

**THE BUILDING INDUSTRY  
PROVIDENT FUND  
(WESTERN PROVINCE)**

**RULES**

**OF**

**THE BUILDING INDUSTRY**

**PROVIDENT FUND**

**(WESTERN PROVINCE)**

The BOARD of The Building Industry Provident Fund (Western Province) (the SCHEME) resolved at ..... on ..... that the existing RULES of the SCHEME, as amended, be replaced by these RULES which are effective from the first day of the month immediately following on the date of registration of these RULES by the REGISTRAR.

The reasons for replacing to the RULES are –

- ♦ To draft the RULES in the format used by Sanlam as far as possible.
- ♦ To incorporate all the amendment documents into the RULES.
- ♦ To describe the category of members referred to as DORMANT MEMBERS and to establish a DORMANT MEMBER RESERVE ACCOUNT (refer RULE 10.4) to pay the benefits and expenses referred to in that account.
- ♦ To replace the expression “SHARE OF FUND” in regard to a MEMBER, to “MEMBER SHARE”.
- ♦ To make provision for existing pensions purchased in the name of the SCHEME, to be converted to pensions purchased in the name of MEMBERS.
- ♦ To provide for transfers in a separate Part. (Refer to Part 8.)
- ♦ To provide for absence from service. (Refer to Part 9.)
- ♦ To make it clear that the cash benefit referred to in RULE 10.1(1) includes any augmentation amount determined by the ACTUARY in terms of Rules 12 and 13 of the rules that applied immediately before 1 October 2002.
- ♦ To update RULE 12.2 in accordance with the latest practice regarding the election of BOARD MEMBERS.
- ♦ To make provision for the solving of deadlocks at BOARD meetings. (RULE 12.7(2)).
- ♦ To include, at the request of the ACTUARY, the provisions regarding unclaimed benefits that did apply before 1 January 2003 because although unclaimed benefits which arose on or after such date are preserved fully, those that arose before 1 January 2003 are not. (Refer to RULE 13.9.)
- ♦ To provide for triennial investigations by the ACTUARY. (Refer to RULE 13.10.)
- ♦ To update the RULES in general with regard to applicable current legislation, to do away with outdated provisions and to update the wording generally.



Certified that the above resolution was adopted in accordance with the existing RULES of the SCHEME.

.....  
(Chairman of the BOARD)

.....  
(BOARD MEMBER)

.....  
(Principal Officer)

## CONTENTS

	Page
PART 1. INTRODUCTION.....	1
1.1 Establishment and object of the SCHEME .....	1
1.2 Registered office.....	1
PART 2. DEFINITIONS.....	2
PART 3. MEMBERSHIP.....	7
3.1 MEMBERSHIP.....	7
3.2 Termination .....	7
3.3 Re-employment .....	8
PART 4. CONTRIBUTIONS.....	9
4.1 Normal CONTRIBUTIONS .....	9
4.2 Additional CONTRIBUTIONS.....	9
4.3 Payment of CONTRIBUTIONS .....	9
PART 5. RETIREMENT BENEFITS .....	11
5.1 When payable .....	11
5.2 Benefit at retirement .....	11
5.3 Purchase of annuity policy .....	11
5.4 Existing pensions in the name of the SCHEME.....	12
PART 6. DEATH BENEFITS.....	13
6.1 Death benefits.....	13
6.2 Funding of life insurance benefits.....	14
6.3 Death after the NORMAL RETIREMENT DATE while an EMPLOYEE .....	14
6.4 Purchase of annuity policy at death.....	15
6.5 Conversion of annuity policy into a lump sum payment .....	15
6.6 Limitations and other conditions regarding the death benefits.....	15
6.7 Funeral aid benefit .....	16
PART 7. WITHDRAWAL BENEFITS .....	17
7.1 Definition .....	17
7.2 Termination of service .....	17
7.3 Interest on late transfers.....	18
7.4 Special limitations on the options.....	18
PART 8. TRANSFERS TO AND FROM OTHER SCHEMES .....	19
8.1 Transfers from or to other retirement funds.....	19

8.2	Transfers to a PROVIDENT PRESERVATION FUND .....	19
8.3	Transfers in terms of section 14 of the ACT .....	19
8.4	Transfers in terms of section 197 of the LABOUR RELATIONS ACT .....	19
PART 9.	ABSENCE FROM SERVICE .....	21
9.1	Absence with the EMPLOYER's consent .....	21
9.2	Absence without the EMPLOYER's consent .....	21
9.3	MEMBER in receipt of a disability income benefit .....	21
PART 10.	ACCOUNTS AND RESERVES .....	23
10.1	INDIVIDUAL MEMBER ACCOUNT .....	23
10.2	CONTINGENCY RESERVE ACCOUNT .....	24
10.3	COST STABILISATION ACCOUNT .....	25
10.4	DORMANT MEMBER RESERVE ACCOUNT .....	26
PART 11.	INVESTMENT OF ASSETS AND MONEYS WHILE CLAIM PENDING .....	27
PART 12.	BOARD .....	28
12.1	The BOARD .....	28
12.2	Election of BOARD MEMBERS .....	28
12.3	Exclusions .....	28
12.4	Term of office .....	29
12.5	Object and duties of the BOARD .....	29
12.6	Powers of the BOARD .....	30
12.7	Procedures of the BOARD .....	31
12.8	Principal officer and secretary .....	33
12.9	ADMINISTRATOR .....	34
12.10	ACTUARY .....	34
12.11	AUDITOR .....	34
12.12	Financial statements .....	34
12.13	Personal liability .....	34
12.14	Indemnity against loss .....	35
12.15	Expenditure in respect of BOARD MEMBERS .....	35
12.16	Provision of data .....	35
12.17	Execution of contracts and other documents binding on the SCHEME .....	35
PART 13.	MISCELLANEOUS PROVISIONS .....	36
13.1	Manner of payment of benefits .....	36
13.2	Disposition of death benefits .....	36

13.3 Benefits inalienable .....	36
13.4 Guarantees by the SCHEME for housing loans .....	36
13.5 Deductions from benefits .....	37
13.6 Currency .....	38
13.7 Greater benefits .....	38
13.8 Proof of claims .....	38
13.9 Benefits not claimed .....	39
13.10 Investigation by ACTUARY .....	40
13.11 Binding force of the RULES .....	40
13.12 Disputes and contingencies not provided for .....	41
13.13 Inspection of and copies of documents of the SCHEME .....	41
13.14 Conditions of service .....	41
13.15 Termination of SCHEME CONTRIBUTIONS .....	41
13.16 Termination of SCHEME .....	42
13.17 Amendment to the RULES .....	45



# **RULES**

## **OF**

### **THE BUILDING INDUSTRY PROVIDENT FUND (WESTERN PROVINCE)**

#### **PART 1. INTRODUCTION**

##### **1.1 Establishment and object of the SCHEME**

- 1.1(1) A retirement fund known as The Building Industry Provident Fund (Western Province) (the SCHEME) was established with effect from 1 November 1997.
- 1.1(2) The object of the SCHEME is to provide, in terms of the provisions of these RULES, as amended from time to time, benefits at retirement or other life contingencies on behalf of persons who qualify for participation in the SCHEME.
- 1.1(3) The SCHEME is owner of its assets and is capable of acquiring rights and liabilities in its own name and of suing or being sued in a court of law. As such the SCHEME is a body corporate separate from its MEMBERS.
- 1.1(4) Up to and until 30 September 2002 the SCHEME was underwritten by Investec Employee Benefits Ltd., but with effect from 1 October 2002 SANLAM took over the administration.
- 1.1(5) As from 1 January 2011 the SCHEME is a privately administered fund.

##### **1.2 Registered office**

The registered office of the SCHEME is situated at:

133 Voortrekker Road  
BELLVILLE  
7530

**PART 2. DEFINITIONS**

In these RULES, unless the context indicates otherwise,

- ♦ words defined in the ACT have the meanings assigned to them in the ACT;
- ♦ the singular also denotes the plural and vice versa; and
- ♦ the expressions below have the meanings indicated opposite them.

**ACT** means the Pension Funds Act, 1956 (Act no 24 of 1956), as amended and the regulations promulgated in terms of it.

**ACTUARY** means the actuary appointed by the SCHEME.

**ADMINISTRATOR** means the INSURER or other administrator appointed by the SCHEME in terms of RULE 12.9.

**ADJUDICATOR** means the Pension Funds Adjudicator appointed in terms of the ACT.

**ANNUAL WAGE** means the ANNUAL WAGE as defined in RULE 6.1(1)(a).

**AUDITOR** means the auditor appointed by the SCHEME.

**BENEFICIARY** means a MEMBER, DEPENDANT, NOMINEE or other person to whom a benefit is payable in terms of the RULES.

**BOARD** means the BOARD which controls and manages the SCHEME in terms of the RULES.

**BOARD MEMBER** means a member of the BOARD.

**COMMENCEMENT DATE** means 1 November 1997.

**CONTINGENCY RESERVE ACCOUNT** means the CONTINGENCY RESERVE ACCOUNT described in RULE 10.2.

**CONTRIBUTION** means any amount paid under Part 4 by and/or in respect of a MEMBER but, for the purposes of determining the insured benefits in Part 6 will exclude any voluntary CONTRIBUTIONS under RULE 4.2.

**CONTRIBUTIONS FOR RETIREMENT BENEFITS** in regard to a MEMBER means the CONTRIBUTIONS made to the SCHEME as from 1 October 2002 by and in respect of the MEMBER, including transfers from other funds made specifically in

respect of the MEMBER, less the portion thereof earmarked by the SCHEME for the following, namely -

- ♦ the cost of the administration of the SCHEME (excluding the investment administration);
- ♦ the fees/commission payable to intermediaries, consultants and other professional advisers;
- ♦ the current cost of the risk insurance; and
- ♦ strengthening of the CONTINGENCY RESERVE ACCOUNT.

**CONTRIBUTION YEAR** means the continuous period of approximately 12 (twelve) months during which the CONTRIBUTIONS for that period are payable in terms of the COUNCIL AGREEMENT.

**COST STABILISATION ACCOUNT** means the COST STABILISATION ACCOUNT described in RULE 10.3.

**COUNCIL** means the Building Industry Bargaining Council (Cape of Good Hope), of 133 Voortrekker Road, Bellville 7530.

**COUNCIL AGREEMENT** means the agreement published under Government Notices No. 1019 dated 1 August 1997, and any subsequent amending or replacing agreements, including a collective agreement between the parties to the BOARD in terms of the Labour Relations Act, 66 of 1995.

**DEPENDANT** has the same meaning as in section 1 of the ACT and in regard to a MEMBER means -

- (a) a person in respect of whom the MEMBER is legally liable for maintenance;
- (b) a person in respect of whom the MEMBER is not legally liable for maintenance, if such person -
  - (i) was, in the opinion of the BOARD, upon the death of the MEMBER in fact dependent on the MEMBER for maintenance;
  - (ii) is the spouse of the MEMBER, where 'spouse' means the permanent life partner or spouse or civil union partner of a MEMBER in accordance with the Marriage Act 25 of 1961, the Recognition of Customary Marriages Act 120 of 1998, or the Civil Union Act, No. 17 of 2006, or the tenets of a religion;

- (iii) is a child of the MEMBER, including a posthumous child, an adopted child and a child born out of wedlock; or
- (c) a person in respect of whom the MEMBER would have become legally liable for maintenance, had the MEMBER not died.

**DORMANT MEMBER** means a MEMBER by and in respect of whom no CONTRIBUTIONS have been paid to the COUNCIL for a period of more than twenty-four (24) months and in respect of whom no benefit has been claimed.

**DORMANT MEMBER RESERVE ACCOUNT** means the DORMANT MEMBER RESERVE ACCOUNT described in RULE 10.4.

**ELIGIBLE EMPLOYEE** means a person employed in the INDUSTRY for whom a CONTRIBUTION to either this SCHEME or the PENSION SCHEME is prescribed in terms of the COUNCIL AGREEMENT and includes, with the consent of the ACTUARY, any other category of persons which the BOARD wishes to join the PENSION SCHEME. A contract of employment or an employer/employee relationship must exist between an ELIGIBLE EMPLOYEE and the EMPLOYER.

**EMPLOYER** means any employer in the INDUSTRY that participates in the SCHEME.

With regard to a MEMBER, EMPLOYER means that EMPLOYER by whom the MEMBER is or was last employed in the INDUSTRY.

**FINANCIAL YEAR** means the 12 (twelve) months ending on the last day of October each year.

**INDIVIDUAL MEMBER ACCOUNT** means the individual account kept for each MEMBER in terms of RULE 10.1.

**INDUSTRY** means the Building Industry in the Western Cape under the jurisdiction of the COUNCIL.

**INSURER** means SANLAM, 2 Strand Road, Bellville, 7530 and will include any other REGISTERED INSURER who may be appointed by the BOARD for the purpose of the reinsurance of the insurance benefits, the purchasing of annuity policies, the investment of CONTRIBUTIONS and/or the administration of the deposit administration SCHEME, which appointment will take effect from the date that such insurer assumes the applicable obligations.

**LABOUR RELATIONS ACT** means the Labour Relations Act, 1995 and the regulations made in terms of it, or any substituting statutory measures.

**MEMBER** means any person who is a MEMBER of the SCHEME in terms of the RULES and **MEMBERSHIP** has a corresponding meaning.

**MEMBER SHARE** in regard to any MEMBER means the balance of his/her INDIVIDUAL MEMBER ACCOUNT.

**NOMINEE** means a person who is appointed by the MEMBER in terms of the RULES to receive benefits at his/her death.

**NORMAL RETIREMENT AGE** means the following age:

- ♦ As from 1 November 2003, the age of 62 years.
- ♦ As from 1 November 2004, the age of 61 years.
- ♦ As from 1 November 2005, the age of 60 years.

**NORMAL RETIREMENT DATE** means the last day of the month in which the MEMBER reaches the NORMAL RETIREMENT AGE.

**PENSION SCHEME** means The Building Industry Pension Scheme (Western Province), Reg. No. 12/8/7361.

**PROVIDENT PRESERVATION FUND** means a provident preservation fund as defined in the Income Tax Act, 1962.

**REGISTERED INSURER** means an institution which is registered in terms of the Long-term Insurance Act, (Act No. 52 of 1998).

**REGISTRAR** means the Registrar of Pension Funds in terms of the ACT.

**RETIREMENT DATE** means the last day of the month in which the MEMBER retires from working in the INDUSTRY, as notified to the INSURER.

**REVENUE AUTHORITIES** means the statutory revenue authorities whose approval of the SCHEME is required.

**RULES** means these RULES as amended from time to time, registered by the REGISTRAR and approved by the REVENUE AUTHORITIES and may include any other document by which the SCHEME is constituted, other rule for the conduct of its business and/or other provision relating to benefits and/or CONTRIBUTIONS in terms

of these RULES, provided that such other document, rule and/or provision was agreed between the INSURER and the COUNCIL or the BOARD.

**SANLAM** means Sanlam Life Insurance Limited.

**SCHEME** (or **PROVIDENT FUND**) means The Building Industry Provident Fund (Western Province). Where applicable a reference to the SCHEME must be construed as a reference to the BOARD or the COUNCIL as the case may be.

**SCHEME INTEREST** in regard to a MEMBER means the rate of net investment return (both realised and unrealised) that the SCHEME earns in respect of the MEMBER as determined by the ADMINISTRATOR on behalf of the SCHEME. The SCHEME INTEREST may be positive or negative depending on circumstances.

### **PART 3. MEMBERSHIP**

#### **3.1 MEMBERSHIP**

- 3.1(1) Every new ELIGIBLE EMPLOYEE at or after the commencement of this PROVIDENT FUND must, within 30 (thirty) days after commencing employment in the INDUSTRY, elect in writing to the BOARD to join either this PROVIDENT FUND or the PENSION SCHEME as a condition of his/her employment.  
Failing such election, any such ELIGIBLE EMPLOYEE will be deemed to have elected membership of the PENSION SCHEME.
- 3.1(2) An existing member of the PENSION SCHEME at the date of commencement of this PROVIDENT FUND had the option to elect in writing to the BOARD, within 6 (six) months of said date, to become a MEMBER of the PROVIDENT FUND in respect of his/her future employment in the INDUSTRY, provided that the BOARD could allow such member of the PENSION SCHEME to join the PROVIDENT FUND after the aforesaid 6 (six) month period if he/she was not given reasonable notice of the said option.
- 3.1(3) Every ELIGIBLE EMPLOYEE must complete a membership application form on joining the SCHEME for the first time and he/she becomes a MEMBER of the PROVIDENT FUND from the beginning of the week during which he/she earned his/her first CONTRIBUTION.

#### **3.2 Termination**

- 3.2(1) A MEMBER's MEMBERSHIP may not be terminated as long as he/she remains an ELIGIBLE EMPLOYEE.
- 3.2(2) A MEMBER's MEMBERSHIP terminates -
- (a) at the MEMBER's death; or
  - (b) as soon as the MEMBER, after he/she has ceased to be an ELIGIBLE EMPLOYEE, ceases to be entitled to a benefit in terms of the RULES in accordance with RULE 3.2(3); or
  - (c) at the dissolution of the SCHEME,
- whichever event occurs first.
- 3.2(3) A MEMBER ceases to be entitled to a benefit in terms of the RULES if –

- (a) the benefit in terms of the RULES has been paid to him/her; or
- (b) as at a FINANCIAL YEAR-end, no CONTRIBUTIONS have been received by the SCHEME in respect of a MEMBER for the previous 24 (twenty-four) months, and the MEMBER's MEMBER SHARE has become nil as a result of the deduction of the expenses of the SCHEME in respect of the MEMBER.

### **3.3 Re-employment**

- 3.3(1) If a MEMBER referred to in RULE 3.2 subsequently again works in the INDUSTRY and becomes eligible for MEMBERSHIP of the SCHEME, he/she will be treated as a new MEMBER.
- 3.3(2) If a MEMBER retires early in terms of RULE 5.1(2) and draws his/her benefit, but again works in the INDUSTRY, he/she will not qualify for MEMBERSHIP of the SCHEME.



## **PART 4. CONTRIBUTIONS**

### **4.1 Normal CONTRIBUTIONS**

- 4.1(1) For each day in which a MEMBER works in the INDUSTRY for at least the number of hours specified by the BOARD, his/her EMPLOYER shall pay to the COUNCIL the MEMBER's CONTRIBUTION (if any) and the EMPLOYER's CONTRIBUTION in accordance with the COUNCIL AGREEMENT.
- 4.1(2) The EMPLOYER CONTRIBUTIONS made on or after 1 December 2005 mean the total EMPLOYER's CONTRIBUTIONS which are applied –
- (a) to pay the costs of the insured benefits which are provided for in the RULES;
  - (b) to pay the cost of the funeral aid and disability income insurance effected outside the SCHEME by the EMPLOYER for the benefit of the MEMBERS;
  - (c) to pay the COUNCIL's and the INSURER's administrative fees in respect of the SCHEME;
  - (d) for the portion, as determined by the BOARD after consulting the ADMINISTRATOR, to be credited monthly to the CONTINGENCY RESERVE ACCOUNT; and
  - (e) for the balance to be applied in respect of the MEMBERS for retirement benefits.

### **4.2 Additional CONTRIBUTIONS**

#### **By transfer**

- 4.2(1) A MEMBER's cash benefit from another retirement fund may be transferred to the SCHEME to be applied on his/her behalf under the SCHEME.

#### **Voluntarily additional retirement benefits**

- 4.2(2) A MEMBER and/or his/her EMPLOYER may make additional CONTRIBUTIONS to the SCHEME to purchase an additional pension in respect of his/her current or past employment, provided that such additional CONTRIBUTIONS are deductible from income in terms of the Income Tax Act, No. 58 of 1962, as amended.

### **4.3 Payment of CONTRIBUTIONS**

The CONTRIBUTIONS to the SCHEME must be paid to the COUNCIL on or before the 20<sup>th</sup> day of the month following the period in respect of which such

CONTRIBUTIONS had been earned. The CONTRIBUTIONS are reconciled by the COUNCIL before remittance to the SCHEME.

**PART 5. RETIREMENT BENEFITS****5.1 When payable**

- 5.1(1) A retirement benefit becomes payable when a MEMBER retires from the service of the EMPLOYER on or after his/her NORMAL RETIREMENT AGE.
- 5.1(2) A retirement benefit also becomes payable when a MEMBER's service with the EMPLOYER is terminated before his/her NORMAL RETIREMENT DATE, provided that -
- (a) the termination amounts to retirement, and it occurs after the MEMBER has reached the age of 55 years; or
  - (b) the termination amounts to retirement owing to ill-health.

**5.2 Benefit at retirement**

With effect from 1 October 2002, an annuity policy purchased with the MEMBER SHARE. By applying to the SCHEME prior to his/her retirement, the MEMBER may convert the benefit, or a part of it, into a lump sum payment.

**5.3 Purchase of annuity policy**

- 5.3(1) With effect from 1 October 2002, the MEMBER's SHARE must be applied to purchase an annuity policy.
- 5.3(2) The annuity policy referred to in the preceding RULE must be purchased from an INSURER selected by the MEMBER with the MEMBER as owner of the policy.
- 5.3(3) The SCHEME's liability in respect of a retiring MEMBER is limited to the conclusion of the annuity policy with the INSURER for the payment of the annuity direct to the MEMBER. Immediately after the SCHEME has paid the premium on the annuity policy and, where applicable, made payment of any lump sum, the MEMBER's MEMBERSHIP of the SCHEME ceases.
- 5.3(4) More than one annuity policy may be purchased in respect of a MEMBER subject to the terms and conditions prescribed by the REVENUE AUTHORITIES in this regard.
- 5.3(5) Subject to the right of conversion into a lump sum payment provided in RULE 5.2, the annuity policy must, unless otherwise allowed by the REVENUE AUTHORITIES, be non-commutable and non-surrenderable during the life of the retired MEMBER. It may

not be transferred, assigned, reduced, hypothecated or attached by creditors as contemplated by the provisions of sections 37A and 37B of the ACT.

- 5.3(6) The annuity must be payable at least until the death of the MEMBER. It may be a single-life annuity, a joint and survivorship annuity or a flexible annuity.

**5.4 Existing pensions in the name of the SCHEME**

If the SCHEME is liable to pay a pension purchased in the name of the SCHEME to a pensioner, the SCHEME may, after notifying the pensioner, transfer its liability to an INSURER on the conditions laid down by the SCHEME. The pensioner will become the owner of the annuity policy and the SCHEME will have no further liability towards the pensioner.

**PART 6. DEATH BENEFITS**

**6.1 Death benefits**

The following provisions apply -

**Benefits of MEMBERS who qualify for a life insurance benefit**

- 6.1(1) If a MEMBER dies before or on the NORMAL RETIREMENT DATE and before he/she claimed a benefit in respect of the CONTRIBUTIONS standing to his/her credit, a life insurance benefit equal to a multiple of his/her ANNUAL WAGE in accordance with the following table and provisions is applied to purchase annuity policies for his/her DEPENDANTS and NOMINEES:

<b>Number of weekly CONTRIBUTIONS</b>	<b>ANNUAL WAGE multiple</b>
Under 11	Nil, but, in the event of an accident, 4 times
11 or more	4 times

- (a) ANNUAL WAGE means 52 times the weekly wage on which the MEMBER's last CONTRIBUTION was based in terms of the COUNCIL AGREEMENT. Provided that, if the MEMBER was credited with CONTRIBUTIONS in more than one Wage Category during his/her last and/or second last CONTRIBUTION YEAR, an average of his/her weekly wages in those Categories will be used;
- (b) the contract of employment or employer/employee relationship, referred to in the definition of ELIGIBLE EMPLOYEE in Part 2, must be in place for at least 40 (forty) working days prior to the event-giving rise to the claim for the insured death benefit;
- (c) CONTRIBUTIONS to the SCHEME with respect to the MEMBER must be up to date for at least 40 (forty) working days in the 50 (fifty) working days prior to the event-giving rise to the claim for the insured death benefit, provided that, should no CONTRIBUTION be payable for a legitimate reason (such as layoff or illness) for a

period during the 40 (forty) working days, the 40 (forty) working days shall be extended by the duration of that period;

- (d) no CONTRIBUTION in respect of which a MEMBER was paid a benefit at any time before his/her death shall be taken into account in determining whether he/she qualifies for life insurance benefit;
  - (e) a MEMBER who was formerly an apprentice and earns his/her first CONTRIBUTION as an artisan within 12 (twelve) months after qualifying as an artisan, will be covered for the life insurance benefit for the rest of said 12 (twelve)-month period;
  - (f) claims for life insurance benefits must be submitted to the INSURER within 6 (six) months after the MEMBER's death, unless the INSURER condones later submission in special circumstances;
  - (g) "accident" shall mean bodily injury caused by unforeseen violent, external and visible means, of which the INSURER was given notice, with full particulars, in accordance with (f) above;
- after the said 40 day period in (b) above the normal conditions for qualifying for a life insurance benefit shall apply; and
- no other death benefit shall be payable under this RULE in respect of a MEMBER who qualifies for said accidental death benefit.

#### **Benefit relating to CONTRIBUTIONS FOR RETIREMENT BENEFITS**

- 6.1(2) The MEMBER SHARE is applied to purchase annuity policies for his/her DEPENDANTS and NOMINEES.

In the case of a MEMBER who qualifies for the life insurance benefit in RULE 6.1(1), this benefit is paid in addition to the benefit in RULE 6.1(1).

#### **6.2 Funding of life insurance benefits**

The manner of funding life insurance benefits is determined by the INSURER in consultation with the COUNCIL or, after its appointment, with the BOARD from time to time.

#### **6.3 Death after the NORMAL RETIREMENT DATE while an EMPLOYEE**

If a MEMBER dies after the NORMAL RETIREMENT DATE and before he/she claimed a benefit in respect of the CONTRIBUTIONS standing to his/her credit, the

MEMBER SHARE is applied to purchase annuity policies for his/her DEPENDANTS and NOMINEES.

#### **6.4 Purchase of annuity policy at death**

- 6.4(1) The annuity policies referred to in this Part must be purchased from an INSURER selected by the DEPENDANT or NOMINEE, or by the guardian or trustee in the case of a minor.
- 6.4(2) Each annuity policy must be purchased with the DEPENDANT or NOMINEE as owner of the policy. A policy may be purchased with the joint owners being more than one DEPENDANT or NOMINEE.
- 6.4(3) The SCHEME's liability in respect of an annuity policy and the payment of the annuity payable in terms of it is limited to
- ♦ the conclusion of the annuity policy with an INSURER in favour of the DEPENDANT or NOMINEE; and
  - ♦ payment of the premium on the annuity policy.
- 6.4(4) More than one annuity policy may be purchased in respect of a deceased MEMBER, subject to the terms and conditions prescribed by the REVENUE AUTHORITIES in this regard.
- 6.4(5) Subject to the right of conversion into a lump sum payment provided below, the annuity policies must be non-commutable and non-surrenderable. And they may not be transferred, assigned, reduced, hypothecated or attached by creditors as contemplated by the provisions of sections 37A and 37B of the ACT.

#### **6.5 Conversion of annuity policy into a lump sum payment**

At the discretion of the BOARD or in the event of a request from a DEPENDANT or NOMINEE, or his/her guardian or trustee in the case of a minor, for whom an annuity policy is to be purchased in terms of this Part, a part or the whole of the annuity policy may be converted into a lump sum payment.

#### **6.6 Limitations and other conditions regarding the death benefits**

- 6.6(1) The life insurance benefit payable in terms of these RULES is subject to all the limitations, exclusions, terms and conditions to the death insurance that the SCHEME has effected with the INSURER in regard to the benefit.

- 6.6(2) The policy insuring the life insurance benefit must be open for inspection by the MEMBERS at the personnel office of the EMPLOYER at reasonable times.
- 6.6(3) The death benefits payable or to be applied in respect of a MEMBER in terms of this Part may be reduced by the amount of any reasonable costs undertaken by the SCHEME in identifying and tracing DEPENDANTS and/or NOMINEES of the MEMBER or making an advance payment of a portion of the death benefits at the request of the DEPENDANTS and/or NOMINEES of the MEMBER.

**6.7 Funeral aid benefit**

A funeral aid benefit is payable in terms of and subject to the provisions of the INSURER's policy for the separate funeral aid insurance effected outside the SCHEME by the EMPLOYER for the benefit of the MEMBERS in the event of the death of a MEMBER, his/her qualifying spouse or dependent child.



**PART 7. WITHDRAWAL BENEFITS****7.1 Definition**

In this Part **WAITING-PERIOD** means a continuous period of 6 (six) months during which a MEMBER is not employed in the INDUSTRY, provided that the BOARD may reduce or waive that period in consultation with the INSURER in special circumstances.

**7.2 Termination of service**

If a MEMBER's employment in the INDUSTRY is terminated before the NORMAL RETIREMENT DATE (whether voluntarily by the MEMBER or as a result of retrenchment, redundancy, dismissal or any other reason), and he/she is then not entitled to retirement benefits from the SCHEME, he/she may exercise one of the following options:

**Cash Benefit**

- (a) The MEMBER may choose in writing in the prescribed format that the whole or a portion of the MEMBER SHARE be paid to him/her as a lump sum cash benefit. This benefit only becomes payable upon expiry of his/her WAITING-PERIOD.

The portion not so paid will be transferred for his/her benefit to another retirement fund selected by him/her and approved by the SCHEME for this purpose.

- (b) If the MEMBER resumes employment in the INDUSTRY before the expiry of his/her WAITING-PERIOD, he/she will automatically retain his/her rights to the benefits under the SCHEME and will then not be entitled to the refund.

**Paid-up benefit**

- (c) The MEMBER may choose in writing in the prescribed format and before payment of the lump sum cash benefit in paragraph (a) becomes due, to leave in the his/her MEMBER SHARE in the SCHEME, provided that –

- (i) the MEMBER will be entitled to his/her MEMBER SHARE at the time of his/her withdrawal, together with the SCHEME INTEREST earned thereon

after his/her withdrawal, to be paid to him/her as a retirement benefit mutatis mutandis in accordance with the provisions of Part 5;

- (ii) if the MEMBER dies before the retirement benefit becomes payable in terms of the previous sub-paragraph, the SCHEME must pay his/her MEMBER SHARE at the time of his/her withdrawal, together with the SCHEME INTEREST earned thereon after his/her withdrawal, to the MEMBER's DEPENDANTS and NOMINEES.

**Transfer to an approved fund**

- (d) The MEMBER may choose in writing in the prescribed format and before payment of the lump sum cash benefit in paragraph (a) becomes due, that the MEMBER SHARE be transferred for him/her to another fund which has been established for the payment of annuities or retirement benefits and which has been approved by the SCHEME for this purpose.

Any transfer to a PROVIDENT PRESERVATION FUND must comply with the statutory requirements of the REVENUE AUTHORITIES.

**7.3 Interest on late transfers**

If the benefit to be transferred in terms of this Part is not transferred by the SCHEME within the period determined in terms of section 13A of the ACT, interest will be added to the value of that benefit as at the date of termination of service at a rate equal to the greater of the rate prescribed in terms of that section and SCHEME INTEREST.

**7.4 Special limitations on the options**

If the MEMBER does not advise the SCHEME of his/her choice in terms of this Part in writing in the prescribed format and before payment of the cash benefit in paragraph (a) of RULE 7.2 becomes due, he/she is deemed to have chosen the cash benefit described in paragraph (a) of RULE 7.2.

**PART 8. TRANSFERS TO AND FROM OTHER SCHEMES**

**8.1 Transfers from or to other retirement funds**

The SCHEME, in consultation with other funds, may receive benefits from or transfer benefits to those funds on the conditions laid down by the SCHEME.

**8.2 Transfers to a PROVIDENT PRESERVATION FUND**

Any transfer to a PROVIDENT PRESERVATION FUND must comply with the statutory requirements of the REVENUE AUTHORITIES.

**8.3 Transfers in terms of section 14 of the ACT**

If the business of the SCHEME in respect of a MEMBER is transferred to another fund, as contemplated in section 14 of the ACT, as from the effective date of the transfer -

- (a) CONTRIBUTIONS to the SCHEME by or in respect of the MEMBER must cease; and
- (b) the MEMBER will not be entitled to any risk benefits under the SCHEME.

**8.4 Transfers in terms of section 197 of the LABOUR RELATIONS ACT**

If business of the EMPLOYER is transferred in terms of section 197 of the LABOUR RELATIONS ACT, the following applies:

- (a) If the MEMBERS affected by the transfer of business become members of an approved pension or provident fund established for the employees of the organisation to which business of the EMPLOYER is transferred, the MEMBERS' MEMBER SHARES will be transferred to such approved pension or provident fund in terms of section 14 of the ACT, and they will not be entitled to their MEMBER SHARES or a portion thereof in cash.
- (b) If there is no approved pension or provident fund deemed suitable by the BOARD for the employees of the organisation to which the business of the EMPLOYER is transferred, -
  - (i) the BOARD may determine that the MEMBER SHARES of the MEMBERS affected by the transfer be transferred to an approved retirement annuity fund in terms of section 14 of the ACT; or
  - (ii) the BOARD may determine that the MEMBERS affected by the transfer remain MEMBERS of the SCHEME for a certain period and on certain conditions,

provided that, for that period, the organisation to which the business of the EMPLOYER is transferred, becomes an EMPLOYER for purposes of the RULES; and

- (iii) the BOARD may, at the request of the organisation to which the business of the EMPLOYER is transferred, determine that all new employees of such organisation become MEMBERS of the SCHEME also for a certain period and on certain conditions.
- (c) If paragraphs (a) or (b) of this RULE do not apply the MEMBERS affected by the transfer will be entitled to their withdrawal benefits under the SCHEME.

## **PART 9. ABSENCE FROM SERVICE**

### **9.1 Absence with the EMPLOYER's consent**

If a MEMBER is absent from the service of the EMPLOYER with the EMPLOYER's consent, the MEMBER's MEMBERSHIP continues subject to the following:

- (a) The MEMBER may, with the consent of the EMPLOYER, suspend his/her CONTRIBUTIONS to the SCHEME, in which case the portion of the EMPLOYER's CONTRIBUTIONS to the SCHEME in respect of the MEMBER, except the portion that must be applied towards the expenses of the SCHEME, are also suspended.
- (b) During the period of absence the MEMBER's ANNUAL WAGE is deemed to be equal to the ANNUAL WAGE he/she received immediately before the commencement of absence, subject to other agreements between the SCHEME and the EMPLOYER in this regard.
- (c) The insured death benefits remain applicable to the MEMBER during the period of absence, subject to the provisions Part 6 of the RULES and the insurance of the death benefits effected by the SCHEME with the INSURER.

A MEMBER is deemed to be absent with the EMPLOYER's consent while he/she is engaged in a strike that is protected in terms of the LABOUR RELATIONS ACT.

### **9.2 Absence without the EMPLOYER's consent**

A MEMBER's MEMBERSHIP lapses and his/her service is regarded as terminated if and as soon as he/she is absent from the EMPLOYER's service without the EMPLOYER's consent. The EMPLOYER must immediately inform the SCHEME of the MEMBER's absence and of the date when it commenced.

### **9.3 MEMBER in receipt of a disability income benefit**

9.3(1) If a MEMBER receives an insured disability income benefit in accordance with the disability income insurance effected by the COUNCIL on behalf of the EMPLOYERS for the benefit of the MEMBERS, he/she will remain a MEMBER of the SCHEME until the earlier of his/her NORMAL RETIREMENT DATE or death.

9.3(2) While the MEMBER receives such an income the following applies:

- (a) For purposes of determining his/her CONTRIBUTIONS (if any) and the EMPLOYER's CONTRIBUTIONS to the SCHEME, his/her ANNUAL WAGE is

deemed to be equal to the ANNUAL WAGE he/she received immediately before becoming disabled to the extent required for the disability income benefit to become payable, and any increases in his/her ANNUAL WAGE will be subject to the provisions of the disability income insurance effected by the COUNCIL on behalf of the EMPLOYER for the benefit of the MEMBERS.

- (b) The insured death benefits applicable to him/her are those that applied immediately before he/she became disabled to the extent required for the disability income benefit to become payable. The insured death benefits and any increases in these benefits are subject to the provisions of the RULES and the insurance of the death benefits effected by the SCHEME with the INSURER.

**PART 10. ACCOUNTS AND RESERVES****10.1 INDIVIDUAL MEMBER ACCOUNT**

- 10.1(1) The SCHEME keeps an INDIVIDUAL MEMBER ACCOUNT for each MEMBER which is credited with -
- (a) the cash benefit (including any augmentation amount determined by the ACTUARY in terms of Rules 12 and 13 of the rules that applied immediately before 1 October 2002), which the MEMBER would have received from the SCHEME, if he/she had ceased to be employed in the INDUSTRY immediately before 1 October 2002;
  - (b) the CONTRIBUTIONS FOR RETIREMENT BENEFITS in respect of the MEMBER;
  - (c) at the discretion of the BOARD, unallocated amounts that arise from processing mismatches;
  - (d) SCHEME INTEREST if the rate of SCHEME INTEREST is positive.
- 10.1(2) The INDIVIDUAL MEMBER ACCOUNT is debited with -
- (a) the portion of the MEMBER SHARE which is payable to BENEFICIARIES in terms of the RULES;
  - (b) transfers to the CONTINGENCY RESERVE ACCOUNT to fund the expenses payable from that account;
  - (c) any amounts deducted in terms of section 37D of the ACT;
  - (d) expenses of the SCHEME in respect of the MEMBER if he/she elects the paid-up benefit in terms of RULE 7.2(c);
  - (e) expenses of the SCHEME in respect of the MEMBER if he/she elected to join the PENSION SCHEME in respect of his/her future employment in the INDUSTRY in terms of RULE 3.1(1);
  - (f) SCHEME INTEREST if the rate of SCHEME INTEREST is negative.
- 10.1(3) On liquidation of the SCHEME, any balance in the account must be applied in accordance with section 15I of the ACT.

## 10.2 CONTINGENCY RESERVE ACCOUNT

- 10.2(1) The SCHEME keeps a CONTINGENCY RESERVE ACCOUNT to which may be credited –
- (a) an amount determined by the ACTUARY to be kept in the CONTINGENCY RESERVE ACCOUNT of the SCHEME with effect from 1 January 2003, which is the surplus apportionment date of the SCHEME in terms of section 15B of the ACT;
  - (b) transfers from the INDIVIDUAL MEMBER ACCOUNTS to strengthen this account;
  - (c) employer CONTRIBUTIONS earmarked by the SCHEME to strengthen this account;
  - (d) subject to the maximum amount determined by the BOARD from time to time, small amounts of interest charged on the late payment of CONTRIBUTIONS in terms of the ACT, which if allocated to INDIVIDUAL MEMBER ACCOUNTS would have a detrimental cost effect on the SCHEME and the MEMBERS;
  - (e) small unallocated amounts that arise from processing mismatches which if allocated to INDIVIDUAL MEMBER ACCOUNTS would have a detrimental cost effect on the SCHEME and the MEMBERS;
  - (f) interest earned in the bank account of the SCHEME as decided by the BOARD in consultation with the ACTUARY;
  - (g) any amount that the BOARD, on the advice of the ACTUARY, transfers from the COST STABILISATION ACCOUNT; and
  - (h) the net investment return on the amount in the CONTINGENCY RESERVE ACCOUNT.
- 10.2(2) The CONTINGENCY RESERVE ACCOUNT may be debited with the following -
- (a) fees payable to the ADMINISTRATOR for services rendered to the SCHEME;
  - (b) any taxes and levies not taken into account in the costs of the administration of the SCHEME or the investment of its assets;
  - (c) premiums for fidelity and professional indemnity insurance taken out by the SCHEME;



- (d) fees and reimbursements payable to consultants, advisers and other service providers appointed by the SCHEME;
- (e) the costs of any audits of the SCHEME;
- (f) fees and reimbursements for secretarial services provided to the SCHEME;
- (g) fees and reimbursements payable to the principal officer of the SCHEME;
- (h) reasonable expenses incurred by the BOARD MEMBERS in directing, controlling and overseeing the operations of the SCHEME;
- (i) the costs of training of BOARD MEMBERS;
- (j) transfers to the COST STABILISATION ACCOUNT to fund the expenses payable from that account.

10.2(3) On liquidation of the SCHEME, any balance in the account must be applied in accordance with section 15I of the ACT.

### **10.3 COST STABILISATION ACCOUNT**

- 10.3(1) The SCHEME keeps a COST STABILISATION ACCOUNT to which is credited –
- (a) transfers from the CONTINGENCY RESERVE ACCOUNT to strengthen this account after consultation with the ACTUARY;
  - (b) any amount that the BOARD, on the advice of the ACTUARY, transfers to this account in order to maintain the balance in this account at an appropriate level;
  - (c) underwriting profits that accrue to the SCHEME in terms of policies with INSURERS to enhance the benefits payable in terms of the RULES;
  - (d) amounts in respect of MEMBERS to pay the premiums for the insured benefits which are provided in terms of the RULES and any fees for the administration of the SCHEME;
  - (e) amounts in respect of MEMBERS to pay the premiums for the funeral aid and disability insurance effected outside the SCHEME by the employer on behalf of MEMBERS in terms of RULE 4.1(2) of the RULES;
  - (f) interest earned in the bank account of the SCHEME as decided by the BOARD in consultation with the ACTUARY;
  - (g) the net investment return on the amount in the account.

- 10.3(2) The COST STABILISATION ACCOUNT is debited with the following –
- (a) the premiums for the insured benefits which are provided for in the RULES;
  - (b) the premiums for the funeral aid and disability insurance effected outside the SCHEME by the employer for the benefit of the MEMBERS;
  - (c) the application of the balance (if any) in this account for the stabilisation of the cost for the insured benefits which are provided for in the RULES, as well as the cost of the funeral aid and disability insurance effected outside the SCHEME by the employer for the benefit of the MEMBERS;
  - (d) any additional costs involved in the administration of the stabilisation of the insured benefits;
  - (e) transfers to the CONTINGENCY RESERVE ACCOUNT to fund the expenses payable from that account.
- 10.3(3) On liquidation of the SCHEME, any balance in the account must be applied in accordance with section 15I of the ACT.

#### **10.4 DORMANT MEMBER RESERVE ACCOUNT**

- 10.4(1) The SCHEME keeps a DORMANT MEMBER RESERVE ACCOUNT to which is credited -
- (a) the MEMBER SHARE of MEMBERS when they become DORMANT MEMBERS;
  - (b) the net investment return on the amount in the account.
- 10.4(2) The DORMANT MEMBER RESERVE ACCOUNT, if agreed to by the BOARD, after consulting the ACTUARY, may be debited with amounts applied -
- (a) to pay any reasonable costs incurred by the SCHEME in identifying and tracing the DORMANT MEMBERS; and
  - (b) to pay the costs of the administration of the DORMANT MEMBERS; and
  - (c) to pay claims in respect of DORMANT MEMBERS to legitimate BENEFICIARIES.
- 10.4(3) On liquidation of the FUND, any balance in the account must be applied in accordance with section 15I of the ACT.

**PART 11. INVESTMENT OF ASSETS AND MONEYS WHILE CLAIM  
PENDING**

- 11.1(1) Subject to sub-RULE 11.1(4), the benefit arising from a MEMBER's retirement, death or termination of service is invested in a money market portfolio kept by the SCHEME from not later than the seventh day (excluding Saturdays, Sundays and public holidays) following the later of –
- ♦ the date of retirement, death or termination of service, as the case may be;
  - ♦ the date that the ADMINISTRATOR receives the notification of the retirement, death or termination of service in the form prescribed by the ADMINISTRATOR; and
  - ♦ the date on which the last CONTRIBUTION that is due to the SCHEME in respect of the MEMBER is paid in full plus the time reasonably required by the ADMINISTRATOR to verify the correctness of the CONTRIBUTIONS.
- 11.1(2) The rate of net income earned on the investment referred to in the preceding sub-RULE constitutes the SCHEME INTEREST in regard to the MEMBER from the commencement of that investment until the date the ADMINISTRATOR requests the tax directive from the REVENUE AUTHORITIES.
- 11.1(3) The proceeds of insurance forming part of benefits payable to or in respect of a MEMBER must be invested in the money market portfolio from the date of receipt from the INSURER. The net income on the investment of those proceeds up to the date the ADMINISTRATOR requests the tax directive from the REVENUE AUTHORITIES will be added to the benefits payable.
- 11.1(4) If a MEMBER, on retirement or termination of service, requests that a transfer is made to a fund or a purchase is made from an INSURER in the same investment portfolio in which the MEMBER's benefit was before retirement or termination of service, the benefit is not invested in the money market portfolio.

## **PART 12. BOARD**

### **12.1 The BOARD**

The SCHEME is controlled and managed by a BOARD which itself or through its duly authorised assignees performs all acts for and on behalf of the SCHEME.

### **12.2 Election of BOARD MEMBERS**

The BOARD shall be constituted as follows:

- 12.2(1) The COUNCIL consists of 8 (eight) EMPLOYER and 8 (eight) employee representatives.
- 12.2(2) The 8 (eight) EMPLOYER representatives represent the Master Builders' Associations of Western Cape and Boland. The EMPLOYER representatives are elected by their respective constituencies to represent such constituencies on the COUNCIL.
- 12.2(3) The 8 (eight) employee representatives represent the Building Workers' Union, the Building and Construction Workers Union, the National Union of Mineworkers and the Building, Wood and Allied Workers Union of South-Africa. The employee representatives are elected by their constituencies to represent such constituencies on the COUNCIL.
- 12.2(4) The COUNCIL appoints to the BOARD 5 (five) EMPLOYER representatives to represent the EMPLOYERS and 5 (five) employee representatives to represent the MEMBERS, and a 11<sup>th</sup> BOARD MEMBER that is independent of any Association, the ADMINISTRATOR, INSURER and any other service provider of the FUND.

### **12.3 Exclusions**

None of the following persons will be capable of becoming or continuing to be a BOARD MEMBER:

- (a) a minor or any person who is insane or otherwise incapable of acting in law;
- (b) any person who is disqualified from being a director in terms of an order under the Companies Act, 1973;
- (c) an unrehabilitated insolvent;
- (d) any person removed from any office of trust on account of misconduct;
- (e) any person sentenced to imprisonment without the option of a fine or convicted of any of the following offences: theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention of Corruption Act 1958, any other offence

involving dishonesty or any offence in connection with the promotion, formation or management of a company.

#### **12.4 Term of office**

- 12.4(1) Each BOARD MEMBER's membership of the BOARD will, before the expiry of every period of 12 (twelve) months following his/her appointment, be confirmed by the party which appointed him/her. Failing such confirmation of any BOARD MEMBERS, the provisions of RULE 12.4(2) will apply in respect of them.
- 12.4(2) A BOARD MEMBER's term of office ceases if -
- (a) he/she dies or resigns by giving 1 (one) month's written notice to the other BOARD MEMBERS; or
  - (b) he/she becomes incapable of continuing to be a BOARD MEMBER in terms of RULE 12.3; or
  - (c) his/her appointment is not confirmed in accordance with RULE 12.4(1); or
  - (d) he/she is removed from office by the party which appointed him/her; or
  - (e) he/she is removed from office in terms of RULE 12.4(4).
- 12.4(3) If a BOARD MEMBER's term of office ceases in terms of RULE 12.4(2), the party which originally appointed such former BOARD MEMBER will then appoint a new BOARD MEMBER within 1 (one) month of, but with effect from the date on which the former BOARD MEMBER ceased to hold office.
- 12.4(4) Any BOARD MEMBER who, in the opinion of the BOARD, is guilty of misconduct or neglecting his/her duties can by a resolution of the BOARD, taken with a two-thirds majority of votes, be removed from his/her office as BOARD MEMBER after he/she has had a chance to state his/her case.

#### **12.5 Object and duties of the BOARD**

- 12.5(1) The object of the BOARD is to direct, control and oversee the operations of the SCHEME in accordance with the RULES, the ACT and other applicable laws. In so doing the BOARD must:
- (a) take all reasonable steps to ensure that the interests of the MEMBERS in terms of the RULES and the provisions of the ACT are protected at all;
  - (b) act with due care, diligence and good faith;

- (c) avoid conflicts of interest;
- (d) act with impartiality in respect of all MEMBERS and other BENEFICIARIES;
- (e) ensure that proper accounts, entries, registers and records of the operations of the SCHEME are kept;
- (f) ensure that all resolutions by the BOARD passed at a meeting or otherwise are recorded in the form of written minutes;
- (g) ensure that proper control systems are employed by or on behalf of the BOARD to protect the assets of the SCHEME;
- (h) ensure that adequate and appropriate information is communicated to the MEMBERS informing them of their rights, benefits and duties in terms of the RULES;
- (i) ensure that CONTRIBUTIONS are paid timeously to the SCHEME in accordance with the RULES and the ACT;
- (j) obtain expert advice on matters where the BOARD may lack sufficient expertise;
- (k) ensure that the RULES and the operation and administration of the SCHEME comply with all applicable legislation and any legally binding ruling laid down by the REGISTRAR or the REVENUE AUTHORITIES;
- (l) keep registers containing the information prescribed by the regulations to the ACT at the SCHEME's registered office;
- (m) ensure that the assets of the SCHEME are kept in the name of the SCHEME or in the name of a nominee company approved by the REGISTRAR;
- (n) arrange for the safekeeping of all title deeds and other securities belonging to or held by the SCHEME and for the marking of those documents so as to easily establish at any time that the documents belong to or are held by the SCHEME.

12.5(2) Apart from the duties assigned to the BOARD in this RULE or elsewhere in the RULES, the BOARD must perform the duties assigned to it in the ACT.

## **12.6 Powers of the BOARD**

The BOARD must carry out the objects of the SCHEME and fulfill their duties in terms of the RULES and the ACT. In achieving this end, the BOARD has the following powers:

- (a) to open and operate a banking account in the name of the SCHEME;
- (b) to receive, administer and apply the moneys of the SCHEME;
- (c) to acquire or hold movable and immovable property and to sell, rent, hire, borrow or lend such property or to obtain it otherwise and to transfer or dispose of it;
- (d) to lend, invest, let out at interest, place on deposit, invest in policies, advance or otherwise deal with all moneys of the SCHEME against such security and in the manner as the BOARD may determine from time to time, and to realise, vary, reinvest or otherwise deal with such securities and other investments in the manner it may determine;
- (e) to borrow money at interest or otherwise, for the purposes of the SCHEME, in order to meet any temporary cash shortage, or complete any investment;
- (f) in the name of the SCHEME to institute, conduct, defend, compound, settle or abandon any legal proceedings by or against the SCHEME;
- (g) to effect policies with one or more INSURERS for the purpose of insuring in whole or in part, the benefits payable in terms of these RULES if it should so determine and to maintain existing policies (if any) for as long as it may deem fit;
- (h) to delegate any of its powers and duties to any institution, organisation or person, including a sub-committee, which may consist of one or more BOARD MEMBERS on terms and conditions agreed to by the BOARD, provided that, any decisions taken by such institution, organisation, person or sub-committee regarding a matter that requires the BOARD's discretion to be used in terms of section 37C of the ACT must be ratified by the BOARD; and
- (i) generally to do whatever, in its opinion, is conducive to attaining the objects of the SCHEME.

### **12.7 Procedures of the BOARD**

- 12.7(1) The BOARD must from time to time appoint one of its members as Chairman who will not have any additional vote by virtue of his/her chairmanship of the BOARD.
- 12.7(2) At a meeting of the BOARD all resolutions, excepting a resolution to remove a BOARD MEMBER from office, must be decided by majority vote. If a majority vote in respect of a specific matter cannot be obtained a new meeting must be called. If the voting is again equal the matter must be referred to a person deemed by the BOARD to

be an expert on the matter. The person so appointed operates as an expert and not as an arbitrator. He/she has full discretion regarding the procedure to be followed to arrive at a decision. Before having to make a decision, he/she may act in the role of a conciliator, mediator or advisory arbitrator towards the BOARD MEMBERS for them to reach a majority resolution. Any decision taken by him/her on the matter is final and binding.

If a majority decision cannot be reached regarding the appointment of such an expert, the appointment must be made by the chairman of the Bar Council nearest to the registered address of the SCHEME.

- 12.7(3) Any resolution of the BOARD -
- (a) concerning a material change to the RULES, and/or
  - (b) affecting any material interest of the BOARD or the INSURER, or the obligations of a BOARD MEMBER in his/her individual capacity with regard to the SCHEME or its administration, and/or
  - (c) concerning the interpretation or amendment of the BOARD's powers and duties,
- will be passed without any dissenting vote and will be subject to ratification by the BOARD and the INSURER within 30 (thirty) days.
- 12.7(4) The BOARD may from time to time obtain such expert advice as it may reasonably consider necessary for the purposes of its duties in respect of the SCHEME, provided that the INSURER may be consulted, at no extra cost to the SCHEME, on any matter involving the INSURER's interests, rights and obligations.
- 12.7(5) The BOARD must meet at least once during every period of 6 (six) months following its appointment. The Chairman of the BOARD will convene a meeting of the BOARD at the request of any party hereunder, after at least 7 (seven) days' notice to each BOARD MEMBER and to any other delegate who may attend the meeting.
- 12.7(6) A quorum consists of at least 2 (two) BOARD MEMBERS who must be EMPLOYER representatives and 2 (two) who must be employee representatives and one (1) independent BOARD MEMBER. The COUNCIL may appoint one or more persons to act as alternates in the place of the independent BOARD MEMBER appointed by it during his/her absence or inability to act as independent BOARD MEMBERS. The alternate for an independent BOARD MEMBER must also be independent of any Association, ADMINISTRATOR, INSURER and any other service provider of the FUND.
- 12.7(7) A non-voting delegate of the ADMINISTRATOR may attend any meeting of the BOARD as advisor and/or observer.
- 12.7(8) Each resolution of the BOARD will be signed by its Chairman and recorded in the BOARD's minute-book, the pages of which minute-book will be bound in such a way



as to render the withdrawal or insertion of a page impossible and will be numbered consecutively.

- 12.7(9) A written resolution approved and signed by such BOARD MEMBERS as would constitute a quorum in terms of RULE 12.7(6), will have the same force and effect as a resolution of the BOARD at a duly constituted meeting of the BOARD.
- 12.7(10) Subject to the provisions of this Part, the BOARD may prescribe and vary its own rules of procedure from time to time.
- 12.7(11) Each BOARD MEMBER has full voting rights on any matter or issue concerning the SCHEME or its operation, provided that:
- If the BOARD MEMBER, in a personal or official capacity, has any interest which conflicts with the interests of the SCHEME and in that other capacity stands to gain from any substantive matter that is being considered by the BOARD, he/she will recuse himself/herself from the BOARD's deliberations, and will refrain from voting on that matter. Subject as aforesaid, his/her alternate may then participate in the BOARD's deliberations and vote on that matter.
- 12.7(12) In the event that the BOARD or a meeting of the BOARD ceases to meet any of the requirements set out in RULES 12.2; 12.7(1); 12.7(2); 12.7(3) and 12.7(6), it will cease operating for the purposes of the SCHEME until it again meets those requirements (as applicable).

## **12.8 Principal officer and secretary**

- 12.8(1) The BOARD must appoint a principal officer in terms of the ACT and may from time to time, at its discretion, appoint somebody else as principal officer. The BOARD must notify the REGISTRAR of the name of each person appointed as principal officer.
- 12.8(2) If the principal officer is absent from the Republic of South Africa for a period of more than 30 (thirty) days or is unable to perform the duties imposed on him/her by the ACT, the BOARD must appoint another person as principal officer during his/her absence or disability and must notify the REGISTRAR of such person's name.

- 12.8(3) If the BOARD deems it necessary it may appoint a secretary and other personnel on such conditions as it may determine and it may cancel such appointments and may make new ones.

### **12.9 ADMINISTRATOR**

The BOARD must appoint an ADMINISTRATOR to perform administrative functions for the SCHEME for such period as it may decide. The BOARD may dismiss the ADMINISTRATOR at any time. In terms of section 13B of the ACT the ADMINISTRATOR must be approved as such by the REGISTRAR.

### **12.10 ACTUARY**

The BOARD must appoint an ACTUARY for the SCHEME for such period as it may decide and has the right to dismiss him/her at any time. The appointment of the ACTUARY must be approved by the REGISTRAR.

### **12.11 AUDITOR**

- 12.11(1) The BOARD must appoint an AUDITOR for the SCHEME for such period as it may decide and has the right to dismiss him/her at any time. The AUDITOR must be registered under the Auditing Profession Act, No. 26 of 2005, and may not be an officer of the SCHEME.
- 12.11(2) The AUDITOR must have unrestricted access to all books, papers, vouchers, accounts, and other relevant documents connected with the SCHEME.
- 12.11(3) The books of account must be made up at the end of each FINANCIAL YEAR and audited by the AUDITOR.

### **12.12 Financial statements**

The BOARD must, not later than 6 (six) months after the end of each FINANCIAL YEAR, submit a copy of its financial statements to the REGISTRAR in the prescribed format.

### **12.13 Personal liability**

The BOARD MEMBERS and assignees of the BOARD are not personally liable for any loss which the EMPLOYER, MEMBERS or DEPENDANTS may suffer as a result of their actions, provided the actions are in accordance with the RULES and the loss does not arise from their negligence, dishonesty or fraud.

**12.14 Indemnity against loss**

- 12.14(1) The BOARD must, in the manner allowed by the REGISTRAR, devise means of safeguarding the SCHEME against losses owing to fraud or dishonesty.
- 12.14(2) The BOARD must arrange professional indemnity insurance for the SCHEME against any loss resulting from the negligence of the BOARD and their assignees.
- 12.14(3) The costs of indemnifying the SCHEME in terms of this RULE must be borne by the SCHEME.

**12.15 Expenditure in respect of BOARD MEMBERS**

- 12.15(1) All reasonable travelling and accommodation expenses incurred by the BOARD MEMBERS in directing, controlling and overseeing the operations of the SCHEME and the costs of training BOARD MEMBERS must be borne by the SCHEME.
- 12.15(2) The BOARD MEMBERS are not remunerated for their duties as BOARD MEMBERS.

**12.16 Provision of data**

The EMPLOYER must, in the manner and within the time determined by the SCHEME, furnish to the BOARD those particulars about MEMBERS that determine their benefits from the SCHEME or their entitlement to benefits. The BOARD may act upon those particulars without further enquiry and is not responsible to anybody for any mis-statements, errors or omissions that may be contained in those particulars.

**12.17 Execution of contracts and other documents binding on the SCHEME**

The BOARD is competent to enter into and amend contracts on behalf of the SCHEME in accordance with the RULES and to sign such contracts and other documents on behalf of the SCHEME. Any contract or document that binds or affects the SCHEME must be signed on behalf of the SCHEME by the person(s) authorized by means of a proper resolution of the BOARD to sign them. Documents to be submitted to the REGISTRAR must be signed in accordance with the regulations to the ACT.

## **PART 13. MISCELLANEOUS PROVISIONS**

### **13.1 Manner of payment of benefits**

Benefits payable to a BENEFICIARY, are paid by way of an electronic transfer into the BENEFICIARY's account at a deposit taking institution, the details of which have been furnished by the EMPLOYER or the BENEFICIARY to the SCHEME.

### **13.2 Disposition of death benefits**

- 13.2(1) Subject to the prescriptions laid down by the SCHEME, a MEMBER may, in writing, designate a person (and revoke such a designation in writing) to receive the benefits at his/her death.
- 13.2(2) The benefits payable to the DEPENDANTS and NOMINEES of a deceased MEMBER, other than those payable to a particular DEPENDANT in terms of the RULES, are paid by the SCHEME to the DEPENDANTS and NOMINEES in accordance with section 37C of the ACT.
- 13.2(3) Any benefit payable by the SCHEME in respect of a deceased MEMBER, does not form part of the assets in the estate of such a MEMBER.

### **13.3 Benefits inalienable**

All benefits and rights to benefits in terms of these RULES are subject to the prohibitions as to reduction, cession, attachment, etc. contained in sections 37A and 37B of the ACT.

### **13.4 Guarantees by the SCHEME for housing loans**

The BOARD may bind the SCHEME as guarantor for the due repayment by a MEMBER of his/her indebtedness in terms of a loan granted by some other person to him/her for a residence. The amount of the guarantee may not exceed the cash benefit that the MEMBER would receive if he/she were to terminate his/her MEMBERSHIP of the SCHEME voluntarily, less any tax payable thereon, and the amount of any pension interest, as defined in the Divorce Act, 1979, allocated to an ex spouse in terms of a court order.

The furnishing of the guarantee is further subject to section 19(5) of the ACT.

The cost for the SCHEME relating to the administration of the MEMBER's record and the payment of any outstanding balance of the amount of the guarantee if it becomes payable is recouped from the MEMBER SHARE.

### 13.5 Deductions from benefits

- 13.5(1) The BOARD may, subject to section 37D of the ACT, deduct certain amounts from the benefit to which a BENEFICIARY is entitled in terms of the RULES or deemed to be entitled as contemplated in the ACT. These amounts are -
- (a) the amount of any income tax payable on the benefit;
  - (b) any amount due to the SCHEME or the EMPLOYER by the MEMBER regarding a loan granted to the MEMBER for a residence, including a guarantee furnished by the SCHEME regarding such a loan;
  - (c) compensation for any damage caused to the EMPLOYER by reason of any theft, dishonesty, fraud or misconduct by the MEMBER and regarding which the MEMBER has, in writing, admitted liability to the EMPLOYER or judgement has been obtained against the MEMBER in any court;
  - (d) any amount which the SCHEME must pay by arrangement with, and on behalf of, a BENEFICIARY in respect of -
    - (i) the BENEFICIARY's subscription to a registered medical scheme; or
    - (ii) any insurance premium payable by the BENEFICIARY to an INSURER; or
    - (iii) an amount for any purpose approved by the REGISTRAR, on the conditions laid down by him/her.
  - (e) any amount which the SCHEME must pay in terms of a maintenance or divorce order made by a competent court.

The cost for the SCHEME relating to the payment of any amount in accordance with paragraphs (c), (d) and (e) may be recouped from the MEMBER SHARE or, in the case of paragraph (e), from the amount to be paid.

- 13.5(2) A claim for the amount due in terms of paragraphs (b) and (c) of sub-RULE (1) must be lodged in writing with the BOARD within such reasonable time of the event giving rise to the payment of the benefit as the BOARD may from time to time determine for lodging such claims.
- 13.5(3) In order to allow the EMPLOYER the opportunity to obtain a judgement for compensation as envisaged in paragraph (c) of sub-RULE (1), the SCHEME may withhold an amount from the benefit payable, provided that -
- (a) the amount withheld does not exceed the value of the claim;

- (b) any balance of the benefit is paid in accordance with the RULES applicable to that benefit;
- (c) the SCHEME is satisfied that the EMPLOYER is not at any stage responsible for any undue delay in the prosecution of the proceedings;
- (d) once the proceedings have been determined, settled or withdrawn, any benefit to which the MEMBER is entitled is paid immediately.
- (e) The SCHEME's right to recover or withhold amounts from benefits in terms of paragraphs (b) and (c) of sub-RULE (1), is limited to the amount that, in terms of the RULES, may be taken by the BENEFICIARY as a lump sum benefit. In order to make deductions from benefits payable regarding a MEMBER the BOARD may commute for a lump sum an amount of any pension becoming payable regarding the MEMBER up to the maximum amount which may be commuted in terms of the RULES.

### **13.6 Currency**

All amounts payable to or by the SCHEME in terms of the RULES are payable in the Republic of South Africa in the currency of the Republic of South Africa.

### **13.7 Greater benefits**

- 13.7(1) At the request of the EMPLOYER the SCHEME must provide a greater benefit than that provided for elsewhere in the RULES.
- 13.7(2) The increase is subject to payment by the EMPLOYER to the SCHEME of that portion of the increased benefit that exceeds the total of the MEMBER SHARE and any proceeds on the SCHEME's insurance on the life of the MEMBER.

### **13.8 Proof of claims**

- 13.8(1) The SCHEME is not obliged to grant any benefit unless it has been satisfied with regard to the MEMBER's age and with regard to any other circumstance which it considers relevant to the benefit and for which it requested proof or information.
- 13.8(2) If the age is proved to be different from the age notified to the INSURER when the MEMBER joined the SCHEME, the benefits will be altered to those that apply to the correct age.

### 13.9 Benefits not claimed

- 13.9(1) Save as provided in RULE 13.9(3), if a benefit, other than a death benefit payable to a BENEFICIARY in terms of section 37C of the ACT, becomes legally due and payable under the SCHEME and is not claimed within two years after the date on which it becomes legally due and payable, or the SCHEME is terminated or partially terminated in terms of sections 27 or 28 of the ACT, the benefit will become an unclaimed benefit, after which it may be transferred to a PROVIDENT PRESERVATION FUND for unclaimed benefits. If at any stage after the benefit becomes legally due and payable and before it is transferred to a PROVIDENT PRESERVATION FUND for unclaimed benefits, the benefit is claimed by a legitimate BENEFICIARY, the BOARD must pay the benefit to the BENEFICIARY. The benefit may be reduced by the costs of the administration of the benefit and by any reasonable costs incurred by the SCHEME in identifying, tracing and making payment to a legitimate BENEFICIARY.
- 13.9(2) In the event of the benefit reducing to nil before it is claimed by a legitimate BENEFICIARY or transferred to a PROVIDENT PRESERVATION FUND for unclaimed benefits, the SCHEME's liability regarding the payment of the benefit automatically terminates and no BENEFICIARY will have any further claim against the SCHEME in respect of the benefit.
- 13.9(3) It is hereby recorded that, prior to 1 January 2003 the RULES of the SCHEME contained the following provisions which are still applicable in respect of any benefit that became payable before such date:
- “12.2 Any claim not received by the INSURER within 5 years after the benefit became due shall prescribe in terms of the Prescription Act, 68 of 1969. A member aged over NORMAL RETIREMENT AGE who has not applied for his retirement benefit will be deemed to have attained his RETIREMENT DATE 5 years after NORMAL RETIREMENT AGE or, if later, on the date on which he ceases to be employed in the INDUSTRY.
- 12.3 The ACTUARY shall from time to time determine such prudent portion of the total net CONTRIBUTIONS with INTEREST as he does not expect to be claimed, in respect of members who have not been credited with a CONTRIBUTION for at least 5 years and in respect of whom no benefit has been claimed.

- 12.4 The relevant benefits under 12.2 and 12.3 revert to the SCHEME and will be applied for the benefit of the remaining members under RULE 13 in such manner as the ACTUARY deems expedient in consultation with the BOARD.
- 12.5 Provided that all valid claims shall be paid, the BOARD shall have the discretion, on application by a member or his beneficiary and after reasonable notice, to direct the INSURER to pay any such unclaimed monies, plus such interest as may be agreed by the ACTUARY, to a person claiming a benefit in special circumstances after said 5-year period.”

### **13.10 Investigation by ACTUARY**

- 13.10(1) The BOARD must cause the financial position of the SCHEME to be investigated and reported on by the ACTUARY at least once every three years at the end of a FINANCIAL YEAR.
- 13.10(2) In the report the ACTUARY must indicate, inter alia, what increases or reductions in the contributions and the benefits of the SCHEME are envisaged by the financial condition of the SCHEME.
- 13.10(3) Within twelve months of the expiry of the period to which the investigation refers, the SCHEME must -
- (a) submit a copy of the report to the REGISTRAR; and
  - (b) send a copy of the report or a summary thereof, prepared by the valuator in a form prescribed by regulation and signed by him/her, to every EMPLOYER in the INDUSTRY that participates in the SCHEME.
- 13.10(4) Whenever a copy of the report is deposited with the REGISTRAR, the SCHEME must also deposit with him/her a certificate that a copy of the report or the summary referred to has been sent to every EMPLOYER in the INDUSTRY that participates in the SCHEME.

### **13.11 Binding force of the RULES**

The RULES bind the EMPLOYER, the MEMBERS, the SCHEME and its officials and anyone who lays a claim in terms of the RULES or whose claim is derived from someone so claiming.



**13.12 Disputes and contingencies not provided for**

- 13.12(1) In a dispute regarding the interpretation of the RULES or the administration of the SCHEME, the complainant must submit his/her complaint to the SCHEME in writing. Within 30 (thirty) days of receipt of the complaint the SCHEME must answer in writing. If the complainant is not satisfied with the SCHEME's answer and the complaint is a complaint as described in the ACT, the complainant may lodge the complaint with the ADJUDICATOR.
- 13.12(2) In the event of any other contingency arising out of the SCHEME which has not been provided for in these RULES, the joint decision of the BOARD and the INSURER thereon will be final and binding, provided that such decision is not inconsistent with the provisions of these RULES.

**13.13 Inspection of and copies of documents of the SCHEME**

The RULES and the latest financial statements of the SCHEME will be open for inspection by MEMBERS at the registered office of the SCHEME at reasonable times. MEMBERS may, at a reasonable fee determined by the SCHEME, obtain copies of the RULES and the latest financial statements.

**13.14 Conditions of service**

Nothing in these RULES curtails the EMPLOYER's right to dismiss an ELIGIBLE EMPLOYEE from its service.

**13.15 Termination of SCHEME CONTRIBUTIONS**

Should payment by the COUNCIL of the full CONTRIBUTIONS hereunder to the SCHEME in respect of all or any MEMBERS terminate at any time for any reason other than due to the events provided for in Parts 5, 6 and 7, the SCHEME will retain the assets held by it in respect of the MEMBERS concerned at the date of such termination for the purpose of paying to such MEMBERS at their RETIREMENT DATES the retirement benefit purchased up to the date of termination in accordance with the applicable RULES and in the manner described therein, subject to the following provisions:

- (a) Neither the retirement benefits which are at such time being paid under the SCHEME nor the retirement benefit entitlements of MEMBERS who have reached their NORMAL RETIREMENT AGES but have not commenced drawing a retirement benefit will be affected.

- (b) All deferred (paid-up) retirement benefits will continue earning SCHEME INTEREST.
- (c) Such MEMBERS' retirement benefits will become payable from their RETIREMENT DATES and no such retirement benefits nor the CONTRIBUTIONS made in respect of such MEMBERS will be capable of being surrendered, commuted or otherwise encashed except as provided in Parts 5 and 6.
- (d) The life insurance provided by the SCHEME and the funeral aid and disability income insurance provided outside the SCHEME will cease with effect from the date of such termination and no surrender value will be payable in respect thereof, nor in respect of any CONTRIBUTIONS paid to meet the cost thereof, provided that any such benefit whose payment had become due before the date of termination will continue to be paid in full.
- (e) The provisions of these RULES will in all other respects apply mutatis mutandis.

### **13.16 Termination of SCHEME**

In the event that the COUNCIL AGREEMENT ceases to be operative and is not renewed within 90 (ninety) days, or the COUNCIL -

- (a) resolves to dissolve itself; and/or
- (b) gives the ADMINISTRATOR, the INSURER and/or the BOARD written notice of its unwillingness or inability to continue carrying out its functions in terms of these RULES; or
- (c) is ordered by the Labour Court to be wound up;

the SCHEME will continue to operate in terms of these RULES and to be a separate legal entity, and its assets and liabilities will continue to be incapable of forming part of the assets and/or liabilities of any other person, association, body or legal entity whatsoever, provided that:

- (i) CONTRIBUTIONS will continue to be payable in accordance with the RULES, unless an EMPLOYER and the majority of its ELIGIBLE EMPLOYEES conclude a written agreement to cease contributing to the SCHEME, in which event they may discontinue their CONTRIBUTIONS from the expiry of at least 60 (sixty) days' written notice of such discontinuation to the BOARD. The

BOARD may require a copy of any such discontinuation agreement to be submitted to it together with said notice of discontinuation;

- (ii) any vacancy on the BOARD occurring upon any of the events referred to in (a), (b) and (c) above will be filled mutatis mutandis in accordance with the provisions of Part 12. In the event that any such vacancies are not thus filled within 90 (ninety) days, the ADMINISTRATOR must, subject to any requirements the REGISTRAR may lay down, appoint the required new BOARD MEMBERS for a term of 1 (one) year and must have the power to annually renew their appointment by confirmation and to remove them from office at any time, provided that any subsequent vacancy on the BOARD may be filled mutatis mutandis in accordance with the provisions of Part 12.
- (iii) the continued operation of the SCHEME will in all other respects be subject to such arrangements as the ADMINISTRATOR is able to set up in conjunction with the BOARD and/or relevant EMPLOYER and employee organisations with the approval of the REGISTRAR and the REVENUE AUTHORITIES;
- (iv) should the ADMINISTRATOR be unable to set up any such arrangements, CONTRIBUTIONS will cease and the provisions of RULE 13.16 will apply, subject to the ADMINISTRATOR either:
  - (A) assuming any powers of discretion formerly held by the COUNCIL for the purposes of the SCHEME, or
  - (B) appointing such other competent body or person/s as may be willing to assume such discretion, or
  - (C) if not willing to act as in (A) above or unable or unwilling to appoint such party as described in (B) above, having the discretion to act in terms of any of the following provisions:
    - (i) Arrange for the BOARD to appoint a liquidator for the full or partial liquidation of the SCHEME for the approval of the REGISTRAR, which liquidator will assume the powers of the BOARD for the purposes of the SCHEME's liquidation and, in accordance with section 28 of the ACT and in consultation with the ACTUARY, will cause each affected MEMBER to be paid an amount related to the total amount of net CONTRIBUTIONS credited to him/her, subject to the

prior deduction of the MEMBER's pro rata share of the costs of the liquidation and any outstanding debt owed by the MEMBER in terms of RULE 13.5.

For the purposes of this paragraph (i), any MEMBER or former MEMBER whose service with the EMPLOYER is terminated, voluntarily or otherwise, prior to the NORMAL RETIREMENT DATE and during a period immediately preceding the liquidation may, if considered appropriate by the liquidator, be deemed to have been a MEMBER and ELIGIBLE EMPLOYEE on the date of liquidation. But the benefits already paid to him/her must be taken into account. The liquidator must invoke this provision at least in respect of those whose service was terminated during the 12 (twelve) months immediately preceding the liquidation.

- (ii) In accordance with section 14 of the ACT, pay over the total amount calculated as in (i) above to such other scheme or fund, competent at law, existing or established for the benefit of the MEMBERS concerned, as it deems expedient for such MEMBERS.
- (iii) Retain the assets of the SCHEME and pay over the amounts due in terms of RULE 13.15 or the cash surrender value thereof related to the total amount of net CONTRIBUTIONS credited to the MEMBER, as calculated by the ACTUARY in terms of the RULES, to such other scheme or fund as described in (ii) above for disbursement to the MEMBER or his/her BENEFICIARY in accordance with the rules of that scheme or fund on the MEMBER leaving that scheme or fund and being entitled to a benefit thereunder. For this purpose a MEMBER who withdraws from such scheme or fund or retires or dies will be deemed to have left the INDUSTRY, or to have retired or died under this SCHEME and the applicable RULE will be adapted accordingly. If required, any waiting-period on withdrawal under this SCHEME will then be waived by the ADMINISTRATOR.

**13.17 Amendment to the RULES**

- 13.17(1) The BOARD may amend the RULES at any time, provided that -
- (a) if an amendment may impact on the COUNCIL's responsibilities regarding the SCHEME, the approval of COUNCIL is obtained; and
  - (b) if an amendment effects the INSURER interests, the approval of the ACTUARY is obtained; and
  - (c) the REGISTRAR registers the amendment; and
  - (d) the approval of the REVENUE AUTHORITIES is obtained.
- 13.17(2) If the RULES are amended with regard to the benefits that are provided by the SCHEME, the amendment will, unless specifically stated otherwise, not apply to -
- (a) the benefits in respect of MEMBERS who are no longer ELIGIBLE EMPLOYEES on the amendment date; and
  - (b) benefits regarding claims which arise before the amendment date.
- 13.17(3) Within 6 (six) months after the end of a FINANCIAL YEAR, the BOARD must notify the MEMBERS in a summarised form of every amendment to the RULES that is registered by the REGISTRAR during the course of that FINANCIAL YEAR.