
GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

NATIONAL TREASURY NASIONALE TESOURIE

No. 231

26 March 2010

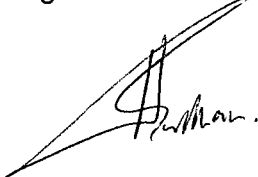
PUBLIC SERVICE ACT, 1994 (Proclamation No. 103 of 1994)

ADMINISTRATION AND OPERATIONS: GOVERNMENT PENSIONS ADMINISTRATION AGENCY (GPAA)

The Minister of Finance, acting in terms of section 7A(4) of the Public Service Act, 1994 (Proclamation No. 103 of 1994), read with Proclamation No. 10 of 26 March 2010, promulgated by the President of the Republic of South Africa, which established the Government Pensions Administration Agency ("the GPAA") as a government component, hereby determines in the attached Schedule the provisions of legislation which confer powers and impose duties on the head of the GPAA, as well as the provisions which apply to the reporting, administrative, organisational, oversight and other management objects, processes and procedures of the GPAA.

As is provided for in Proclamation No. 10 of 26 March 2010 promulgated by the President of the Republic of South Africa, the GPAA Administration is established as a government component with effect from 1 April 2010.

Signed at Pretoria on this 19th day of March 2010.



MINISTER OF FINANCE

SCHEDULE

Definitions

1. In this Schedule, unless the context otherwise indicates -

“Advisory Board” means the advisory board of the GPAA as contemplated in section 7A(4)(e) of the Public Service Act, which may be established and appointed in accordance with paragraph 9;

“Board of Trustees” means the Board of Trustees established by section 6 of the GEP Law;

“Cabinet” means the Cabinet contemplated in section 91 of the Constitution of the Republic of South Africa, 1996;

“CEO” means the Chief Executive Officer of the GPAA as contemplated in Column 2 of Part A of Schedule 3 to the Public Service Act, 1994 (Proclamation No. 103 of 1994);

“Deputy Minister” means the Deputy Minister of Finance;

“DG” means the Director-General: National Treasury;

“government component” means a government component as defined in section 1 of the Public Service Act;

“Fund” means the Government Employees Pension Fund referred to in section 2 of the GEP Law;

“GEP Law” means the Government Employees Pension Law, 1996, (Proclamation No. 21 of 1996);

“GPAA” means the administration established by Proclamation No. 10 of 26 March 2010 promulgated by the President of the Republic of South Africa and published in Gazette No. 33041 of 26 March 2010, and which is identified in Column 1 of Part A of Schedule 3 to the Public Service Act, as the Government Pensions Administration Agency;

“Minister” means the Minister of Finance;

“National Treasury” means the National Treasury established by section 5 of the PFMA;

“PFMA” means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“PO” means the Principal Officer of the Fund appointed in terms of Rule 4.2.5 of the Rules of the Government Employees Pension Fund, which is Schedule 1 to the GEP Law;

“public service” means the public service contemplated in section 8 of the Public Service Act;

“Public Service Act” or **“PSA”** means the Public Service Act, 1994 (Proclamation 103 of 1994);

“senior manager” means a member of the senior management service in terms of the Public Service Regulations, 2001; and

“working day” means any day other than a Saturday or Sunday or public holiday provided for in terms of the Public Holidays Act, 1994 (Act No. 36 of 1994).

Purpose

2. The GPAA is established for purposes of the administration of the Government Employees Pension Fund (GEPF), the Associated Institutions Pension Fund (AIPF), the Temporary Employees Pension Fund (TEPF) and the civil and military pension funds, social benefits and post-retirement medical scheme arrangements specified in paragraph 8(2)(c)(i)-(v).

Functions and powers of GPAA and Relationship between Parties

3.(1) The GPAA provides pension administration services to the GEPF and to the National Treasury in respect of the Associated Institutions Pension Fund (AIPF), the Temporary Employees Pension Fund (TEPF) and the civil and military pension funds, social benefits and post-retirement medical scheme arrangements specified in paragraph 8(2)(c)(i)-(v).

(2) The pension administration services to be provided must be specified in service level agreements entered into between the GPAA and its principals, being the National Treasury and the Fund.

(3) The Board of Trustees, on behalf of the Fund, and the GPAA must enter into an administration agreement incorporating a service level agreement for the rendering of

services contemplated in subparagraph (2), which details the performance criteria, measures and service levels against which the Fund and the GPAA will comply.

(4) The relationship between the GPAA, the Fund, and the National Treasury shall be set out in a statement of co-operation between the parties.

(5) The GPAA must enter into memoranda of understanding or statements of engagement with employer departments that it engages with, in which, amongst other matters, the following aspects must be dealt with—

- (a) the nature of the relationship between the GPAA and the employer department;
- (b) the nature and timing of interactions between the GPAA and the employer department;
- (c) the maintenance of member data and records;
- (d) the collection of contributions;
- (e) the admission of members;
- (f) proactive interaction with beneficiaries;
- (g) the specification of appropriate technology and systems to be used; and
- (h) processes and procedures to be followed.

(6) In providing pension administration services to its clients, the GPAA—

- (a) may only do what it is authorised to by law, including the agreements that it enters into with its clients; and
- (b) is subject to all applicable legislative and other legal requirements, as well as the terms of the agreements that it enters into with its clients.

(7) The GPAA performs its functions subject to general guidance provided by the Minister.

(8) The functions and performance of the GPAA must be thoroughly reviewed within five years from the date of establishment of the GPAA, and at least once every five years thereafter, but reviews may be conducted more frequently, upon the request of the National Treasury, the GEPPF, or the GPAA.

Appointment of CEO and staff of GPAA

4.(1) The CEO is appointed by the President, in accordance with the applicable requirements contained in the Public Service Act.

(2) The employees of the GPAA, other than the CEO, are appointed in terms of the Public Service Act.

Powers conferred and duties imposed on CEO

5.(1) The CEO is accountable for the financial and operational performance of the GPAA, in accordance with the prescripts of the PSA, the PFMA, and other applicable legislation.

(2) The CEO has the powers and authority equivalent to a head of department, as described in section 7(3)(a), (b), and (c) of the PSA, to manage the GPAA, with accountability to the Minister.

(3) In terms of section 7(3)(b) of the PSA, the CEO is responsible for the efficient management and administration of the GPAA, including the effective utilisation and training of staff, the maintenance of discipline, the promotion of sound labour relations and the proper use and care of State property.

(4) The CEO must comply with the requirements in the PFMA applicable to an accounting officer of an organisational component as contemplated in the PFMA.

(5) The CEO, as head of the GPAA, is responsible for ensuring that he or she and the GPAA comply with all applicable legislative and other legal requirements, including, but not limited to, the GEP Law, the PFMA, the PSA, the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the National Archives and Record Service of South Africa Act, 1996 (Act No. 43 of 1996), and the State Information Technology Agency Act, 1998 (Act No. 88 of 1998).

Compliance

6.(1) The GPAA must comply with any applicable law, including common law, and in the event of a conflict between any law and the provisions of this Schedule, such law prevails.

(2) The GPAA must exercise its powers and render its services in accordance with appropriate ethical standards and the principles of good governance.

(3) The GPAA must render its services to the Fund, the Board of Trustees, and the National Treasury in a spirit of co-operation, in accordance with the administration agreements and service level agreements between the GPAA, the Fund, and the National Treasury, and must ensure effective, transparent, accountable and coherent governance of the pension funds currently administered by the Fund.

(4) No CEO or senior manager of the GPAA may, within two years after leaving the public service, directly or indirectly supply any goods or render any services to the GPAA, the Fund or the Board of Trustees, unless the Minister, prior to such goods being supplied or services being rendered, in writing, approves thereof.

(5) Subparagraph (4) applies, with the necessary changes, to any company or other entity which intends to or which sells goods or renders services to the GPAA -

- (a) in which the former employee of the GPAA holds an office, whether for remuneration or not;
- (b) to whom the former employee of the GPAA renders services, whether for remuneration or not;
- (c) by whom the former employee of the GPAA is employed, whether for remuneration or not; or
- (d) in which the former employee of the GPAA has any other direct or indirect material interest, of whatever nature.

(6) Any approval given by the Minister under subparagraph (4) must be recorded in the GPAA's annual report.

Financial Arrangements

7. (1) The operations of the GPAA shall be financed by fees recovered from the GEPP and National Treasury respectively that are structured to recover the costs of providing administration services to the GEPP and to the National Treasury in respect of the AIPF, the TEPP and the civil and military pension funds, social benefits and post-retirement medical scheme arrangements specified in paragraph 8(2)(c)(i)-(v).
- (2) The GPAA shall enter into service level agreements which are incorporated within the administration agreements with its principals specifying the terms of engagement, including the fees to be charged and financial arrangements pertaining to these administration services.
- (3) The GPAA must prepare strategic and operational plans and a three-year expenditure and revenue budget in line with requirements of the PFMA and the Budget Office of the National Treasury, which must be approved by the Minister before the commencement of the financial year.
- (4) The GPAA's budget and financial statements must separately indicate the projected expenditure and revenue associated with administration services to the GEPP, AIPF, TEPP and the civil and military pension funds, social benefits and post-retirement medical scheme arrangements specified in paragraph 8(2)(c)(i)-(v).
- (5) The GPAA may not budget for a deficit, and shall operate as a self-funding entity from fees for services rendered.
- (6) The Minister shall exercise executive authority over the consolidated budget of the GPAA.
- (7) The GPAA and the National Treasury shall enter into an administration agreement which will define the procedures, expectations, accounts and liabilities of the GPAA and the National Treasury.
- (8) The GPAA and the Fund shall enter into an administration agreement which will define the procedures, expectations, accounts and liabilities of the GPAA and the GEPP.
- (9) The financial management of the GPAA shall be governed by the PFMA and the Treasury Regulations.
- (10) The accounts of the GPAA must be audited by the Auditor-General, whose report must be included in the GPAA's Annual Report.

Reporting requirements of the CEO and responsibilities of the Fund

8.(1) The provisions of this paragraph do not in any way exempt the CEO from complying with any relevant provisions of the PFMA or any other law, in respect of reporting requirements.

(2) The CEO is accountable to—

- (a) the Minister, as the executive authority responsible for the GPAA, in respect of governance, operations, personnel and financial administration of the GPAA;
- (b) the Board of Trustees, in accordance with the terms of the GEP Law and the administration agreement and service level agreement between the GPAA and the Fund, in respect of the lawful, efficient and cost-effective administration of the Fund's business;
- (c) the DG, in accordance with the terms of the service level agreement between the GPAA and the National Treasury in respect of—
 - (i) AIPF administration, in terms of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963);
 - (ii) post-retirement medical subsidies, as provided for and regulated by PSCBC resolutions;
 - (iii) administration of military pensions in terms of the Military Pensions Act, 1976 (Act No. 84 of 1976);
 - (iv) administration of injury on duty payments in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993); and
 - (v) administration of special pensions in terms of the Special Pensions Act, 1996 (Act No. 69 of 1996).

(3) Subject to applicable laws on access to information and confidentiality, the CEO must forthwith, after receipt of a written request from the Minister or the Deputy Minister for information held by the GPAA, submit all requested and other information which may also be relevant to the Minister or the Deputy Minister, as the case may be.

(4) The CEO must submit to the Minister and the Board of Trustees—

- (a) on a quarterly basis, all relevant reports and performance information of the GPAA;
 - (b) annually, the GPAA's strategic plan and budget, annual report and annual financial statements;
 - (c) any information in respect of the GPAA that is reasonably requested in writing.
- (5) The CEO shall provide the PO with any information reasonably requested by the PO, and in particular, information relating to deliverables and outputs which shall be specified in the Service Level Agreement between the Fund and the GPAA, within fourteen (14) days, or such other period as may otherwise be agreed by the CEO and the PO.
- (6) If the PO invites the CEO to attend a meeting with the Fund or the Board of Trustees, the CEO must do so, unless he or she has other compelling prior commitments, in which case the CEO must inform the PO that he or she cannot attend, and who his or her representative at the meeting will be.
- (7) The provisions of this Notice do not in any way derogate from the equal status that the PO and the CEO enjoy as the head of the Fund and the head of a government component, respectively.

Financial reporting and arrangements

9. Subject to paragraph 10(d), all financial, policy and procedural arrangements for the GPAA must, from the date of establishment of the GPAA as a government component by the President of the Republic, comply with the requirements applicable to an organisational component as contemplated in the PFMA.

Interim arrangements between Fund and GPAA

10. The GPAA and the Fund must forthwith, after the GPAA's establishment, enter into an agreement in respect of the transfer of employees and operations, making provision for -

- (a) the transfer of employees from the Fund to the GPAA upon the establishment of the GPAA;
- (b) the transfer of assets from the Fund to the GPAA upon the establishment of the GPAA;
- (c) financial arrangements;
- (d) any other matter necessary for the effective and efficient functioning of the GPAA,

and the Fund and the GPAA must, at least annually during the duration of the agreement, review and adapt the agreement, to ensure the continuity of services during the interim period while the full separation of the operations of the GPAA and the Fund is completed.

Advisory Board

11.(1) The Minister may, in terms of section 7A(4)(e) of the PSA, at any time appoint an Advisory Board for the GPAA, but nothing in this Schedule obliges the Minister to appoint an Advisory Board.

(2) The appointment of the Advisory Board, if one is established, shall be subject to and in accordance with the provisions of this Part.

(3) The function of the Advisory Board is to advise the Minister on pension administration matters generally, the performance, governance, and operations of the GPAA, and on any specific matter which the Minister may, from time to time, determine in writing, but the Advisory Board does not have any executive functions, duties or powers.

(4) The Minister may not appoint more than eight members to the Advisory Board, not including the CEO, who is an *ex officio* member of the Board.

(5) The Minister must appoint the Board members based on the following principles:

- (a) appointments must be governed by the overriding principle of selection based on merit, determined by an assessment of -
 - (i) the object, functions and the operations of the GPAA;
 - (ii) the competencies collectively required by the Board, including the relevant skills, expertise and experience;

- (iii) the qualifications, skills, expertise and experience of each individual prospective candidate;
 - (b) after the appointment of the individual members, the Board must broadly reflect the demographics of the Republic.
- (6) The Minister must appoint -
 - (a) any Board member other than the CEO as Chairperson of the Advisory Board;
 - (b) any Board member other than the CEO as Chairperson of any subcommittee of the Advisory Board established by the Minister.
- (7) No person may be appointed to the Advisory Board -
 - (a) who is a member of Parliament, a member of a provincial legislature, a member of Cabinet or a Deputy Minister, a member of a house or council of traditional leaders, or a member of a municipal council;
 - (b) who is not a South African citizen or permanent resident;
 - (c) who or whose spouse, life partner, business partner or associate, holds an office in or is employed by or has any other interest whatsoever in a company or other entity which sells goods or renders services to the GPAA for its own functioning;
 - (d) who is disqualified to act as a director of a company incorporated in terms of the Companies Act, 1973 (Act No. 61 of 1973) or the Companies Act, 2008 (Act No. 71 of 2008); or
 - (e) who has been convicted, whether in the Republic or elsewhere, of an offence involving dishonesty or of any other offence for which such person has been sentenced to imprisonment without the option of a fine.
- (8) An Advisory Board member (other than the CEO, who is an *ex officio* Member) -
 - (a) serves as an Advisory Board member on the terms and conditions determined by the Minister after consultation with the Minister for the Public Service and Administration; and
 - (b) may resign by giving one month's written notice to the Minister.
- (9) The Advisory Board serves at the Minister's discretion, and the Minister may at any time -
 - (a) dissolve the Advisory Board, and, if the Minister so desires, appoint a new Board;

(b) terminate the Advisory Board membership of an individual Board member; but the Minister must, when so dissolving the Board or terminating the Board membership of an individual Board member, immediately provide any affected Board member with written reasons for the dissolution or termination, as the case may be.

(10) The Minister must, upon the establishment of the Advisory Board, for public information, and in any appropriate manner, publish the names of the Advisory Board members, together with any relevant information on the background of the Advisory Board members.

(11) Subject to applicable laws relating to access to information and confidentiality, the Advisory Board -

- (a) subject to subparagraphs (13) and (14), has the right to establish its own subcommittees;
- (b) has the right of immediate access to any information held by the GPAA, except information designated in writing by the Minister from time to time as not being included in this category;
- (c) has the right of immediate access to any information held by the National Treasury in relation to the GPAA, except information designated in writing by the Minister from time to time as not being included in this category;
- (d) has the right to receive copies of any document submitted by the CEO to the Minister, the DG or the PO in terms of this Notice, as the case may be, except documents designated in writing by the Minister from time to time as not being included in this category;
- (e) has the power to request any employee of the GPAA or the National Treasury to attend any meeting of the Advisory Board or any of its subcommittees, and to provide written or oral evidence at such a meeting, and unless the Minister in writing excuses such a person from attending that meeting, such an employee must attend the meeting and must provide written or oral evidence as requested by the Advisory Board.

(12) The Advisory Board may, at any time, with or without the agreement or support of the CEO, directly approach the Minister or the Deputy Minister, and submit any relevant report to either or both of those persons on any matter related to the Advisory Board's function.

(13) Subject to subparagraphs (14) and (15), the Minister may, at any time, direct the Advisory Board in writing to establish a particular subcommittee, but this does not prevent the Advisory Board from establishing its own subcommittees as provided for in item (a) of subparagraph (11).

(14) The Advisory Board must at all times have subcommittees to advise on audit and risk management issues in respect of the GPAA.

(15) Any committee or other body established or prescribed in respect of a government component by an Act of Parliament or in terms of subordinate legislation must be established and managed as prescribed, but -

- (a) such a committee or body does not constitute a subcommittee of the Advisory Board;
- (b) the Advisory Board has access to any document produced by or on behalf of such a committee or body, unless the Minister in writing directs otherwise.

(16) Subject to the provisions of this paragraph and any applicable law, the Advisory Board determines its own meeting rules, proceedings and procedures.

(17) The Advisory Board must meet no less frequently than four times a year.

(18) Without in any way derogating from the provisions of any applicable law, the Advisory Board must, in so far as may be practicable, adhere to any policy, code, protocol, guideline or similar document on governance or ethics in the public sector which is approved by Cabinet.

(19) The meetings, minutes and reports of the Advisory Board or any of its subcommittees are confidential, unless -

- (a) the Minister or the Chairperson of the Advisory Board in writing directs otherwise; or
- (b) no strategic interests of the GPAA, the National Treasury or the Fund are likely to be compromised in the event of its publication.

(20) The Advisory Board does not vote on matters before it, but must strive to render advice to the Minister or the CEO based on sufficient consensus. If an individual Advisory Board member, other than the CEO, strongly differs from what appears to be the Board's consensus, he or she may record his or her dissent and the reasons for such dissent, and such dissenting opinion must be included in any report on the relevant matter to the Minister, Deputy Minister or CEO, as the case may be.

(21) The GPAA shall provide a secretariat for the Advisory Board, and shall be responsible for providing the facilities and administrative, secretarial and logistical support reasonably required by the Advisory Board.

(22) The National Treasury is responsible and accountable for the Advisory Board's expenses.

(23) The CEO, in the absence of other members, does not constitute the Advisory Board.

(24) No remuneration is payable to an employee of an organ of state in respect of his or her membership of the Advisory Board, but the CEO may, for any purpose directly related to any Advisory Board activity, reimburse all Advisory Board members in respect of any reasonably incurred travel, parking, accommodation and subsistence costs.

Responsibilities of and restrictions on Advisory Board members

12.(1) A member of the Advisory Board, including the CEO, who at any time during his or her term of office becomes disqualified to be an Advisory Board member on any one of the grounds contemplated in paragraph 11(7) -

- (a) must immediately, in writing, inform the Minister and the Chairperson of the Advisory Board of that disqualification, and the Minister must then forthwith remove that member from the Advisory Board; and
- (b) does not have a right to attend an Advisory Board meeting from the time he or she has so become disqualified until he or she is removed by the Minister.

(2) A member of the Advisory Board who in any way, directly or indirectly, acquires or intends to acquire an interest in a transaction or project of the GPAA, must immediately, in writing, disclose the nature of his or her interest or intention to the Chairperson, or if that member is the Chairperson, to the Minister, as well as to the Advisory Board at its next meeting.

(3) The disclosure to the Advisory Board contemplated in subparagraph (2) must be recorded in the minutes of the meeting.

(4) A member of the Advisory Board who has acquired or intends to acquire an interest contemplated in subparagraph (2) may not take part in any discussion or

deliberation of the Advisory Board relating to that transaction or project contemplated in subparagraph (2).

Reporting requirements in respect of Advisory Board

13.(1) If the Minister has, in writing, requested the Advisory Board's advice on a particular issue, the Advisory Board must, as soon as may be practicable, submit a report with its advice to the Minister.

(2) The Advisory Board must submit a report to the Minister on its advice or activities as often as the Advisory Board deems necessary, whether or not the Minister has specifically requested such advice.

(3) The Advisory Board must record any oral advice rendered to the CEO, in the relevant minutes of the Advisory Board's meeting.

(4) The Chairperson of the Advisory Board must forward the minutes of every Board meeting to the Minister, the Deputy Minister, and the DG within ten working days after those minutes have been approved by the Board.