing the revenue and expenditure of the Fund for that year, and a balance sheet showing the financial position of the Fund at the close of that year, duly certified in each case by the auditor of the Fund.

15.4 Notwithstanding anything to the contrary contained in these rules, the sum of the balances in the members' contributions accounts plus the sum of the balances in the members' additional contributions accounts plus the balance in the reserve account shall not exceed the value of the assets of the Fund.

15.5 Notwithstanding anything to the contrary contained in these rules, a member's benefits, excluding risk benefits, under the Fund at any time are limited to a maximum of the sum of the balances in the member's contributions account and member's additional contributions account.

15.6 The financial accounts of the Fund shall reflect the sum totals of all the member's contributions accounts and all the member's additional contributions accounts.

15.7 All amounts transferred in terms of rule 21 shall be debited to the reserve account.

16. Payments by the Administrator

All benefits payable by the Fund shall, subject to rule 18 and in accordance with the directions of the Fund, be paid by the Administrator directly to the persons entitled thereto in terms of these rules.

17. Proof of age and state of health

17.1 Proof of the age of a member shall be submitted by the member on entry to the Fund.

17.2 A member shall produce such evidence as to the state of his or her health as the board of trustees may require.

17.3 If, in the trustees' opinion, a member is not in good health, such member shall be subject to such restrictions regarding death benefits as the trustees, in consultation with the actuary, may determine and taking into account any restrictions on cover imposed by the registered insurer: Provided that this rule shall not apply to members referred to in rule 25.1.1.

18. Payment of benefits

18.1 The benefits that become payable in terms of these rules in respect of any person, shall be paid to such person if he or she is still alive. If a benefit becomes payable in respect of a deceased person and the benefit is not payable to a specific dependant in terms of these rules, it shall, in accordance with section 37C of the Act, be dealt with in the following manner:

18.1.1 If the Fund within 12 months of the death of the member becomes aware of or traces any dependant or dependants of the member, the benefit shall be paid to such dependant or, in such proportions as may be deemed equitable by the person managing the business of the Fund, to such dependants.

18.1.2 If the Fund does not become aware of or cannot trace any dependant of the member within 12 months of the death of the member, and the member has designated in writing to the Fund a nominee who is not a dependant of the member, to receive the benefit or such portion of the benefit as is specified by the member in writing to the Fund, the benefit or such portion of the benefit shall be paid to such nominee: Provided that where the aggregate amount of the debts in the member's estate exceeds the aggregate amount of the assets in the member's estate, so much of the benefit as is equal to the difference between such aggregate amount of debts and aggregate amount of assets shall be paid into the estate and the balance of such benefit or the balance of such portion of the benefit as specified by the member in writing to the Fund shall be paid to the nominee.

18.1.3 If a member has a dependant and the member has also designated in writing to the Fund a nominee to receive the benefit or such portion of the benefit as is specified in writing by the member to the Fund, within 12 months of the death of such member, pay the benefit or such portion thereof to such dependant or nominee in such proportions as the Fund may deem equitable.

18.1.4 If the Fund does not become aware of or cannot trace any dependant of the member within 12 months of the member's death and, if the member has not designated a nominee or if the member has designated to the Fund, in writing, a nominee

to receive a portion of the benefit, the benefit or the remaining portion of the benefit after payment to the designated nominee, shall be paid into the member's estate or, if no inventory in respect of the member has been received by the Master of the High Court, in terms of section 9 of the Estates Act, 1965 (Act No. 66 of 1965), into the Guardian's Fund.

18.2 For the purpose of this rule, a payment by the Fund to a dependant shall be deemed to include a payment made by the Fund to a trustee for the benefit of a dependant contemplated in this rule.

19. Deduction from benefits

The Fund may in accordance with section 37D of the Act -

19.1 deduct any amount due to the Fund in respect of -

19.1.1 a loan granted to a member in terms of section 19(5)(a) of the Act; or

19.1.2 any amount for which the Fund is liable under a guarantee furnished in respect of a loan by some other person to a member for any purpose referred to in section 19(5)(a) of the Act,

from the benefit to which the member or beneficiary is entitled in terms of the rules of the Fund, to an amount not exceeding the amount which is in terms of the Income Tax Act, 1981 (Act No. 24 of 1981), may be taken by a member or beneficiary as a lump sum benefit;

19.2 deduct any amount due by a member to his or her Employer or his or her retirement date or ill-health retirement date or on which he or she ceases to be a member of the Fund as contemplated in rule 28, in respect of -

19.2.1 any -

(a) loan granted by the Employer to the member for any purpose referred to in section 19(5)(a) of the Act; or

(b) amount for which the Employer is liable under a guarantee furnished in respect of a loan by some other person to the member for any purpose referred to in section 19(5)(a) of the Act,

to an amount not exceeding the amount which in terms of the Income Tax Act, 1981 (Act No. 24 of 1981), may be taken by a member or beneficiary as a lump sum benefit; or

19.2.2 compensation (including legal costs recoverable from the member in a matter contemplated in paragraph (b)) in respect of damage caused to the Employer by reason of theft, dishonesty, fraud or misconduct by the member, and in respect of which -

(a) the member has in writing admitted liability to the Employer; or

(b) judgment has been obtained against the member in any court,

from any benefit payable in respect of the member or a beneficiary in terms of these rules, and pay such amount to the Employer;

19.3 deduct any amount that the Fund has paid or will pay by arrangement with, and on behalf of, a member or beneficiary in respect of -

19.3.1 the subscription of any such person to a fund registered in terms of the Medical Aid Funds Act, 1995 (Act No. 23 of 1995); or

19.3.2 any insurance premium payable by any such person to an insurer registered in terms of the Long-term Insurance Act, 1998 (Act No. 5 of 1998); or

19.3.3 any purpose approved by the Registrar, on the conditions determined by the Registrar, upon request in writing from the Fund,

from the benefit to which the member or beneficiary is entitled in terms of the rules of the Fund, and pay such amount, if due, to such registered fund, insurer or person concerned, as the case may be.

20. Benefits inalienable

20.1 Save to the extent permitted by the Act, the Income Tax Act, 1981 (Act No. 24 of 1981) and the Maintenance Act, 1963 (Act No. 23 of 1963), no benefit provided for in these rules (including an annuity purchased by the Fund from an insurer for a member), or right to such benefit, or right in respect of contributions made by or on behalf of a member, shall be capable of being reduced, transferred or otherwise ceded, or of being pledged or hypothecated, or be liable to be attached or subjected to any form of execution under a judgment or order of a court of law, or to the extent of not more than N\$3 000 per annum, be capable of being taken into account in a determination of a judgment debtor's financial position in terms of section 65 of the Magistrate's Courts Act, 1944 (Act No. 32 of 1944).

20.2 In the event of the member or beneficiary concerned attempting to transfer or otherwise cede, or to pledge or hypothecate a benefit or right referred to in rule 20.1, the Fund may, under section 37A of the Act, withhold or suspend payment thereof: Provided that the Fund may pay any such benefit or any benefit in pursuance of such contributions, or part thereof, to any one or more dependants of the member or beneficiary or to a guardian or trustee for the benefit of such dependant or dependants during such period as it may determine.

20.3 Rule 20.1 shall not apply with reference to anything done towards reducing or obtaining settlement of a debt which the Fund may reduce or settle under section 37D of the Act, to the extent to which the Fund may reduce or settle such debt.

21. Transfer of benefits from or to other funds

21.1 The Fund may receive transfers of benefits from any other approved pension, provident or preservation fund or effect transfers of benefits (to the extent that it is not a transfer contemplated in rule 20) to any other approved pension, provident, preservation or retirement annuity fund on behalf of a member, on such conditions as the Fund, in consultation with the actuary, may lay down. Where transfers are received from other funds, such transfers are subject to these rules, unless otherwise agreed on by the parties concerned.

21.2 The trustees shall receive any liability transferred to the Fund under the current Act and deal with it in terms of the rules of the Fund.

22. Greater benefits

Subject to any conditions that the trustees in consultation with the actuary may impose and subject to the approval of the Commissioner, the Employer has the right to instruct the Fund to allocate greater benefits than those provided for in these rules, in which case the Employer will be required to make additional contributions to fund such a benefit.

23. Valuation

23.1 The actuary shall value the Fund on an annual basis within twelve months of the end of a financial year. Should such valuation reveal that the Fund has a deficit then, if it is due to contributory members, their benefits shall be reduced but if it is arising from pensioners in the reserve account, the actuary will determine whether it derives from the transferred liabilities under the current Act, in which case the Employer must make such additional contributions to the Fund as determined by the actuary.

23.2 After every valuation the actuary shall submit a valuation report to the board of trustees who shall upon receipt thereof send a copy of such report to the Employer and the Registrar together with its recommendations as to the actions contemplated in view of the report.

24. Unclaimed benefits

24.1 A period of three years shall be allowed for a member to claim any benefits in terms of these rules.

24.2 After the expiry of the three year period during which the benefit is payable, the moneys shall be dealt with in terms of the Prescription Act, 1969 (Act No. 68 of 1969).

**PART IV
MEMBERSHIP, TEMPORARY ABSENCE
AND CESSATION OF MEMBERSHIP**

25. Membership

25.1 Any person -

25.1.1 who immediately prior to the fixed date, was a member of the pension scheme instituted in terms of the repealed Act and who contributed towards that scheme shall, pursuant to section 3(1)(a) of the current Act, be a member of the Fund with effect from the fixed date;

25.1.2 who does not qualify for membership of the Fund in terms of rule 25.1.1 and who -

- (a) is elected as a Member of Parliament or a Regional Councillor, shall be a member of the Fund with effect from the date on which the first monthly salary is paid to him or her;
- (b) is declared an Office-bearer, shall be a member of the Fund with effect from the date of his or her appointment or upon commencement of service, whichever is the later.

25.2 When, at the termination of his or her term of office, a Member of Parliament, a Regional Councillor or an Office-bearer is re-elected or re-appointed, his or her membership of the Fund shall for the purposes of these rules be deemed not to have been interrupted by any such event.

26. Compulsory membership of another fund

26.1 A member who, because of a change in conditions of service is required to join another fund, shall, subject to the approval of the trustees, preserve the benefits in this Fund or in any other approved pension, provident, preservation or retirement annuity fund that the member elects.

26.2 If membership of a National Pension Fund is compulsory for members of this Fund, then -

- 26.2.1 contributions to the National Pension Fund will be deducted from the contributions to this Fund; and
- 26.2.2 benefits under this Fund shall be adjusted by the trustees on the advice of the actuary.

27. Temporary absence

27.1 *Absence with full remuneration or reduced remuneration*

While a member receives full remuneration or reduced remuneration from the Employer, membership of the Fund and the benefits and contributions which are payable under the Fund are not affected by the member's absence from the Employer's service:

Provided that if such a member's remuneration is reduced then benefits and contributions shall be based on such reduced remuneration.

27.2 *Absence without remuneration*

27.2.1 A member's absence from the Employer's service without remuneration shall, subject to the consent of the board of trustees, be regarded as approved temporary absence for the purposes of the Fund. Membership of the Fund continues during such temporary absence, subject to the following conditions -

- (a) no contributions shall be made by, or in respect of, the member during the period of approved temporary absence, save for premiums payable in terms of rule 27.2.2 (if any);
- (b) benefits are determined on the basis that no contributions are made during the period of approved temporary absence, and that no death benefits shall be payable during the said period, unless continued cover is provided by the registered insurer (see rule 27.2.2);
- (c) the maximum period of approved temporary absence for any member is 12 months. In the case of a member who through injury or illness is unable to follow his or her normal occupation, the maximum period of approved temporary absence shall be six months. Periods of approved temporary absence which are interrupted by less than six consecutive calendar months are regarded for the purposes of these provisions as one period of approved temporary absence.

27.2.2 At the request of the member and with the consent of the Employer, the board of trustees may instruct the registered insurer to continue to provide death cover for the member during the period of approved temporary absence. In such a case, Employer contributions as set out in paragraph (b) of "Contributions" in the Schedule, shall continue.

27.2.3 If the period of approved temporary absence is terminated membership shall continue in the normal way.

28. Cessation of membership

28.1 A member's membership ceases only -

- 28.1.1 when such member ceases to be a Member of Parliament, a Regional Councillor or an Office-bearer, as the case may be; or
- 28.1.2 when such member becomes entitled to any benefit in terms of these rules; or
- 28.1.3 at dissolution of the Fund in terms of section 6 of the current Act,

whichever event occurs first.

28.2 For the purposes of rule 28.1.1 "ceases" means -

- 28.2.1 in relation to a Member of Parliament, when he or she vacates his or her seat as contemplated in Article 48 or 70 of the Namibian Constitution, whichever may be applicable;
- 28.2.2 in relation to a Regional Councillor, when he or she vacates his or her office as contemplated in section 10 of the Regional Councils Act, 1992 (Act No. 22 of 1992);
- 28.2.3 in relation to an Office-bearer, when his or her appointment to hold an office in the service of the Republic of Namibia as an office-bearer is terminated.

**PART V
CONTRIBUTIONS**

29. Member contributions

Every member is required to make monthly contributions to the Fund. The contribution rates are set out in paragraph (a) of the "Contributions" in the Schedule. Contributions are rounded off to the nearest cent and are deducted from the member's salary by the Employer.

30. Employer contributions

30.1 The Employer is required to make monthly contributions to the Fund in respect of every member. The contribution rate is as set out in the Schedule. Such contributions are rounded off to the nearest cent.

30.2 If the Employer contributions as set out in paragraph (b) of "Contributions" in the Schedule are at any stage less than the insured cost of providing the benefits, the board of trustees may meet the deficit by drawing from the reserve account, or otherwise, on the advice of the actuary, reduce the risk benefits to eliminate the deficit.

31. Transfers and voluntary contributions

31.1 Subject to the approval of the board of trustees, a member may make contributions to the Fund by way of -

- 31.1.1 a lump sum to which such member has become entitled upon withdrawal from another approved pension, provident or preservation fund; or
- 31.1.2 regular amounts not otherwise recognized for the purpose of calculating his or her benefits under the Fund.

31.2 These contributions shall be kept in a separate account, namely, the member's additional contributions account held in respect of each member.

32. Mode of payment of contributions

32.1 The Employer shall, at the end of each month, pay the total amount of its contributions contemplated in rule 30 and the members' contributions deducted under rule 29 directly to the Administrator.

32.2 Payment of contributions shall be made with due regard to section 13A of the Act.

32.3 If a member's membership ceases (as contemplated in rule 28) before the 15th day of a month, no contributions by the Employer shall be made in respect of that month. If membership so ceases on or after the 15th day of a month, the full contribution for the relevant month shall be made by the Employer.

PART VI WITHDRAWAL BENEFIT

33. Withdrawal benefit

If, prior to attaining the age of 55 years, a member (other than a member referred to in rule 25.1.1) becomes disqualified in terms of rule 28.1 from being a member of the Fund, such a member shall (unless any other benefit is payable to him or her in terms of these rules) be entitled, subject to rule 34, to the withdrawal benefit set out in the Schedule.

34. Payment of withdrawal benefit

34.1 A member may, in respect of the withdrawal benefit to which he or she is entitled under rule 33, elect -

- 34.1.1 to take the amount of such benefit in cash; or
- 34.1.2 to defer the payment of such benefit in the Fund until he or she reaches his or her retirement date; or
- 34.1.3 to transfer the amount of the withdrawal benefit to an approved retirement annuity fund.

34.2 A member may at any time, prior to the attaining of the age of 55 years, elect to transfer the withdrawal benefit deferred in terms of rule 34.1.2 to an approved retirement annuity fund.

PART VII RETIREMENT BENEFIT

35. Retirement benefit: When payable

A retirement benefit shall be payable to -

- 35.1 a member at his or her retirement date or ill-health retirement date; and
- 35.2 to a deferred pensioner at his or her retirement date.

36. Amount of retirement benefit

The retirement benefit payable in terms of rule 35 shall be equal to an amount calculated in accordance with the formula set out in the "Retirement Benefits" in the Schedule.

37. Payment of pensions

37.1 The trustees shall pay to each pensioner a monthly pension equal to one-twelfth of his or her annual pension.

37.2 Pensions shall be payable on the last day of each calendar month, the first instalment of which shall be payable on the last day of the month following the month in which the member retires.

37.3 All pensions shall be payable for a minimum period of five years and for as long thereafter as the pensioner is alive (and no pension shall be payable after the five year period in respect of the month in which the pensioner dies). Should the pensioner however leave a spouse, the spouse's pension as described in Part VIII shall commence thereafter.

38. Commutation of pension

38.1 Subject to the conditions set out in this rule, a member may on his or her retirement date or ill-health retirement date commute the pension available in terms of these rules for a cash amount.

38.2 Application for such commutation shall be submitted by the member to the Fund in writing prior to his or her retirement date or ill-health retirement date.

38.3 Not more than one-third of the pension may be commuted, except when such pension does not exceed the minimum as may be prescribed in terms of the Income Tax Act, 1981 (Act No. 24 of 1981), from time to time, in which event the full pension may be commuted.

38.4 Commutation of the member's pension will be on such basis as may be determined by the trustees on the advice of the actuary.

39. Surrender of pension to provide for alternative types of pension

A member may exchange part of the pension to which such member would otherwise have been entitled -

39.1 for a pension on a dependant's life, in which event the amount of such pension shall be determined by the actuary, in consultation with the Fund, according to the requirements of the member as to the form the pension shall take and the period for which it shall be guaranteed: Provided that the amount of pension to be exchanged shall not be such as would cause the pension payable to the member's dependent, together with the pension payable to the spouse (if any) to exceed the reduced pension remaining payable to the member after such exchange. The annuity shall commence on the death of the member and shall continue for the lifetime of the dependant. If the dependant predeceases the member rule 37 shall apply;

39.2 to provide a pension payable for a guaranteed period (of whatever duration), in which event rule 37 shall continue to apply *mutatis mutandis*, provided that the member who wishes to exercise an option in terms of this rule shall do so by giving notice to the Fund in writing before his or her retirement date or ill-health retirement date. The amount of such pension shall be determined by the actuary, in consultation with the Fund, according to the requirements of the member as to the form the pension shall take and the period for which it shall be guaranteed.

40. Pension option

A member shall, at his or her retirement date or ill-health retirement date, have the option to purchase his or her pension from the Fund or from any registered insurer or financial institution. In the event of a pension being purchased from such insurer or

institution, the Fund shall pay the amount required to purchase the member's pension to the registered insurer or financial institution. The Fund shall thereupon have no further liability in respect of such member or his or her dependants.

41. Abatement of pension

41.1 If any person who is a pensioner, once again becomes a Member of Parliament, a Regional Councillor or an Office-bearer, any pension which was payable to him or her in terms of these rules immediately prior to the date on which he or she so became such a Member, Councillor or Office-bearer, shall cease to be payable to him or her with effect from that date.

41.2 When the person referred to in rule 41.1, ceases to be a Member of Parliament, a Regional Councillor or an Office-bearer, his or her benefits shall be calculated on the aggregate of the periods that he or she served as such a Member, Councillor or Office-bearer: Provided that any amount previously paid to such person in terms of these rules shall be set off against the benefits payable to him or her in accordance with the calculation thereof pursuant to this rule.

PART VIII DEATH BENEFIT

42. Pensioner who leaves a spouse

42.1 If death occurs within five years after a member's retirement date or ill-health retirement date, such member's pension will continue to be payable to the spouse for the remainder of the said five years and thereafter the member's spouse will receive a monthly pension throughout his or her lifetime equal in annual amount to 75% of the annual pension that was paid to the member.

42.2 If death occurs more than five years after a member's retirement date or ill-health retirement date, such member's pension shall cease and the spouse will receive a monthly pension throughout his or her lifetime equal in annual amount to 75% of the annual pension that was paid to the member.

43. Payment of spouse's pension

43.1 The spouse's pension shall be payable on the last day of each calendar month and the monthly pension shall be equal to one-twelfth of the annual pension. The first instalment shall be payable on the last day of the month following the month in which the last pension instalment is payable in respect of the pensioner.

43.2 No spouse's pension shall be payable after the death of the spouse and no instalment shall be payable in respect of the month in which he or she dies.

43.3 Should the monthly spouse's pension be less than the minimum amount stipulated from time to time in the Income Tax Act, 1981 (Act No. 24 of 1981), the cash value of the pension, as calculated by the actuary, shall be payable in one amount.

44. Other pensioners

If death occurs within five years of a member's retirement date or ill-health retirement date, such member's pension shall, subject to rule 37, be payable for the remainder of the said five years to the person or persons entitled thereto in terms of rule 18: Provided that, should the pension be payable to the deceased pensioner's estate, as contemplated in rule 18, or be dealt with in terms of the Prescription Act, 1969 (Act No. 68 of 1969), the pension payments due for the remainder of the said five years shall be commuted, as determined by the actuary, for a cash payment.

45. Death in sevice

If a member dies before his or her retirement date, then the death benefit set out in paragraph (b) of the "Death Benefits" in the Schedule shall, subject to rule 18, be payable in the form of a lump sum to the person or persons entitled thereto.

46. Death of a deferred pensioner

On the death of a deferred pensioner before his or her retirement date, there shall -

46.1 if such pensioner leaves a spouse, be payable to the spouse a pension vesting on the last day of the month during which the member dies, calculated in accordance with the formula set out in paragraph (b)(i) of the "Death Benefits" in the Schedule;

46.2 if such pensioner has no spouse, be payable the death benefit calculated in accordance with the formula set out in paragraph (b)(ii) of the "Death Benefits" in the Schedule.

47. Pension escalations

The board of trustees may, after consultation with the actuary, increase an *ad hoc* basis pensions payable to pensioners, such increase to be effective at each anniversary date. Pensions paid for less than a year shall be increased *pro rata*.

**PART IX
MISCELLANEOUS****48. Right to obtain copies of rules and other documents**

On payment to the Fund of the amount of N\$30,00 the Fund shall deliver copies of the rules or the financial statements of the Fund referred to in section 35 (1) of the Act to any member of the Fund.

49. Disputes

49.1 Any dispute referred to in paragraph 1 of section 11 of the Act may within two months from arising be referred, by the aggrieved party, for settlement to the actuary by -

49.1.1 lodging with the actuary a written complaint stating the essence of the dispute; and

49.1.2 serving on the board of trustees a copy of such complaint.

49.2 On receipt of a copy of the complaint in terms of rule 49.1.2, the board of trustees shall forthwith furnish the actuary with its reasons for the decision which is the subject of the dispute.

49.3 The actuary may give such decision as he or she considers appropriate in a settlement in terms of rule 49.1, but the decision of the board of trustees shall remain binding unless and until set aside by the actuary.

50. Currency

Payments due to or by the Fund shall be made at the registered office of the Fund in the currency of the Republic of Namibia, provided that the board of trustees may authorize payments to or by the Fund elsewhere or in any other currency, in which case the rates of exchange and the mode of payments shall be determined by the board of trustees.

51. Expenses and costs

All expenses of the Fund and all costs incurred by the trustees in the performance of their duties shall be defrayed from the moneys of the Fund.

52. Fidelity insurance

The board of trustees shall enter into a contract with a registered insurer carrying on fidelity insurance business whereby the Fund will be indemnified to the extent and in the manner provided in such contract, which contract shall include indemnification in respect of losses resulting from dishonesty or fraud by any trustee or officer of the Fund.

53. Restriction of liability

No trustee or officer of the Fund shall be liable in respect of anything done in good faith and not attributable to gross negligence in the exercise or performance of any power or duty in terms of these rules.

54. Safe custody of title deeds and other securities

All title deeds and other securities belonging to or held by the Fund shall unless temporarily held in custody by others for the purposes of the Fund, be stored in safe custody in a safe or strongroom at the registered office of the Fund or with any financial institution.

55. Amendment of rules

55.1 The board of trustees may at any time by majority decision alter or rescind any rule or make any additional rule, but no such alteration, rescission or addition shall be valid unless approved as contemplated in section 5 of the Members of Parliament and other Office-bearers Pension Fund Act, 1999.

55.2 The board of trustees shall at least once a year notify the members of the Fund of any amendments made to the rules during that year.

SCHEDULE OF BENEFITS

CONTRIBUTIONS
(Part V)

Rates of contribution:

(a) Member contributions:

10% of the member's monthly salary.

(b) Employer contributions:

(i) 16,7% of the member's monthly salary; and

(ii) 8,3% of the member's monthly salary towards the risk benefits and such expenses as approved by the trustees in consultation with the actuary; and

(iii) any such further amounts as calculated by the actuary in order to transfer the liabilities contemplated in section 4 of the current Act to the Fund, which could be either on behalf of members or pensioners. In the case of members it shall be appropriated to the member's contributions account and in the case of pensioners to the reserve account.

(c) Net employer contributions:

The Employer contributions set out in paragraph (b) less such expenses and administration charges as agreed to by the trustees on the advice of the actuary.

WITHDRAWAL BENEFITS
(Part VI)

The sum of the amounts in the member's contributions account and the member's additional contributions account.

RETIREMENT BENEFITS
(Part VII)

Retirement Benefit:

An annual pension calculated as follows:

$[A - B] \div C$, where -

A = the sum of the amounts in the member's contributions account and the member's additional contributions account;

B = the amount of any commutation paid in terms of rule 38; and

C = the conversion factor determined by the actuary as applicable to the ages of the member and that of his or her dependants as at the retirement date or ill-health retirement date.

DEATH BENEFITS
(Part VIII)

(a) Payable at death of a member:

(i) 2 times the member's annual salary at death;

plus

(ii) a spouse's (if applicable) annual pension equal to 50% of the member's annual salary at death;

plus

(iii) the sum of the amounts in the member's contributions account and the member's additional contributions account.

(b) Payable at the death of a deferred pensioner:

(i) who leaves a spouse:

$A \div C$, where -

A = the sum of the amounts in the member's contributions account and the member's additional contributions account; and

C = the conversion factor determined by the actuary as applicable to the ages of the respective spouse and dependant.

This pension, or a portion thereof, may be commuted for the cash value of A if approved by the trustees and the Commissioner.

(ii) who has no spouse:

the sum of the amounts in the member's contributions account and the member's additional contributions account.

This is to certify that these are the RULES of the **MEMBERS OF PARLIAMENT AND OTHER OFFICE-BEARERS PENSION FUND**, and that the Fund shall be operated in terms of these RULES with effect from 4 January 2000.

N. Mbuma CHAIRPERSON: BOARD OF TRUSTEES	31 January 2000 DATE
V. Rukuro TRUSTEE	31 January 2000 DATE
H.F.E. Ruppel TRUSTEE	31 January 2000 DATE
A. Mouton TRUSTEE	31 January 2000 DATE
P. Hango PRINCIPAL OFFICER	31 January 2000 DATE

ACTUARY'S CERTIFICATE

The appointment of a valuator and triennial valuations as contemplated in Section 9A and 16 are not necessary since all benefits provided in terms of the RULES, other than those fully secured by an insurer, are defined in such a way that they cannot exceed the Member's equitable share of the Fund. Therefore, by definition, the member's benefit cannot be less than fully funded. The actuary will still conduct annual revisions to verify the data and to declare interest as required by the Rules.

J.D. Malan B.Sc, F.I.A, F.A.S.S.A, A.S.A ACTUARY	11 February 2000 DATE
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ANNEXURE B

AMENDMENT OF THE RULES OF THE MEMBERS OF PARLIAMENT AND OTHER OFFICE-BEARERS PENSION FUND

The board of trustees has under section 12 of the Pension Funds Act, 1956 (Act No. 24 of 1956), read with rule 55.1 of the Rules of the Members of Parliament and other Office-bearers Pension Fund, made the rules set out in the Schedule.

SCHEDULE

Definition

1. In these rules, "the Rules" means the Rules of the Members of Parliament and other Office-Bearers Pension Fund as approved by the National Assembly on 2 November 1999.

Amendment of rule 5 of the Rules

2. Rule 5 of the Rules is hereby amended by the substitution for rule 5.1 of the following rule:

"5.1 The board of trustees shall consist of six persons of whom three shall be appointed by Cabinet and three shall be elected by the Members of Parliament from amongst their number or from amongst the former Members of Parliament."

Substitution of rule 7 of the Rules

3. (1) The following rule is hereby substituted for Rule 7 of the Rules:

“7.1 Subject to rule 7.3, a trustee appointed in terms of rule 5 shall hold office for such period as he or she may be appointed for: Provided that four trustees (of whom two shall be trustees appointed by Cabinet and two shall be trustees elected by Parliament) shall each serve a term of three years and two trustees (of whom one shall be a trustee appointed by Cabinet and one shall be a trustee elected by Parliament) shall each serve a term of four years.

7.2 A trustee, whose period of office has expired, shall be eligible for re-appointment.

7.3 A trustee shall vacate office if he or she -

7.3.1 by notice in writing to the Fund resigns as a trustee;

7.3.2 without reasonable excuse fails to attend three consecutive meetings of the board of trustees;

7.3.3 is removed from office by Cabinet or the Members of Parliament, as the case may be, on the ground that he or she is unable or unfit to discharge the functions of a trustee;

7.3.4 becomes subject to a disqualification referred to in rule 6.

7.4 Any vacancy on the board of trustees arising from any circumstance referred to in rule 7.3, or caused by the death of a trustee shall be filled by the appointment of another person in accordance with rule 5, and every trustee so appointed shall hold office for the unexpired portion of the period of the office of the trustee who has vacated his or her office or who has died.”.

- (2) Notwithstanding the substitution of rule 5.1 and rule 7 by these rules -
- (a) the board of trustees as constituted immediately before the commencement of these rules shall continue to function as such for the purposes of the Rules; and
- (b) the persons who immediately before the commencement of these rules held office as members of the board of trustees, shall from the commencement of these rules continue to serve as members of such board until the succeeding members of the Board are appointed under rule 5.1 of the Rules as substituted by these rules.
-