

**AMENDMENT TO THE REGULATIONS OF THE
KWAZULU-NATAL JOINT MUNICIPAL PROVIDENT FUND (12/8/32588)
AMENDMENT NO.8**

The regulations of the KwaZulu-Natal Joint Municipal Provident Fund ("the Fund") shall be amended with effect from 1 April 2011.

The following appendix shall be added to the regulations:

APPENDIX A

RULES FOR THE MANAGEMENT AND ADMINISTRATION OF THE NATAL JOINT MUNICIPAL PENSION FUND (SUPERANNUATION), THE NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT), AND THE KWAZULU-NATAL JOINT MUNICIPAL PROVIDENT FUND

A. 0 The **MINISTER** of Local Government and Housing has in terms of-

- (1) regulation 8(1) of the Regulations governing the Natal Joint Municipal Pension Fund (Superannuation), published under Provincial Notice No. 246 on 24 May 1974;
- (2) regulation 7A of the Regulations governing the Natal Joint Municipal Pension Fund (Retirement), published under Provincial Notice No. 180 on 13 March 1975; and
- (3) regulation 6 of the Regulations governing the KwaZulu-Natal Joint Municipal Provident Fund, published under Provincial Notice No. 135, on 4 April 1996,

approved the rules for the Joint Management and Administration of the said Funds as made by the General Committees of the Funds, relevant portions of which are contained below.



A.1 The words and expressions defined in the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973), the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974), and the KwaZulu-Natal Joint Municipal Provident Fund Act 1995 (Act No 4/1995), and in the regulations published under Provincial Notice No. 246 on 24 May 1974, Provincial Notice No. 180 on 13 March 1975 and Provincial Notice No. 135 on 4 April 1996 respectively, shall, when used in this appendix, bear the same meanings unless inconsistent with the context, and -

"**ACT**" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"**CHIEF EXECUTIVE OFFICER**" means the **CHIEF EXECUTIVE OFFICER** of **uMSEKELI**;

"**COMMITTEE OF MANAGEMENT**" means the **COMMITTEE OF MANAGEMENT** elected in accordance with the provisions of the regulations under this appendix and vested with the management and direction of the **SUPERANNUATION FUND, RETIREMENT FUND** and **PROVIDENT FUND**;

"**COUNCILLOR**" means a member of a **MUNICIPAL COUNCIL** or a member of the **MANAGEMENT BODY**;

"**DIRECTOR**" means the principal Executive Officer as defined in section 8 of the Pension Funds Act, 1956 (Act No. 24 of 1956);

"**GENERAL COMMITTEE**" means the committee elected in accordance with the provisions of regulation A.2 under this appendix;

"**MANAGEMENT BODY**" means the **MANAGEMENT BODY** of **uMSEKELI** appointed in terms of section 2(2) of the uMsekeli Municipal Support Services Ordinance, 1941 (Ordinance No. 20 of 1941), as amended;

"**MINISTER**" means the Member of the Executive Council for the Province of KwaZulu-Natal responsible for local government and housing;

"MUNICIPAL COUNCIL" means where appropriate according to the context in which the expression occurs -

- (a) a **MUNICIPAL COUNCIL** as defined in section 1 of the **ACT**;
- (b) a **MUNICIPALITY**;
- (c) the **MANAGEMENT BODY**;
- (d) **uMSEKELI**; or
- (e) a Municipal entity as defined in section 1 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000)

and any reference in this appendix to a Local Authority shall be deemed to be a reference to the appropriate meaning of **"MUNICIPAL COUNCIL"**;

"MUNICIPAL MANAGER" means a **MUNICIPAL MANAGER** or acting municipal manager appointed in terms of Section 82 of the **ACT**, and includes the **CHIEF EXECUTIVE OFFICER**;

"MUNICIPALITY" means a **MUNICIPALITY** established in terms of the **ACT** and includes **uMSEKELI**;

"ORDINANCES" means jointly the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973) and the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974);

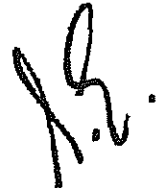
"PROVIDENT FUND" means KwaZulu-Natal Joint Municipal Provident Fund established by section 2 of the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995);

"PROVIDENT FUND ACT" means the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. 4 of 1995)

"RETIREMENT FUND" means the Natal Joint Municipal Pension Fund established by section 2 of the Natal Joint Municipal Pension Fund (Retirement) Ordinance, 1974 (Ordinance No. 27 of 1974);

"SUPERANNUATION FUND" means the Natal Joint Municipal Pension Fund established by the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973);

"uMSEKELI" means the body constituted in terms of the uMsekeli Municipal Support Services Ordinance, 1941 (Ordinance 20 of 1941), as amended;

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A.2 (1) There shall be constituted annually a General Committee for the Joint Management and Administration of the **PROVIDENT FUND, RETIREMENT FUND** and **SUPERANNUATION FUND**, comprising the following representatives:

- (a) For each **MUNICIPAL COUNCIL** employing in total less than one hundred members of the three Funds on the thirtieth day of April of that year, one **COUNCILLOR** appointed by his fellow **COUNCILLORS** and one member of each of the three Funds elected by his fellow members.
- (b) For each Local Authority employing in total one hundred or more but less than 1000 members of the three Funds in the employ of such Local Authority at the thirtieth day of April of that year, two **COUNCILLORS** appointed by their fellow **COUNCILLORS** and two members of each of the three Funds elected by their fellow members:

Provided that should there be no members in one of the three Funds in the employ of such Local Authority at the thirtieth day of April of that year, then the total of the members of the other Fund or Funds as the case may be shall be used as the basis for the calculation of representation by the Local Authority: Provided further that should the Local Authority have no members of any of the three Funds at thirtieth day of April of that year the Local Authority shall nevertheless be entitled to representation by one **COUNCILLOR** appointed by his fellow **COUNCILLORS** or whose term of office on the General Committee has been extended in terms of regulation A.6.(a)(iii).

(b)(A) For each **MUNICIPAL COUNCIL** employing in total one thousand or more but less than three thousand members of the three Funds on the thirtieth day of April of that year, three **COUNCILLORS** appointed by their fellow **COUNCILLORS** and three members of each of the three Funds elected by their fellow members.

(b)(B) For each **MUNICIPAL COUNCIL** employing in total three thousand or more members of the three Funds on the thirtieth day of April of that

year, four **COUNCILLORS** appointed by their fellow **COUNCILLORS** and four members of each of the three Funds elected by their fellow members.

Provided that should there be no members in one of the three Funds in the employ of such **MUNICIPAL COUNCIL** at the 30th day of April of that year, then the total of the members of the other Fund or Funds, as the case may be shall be used as the basis for the calculation of representation by the **MUNICIPAL COUNCIL**: Provided further that should the **MUNICIPAL COUNCIL** have no members of any of the three Funds at the thirtieth day of April of that year the **MUNICIPAL COUNCIL** shall nevertheless be entitled to representation by one **COUNCILLOR** appointed by his fellow **COUNCILLORS**: Provided further that the number of appointees in terms of regulation A.2.(1)(a), A.2.(1)(b), A.2.(1)(b)(A) and A.2.(1)(b)(B) shall be reduced by the number of representatives, if any, of a **MUNICIPAL COUNCIL** who have been elected as members of the **COMMITTEE OF MANAGEMENT** during their term of office as such.

- (c) One pensioner of the **RETIREMENT FUND** and one pensioner of the **SUPERANNUATION FUND** elected by his fellow pensioners in accordance with regulation A.5.A.
- (d) For each representative appointed or elected in terms of sub-regulations (a), (b), (b)(A), (b)(B) or (c) above there shall be appointed or elected an alternate.

- (2) Vacancies in the membership of the General Committee caused by the retirement of members of the General Committee in terms of regulation A.6.(a) shall be filled each year in accordance with the provisions of regulations A.3, A.4. and A.5.

A.3 Not later than the fifteenth day of October of each year, a Local Authority shall appoint a representative or representatives to the General Committee from amongst their number and at the same time appoint the required alternate/s: Provided that when persons are elected or appointed as **COUNCILLORS** of a Local Authority in a month

other than September, the **COMMITTEE OF MANAGEMENT** shall determine a date within fourteen days of which the Local Authority shall appoint a representative or representatives to the General Committee.

- A.4 Not later than the 30th day of September every third year after September 2003, elections shall be undertaken at each **MUNICIPAL COUNCIL** by the members of the three Funds in the most appropriate manner as determined and conducted by its **MUNICIPAL MANAGER** and with his or her assistance for the purpose of electing from amongst their number, a representative or representatives together with the required alternate or alternates to the General Committee in accordance with regulation A.2.(1)(a), A.2.(1)(b), A.2.(1)(b)(A) and regulation A.2.(1)(b)(B).
- A.5 Not later than the 20th day of October of each year in respect of the **MUNICIPAL COUNCIL** representatives and the alternates appointed in terms of regulation A.3., and not later than the 20th day of October every third year after October 2003 in respect of the member representatives and alternates elected in terms of regulation A.4., the **MUNICIPAL MANAGER** shall notify the **DIRECTOR** of the names of such **MUNICIPAL COUNCIL** representatives and alternates, the names of the member representatives and the names and order of preference of the alternates so elected.
- A.5.A. (a) Not later than the 31st day of August in every cycle of the three consecutive years after August 2000 and by not later than the 31st July of the third year of such cycle, the **DIRECTOR** shall circularise pensioners of the **RETIREMENT FUND** and the **SUPERANNUATION FUND** and invite nominations for representatives for election for concurrent office to both the General Committee and the **COMMITTEE OF MANAGEMENT**.
- (b) Not later than the 1st day of September of the third year of every cycle of three consecutive years after September 2000 the **DIRECTOR** shall circulate the nominations for pensioner representatives for the **RETIREMENT FUND** and **SUPERANNUATION FUND** to the pensioners of each such Fund to enable a postal ballot to be conducted for one representative and one alternate to each such Fund. Any ballot paper containing more than the stipulated number of votes for the

representatives and the alternates shall not be taken into account in determining the ballot. In the event of an equality of votes then the result shall be determined by lot undertaken by the **DIRECTOR** or his authorised representative. The pensioner in either the **SUPERANNUATION FUND** or **RETIREMENT FUND** who receives the highest number of votes shall be duly elected as the pensioner representative for that Fund and the pensioner who receives the second highest number of votes shall be the alternate to the representative elected for each such Fund.

A.6 (a) (i) A representative to the General Committee shall assume office at the commencement of the next annual general meeting after his being elected or appointed as provided in regulations A.2., A.3., A.4. and A.5.A.

(ii) A **MUNICIPAL COUNCIL** representative to the **GENERAL COMMITTEE** shall retire immediately before the annual general meeting following that which marked the commencement of his term of office, provided that should such **MUNICIPAL COUNCIL** representative be a member of the **COMMITTEE OF MANAGEMENT**, the term of office of such a member shall cease at the commencement of the Annual General Meeting at which the term of office of such a member as a member of the **COMMITTEE OF MANAGEMENT** so expires, but notwithstanding these provisions the term of office of the representative elected in terms of regulation A.5.A shall cease immediately prior to the commencement of the Annual General Meeting three years after his election.

(iii) A member representative to the General Committee shall retire immediately before the commencement of the third Annual General Meeting three years after such member was elected to the General Committee, unless such member is a member of the **COMMITTEE OF MANAGEMENT**, in which event the term of office of such member of the General Committee shall only expire at the commencement of the Annual General Meeting held every third year.



- (iv) Any representative retiring shall be eligible for re-election.

- (b) In the event of a representative not being elected as provided in regulation A.3. or A.4. then the representative elected or appointed the previous year shall remain in office until the conclusion of the next succeeding Annual General Meeting but no longer.

- (c) If a member of the General Committee incurs any of the disqualifications referred to in regulation A.7.(f) he shall forthwith cease to be a member of the General Committee.

- (d) If a member of the General Committee ceases to be a member in terms of sub-regulation (c) above, his alternate shall hold office for the balance of his term. If there is no alternate the vacancy may be filled in accordance with the provisions of regulations A.3., A.4. and A.5.A and the term of office shall be for the unexpired portion of the term of office of the member who is replaced.

A.7

- (a) The members of the Committees of Management of the **SUPERANNUATION FUND**, the **RETIREMENT FUND** and the **PROVIDENT FUND** shall form the **COMMITTEE OF MANAGEMENT** and their terms of office shall be in accordance with the regulations below.

- (b) The **COMMITTEE OF MANAGEMENT** will be elected in accordance with the Rules for the Joint Management and Administration of the Natal Joint Municipal Pension Fund (Superannuation), the Natal Joint Municipal Pension Fund (Retirement) and the KwaZulu-Natal Joint Municipal Provident Fund as promulgated by the **MINISTER** of Local Government and Housing as referred to in regulation A.0.

- (c) The **COMMITTEE OF MANAGEMENT** at the start of 2006 will be the members as elected in terms of the Rules referred to in sub-regulation (b) above.



(d) (i) In every cycle of three consecutive years, commencing with 2006, the provisions of sub-regulation (d)(ii) below shall apply to the annual general meetings held for the first and second year of the cycle and the provisions of sub-regulation (d)(iii) below to the annual general meeting in the third year.

(ii) The General Committee shall, at its annual general meetings in the first two years of the cycle detailed in sub-regulation (d)(i), elect eight members to the **COMMITTEE OF MANAGEMENT**, two by the Local Authority representatives from amongst their own number and two by the member representatives of each of the three **FUNDS** from amongst their own number respectively.

(aa) Subject to the provisions of sub-regulation (f) below, the term of office of such members of the **COMMITTEE OF MANAGEMENT** shall commence when they have been declared duly elected and shall cease at the annual general meeting three years after the date of election.

(bb) A retiring member shall, if otherwise eligible, be eligible for re-election.

(iii) The General Committee shall, at its annual general meeting in the third year of the cycle detailed in sub-regulation (d)(i) elect four members to the **COMMITTEE OF MANAGEMENT**, one by the Local Authority representatives from amongst their own number and one by the member representatives of each of the three **FUNDS** from amongst their own number respectively.

(aa) Subject to the provisions of sub-regulation (f) below, the term of office of such members of the **COMMITTEE OF MANAGEMENT** shall commence when they have been declared duly elected and shall cease at the annual general meeting three years after the date of election.



- (bb) A retiring member shall, if otherwise eligible, be eligible for re-election.
- (e) The election of members to the **COMMITTEE OF MANAGEMENT** shall, save for the pensioner representatives who have been elected in terms of regulation A.5.A, be by ballot. Each representative may vote for not more than the stipulated number of persons who have been duly nominated. Any ballot paper containing more than the stipulated number of names shall be a spoilt paper and shall not be taken into account in determining the results of the poll. In the event of an equality of votes the result shall be determined by lot. If either the Local Authority representatives or the member representatives of each of the three funds fail to elect from their own number the stipulated number of members of the **COMMITTEE OF MANAGEMENT** as provided for in regulation A.7.(d), the **COMMITTEE OF MANAGEMENT** shall have the power to co-opt an alternate or alternates, according to the number of vacancies, from the respective alternates elected in terms of regulation A.8 (a) or co-opted in terms of regulation A.8.(c).
- (f) The term of office of a member of the **COMMITTEE OF MANAGEMENT**, shall be terminated if he -
- (i) ceases to be a **COUNCILLOR**;
 - (ii) ceases to be a member of the fund by whose members he was elected to serve on the General Committee;
 - (iii) ceases to be a member of the General Committee;
 - (iv) absents himself from two consecutive meetings of the Committee without the consent of the Committee; or
 - (v) dies or resigns.
 - (vi) commits an act of misconduct.



- (g) All the members of the **COMMITTEE OF MANAGEMENT** including any alternates appointed or elected in terms of regulations A.5.A(b) and A.8., as the case may be, shall be paid a re-imbursment attendance and travelling allowance when upon the business of any of the three Funds which shall be in accordance with a tariff as determined from time to time by the **COMMITTEE OF MANAGEMENT**, provided that should any pensioner representative or alternate not be permanently resident in KwaZulu-Natal, the travel allowance shall be limited to the cost of a return air ticket to Pietermaritzburg together with the above travelling allowance from the nearest airport to the representative=s permanent place of residence and back.

A.7.A

- (a) A member of the **COMMITTEE OF MANAGEMENT** shall be deemed to have committed an act of misconduct if he:

(i) breached any terms of the Code of Conduct for members of the **COMMITTEE OF MANAGEMENT** or any annexure thereto; or

(ii) breached any term of the the regulations in this appendix; or

(iii) failed to abide by or has breached any guideline issued to members of a **COMMITTEE OF MANAGEMENT** from time to time by the Registrar of Pension Funds, including but not limited to directive, circular, policy statement issued by the Registrar of Pension Funds in terms of the Pension Funds Act.

- (b) Whenever the **DIRECTOR** becomes aware of any alleged misconduct by a member of the **COMMITTEE OF MANAGEMENT**, including but not limited to an alleged contravention of, or failure by any member to comply with any provision of the Code of Conduct, or its annexures, or whenever any allegation or statement alleging such contravention is made in writing to him, then the **DIRECTOR** shall:



(i) investigate the facts and circumstances of such alleged contravention;

(ii) obtain written comment of the member allegedly committing such misconduct;

(iii) if the **DIRECTOR** is thereupon of the belief that there has been a contravention or failure to comply with the Code of Conduct and/or its annexures he shall thereupon submit a report thereon to the **COMMITTEE OF MANAGEMENT**.

(iv) If the member allegedly committing such misconduct does not furnish the **DIRECTOR** with his or her written comment, as required within the time so specified by the **DIRECTOR** for the submission, that the **DIRECTOR** can thereafter dispense with compliance by sub-regulation A.7.A(b)(ii) and submit his report to the **COMMITTEE OF MANAGEMENT**.

(v) The **COMMITTEE OF MANAGEMENT** shall immediately upon receipt of such report with the supporting documentation, including the response, if any, by the member allegedly committing such misconduct, take such action as it considers appropriate including terminating the term of office of such member or suspending such member from the **COMMITTEE OF MANAGEMENT** for such period in respect of such function as the **COMMITTEE OF MANAGEMENT** at its sole discretion may decide and subject to any terms and conditions imposed by it.

(c) Should the member of the **COMMITTEE OF MANAGEMENT** decline to vacate his office as required by the **COMMITTEE OF MANAGEMENT** in terms of regulation A.7.A.(b)(v), then the **COMMITTEE OF MANAGEMENT**, notwithstanding anything to the contrary contained in the regulations in this appendix, may refer the matter to the Financial Services Board or make application to any competent court having jurisdiction, for the removal of such member from the **COMMITTEE OF MANAGEMENT**.



A.7.B (a) The **DIRECTOR** shall furnish or cause to be furnished to every member of the **COMMITTEE OF MANAGEMENT** immediately following such member's election to the **COMMITTEE OF MANAGEMENT** with a copy of the Code of Conduct and annexures as applicable from time to time referred to in regulation A.7.C and such members shall thereupon complete as appropriate the Code of Conduct with annexures and return the signed and completed Code of Conduct and annexures to the **DIRECTOR** prior to the commencement of the second meeting of the **COMMITTEE OF MANAGEMENT** following upon such member's election.

(b) (i) Should any member fail to timeously return the signed and completed Code of Conduct with annexures to the **DIRECTOR** as required by regulation A.7.B(a) then the failure by such member shall constitute an act of misconduct and the provisions of regulation A.7.A(b) shall apply.

(ii) The provisions of this sub-regulation shall apply to all members of the **COMMITTEE OF MANAGEMENT** including any alternates elected or appointed in terms of regulations A.5.A(b) and A.8. as the case may be.

A.7.C (a) The Code of Conduct shall include, as annexures:

(i) An acceptance of trust to be signed by each member of the **COMMITTEE OF MANAGEMENT**;

(ii) Policy by the **COMMITTEE OF MANAGEMENT** on gifts to individual members of the **COMMITTEE OF MANAGEMENT** by third parties;

(iii) A member of the **COMMITTEE OF MANAGEMENT**'s declaration of interests.



- (b) The **COMMITTEE OF MANAGEMENT** shall prepare or cause to be prepared and approved a Code of Conduct for members of the **COMMITTEE OF MANAGEMENT** and which Code of Conduct and annexures shall take cognisance of the statutory and common law rights and obligations of members of the **COMMITTEE OF MANAGEMENT**, including but not limited to the provisions of the Pension Funds Act, and any regulations issued thereunder, any Principles, Policy Directives, Circulars and guidelines which may, from time to time, be issued by the Registrar of Pension Funds for the assistance and guidance in the administration of Pension Funds. For the purposes of this sub-regulation the reference therein to "Trustees" or "Board of Trustees" shall have the corresponding meaning in the Code of Conduct to **COMMITTEE OF MANAGEMENT**.

A.7.D

- (a) All of the members of the **COMMITTEE OF MANAGEMENT** shall be collectively and individually liable for any breach of the governance of any of the Funds including, without detracting from the generality hereof, for any negligence, dishonesty, willful misconduct, breach of faith or breach of trust, which results in any loss to any of the Funds and/or to its members and/or its beneficiaries.

- (b) Notwithstanding anything to the contrary contained in the regulations in this appendix, all of the members of the **COMMITTEE OF MANAGEMENT** shall be collectively and individually liable in terms of regulation A.7.D(a) notwithstanding that any of such members do not have the power to vote on any particular matter as provided by regulation A.15.



A.8.

- (a) The General Committee shall elect twenty alternate members of the **COMMITTEE OF MANAGEMENT**. Five such alternates shall be elected by the Local Authority representatives from amongst their number and five such alternates shall be elected by the member representatives of each of the

SUPERANNUATION FUND, the RETIREMENT FUND and the PROVIDENT FUND from amongst their respective number.

(b) The alternates shall not be members of the **COMMITTEE OF MANAGEMENT** unless elected thereto in terms of regulation A.12, or co-opted in terms of regulation A.7.(e). The term of office of an alternate member shall expire at the annual general meeting following his election: Provided that if he is elected or co-opted to the **COMMITTEE OF MANAGEMENT**, his term of office shall expire when the term of office of the member whom he replaced would have expired.

(c) If either the Local Authority representatives or the member representatives of each of the three funds fail to elect from their own number five alternates to the members of the **COMMITTEE OF MANAGEMENT** as provided in regulation A.8.(a), the **COMMITTEE OF MANAGEMENT** shall have the power to co-opt an alternate or alternates, according to the number of vacancies, from the respective representatives of the General Committee.

A.9 The MINISTER may -

(a) appoint a person with specialized practical experience in and knowledge of the control and investment of trust money as an additional member of the **COMMITTEE OF MANAGEMENT**; and

(b) appoint a similarly qualified person as an alternate to the additional member appointed under regulation A.9.(a): Provided that -

(i) such additional member and such alternate shall -

(aa) be appointed by the **MINISTER** annually or in the event of the resignation from office or death of such member or alternate, the **MINISTER** may appoint a successor to such member or alternate;

(bb) not be eligible for election as Chairman or Vice-Chairman of the **COMMITTEE OF MANAGEMENT**;

(cc) be paid a reimbursive attendance and travelling allowance by the **SUPERANNUATION FUND** in accordance, mutatis mutandis, with the tariff in force under regulation 9 of the Regulations Governing the **SUPERANNUATION FUND** published under Provincial Notice 246 dated 24th May 1974; and

(dd) for the purposes of the regulations in this appendix but subject to the provisions of this proviso, be deemed to be an elected member of the **COMMITTEE OF MANAGEMENT**; and

(ii) the funds shall not be responsible for meeting any additional remuneration which may be approved by the **MINISTER** specially for or in respect of such additional member or his alternate.

A.10

(a) The **COMMITTEE OF MANAGEMENT** shall elect a Chairman and Vice-Chairman from amongst its members at a meeting to be held within 28 days after the conclusion of the Annual General Meeting of the General Committee: Provided that if the term of office of the Chairman or Vice-Chairman is terminated in terms of regulation A.7.(f) a successor shall, at the discretion of the **COMMITTEE OF MANAGEMENT**, forthwith be elected by the **COMMITTEE OF MANAGEMENT** in terms of this sub-regulation. The Chairman and Vice-Chairman shall hold office until the next election of a Chairman and Vice-Chairman as provided for in the regulations in this appendix. If more than two members of the **COMMITTEE OF MANAGEMENT** are nominated for the offices of Chairman and Vice-Chairman respectively a system of ballots shall take place in terms of which the nominee receiving the lowest number of votes is eliminated until a final ballot between two nominees is held. The nominees receiving the highest number of votes in the final ballot shall be duly elected Chairman or Vice-Chairman as the case may be. In the event of an equality of votes in any ballot the result shall be determined by lot.



(b) The Chairman and the Vice-Chairman elected in terms of regulation A.10.(a) shall ipso facto be Chairman and Vice-Chairman respectively of the General Committee and the **COMMITTEE OF MANAGEMENT**.

(c) The Chairman shall preside at all meetings of the General Committee and **COMMITTEE OF MANAGEMENT** as the case may be and, in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.

(f) In the absence of the Chairman the Vice-Chairman shall act as Chairman and shall likewise have a casting as well as a deliberative vote.

(e) In the absence of the Chairman and the Vice-Chairman the representatives present at a meeting of the General Committee or **COMMITTEE OF MANAGEMENT** as the case may be shall elect an Acting Chairman for the occasion who likewise shall have a casting as well as a deliberative vote.

A.11

The quorum of a meeting of the General Committee shall consist of twenty representatives of each of the three Funds appointed or elected in accordance with regulation A.2. Should a quorum of a Fund not be present at the determined time for the meeting of the General Committee, the business of the meeting shall continue for the Fund or Funds for which the required quorum is present, and the meeting of the General Committee of the Fund or Funds for which a quorum is not present, shall be adjourned for a maximum period of ninety days to a date and place to be determined by the Chairman in consultation with the **DIRECTOR**:

Provided that –

(a) the Chairman of the meeting of the General Committee shall decide whether any matter for decision affects all three Funds, two Funds or only one Fund;

(b) in the event that such later date is a public holiday, the meeting shall be held on the first business day after such public holiday; and



(c) in the event that the required quorum is not present at such adjourned meeting, the business of the meeting shall be decided by those present at the meeting.

(i) If a matter affects all three funds, all members of the General Committee shall be eligible to vote and each Local Authority representative shall have three votes and each member representative shall have one vote.

(ii) If a matter affects two of the funds, member representatives of the unaffected fund shall not be eligible to vote, each Local Authority representative shall have two votes and each member representative of the affected funds shall have one vote.

(iii) If a matter affects only one of the funds, member representatives of the two unaffected funds shall not be eligible to vote and each Local Authority representative and each member representative of the affected fund shall have one vote.

(iv) Notwithstanding the provisions of sub-regulations (i), (ii) and (iii) the pensioner representatives elected in terms of regulation A.5.A shall not have a vote on any matter affecting the **PROVIDENT FUND**, provided that if a matter affects both the **SUPERANNUATION FUND** and the **RETIREMENT FUND** such representative shall have one vote each but if the matter affects only one of those Funds then the pensioner representative of the unaffected Fund shall not be eligible to vote.

A.12 (a) Any vacancy in the **COMMITTEE OF MANAGEMENT** which occurs in terms of regulation A.7.(f) shall be filled -

(i) In the case of a member elected by the **MUNICIPAL COUNCIL** representatives, by the remaining **MUNICIPAL COUNCIL** representatives on the **COMMITTEE OF MANAGEMENT** from



amongst the alternate members elected in terms of regulation A.8; or


(ii) in the case of a member elected by the member representatives of any of the three funds, by the remaining member representatives of that fund on the **COMMITTEE OF MANAGEMENT** from amongst the alternate members elected in terms of regulation A.8.

(iii) in the case of a member elected by the pensioner representatives of the **SUPERANNUATION** and **RETIREMENT FUNDS**, by the alternate elected in terms of regulation A.5.A. The term of office for the alternate shall be for the unexpired portion of the term of office of the member who is replaced, provided that should a vacancy occur and there is no alternate to fill such vacancy, then the vacancy shall be filled by the appointment as the pensioner representative of the pensioner receiving the next highest number of votes after the pensioner representative and the alternate who had previously been appointed, and the pensioner who receives the next highest number of votes thereafter shall be the alternate, and provided further that the term of office for the pensioner representative and alternate so appointed shall only be for the unexpired portion of the term of office of the pensioner representative or alternate, as the case may be, whose termination of terms of office has given rise to this appointment.

(b) Where a member of the **COMMITTEE OF MANAGEMENT** is unable to attend a meeting of that Committee for any reason, it shall be competent for the Chairman to appoint one of the alternates elected in terms of regulation A.5.A and A.8. to attend such meeting instead of such member, whereupon such alternate member shall be a member of the **COMMITTEE OF MANAGEMENT** for the duration of such meeting.

A.13 The **COMMITTEE OF MANAGEMENT** shall -

(a) meet at least once every two months;

- (b) supervise the keeping of the accounts and books of the Fund; and
- (c) exercise the powers conferred upon it in terms of the **ORDINANCES** and the KwaZulu-Natal Joint Municipal Provident Fund Act, 1995 (Act No. of 1995) and the Pension Funds Act 24 of 1956. 

A.14 The **DIRECTOR** shall give at least seven days' written notice of every meeting of the **COMMITTEE OF MANAGEMENT** to each member of the Committee: Provided that in the case of a special meeting this regulation shall not apply. Provided further, that non-receipt by a member of the notice of any meeting shall not invalidate such meeting.

A.15 The quorum for a meeting of the **COMMITTEE OF MANAGEMENT** shall consist of eleven members. At a meeting of the **COMMITTEE OF MANAGEMENT** the Chairman of the meeting shall decide whether any matter for decision affects all three funds, two funds or only one fund and the following provisions shall apply:

(i) If a matter affects all three funds, all members of the **COMMITTEE OF MANAGEMENT** shall be eligible to vote and each member elected by the Local Authority representatives and the member appointed by the **MINISTER** in terms of regulation A.9. shall have 3,4 votes and each member elected by the member representatives and the pensioner representatives each have one vote.

(ii) If a matter affects two of the funds, members elected by the member representatives and the pensioner member of the unaffected fund shall not be eligible to vote, each member elected by the Local Authority representatives and the member appointed by the **MINISTER** in terms of regulation A.9. shall have 2,4 votes, save that if the matter affects the **PROVIDENT FUND**, then 2,2 votes and each member elected by the member and pensioner representatives of the effected Funds shall have one vote. The quorum necessary for a decision shall be eight members eligible to vote.

(iii) If a matter affects only one of the Funds, members elected by the member representatives and the pensioner member of the two unaffected

Funds shall not be eligible to vote and each pensioner member and member elected by the member representatives of the affected Fund, shall have one vote, and each member elected by the Local Authority representatives and the member appointed by the **MINISTER** in terms of regulation A.9. shall have 1,2 votes. The quorum necessary for a decision shall be six members eligible to vote.

(iv) Notwithstanding the provisions of sub-regulations (i), (ii) and (iii) above, all the members of the **COMMITTEE OF MANAGEMENT** shall participate in the business of the **COMMITTEE OF MANAGEMENT** at the meeting and, without derogating from the generality hereof, shall participate in and contribute to the discussion and debate relating to every matter before the meeting, including the matters referred to in sub-regulations (i), (ii) and (iii) above, and shall be jointly responsible for the decisions taken on any matter, including the matters referred to in sub-regulations (i), (ii) and (iii) above, as if they voted jointly on a matter on which a decision was taken.

A.16 The **COMMITTEE OF MANAGEMENT** shall have power to appoint any sub-committee with such delegated authority as it may deem necessary. The sub-committee shall consist of equal numbers of members elected by the Local Authority representatives and of members of each of the funds affected by the matter delegated to such sub-committee elected by the member representatives of those funds and the provisions for voting shall be in accordance with regulation A.15.

A.17 (a) An annual general meeting of the General Committee shall be held each year at such place and on such date as the **COMMITTEE OF MANAGEMENT** may from time to time determine: Provided that the date of such meeting may be postponed in the discretion of the **MINISTER** in circumstances deemed by him to be exceptional. The business of the meeting shall be to consider and adopt the annual reports and financial statements as presented by the **COMMITTEE OF MANAGEMENT**, to appoint a **COMMITTEE OF MANAGEMENT** for the ensuing year and to transact any other competent business.



(b) The **DIRECTOR** shall transmit a copy of the English text of the annual report and financial statements of each of the three funds to the **MINISTER** and to each Local Authority at least forty-five days prior to the annual general meeting.

(c) Each **MEMBER** of each of the three funds shall, upon written request to the **DIRECTOR**, be entitled to receive a copy of the annual report and financial statements of the fund of which he or she is a **MEMBER** in either English, Afrikaans or isiZulu text.

(d) Any business that a Local Authority or **MEMBER** desires to be discussed at an annual general meeting shall be submitted in writing to the **DIRECTOR** at least thirty days prior thereto.

A.18 (a) The **COMMITTEE OF MANAGEMENT** may convene a special general meeting of the General Committee at any time.

(b) Upon receipt of a petition signed by at least twenty representatives of each of the three funds appointed or elected in terms of regulations A.3. and A.4., the **DIRECTOR** shall, within 42 days, convene a special general meeting.

(c) Notice of such meeting shall be sent to each representative appointed or elected in terms of regulations A.3. and A.4. and to each Local Authority at least twenty-one days prior to the date appointed for the meeting.

A.19 (a) The appointment of a **DIRECTOR** and any other officers required for the proper transaction of the business of each of the three funds and the employment of any professional or other assistance which may from time to time be judged expedient and the remuneration of such services shall be decided by the **COMMITTEE OF MANAGEMENT**, which shall define the duties and services required of each. The **COMMITTEE OF MANAGEMENT** may also appoint a person or persons to act during the absence of the **DIRECTOR** or other officers for any reason.



(b) Unless otherwise stipulated in the contract or in the appointment of an officer of the Fund, the **COMMITTEE OF MANAGEMENT** may at any time remove any officer upon notice of not less than one month, or in the case of misconduct, immediately without notice: Provided that, subject to any law dealing with retirement on grounds of ill-health or on reaching a prescribed age, the **DIRECTOR** shall not, without his own consent, be removed from his office or have his salary or emoluments reduced without the approval of the **MINISTER**: Provided, further, that nothing hereinbefore contained shall be deemed to prevent the said Committee from suspending such **DIRECTOR** from the duties or emoluments of his office for what the Committee considers to be gross incapacity, neglect or misconduct pending the sanction of the **MINISTER** as to his dismissal, in which event such **DIRECTOR** shall, upon such sanction being granted, be deemed to have been removed from office from the date of such suspension.

A.20

(a) The **DIRECTOR** shall cause full and true accounts of each of the three funds to be kept showing separately -

(i) all sums of money received or due and disbursed or payable in respect of members and particulars of the matters and things for which these sums of money have been received or disbursed;

(ii) the time of commencement of membership and amounts due and dates of payment of all contributions, together with all chronological and other particulars necessary to admit of proper accounts being kept and to admit of any actuarial valuation being made at any time;

(iii) all amounts due to or from the local authorities; and

(iv) all other matters of account provided for or contemplated in the Regulations of such fund or in the scheme prepared thereunder.

(b) The **DIRECTOR** shall cause the books and accounts of each of the three funds to be balanced up to the 31st day of March in every year and shall

prepare financial statements in respect of each of the three funds made up at that date.

(c) The respective financial statements shall be signed by the **DIRECTOR** and thereafter countersigned by the person or persons auditing the accounts.

(d) The **DIRECTOR** shall prepare as at the 31st day of March in every year, a statement showing the number of contributing members and annuitants of each of the three funds and the number of members who have joined, left, been retired or died during the year, together with such further particulars as the **COMMITTEE OF MANAGEMENT** may from time to time direct.

(e) The **DIRECTOR** shall furnish the **COMMITTEE OF MANAGEMENT** with such further statements as it may from time to time require.

A.21 The books and all other records and papers of each of the three funds shall at all times be open for the inspection of any member of the General Committee.

A.22 The auditor of each of the three funds shall be appointed by the **MINISTER** and such auditor shall have the right, at any time, to inspect the books and accounts of the funds to which such auditor is so appointed.

A.23 (a) All moneys received on account of each of the three funds shall be paid into separate banking accounts and all cheques drawn against the funds shall be signed by an officer of the funds appointed to such duty by the **COMMITTEE OF MANAGEMENT** and be countersigned by the **DIRECTOR**, or by such other person nominated by the **COMMITTEE OF MANAGEMENT** to act for the **DIRECTOR** in the absence of the **DIRECTOR** for any reason: Provided that it shall be competent for the Chairman to sign in the stead of either of the two signatories.

(b) The **COMMITTEE OF MANAGEMENT** shall have power by resolution to write off any debts, due or other claims which are payable to any of the three funds and which the **COMMITTEE OF MANAGEMENT** deems desirable to write off as being irrecoverable or the recovery of which would be too




difficult or costly or, in the opinion of the **COMMITTEE OF MANAGEMENT**, be not reasonably practicable.

The reason for this amendment is to include the rules for the management of the Fund in the regulations of the Fund.

To facilitate approval by SARS it is hereby confirmed that:

- (a) the contribution structure of the Fund and the way in which salary is calculated for the purposes of the Fund have not been affected by this amendment; and*
- (b) this amendment will not have the effect of introducing a salary sacrifice scheme.*

Certified that the above amendments are financially sound



AR ELS FASSA FIA CFP
VALUATOR TO THE FUND

11.05.2011

DATE