
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NATIONAL TREASURY**NOTICE 1434 OF 2022****AMENDMENT OF THE RULES OF THE GOVERNMENT EMPLOYEES PENSION FUND**

In terms of section 29 of the Government Employees Pension Law, 1996 (Proclamation No.21 of 1996), the Board of Trustees hereby amends the rules of the Government Employees Pension Law, as set out in the schedule.

Dondo Mogojane
Chairperson of the Board of Trustees
On behalf of the Board of Trustees

Amendments to the Rules of the GEPE:**1. Rule 1 to be substituted-the definition of “responsible Minister” to be substituted with the following definition:**

“responsible Minister” the Minister: Provided that for the purposes of rules 4.2.2 and 4.2.3, it shall mean the Minister in consultation with the Ministers responsible for public service and Administration, Education, the South African National Defence Force, the South African Police Service and the State Security Agency;

2. Rule 4.1 to 4.19 to be substituted in its entirety as follows:**4 Management of the fund****4.1 General**

4.1.1 The Board is responsible for the proper and efficient management of the Fund. The Board shall comply with all the obligations imposed upon it by the rules as well as the Law and do everything necessary to ensure the proper functioning of the Fund.

4.1.2 The Board shall consist of sixteen Board members, eight of whom will be appointed by the responsible Minister in terms of rule 4.2 and eight of whom will be elected and/or appointed in terms of rule 4.3 and rule 4.5.

4.1.3 The trustees and substitute Trustees will be compensated for their services and expenses on the basis determined by the Board.

4.2 Employer Trustees

4.2.1 The responsible Minister shall appoint eight persons to act as employer trustees on the Board. An employer trustee may be reappointed at the end of his office subject to rule 4.4.

4.2.2 The responsible Minister shall ensure that at least one of the eight appointed employer trustees have expertise (in the opinion of the Minister) in the following:

(a) financial management and investments; and/or

(b) the management and organisation of pension funds in general.

4.2.3 The responsible Minister shall provide the Fund with the details of the employer trustees they wish to appoint to the Board at least one month prior to the term of office of the Board ending or as soon as reasonably possible after a vacancy, in respect of an employer trustee, has arisen while a Board is in office.

4.3 Employee Trustees

4.3.1 In addition to the employer trustees, the Board shall consist of eight persons referred to in the rules as "employee trustees" who take office in terms of rule 4.1.2 read with rule 4.4.

4.3.2 The employee trustees shall consist of:

- (a) one pensioner representative elected by pensioners;
- (b) one person elected jointly by members employed by the South African National Defence Force and the State Security Agency; and
- (c) six representatives elected and/or appointed by the labour representatives in the Public Service Coordinating Bargaining Council, in terms of the processes adopted by the Public Service Coordinating Bargaining Council, with the candidates being communicated to the Fund, to depict proportionate union membership in the Public Service Coordinating Bargaining Council.

4.3.3 The Public Service Coordinating Bargaining Council shall provide the Fund with the details of the employee trustees that have been elected and/or appointed, in terms of their internal processes, to the Board at least one month prior to the term of office of the Board ending or as soon as reasonably possible after a vacancy has arisen while a Board is in office.

4.4 Eligibility requirements to act as a trustee of the Board

4.4.1 No person in any of the categories listed below shall be eligible for appointment or election as a trustee:

- (a) a person who has been or is found guilty of fraud, theft, forgery or producing a forged document, perjury, any offence involving dishonesty, any offence in connection with any company or public office or with the promotion, formation or management of a company or any other criminal offence by a court of law or properly constituted inquiry;
- (b) a person who has been or is declared insolvent, sequestrated or placed under curatorship and has not been rehabilitated;
- (c) a person who has been or is declared unfit to hold office as a public official, director of companies or any other position of trust due to mental incapacity or any other reason;
- (d) a person who becomes physically unfit and due to such unfitness, he or she is not, in the opinion of the Board in consultation with the necessary experts, capable of properly performing his or her duties should they be so elected;
- (e) a person who is declared to be mentally unfit by a competent court, or is so declared incapable to handle his/her own affairs, or if he/she is detained in terms of any act as a patient in an institution, or if he/she is detained as a state patient in terms of the Mental Health Act 17 of 2002;

- (f) a person who has been or is dismissed from the service of any employer or removed from any office on account of misconduct relating to dishonesty and/or incapacity;
- (g) a person who is disqualified from being a director in terms of legislation;
- (h) a person who has previously been removed from office or debarred by any regulatory body; and
- (i) a minor or person who is legally incapable.

4.4.2 the Board is empowered during an election to withdraw a candidate from consideration for office in the event that it is determined that he or she is ineligible as set out in the criteria recorded in rule 4.4.1.

4.5 Election of Employee Trustees

4.5.1 Appointment of Independent Electoral Agency

- (a) The Board shall appoint an independent electoral agency that shall oversee the nomination and election process and shall ensure that the elections are free and fair.
- (b) The independent electoral agency shall comply with its duties as set out in the Election Policy, the rules and applicable legislation.

4.5.2 Nomination, Voting and Election Procedure

Nomination

- (a) The nomination process for submission of nominations shall be determined in accordance with the Election Policy.
- (b) Each Member employed by South African National Defence Force and the State Security Agency may jointly nominate at least one candidate to stand for election to the Board as an employee trustee which candidate must be a member employed by either the South African National Defence Force or the State Security Agency. Such nomination must be seconded by another active member of the Fund employed by the South African National Defence Force and the State Security Agency.
- (c) Each pensioner shall be entitled to nominate one candidate to stand for election to the Board as an employee trustee which candidate must be a pensioner member of the Fund. Such nomination must be seconded by another pensioner member of the Fund.

Voting

- (d) All duly nominated candidates shall, subject to eligibility requirements set out in the rules and the Election Policy, be placed on the ballot for election to office.

- (e) The election shall occur by way of postal ballot, electronic or any other means determined by the Board as being reasonable in the circumstances.

Election

- (f) The election of employee nominees, as contemplated in rule 4.3.2(a) and rule 4.3.2(b), shall be conducted by postal ballot and such elections shall be held every four years and shall be determined by the Election Policy.
- (g) The persons elected shall be ranked according to the number of votes received for each category of candidates.
- (h) The pensioner candidate with the highest number of votes shall be the pensioner elected employee trustee.
- (i) The South African National Defence Force and the State Security Agency candidate with the highest number of votes shall become an employee trustee.

4.5.3 Substitute Trustees

- (a) A substitute acts in the place of the trustee on behalf of whom he or she was designated as a substitute in such a trustee's absence or cessation of office, and he or she at such instance has all the competencies and obligations of a trustee.
- (b) The responsible Minister shall appoint a substitute trustee for each employer appointed trustee.
- (c) The pensioner candidate with the second highest votes after the candidate referred to in rule 4.5.2.(h) above, shall be the elected substitute trustee to the pensioner elected representative trustee.
- (d) The South African National Defence Force and State Security Agency candidate with the second highest votes after the candidate referred to in rule 4.5.2.(i) above, shall be the elected substitute trustee to the South African National Defence Force and State Security Agency elected trustee.
- (e) The Public Service Coordinating Bargaining Council shall provide the Fund with a list of substitute trustees relevant to the elected Public Service Coordinating Bargaining Council trustees, to depict the proportionate union membership in the Public Service Coordinating Bargaining Council.
- (f) If for any reason the elected trustee or substitute are unable to take office or to continue in office then the person with the next highest votes, within a specific category being either pensioner or South African National Defence Force and State Security Agency elected trustee, will be approached to take office as trustee and/or substitute, and remain in office subject to the rules. This process shall be followed, by way of the highest number of votes next received taking office, until such time as there are no candidates available, in which case an election will be held for purposes of the elected incumbent holding office for the remaining term of the initially elected trustee.

4.6 Term of Office of the Board of Trustees

- 4.6.1 Subject to the provisions of rule 4.8, the term of office of the Board shall be four years, commencing from the date of the first inaugural meeting of the Board. In the event that a new trustee or substitute trustee has not been appointed at the expiration of such term of the office, the term of office of the existing trustee or

substitute trustee will be automatically extended until the day before the date of the appointment of the new trustee or substitute trustee.

4.7 Chairperson and Vice-Chairperson of the Board

- 4.7.1 The chairperson of the Board is elected by the Board, from its own ranks at the first meeting of such Board by voting in terms of rules 4.9.2 (a) and 4.9.2 (b) Provided that in the event of an equality of votes, a new round of voting will take place and if such new round of voting also results in an equality of votes the name of each candidate shall in the presence of the meeting be written on a piece of paper and such papers shall be placed in a suitable container and one of these papers shall be drawn from the container. The candidate whose name is so drawn shall be deemed to have been duly elected.
- 4.7.2 Should the duly elected chairperson/vice-chairperson vacate the position for any reason whatsoever, then a new chairperson/vice-chairperson will be elected from among the ranks of the trustees at the next duly called meeting of the Board of Trustees following upon the vacancy arising.
- 4.7.3 The Board elects a vice-chairperson from its ranks and in this regard the provisions contained in rule 4.7.1 shall apply *mutatis mutandis*. In the absence of the chairperson as well as the vice-chairperson at any meeting of the Board, the trustees present at such a meeting, elect a chairperson from their ranks in which case the arrangement set out in rule 4.7.1 *mutatis mutandis* applies.

4.8 Termination of office

- 4.8.1 A trustee or his or her substitute ceases to be a trustee or a substitute, as the case may be, when:
- (a) his or her term of office expires;
 - (b) he or she dies;
 - (c) he or she resigns from his or her office as trustee or substitute by way of a notice in writing addressed to the chairperson of the Board;
 - (d) he or she becomes physically unfit and, due to such unfitness, he or she is not, in the opinion of the Board in consultation with his or her principal, capable of properly performing his or her duties as trustee or substitute;
 - (e) his or her estate is sequestrated or renounced on behalf of his or her creditors;
 - (f) he or she is convicted in the Republic or elsewhere of theft, fraud, forgery or the uttering of a forged document, or perjury, or he or she is sentenced to imprisonment without the option of a fine;
 - (g) he or she is discharged by a court of law from any position of trust on account of misconduct;
 - (h) he or she becomes incompetent to be a director of a company in terms of the Companies Act 71 of 2008;
 - (i) he or she contravenes rule 4.9.2(f) or neglects to conform thereto, should the Board in consultation with his or her principal so decide;

- (j) he or she is replaced by another person by his or her principal, which replacement must be conveyed in writing to the chairperson of the Board;
- (k) the trustees resolve that he or she is to be removed from office because of a breach of his or her fiduciary duty towards the Fund or its members and pensioners and/or because of a breach of the Code of Conduct, in compliance with the disciplinary policy of the Board;
- (l) he or she is declared to be mentally unfit by a competent court, or is so declared incapable to handle his/her own affairs, or if he/she is detained in terms of any act as a patient in an institution, or if he/she is detained as a state patient in terms of the Mental Health Act of 2000;
- (m) the trustees resolve that he or she is to be removed from office because s/he is ineligible as set out in 4.4. 1.

4.8.2 If another person is appointed in the place of a trustee or substitute who ceases to be a trustee or substitute in terms of this rule, such other person, acts in the place of such trustee or substitute for the duration of the term of office of the person in whose place he or she was appointed.

4.9 Meetings of the Board

4.9.1 Authority to call a meeting

- (a) The Chairperson or if he or she is not available the vice-chairperson shall convene a meeting of the board on a quarterly basis to attend to the affairs of the Fund.
- (b) Notwithstanding rule 4.9.1 (a) above, any trustee may with the written support of two other trustees request the chairperson, or if he or she is not available the vice-chairperson, in writing, to convene a meeting of the Board to deal with the business set out in such a request.
- (c) The chairperson, or if he or she is not available the vice-chairperson, shall convene such a meeting of the Board within 21 days of receiving the request.
- (d) Two-thirds of the trustees is a quorum. If a quorum is not present the chairperson postpones the meeting for seven days and informs the trustees of such meeting and trustees present at that meeting, then form a quorum.

4.9.2 Voting rights and minutes

- (a) Every trustee including the chairperson, has one vote at all meetings of the Board and subject to rule 4.9.1(d), the decision of the majority of trustees present at a meeting shall constitute a decision of the Board.
- (b) During a meeting of the Board votes are cast by the raising of hands unless the majority of trustees present at the meeting request that voting takes place by way of secret ballot.
- (c) The Board may adopt any arrangement in its discretion to regulate its proceedings or to delegate the performance of any of its duties to a sub-committee of the Board, subject thereto that such an arrangement must not be inconsistent with any provision contained in the Law.

- (d) Minutes are kept of every meeting of the Board. During each meeting of the Board the minutes of the previous meeting are signed by the chairperson of that meeting after approval thereof by the meeting.
- (e) A trustee who, directly or indirectly, has a pecuniary interest in any investment or contemplated investment of the Fund, or an interest in any other matter before the Board, shall disclose such interest and may not be present at that meeting when the particular matter is discussed.
- (f) The Board may determine the requirements in connection with the attendances of its meetings by trustees and substitutes, and remove from office any trustee or substitute who does not comply therewith in consultation with his or her principal.

4.10 Duties of the Board

4.10.1 Each trustee or a substitute shall, notwithstanding the duties as may be determined by the Board:

- (a) take all reasonable steps to ensure that the interests of its members in terms of the rules of the Fund and the provisions of the Law are protected at all times, especially in the event of an amalgamation or splitting of the Fund, termination or reduction of contributions by the employer, increase of contributions by members and withdrawal of an employer;
- (b) act at all times with due care and diligence and in good faith;
- (c) avoid conflicts of interest;
- (d) act with impartiality in respect of all members and beneficiaries;
- (e) ensure that proper registers, books and records are kept, inclusive of proper minutes of all resolutions passed by the Board;
- (f) ensure that proper control systems are employed by or on behalf of the Board;
- (g) take all reasonable steps to ensure that the rules of the Fund comply with the Law, and all other applicable laws;
- (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 of the Fund;
- (i) take all reasonable steps to ensure that contributions are paid timeously to the Fund in accordance with the provisions of the Law;
- (j) obtain expert advice on matters where board members may lack expertise;
- (k) ensure that the operation and administration of the Fund comply with the Law, and all other applicable laws;
- (l) adhere to the principles of privileged information and confidentiality; and
- (m) adhere to its duties as set out in the Law.

4.11 Powers of the Board

Save for the appropriate provisions of the Law, the Board shall in the exercise of its powers and duties be entitled to:

- 4.11.1 raise money for the purposes of the Fund or borrow money as bridging facilities for a temporary cash deficit or to complete an investment, or to loan money;
- 4.11.2 invest, loan, advance on interest and place on deposit moneys not needed immediately for the current expenditure of the Fund or to deal therewith any in another way against such securities and in such a way as the Board may determine and to convert into money, adjust such securities, reinvest the proceeds thereof or to deal therewith in any other way as determined by the Board;
- 4.11.3 purchase, erect, sell, let or alienate movable or immovable property for purposes of the Fund;
- 4.11.4 prescribe in which way claims must be lodged against and handled by the Fund;
- 4.11.5 appoint any person, committee or body to perform such investigation, research or any other duty as instructed by the Board, subject to such conditions as the Board may determine and pay such person, committee or body from the Fund;
- 4.11.6 employ personnel or make any other suitable arrangement to administer the Fund and to manage the investments of the Fund;
- 4.11.7 determine the remuneration and other conditions of service of the personnel referred to in rules 4.11.5 and 4.11.6 and make such rules as in its discretion are necessary to regulate personnel matters;
- 4.11.8 pay from the Fund the expenditure connected with the management of the Fund's business;
- 4.11.9 in general take any steps necessary or perform any actions which are advantageous for the achievement of the Fund's objectives.
- 4.11.10 develop policies concerning the registration of spouses; and
- 4.11.11 develop policies concerning the payment of benefits in exceptional or extenuating circumstances.

4.12 Signing authority

The Board may authorize persons from time to time to sign any contract or other document which binds the Fund or any other document which authorizes any action on behalf of the Fund or any cheque or letter on such conditions as it may deem fit.

4.13 Bank account

The Board shall open an account or accounts in the name of the Fund at any registered bank or the South African Reserve Bank. All moneys received by or on behalf of the Fund, shall be paid into such account or accounts.

4.14 Personal liability

The trustees and all employees of the Fund shall be indemnified by the Fund against all proceedings, costs and expenses incurred by reason of any claim in connection with the Fund, not arising from his or her own dishonesty, fraud or gross negligence.

4.15 Fidelity insurance

The Board may take out insurance for such an amount as is considered sufficient from time to time to provide for losses as a result of negligence, fraud or dishonesty on the part of persons receiving or handling money or assets of the Fund.

4.16 Registration and safe keeping of securities

All title deeds and securities of the Fund are registered in the name of the Fund or in the name of a nominee company or institution approved by the Board and no security is transferred, amended, ceded, or otherwise alienated. All mortgage bonds, title deeds and other securities that belong to the Fund or are held by the Fund, are kept in safe custody in a vault or strongroom at the registered office of the Fund or at any registered financial institution approved by the Board for this purpose, unless they are temporarily held in another place with the approval of the Board.

4.17 Actuary

The Board appoints an actuary who is the valuator of the Fund. Such appointment remains valid until it is terminated by the Board.

4.18 Actuarial valuations

- 4.18.1 The Fund is valued at least every three years by the actuary and the actuary reports thereon to the Board.
- 4.18.2 A copy of the actuary's report, which contains recommendations in respect of any surplus or deficit existing in the Fund on the valuation date, must be submitted to the Board within such period as prescribed by the Board. The actuary's report must comply with the provisions of section 16 of the Pension Funds Act, 1956 (Act No. 24 of 1956).
- 4.18.3 The Board submits a copy of the actuary's report referred to in rule 4.18.2 to the Minister within 21 days of the receipt of such report.

4.19 Report to or by the Board

- 4.19.1 Within eight months after the end of each fund year, subject to section 10 of the Law, the Board shall cause to be published in the *Government Gazette* a report

on the activities of the Fund, which includes the annual financial statements of the Fund.

- 4.19.2 Remuneration paid to trustees, during a particular period under review, must be reflected in the financial statements.
- 4.19.3 On request of a member or any other person who has an interest in the Fund, a copy of the report of the Board is furnished on payment of such fee as determined by the Board provided that such fee shall relate to the cost of producing the report.
- 4.19.4 The Report, together with the annual financial statements of the Fund shall be submitted to the Minister in accordance with section 10 of the Law.

3. Commencement Date

The amendment to the Rules shall come into operation on date of publication.