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GOVERNMENT NOTICES
GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF FINANCE
DEPARTEMENT VAN FINANSIES

No. 337

6 April 2001

FINANCIAL SERVICES BOARD

**AMENDMENTS TO THE REGULATIONS UNDER THE
PENSION FUNDS ACT, 1956 (ACT NO. 24 OF 1956)**

The Minister of Finance has under section 36 of the Pension Funds Act, 1956 (Act No. 24 of 1956), made the regulations set out in the Schedule.

SCHEDULE

Definition

1. In these regulations "the Regulations" means the regulations published by Government Notice No. R98 of 26 January 1962, as amended by Government Notices Nos. R99 of 26 January 1962, R.2144 of 28 September 1984, R.1790 of 16 August 1985, R.1037 of 28 May 1986, R.232 of 6 February 1987, R.1452 of 7 July 1989, R.1920 of 1 September 1989, R.2361 of 27 September 1991, R.201 of 12 February 1993, R.2324 of 10 December 1993, R.141 of 28 January 1994, R.1838 of 24 November 1995, R.1677 of 18 October 1996, R.1154 of 11 September 1998, R.1218 of 25 September 1998, R.1644 of 18 December 1998, R.853 of 9 July 1999 and R. 896 of 8 September 2000.

Addition of regulation 33 to Regulations

2. The following regulation is hereby added to the Regulations:

"Requirements in terms of section 13A of Act

33.(1) Minimum information to be furnished by every employer to the fund with regard to payments of contributions in terms of section 13A(2) of the Act, shall consist of at least the following:

(a) Initial Contribution Statement:

- (i) Name of the fund; identification of the fund (e.g. registration number); period in respect of which the contribution is payable;
- (ii) name and address of the employer or pay-point which made the deduction; responsible person to contact at the employer or pay-point;
- (iii) full name, date of birth, ID number or employer pay number, or other means of identification, date of membership, pensionable emoluments of member and percentage or amount of contributions, split between member and employer as well as an indication of any additional voluntary contributions paid.

(b) Subsequent Contribution Statement:

In respect of each contribution period either:

- (i) the information required in paragraph (a)(i) and (ii) above and part or all of the information contained in paragraph (a)(iii) above; or
- (ii) a reconciliation with the contribution statement for the previous period showing any differences in the data such as additions as a result of new members, reductions as a result of membership terminations, adjustments as a result of changes in pensionable emoluments or the payment of additional voluntary contributions or other information and corrections due to error.

(2) The person -

- (a) responsible for checking the receipt of electronic transfers into the fund's bank account indicated in section 13A(3)(a)(i) of the Act; or
- (b) responsible for receiving contributions in terms of section 13A(3)(a)(ii); or
- (c) authorized by the insurer to account for contributions received by funds envisaged in section 13A(3)(a)(iii),

shall report:

- (i) not later than a further fifteen days of the end of the period set out in section 13A(2)(b) to the principal officer or authorized person (as the case may be) (in these regulations referred to as the monitoring person) mentioned in section 13A(6) of the Act -

- (aa) whether any of the matters previously reported on were not resolved;
 - (bb) if the data envisaged in section 13A(2)(a) of the Act was not transmitted as prescribed in section 13A(2)(b); or
 - (cc) where the payment made in terms of section 13A(3)(a) and the data envisaged in subregulation (1) above cannot be reconciled with each other, other than where a discrepancy is less than 2,5% of the total contribution payable for the relevant period, in which event such discrepancy shall be deemed not to constitute a contravention of this regulation; and
- (ii) within a further fifteen days of the end of the period set out in section 13A(3)(a) to the monitoring person indicated in section 13A(6) if the contributions payable in terms of section 13A(1) have not been received as provided in section 13A(3)(a): Provided that a discrepancy as envisaged in subparagraph (i)(cc) above shall not be regarded as a failure to pay contributions for the purposes of this regulation.
- (3) The monitoring person indicated in section 13A(6) of the Act shall then in writing report the said failure to comply with the provisions of subsections (2)(b) and (3)(a) of section 13A to the board within 7 days after receipt of the report mentioned in subregulation (2) above.

- (4) The board of the fund may, for reasons acceptable to it other than the failure to pay contributions in terms of section 13A(3)(a) of the Act, delay any action until the report of the following month has been received: Provided that where no acceptable reasons were furnished or there was a failure to pay contributions in terms of section 13A(3)(a), the board shall ensure that -
- (a) the monitoring person indicated in section 13A(6) of the Act brings the infringement of section 13A(2)(b) or section 13A(3)(a) to the attention of the members of the fund in respect of whom the contributions are payable; and
 - (b) the registrar is advised of the action taken,
- within such period and in such manner as determined by the board.
- (5) If any failure to transmit contributions referred to in section 13A(1) of the Act in the manner prescribed in section 13A(3), continues for 90 days the monitoring person indicated in section 13A(6), shall report the matter in detail within 14 days of the expiration of such 90 days period to the Attorney General and inform the registrar accordingly.
- (6) The registrar may, at his discretion, inform the Commissioner for South African Revenue Services of any failure to comply with section 13A of the Act for whatever action the Commissioner for South African Revenue Services deems necessary to take against the participating employers and/or the board of the fund.

- (7) Compound interest on late payments or unpaid amounts and values shall be calculated for the period from the first day of the month following the expiration of the period in respect of which the relevant amounts or values are payable or transferable until the date of receipt by the fund at the rate prescribed from time to time by the Minister under section 13A(7) of the Act by notice in the *Gazette*. Such interest shall constitute investment income for the fund and shall be payable to the fund by no later than the end of the second month following the month in respect of which the amount is received or the value transferred, as the case may be.
- (8) The initial contribution statement shall be furnished by not later than 90 days after the commencement of these regulations indicated in paragraph 4(1) in respect of each fund established on or before 31 August 2001, and within fifteen days of the end of the period for which the first contribution is payable for every fund established thereafter. A subsequent contribution statement shall be furnished within fifteen days after the end of the month in respect of which the contribution is payable.”.

Addition of Annexure D to Schedule K of Regulations

3. The following annexure is hereby added to Schedule K of the Regulations:

"ANNEXURE D

..... Fund (in liquidation) Reference No : 12/8/.....

Commissioner of Inland Revenue reference no.....

Number of members

Active

Pensioners

- Current

- Deferred

Dependants and nominees in receipt of regular payments

TOTAL

1. The number of members (including pensioners) at the date of termination of the fund

2. Highest number of members (including pensioners) during the 12 months preceding the date of termination

3. The reason(-s) for the difference in 1 and 2 above:

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.....
.....

Note : Submit in duplicate on a separate page only with the Final Liquidation Accounts.”.

Commencement of these regulations

4. (1) Subject to subregulation (2), these regulations shall come into operation 90 days after publication.

(2) The provisions of regulation 33(7), as added by regulation 2 of these regulations, shall come into operation 120 days after commencement.