



Regulations Governing The Natal Joint Municipal Pension Fund (Retirement)

**REGULATIONS GOVERNING THE NATAL JOINT
MUNICIPAL PENSION FUND (RETIREMENT)**

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NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

**REGULATIONS GOVERNING THE NATAL JOINT
MUNICIPAL PENSION FUND (RETIREMENT)**

CHAPTER 1

PRELIMINARY PROVISIONS

Definitions

1. *In these Regulations, unless the context otherwise indicates, words defined in the Act and not in these Regulations bear the meanings assigned to them in the Act, and -*
- (i) **"Act"** means the Pension Funds Act, 1956 (Act No. 24 of 1956), and the regulations framed thereunder;
 - (15) (ii) **"actuary"** means a Fellow of an institute, faculty, society or chapter of actuaries approved by the Minister and appointed by the committee;
 - (16) (iii)
 - (24) (iii) **"adjudicator"** means the person appointed to the office of the Adjudicator mentioned in section 30C of the Act;
 - (iv) **"benefit"** means any pension granted or other amount due in terms of these Regulations to a member, pensioner, dependant or other person;
 - (v) **"calender month"** means the period extending from the first to the last day, both days inclusive, of any one of the twelve named months of the year;
 - (15) (vi) **"committee"** means the committee of management or any sub- committee thereof referred to in Regulation 7;
 - (vii) **"continuous service"** means the last unbroken period of service of a member with any local authority or local authorities and, in respect of a member contributing to the Fund at 1 March 1975 his period of continuous service prior to such date shall be the period of his membership of the Fund up to that date increased by forty per cent; **provided that**

1(a)

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(a) the following shall not constitute a break in service for the purpose of determining the last unbroken period of service -

(i) authorised leave of absence;

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- (ii) *a break in service regarded as leave without pay or otherwise condoned by the committee on the recommendation of the local authority concerned;*
- (iii) *a period of suspension followed by reinstatement in the same or another office or post; or*
- (iv) *a break in service whilst transferring from one local authority to another local authority if condoned by the committee;*
- (b) *any period in respect of which a member has not paid contributions shall not be taken into account in calculating the period of his continuous service;*
- (c) *the period of continuous service shall be calculated by the year and month and a fraction of a month shall be disregarded; and*
- (d) *if a member who is employed in a full-time capacity dies in the service or retires on pension and has a period of employment in a part-time capacity included in his service, only two-thirds of the period of such employment, shall be reckoned as continuous service in calculating any pension payable.*
- (viii) ***"contributions"** when applied to the payments made or to be made by a member, shall be calculated as if he had completed payment of his arrear contributions in terms of Regulation 19(2);*
- (ix) ***"date of association"** means the date as from which the local authority becomes associated with the Fund;*
- (15)** (ixA) ***"date of commencement"** means the operative date of the amendments made to these Regulations consequent upon the simultaneous establishment of the Provident Fund;*
- (25)** (ixB) ***"date of establishment"** means the date of establishment of a municipality in terms of the Municipal Structures Act 1998;*
- (15)(29) (34)(x)** ***"dependant"**, means, in relation to a member a dependant as defined in section 1 of the Pension Funds Act, 1956 (Act No. 24 of 1956)*

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- (15)** *(xA)* **"director"** means the person appointed as such by the committee and who shall also be the principal officer as defined in section 1 of the Act;
- (3)(15)(29)(xiA)** 1(xiA) **"eligible spouse"** means a person who, at the date of the member's or pensioner's death, was either –
- (34)**
- (34)** (a) the spouse of the member or the pensioner in a marriage recognised as such under the civil law of the Republic of South Africa; or
- (34)** (b) the member's or pensioner's partner –
- (34)** (b)(i) in a union according to customary law or in a union recognized as a marriage under any religion; or
- (34)** (b)(ii) in a relationship where the partners, who may be persons of the same or opposite sex, have cohabited for such period as the Committee in their discretion may accept as evidence of a permanent relationship and have shared a reciprocal duty of support: Provided that –
- (34)** (b)(ii)(aa) such person, in the case of a pensioner, was a person contemplated in sub-regulation (a) and (b);
- (34)** (b)(ii)(bb) the member or pensioner has notified the Fund of the existence of such eligible spouse prior to the date upon which a benefit becomes due from the Fund; and
- (34)** (b)(ii)(cc) the Committee may direct that more than one person may be regarded as an eligible spouse. In such case the total benefits payable to such person shall be equal to the benefit which would have been payable to one eligible spouse.
- (15)** *(xi)* **"employee"** means a person who is in the service of a local authority and who -
- (a)* is employed in a full-time capacity in the said service; and
- (b)* has attained the age of seventeen years, but had not at the time of joining the said service reached an age eight years less than the pension age: **Provided that -**

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- (i) *any person who is employed by a local authority and whose services will be terminated on completion of the purpose for which he is employed within a maximum period of three years may be deemed by the local authority not to be an employee;*
- (ii) *a person joining the service of a local authority after having reached an age eight years less than the pension age may elect, with the consent of the employing local authority, to be regarded as an employee; and*
- (iii) *subject to the approval of the committee, a person joining the service of a local authority in a part-time capacity may elect, with the consent of the employing local authority, to be regarded as an employee;*

(4)

(1)

(5)

(xii) **"final average emoluments"** means the annual average of a member's pensionable emoluments over the last twelve months of his continuous service, or over the whole of his continuous service if such service is less than twelve months;

(xiii) **"fund"** means the Natal Joint Municipal Pension Fund (Retirement) established in terms of Regulation 2;

(15)

(xiiiA) **"general committee"** means the general committee referred to in Regulation 7;

(25)(27)

(xiv) **"KZN Municipal Pension Fund"** means the KZN Municipal Pension Fund established for the benefit of municipal employees and registered as such in terms of the Act;

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- (xv) **"member"** means a person (not being a local authority) who is a contributor to the Fund;
- (27) (31)** **"minimum individual reserve"** means, in relation to each member, the amount determined in accordance with section 14B(2) of the Pension Funds Act, 1956.
- (15)** (xvA) **"Minister"** means the Member of the Executive Council for the Province of KwaZulu-Natal responsible for local government and housing;
- (15)** (xvi) **"month"** means a period extending from a day in one calendar month to the day preceding the day corresponding numerically to that day in the following calendar month, both days inclusive;
- (15)** (xviA) **"municipal year"** means the period commencing on 1 July in any year and terminating on 30 June in the following year or such other period as may be determined by the Minister from time to time;
- (15)**
- (25)(27)** (xvii) **"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 Municipal Structures Act, 1998;
- (b) a municipality;
- (c) 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;
- (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 these Regulations to a local authority shall be deemed to be a reference to the appropriate meaning of a municipal council;
- (25)** (xviiA) **"municipality"** means a municipality established in terms of the Municipal Structures Act, 1998 and includes uMsekeli;
- (25)(28)** (xviiB) **"municipal manager"** means the municipal manager appointed in terms of section 82 of the Municipal Structures Act, 1998 and includes the chief executive officer of the uMsekeli;

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- (25)(28)** (xviiC) "**Municipal Structures Act**" means the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998);
- (16)** (xvii)
- (15)** (xviii) "**part-time capacity**" means employment for an agreed proportion of not less than one-half but less than four-fifths of the normal working hours, or such other proportions as may be decided from time to time by the committee;
- (15)(22)** (xix) "**pension**" means the annual sum payable to a pensioner or an eligible spouse in terms of these Regulations;
- (38)** (xx) "**pensionable emoluments**" means, subject to the provisions of these Regulations, the emoluments on which contributions shall be paid, and includes -
- (a) salaries or wages;
 - (b) cost of living allowance, long service allowance and any other allowance approved by the Committee for inclusion in the members' pensionable emoluments;
 - (c) (i) any allowance granted in lieu of the provision of free quarters; or
 - (ii) one-sixth of the amounts in paragraphs (a) and (b) whenever, as a portion of the member's emoluments, occupation of quarters, whether belonging to the local authority or not, is allowed rent free.
- but does not include -

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- (d) any special remuneration which may be received for performing special duties or while acting in an office, whether permanently or temporarily vacant; or
- (e) any locomotion or subsistence allowance; or
- (f) any fees, honoraria or bonuses of any kind; or
- (g) any overtime payment; or
- (h) any other allowance not herein specified:
- (38)** *Provided that* if a member dies in the service or retires on pension and has a period of employment in a part-time capacity included in his continuous service, then, in calculating his final average emoluments his pensionable emoluments during such service shall be increased by fifty percent
- (15) (31)** "Provided further that should at any time the pensionable emoluments of a member including a Section 57 contract employee, increase in excess of that assumed by the actuary from time to time for valuation purposes in terms of Regulation 13, then the committee, on the advice of the actuary, shall have the power to direct that the local authority employing such member pay an adjusted contribution, or lump sum as determined by the actuary, in terms of Regulation 18 to the Fund.
- (1)** (xxi) "**pension age**" means the age of 65 years;
- (xxii) "**pensioner**" means a retired member in receipt of a pension;
- (10)(15)** (xxiiA) "**prime rate**" means the lending rate as applied from time to time by the Fund's bankers to the current account of the Fund;
- (15)** (xxiiB) "**Provident Fund**" means the KwaZulu-Natal Joint Municipal Provident Fund;
- (xxiiC) "**Registrar**" means the Registrar of Pension Funds as defined in the Pension Funds Act, 1956 (Act No. 24 of 1956);
- (xxiii) "**salary**" or "**wages**" means the annual, monthly, weekly, daily or hourly pay, including the remuneration for piece-work, but shall not include payment for overtime or any bonus;
- (15)** (xxiiiA) "**Superannuation Fund**" means the Natal Joint Municipal Pension Fund (Superannuation);

6(a)

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- (27)** **"Surplus Apportionment Date"** means 31st March 2003
- (16)(17)** (xxiv) **"Ordinance"** means the Local Government Superannuation Ordinance, 1973 (Ordinance No. 24 of 1973) and any word or expression defined in the Ordinance or to which a meaning has been assigned therein shall, when used in these regulations, have the meaning so defined or assigned;
- (25)** (xxv) **"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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CHAPTER II

Establishment of fund

2. *There is hereby established a pension fund to be known as the Natal Joint Municipal Pension Fund (Retirement).*

(25) 2A Application of the Provisions of Chapters II, III and IV

The provisions of these Regulations shall not apply to that portion of the Durban Metropolitan Municipality formerly constituted as the North Central and South Central Local Councils in terms of the Local Government Transition Act, 1993 (Act No. 209 of 1993) whose employees were members of the Durban Pension Fund unless it makes application to that end in terms of Regulation 38.

Obligatory association with the fund

- (15)(25)3.** *Every municipal council, with the exception of that portion of the Durban Metropolitan Municipality formerly constituted as the North and South Central councils in terms of the Local Government Transition Act, 1993 whose employees are members of the Durban Pension Fund, shall be associated with the Fund from the date of establishment and every future municipal council shall be associated with the Fund within six months from date of becoming a municipal council.*

Preparation, adoption and approval of a scheme

- (15) 4.** (1) *Each local authority not associated with the Fund at the date of commencement, shall prepare a scheme which shall provide -*
- (a) *the date from which the association with the Fund is to commence; **provided that** such date shall not be later than that provided in Regulation 3;*
- (b) *that subject to the provisions of Regulation 14(2) all employees shall become members of the Fund as from the date of association.*
- (4)**
- (2) *Such scheme, after adoption at a statutory meeting of the local authority, shall require the approval of the committee.*

7(a)

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

(4)

Sources of the fund

6. *The Fund shall consist of -*

(a) *contributions and interest paid into the Fund in accordance with the relevant provisions of these Regulations.*

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- (b) *income derived from the investment of any monies of the Fund; and*
- (c) *any other sums or assets to which the Fund may become entitled.*

(15) Committee of management

- (1)(15)7.** *A general committee shall be constituted in accordance with the rules made*
(22) *terms of Regulation 7A. A committee of management in which shall be vested the management and direction of the Fund shall be elected annually in accordance with Rules 5A and 7 of the 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.*

(1) Power of committee to make rules

- (15) 7A.** *Subject to the approval of the Minister, and a report from an actuary where*
(15) *any rule is in the opinion of the Minister likely to affect the financial position of the Fund, the general committee may make rules, not inconsistent with the provisions of these Regulations, as to -*
- (a) *the number of members of any committee;*
 - (b) *the method of appointment of a chairman of any committee;*
 - (c) *the mode and time of appointing and electing members of any committee;*
 - (d) *the quorum necessary for the transaction of business at a meeting of any committee;*
 - (e) *the method of appointment of a sub-committee of any committee;*
 - (f) *the management, administration and transaction of any business of the Fund, and*
 - (g) *any matter which it considers necessary or expedient in order that the purposes of these Regulations may be achieved.*

Powers of committee and disputes

8. (1) *Subject to the provisions of these Regulations the committee shall have the following powers;*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (a) *to decide whether any person is qualified to be a member of the Fund;*
- (b) *to determine the method whereby the annual pensionable emoluments of hourly paid, daily paid and other workers shall be calculated and to give such directions in connection therewith as it may deem fit;*
- (c) *to settle all questions not otherwise herein provided for in respect of contributions;*
- (d) *to decide upon the periods of service in respect of which contributions may be made, or which may be included for pension purposes;*
- (e) *to adjust and decide upon all claims made upon the Fund;*
- (f) *to authorise the payment of claims made upon the Fund;*
- (g) *to authorise the payment of all benefits;*
- (h) *to open banking accounts and operate thereon in the customary manner;*
- (i) *to obtain bank overdraft facilities;*
- (j) *to institute and defend legal proceedings of every kind in any court of law;*
- (k) *to perform any act relating to any registration in any deeds office;*
- (l) *to buy in any property mortgaged to the Fund and to lease, maintain, control, sell, dispose of or otherwise turn to account the said property;*
- (m) *to prescribe the terms and conditions of service of employees of the Fund and to engage professional or other assistance for the Fund;*
- (n) *to acquire and maintain premises for its own use and to let any part of such premises as is not required;*

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- (o) to accept any property on behalf of the Fund by way of donation or bequest;
- (p) to subscribe to any association of municipal or other pension funds having for its object the improvement and promotion of matters of common or mutual interest to such funds and their members; and
- (15)** (q) to do all such things as are, in the opinion of the committee, incidental or conducive to the proper management, administration and promotion of the Fund, and to the attainment of the objects of the Ordinance and these Regulations.
- (21)** (r) to furnish guarantees or grant loans pursuant to such guarantees, in accordance with the provisions of section 19(5), read with section 37D of the Act, to any bank or financial institution registered as such under the Banks Act No. 94 of 1990 or the Mutual Banks Act No. 124 of 1993 upon such terms and conditions as the Committee may deem fit, including the renunciation of the benefits of excussion and division.
- (2) Any dispute which may arise in regard to claims or interpretations under these Regulations shall be decided by the committee; **provided that** if any party to such dispute is dissatisfied with the decision, the committee shall, at the request of such party, refer the dispute to the
- (15)(24)** Adjudicator for decision. Any decision of the Adjudicator may be made with retrospect effect.
- (3) The committee and all officials 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 their negligence, dishonesty or fraud.

Investment of funds

- (1)** 9. (1) Subject to the provisions of section 19 of the Act, the committee may in its discretion invest any monies not required to meet the current charges upon the Fund in any of the following ways:

10(a)

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- (a) *In the Post Office Savings Bank, or in the savings bank of any bank or institution which is governed by the laws of the Republic of South Africa, or on fixed deposit or at call with any such bank or institution or with any local authority in the Republic.*
- (b) *In deposits with or in the shares of societies registered under the Building Societies Act, 1965 (Act No. 24 of 1965).*

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- (c) *In Treasury Bills, National Savings Certificates or Savings Bank Certificates issued by or on behalf of the Government of the Republic, or in stocks, securities or funds issued or guaranteed by the Republic.*
- (d) *In stocks, funds, debentures and shares of, or in loans to any provincial administration, local authority or public body in the Republic authorised by law to borrow money.*
- (e) *On first mortgage upon first class immovable property in the Republic, the amount of the mortgage in any case not to exceed 75 per cent of the value of such immovable property as assessed to the satisfaction of the committee at the date of the advance.*
- (f) *In participation mortgage bonds under any registered participation mortgage bond scheme as provided for in the Participation Mortgage Bonds Act, 1964 (Act No. 48 of 1964).*
- (g) *In the purchase of immovable property, including the purchase of land and the erection of buildings thereon for the purpose of Regulation 8(1)(n).*
- (15)** (h) *In debentures, preference shares, unsecured notes, ordinary shares or similar forms of investment, where such form of investment has first been approved by the Minister.*
- (i) *In units of any company registered under the Unit Trusts Control Act, 1947 (Act No. 18 of 1947).*
- (15)** (j) *In such other security or securities as may be approved, individually or as a class, by the Minister.*
- (15)** (k) *With the prior approval of the Minister and subject to such terms and conditions as he may generally or specifically approve, in deposit administration policies issued by a registered insurer as defined in section 1 of the Insurance Act, 1943 (Act 27 of 1943).*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

(31) *Regulation 9 is hereby amended by the deletion of subregulations (2) and (3).*

(18) (1A) *The Committee may delegate its powers to make investments of any nature to a financial institution as define in the Financial Institutions (Investment of Funds) Act, 1984 or to a person approved in terms of section 4(1)(f) of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985), and may defray expenses incurred as a result of such delegation out of the monies of the Fund;*

Annual audit

(15) 10. (1) *The committee shall cause the books and accounts of the Fund to be balanced as at the thirty-first day of March in each year and financial statements, prepared for audit.*

(15) (2) *The audit of the accounts and records shall be carried out under the direction and control of the Auditor-General or any other person, subject to the provisions of section 22 of the Public Accountants' and Auditors' Act 1951 (Act 51 of 1951), whom from time to time the Minister may appoint to carry out such audit under the control of the Auditor-General.*

(15)

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- (15) (3) *Where an audit is carried out under the direction and control of such other person so appointed, he shall certify the accounts in accordance with the requirements of subregulation (10) and shall transmit the originals and such copies of the financial statements and of his report on the accounts as may be required from time to time to the Auditor-General, who may call upon him to furnish such further information or comment, and after consultation with the appointed auditor, require the report to be presented in accordance with the policy of the Minister.*
- (15) (4) *The Auditor-General shall thereafter furnish such financial statements and report to the Minister and the committee.*

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- (15) (5) *If in the opinion of the Minister it is desirable or necessary to do so, he may appoint, subject to the provisions of sub-regulation (2), one or more accountants registered in terms of the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951), to audit in conjunction with the Auditor-General or other person referred to in subregulation (2) the accounts of the Fund.*
- (15) (6) *Any appointment made by the Minister under the provisions of subregulations (2) and (5) shall be subject to such terms and conditions and for such period as shall be specified in the letter of appointment.*
- (15) (7) *The term "Auditor-General" as used in these Regulations shall, except in this regulation, mean the Auditor of Accounts of the Province or such other persons as may be appointed by the Minister in terms of subregulations (2) or (5), as the case may be, and the word "auditor" shall mean the person referred to in subregulations (2) and (5) as the context may require.*
- (15) (8) *The Fund's Director shall produce and lay before the auditor the financial statements, the minute books and all accounts of the Fund, with all vouchers in support of the same, and all books, reports, certificates, papers and writings relating thereto.*
- (15) (9) *Where it appears to the Auditor-General that any adjustment is required in the financial statements or records referred to in subregulation (8) in order to reflect therein any transaction in a true and proper manner, he shall inform the committee thereof and request the committee for its comments. After consideration of such comments the Auditor-General may make such order as to adjustments as he may deem desirable and thereupon the committee shall, through the Director, give effect thereto; **provided**, however, that before doing so, the committee may refer the matter to the Minister, whose decision shall be final.*
- (15) (10) *The auditor shall, not less than once in every year, audit and examine the financial statements, and shall certify whether or not -*
- (a) *the accounts of the Fund are in order;*
- (b) *the accounts present a true and correct view of the financial position of the Fund and of its transactions;*

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- (c) *that all items of revenue and expenditure and all known liabilities and assets have been brought to account;*
- (d) *all his requirements and recommendations, as auditor, have been complied with and carried out.*
- (15)** (11) *The auditor, when certifying as provided in subregulation (10), shall at the same time furnish to the Minister and the committee a report as to any matters of importance or interest arising out of the audit of accounts.*
- (15)** (12) *Within forty-five days after receipt thereof, or such extended period as the Minister may approve, the committee shall consider the auditor's certificate and report, together with the financial statements. If the auditor has reported any irregularities the committee shall decide what action shall be taken in regard to such irregularities.*
- (15)** (13) *The committee shall, within twenty-one days of the meeting held in terms of subregulation (12) submit to the Minister a statement of the action which it proposes to take in regard to any irregularities revealed in the auditor's report. The Minister may, after considering such statement, require the committee to provide explanation of any matter contained in the Auditor's report.*
- (15)**
(15) (14) *The Auditor-General shall prepare and submit annually to the Minister, a signed report on the financial aspects of the Fund which the Minister shall present to the Provincial Legislature.*
- (15) *For the purpose of any audit under these regulations the auditor may hear and examine witnesses upon oath and by summons under his hand require such persons as he may think fit to appear before him at a time and place to be stated in the summons and to produce all such books and papers and reports as may be necessary for the audit.*
- (16) *Any person who shall without lawful excuse refuse or neglect to attend in obedience to such summons or to be sworn or examined, or to produce any such book, paper or report or to answer such questions as are put to him to the best of his knowledge, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand for every such offence or imprisonment as provided for in section 287 of the Criminal Procedure Act, No. 51 of 1977. A conviction under this regulation shall not be deemed to excuse the person convicted from the obligation to do any act or thing required of him or from being again liable to be convicted for any further or repeated commission of the act or offence.*

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(17) *The above references to oaths include any form of declaration allowed by law to be administered to witnesses.*

(18) (1) *Where at any time the auditor is of the opinion that -*

(a) *any payment or exemption was made without due authority according to law or a charge has been improperly incurred or a payment or charge is not duly vouched;*

(b) *any deficiency has occurred in collecting, accounting for, receiving, issuing or preserving any money or other property of or under the control of the committee;*

(c) *the failure to carry out a specific duty has caused damage or loss to the Fund -*

then, if a proper explanation is not furnished within a period specified by him, he may disallow the amount as assessed by him of any money improperly paid or charge improperly incurred, or payment or charge not duly vouched or deficiency or damage or loss as aforesaid, such amount being hereinafter referred to as a disallowance.

(15) (19) *If the committee is dissatisfied with a disallowance by the auditor it may make application to the Minister for relief therefrom, and if the Minister is satisfied that in all the circumstances relief should be granted, he may grant relief in whole or in part as he may deem fit and the disallowance shall be removed or reduced accordingly.*

(15) (20) *Where, within a period to be specified by the Auditor-General, no relief has been obtained in terms of subregulation (19) and no disallowance has been recovered in terms of subregulation (24) and the Auditor-General is of the opinion that any member of the committee or employee of the Fund is personally responsible because of his negligence or misconduct for making good to the Fund the disallowance or part thereof, he may, subject to the provisions of subregulation (23), surcharge such member of the committee or employee of the Fund with the amount requiring adjustment and shall thereupon report such surcharge and all necessary particulars to the Minister and to the committee.*

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- (15) (21) *Where the Auditor-General is of the opinion that more than one person is responsible for the whole or any part of a disallowance not adjusted as aforesaid, he may, subject to the provisions of subregulation (23) surcharge pro rata such of the persons responsible and shall thereupon*
- (15) *report the surcharge and all necessary particulars to the Minister and to the committee.*
- (15) (22) (a) *Should any person surcharged by the Auditor-General feel aggrieved, he may within one month from the date of the*
- (15) *surcharge or such longer period as the Minister may in any particular case allow, appeal against the surcharge to the*
- (15) *Minister.*
- (b) *Any such appeal shall be forwarded through the committee which shall as soon as possible forward the appeal to the*
- (15) *Minister together with its recommendations thereon, and the*
- (15) *Minister, after the due enquiry, may relieve the appellant either wholly or partially of the amount surcharged or may sue or direct the committee to sue him in any court of competent jurisdiction for the recovery of any amount in respect of which relief is not granted, and the committee, if so directed, shall sue such person according to law.*
- (15) *Any such suit may be brought*
- (15) *on behalf of the Minister by the Provincial Secretary, and he shall be paid by the committee his reasonable costs and expenses incurred in such proceedings.*
- (15) (c) *In addition to any action that the Minister may take or direct the committee to take in terms of paragraph (b), he may, if he is satisfied that the surcharge was attributable to the negligence or misconduct of any employee of the Fund, order the committee to take disciplinary action against that officer in terms of the conditions of service and the committee shall upon such direction forthwith give effect thereto which it shall have*
- (15) *power to do and shall report the result thereof to the Minister.*
- (d) *Any person against whom a surcharge has been raised, may apply to any court of competent jurisdiction within a period of*
- (15) *one month after he has been notified in writing by the Auditor-*
- (15) *General of the surcharge, or of the decision of the Minister in terms of subregulation (22)(a), or within such further period as the court may allow, for an order setting aside or reducing the surcharge, and such court may on such application, if not*

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- (15)** *satisfied by the Auditor-General on the merits of the case that the surcharge was rightly imposed, or that the amount thereof is correct, make an order setting aside the surcharge or reducing it, as the case may be.*
- (e) *The amount of any surcharge not appealed against as herein provided, or if appealed against, the amount in respect of which relief is not granted, shall be a debt due to the fund from the person against whom the surcharge was made.*
- (23) *If any member of the committee or employee of the fund liable to a surcharge ceases to be a member of the committee or employee of the Fund as the case may be, he shall be discharged from such liability and surcharge unless the surcharge is made before the expiry of three years from the date on which he ceased to be a member of the committee or employee of the Fund.*
- (15)** (24) *Every disallowance raised by the auditor or surcharge raised by the Auditor-General in terms of these regulations, shall be recovered by the committee unless relief has been granted in terms of subregulations (19) and (22). Nothing herein contained shall prevent the committee from taking proceedings for the recovery of any disallowance or surcharge by way of action or any other competent procedure in any court of competent jurisdiction.*
- (15)** (25) *Any disallowance or surcharge may at any time, before the Minister or the court has decided in regard thereto, be wholly or partially*
- (15)** *withdrawn by the auditor in the case of disallowances, or the Auditor-General in the case of surcharges, if the proper vouchers or information or an explanation showing that the disallowance or surcharge should be so withdrawn, are supplied to the auditor or the*
- (15)** *Auditor-General, as the case may be, and the Minister or the court and the committee advised of such withdrawal.*
- (15)** (26) (i) *Any amount included in the charges in the accounts of the Fund which has been disallowed by the auditor or surcharged by the Auditor-General shall be held in suspense in the accounts pending adjustment in terms of these regulations.*
- (ii) *Any disallowance or surcharge not in respect of a charge in the accounts shall be introduced into the accounts and be held in suspense therein pending adjustment in terms of these regulations.*

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- (27) *For the purpose of this regulation the persons making or authorising an illegal payment shall include all members of the committee or the members of any subcommittee who were present at the time when the resolution authorising such payment was carried and who notwithstanding that such irregularity was pointed out to them, did not cast their votes against that resolution and cause such votes to be recorded in the minutes.*
- (15) (28) *The committee shall, in respect of the service rendered by the auditor, pay to the Auditor-General yearly within three months from the date of the auditor's signing his yearly certificate, such sum as the Auditor-*
- (15) *General may from time to time determine, in consultation with the committee, provided that any service of an accounting or non-auditing nature performed by the auditor for the committee at its request, shall not be regarded as part of the service rendered by the auditor as aforementioned and the actual cost thereof, as calculated by the*
- (15) *auditor, shall be paid by the committee to the Auditor-General within the said period of three months.*
- (29) *It shall be lawful for the committee at any time, upon a resolution being passed at a meeting thereof, to have an examination or audit made of the Fund's Accounts, or any part thereof, by such persons as it may think proper, but this shall not affect the holding of the audit hereinbefore provided for.*

Actuarial valuation of the fund

11. (1) *The Fund shall in terms of the Act be valued by an actuary and at intervals not exceeding three years, for the purpose of determining whether it continues to be capable of meeting the benefits and other commitments provided for in these Regulations and such actuary shall submit a report direct to the committee.*
- (15)(27)(31)
- (27) (2) *The valuation referred to in subregulation (1) shall be made in respect of the position as at the expiration of a financial year and the report on such valuation shall be deposited with the Minister and the Registrar as provided for in section 16 of the Act*
- (15)
- (27) (3) *If the actuary in such report certifies that there is a deficit the committee shall submit to the Minister and to the Registrar a scheme which shall be approved by the actuary subject to the provisions of the Act and the practice of the Registrar, in terms of which the municipalities shall make good the deficit.*
- (29)

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(29)(27)

If the actuary in such report certifies that there is a disposable surplus the provisions of subregulation (4) shall apply.

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- (27)** (4) (a) *If the valuation as at the surplus apportionment date discloses a disposable surplus, a local authority surplus account and a member surplus account shall be established. Such surplus shall be equitably apportioned between the stakeholders contemplated in the Act, in accordance with a scheme for apportionment to be submitted to the Registrar within eighteen months after the surplus apportionment date, or such date as approved by the Registrar.*
- (27)** (b) *If the valuation after the implementation of the scheme for surplus apportionment in terms of subregulation (a) discloses a surplus such amount shall be credited to the surplus account of the local authority.*
- (27)** (5) (a) *There shall be established a local authority surplus account which shall be credited with -*
- (i) *the amount if any, apportioned to the local authority in terms of the surplus apportionment scheme approved by the Registrar in terms of section 15B of the Act;*
- (ii) *any amount which is required to be transferred to such an account in terms of an application made in accordance with section 15F of the Act and approved by the Registrar; and*
- (iii) *any amount contemplated in subregulation (4)(b)*
- (a) *The amount standing to the credit of the local authority surplus account shall be increased or decreased by the investment return earned by the assets within this account, including any investment income (received and accrued) less an allowance for any tax and if applicable, part or all of any expenses (paid and accrued) together with capital appreciation, realized or unrealized.*
- (b) *The amount standing to the credit of the local authority surplus account may be used by the local authority at their discretion for any of the purposes set out in section 15E of the Act.*
- (27)** 6. (a) *There shall be established a member surplus account which shall be credited with any amount allocated in terms of section 15B of the Act to be used for the benefit of members in terms of a surplus apportionment scheme approved by the Registrar*
- (b) *The amount standing to the credit of the member surplus account shall be increased or decreased by the investment return earned by the assets within this account, including any investment income*

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(received and accrued) less an allowance for any tax and if applicable, part or all or any expenses (paid and accrued) together with capital appreciation, realized or unrealized.

- (c) *The amount standing to the credit of the member surplus fund may be used in the manner and for any of the purposes set out in section 15D of the Act.*

Expenses of management of the fund

12. *The whole of the expenses in connection with or incidental to the management and administration of the Fund, including the cost of the Audit and Actuarial Investigations, shall be borne by the Fund.*

(12)13.

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

CHAPTER III

**ADMISSION OF MEMBERS TO THE FUND
AND CONTRIBUTIONS TO SUCH FUND**

Membership of fund

- (15)** 14. (1) *Subject to the provisions of these Regulations, a member of the fund immediately prior to the date of commencement shall continue to be a member.*
- (27)** (2) *An employee of a local authority which becomes associated with the fund on or after the date of commencement shall elect, in writing, to become a member with effect from the date of association of either -*
- (a) the Fund,*
 - (b) the Superannuation Fund,*
 - (c) the Provident Fund; or*
 - (d) the KZN Municipal Pension Fund:*
- Provided that he may elect, in writing, within a period of six months of the date of association, to amend such original election retrospectively to the date of association, but provided, further, that such right of election shall not apply to an employee electing to become a member of the KZN Municipal Pension Fund.*
- (3) *A person who becomes an employee on or after the date of commencement shall, subject to his conditions of service, elect, in writing, to become a member of either -*
- (a) the Fund,*
 - (b) the Superannuation Fund,*
 - (c) the Provident Fund; or*
- (26)** (d) *the KZN Municipal Pension Fund if the employee is employed by a local authority associated with such Fund in terms of its regulations:*

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Provided that he may elect, in writing, within a period of six months of the date of becoming an employee, to amend such original election retrospectively to the date of becoming an employee, but provided, further, that such right of election shall not apply to an to a an employee electing to become a member of the KZN Municipal Pension Fund.

- (4) *A person who is a member of the Superannuation Fund or the Provident Fund may elect, in writing, to become a member of the fund in terms of the Regulations of the said Funds.*

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- (5) (a) *A local authority becoming associated with the Fund in accordance with the provisions of Regulations 3 and 4 shall provide -*
- (i) *that the continuous service of its employees shall commence as from the date of association, or*
 - (ii) *that continuous service shall commence from a prior date to be agreed upon, such date being not earlier than the date upon which respective employees entered the service of the local authority.*
- (b) *If the method described in paragraph (a)(ii) applies then -*
- (i) *the actuary shall calculate the cost of providing for continuous service prior to the date of association;*
 - (ii) *the local authority may require the employee to bear a part but not exceeding fifty per cent of such cost, in which case the employee's share shall be paid in one lump sum or together with interest at the rate of five and one-half per cent per annum compounded yearly from the date of association in such instalments as shall be determined by the committee;*
 - (iii) *the share due by the local authority may be paid in one lump sum at the date of association or together with interest at the rate of five and one-half per cent per annum compounded yearly from the date of association by equal instalments of principal and interest over a period not exceeding twenty years.*
- (15)** (6) *Subject to the provisions of Regulation 14A(1), a member may not withdraw from membership while he remains in the service of a local authority which is associated with the fund.*
- (15)** (7) *When a member ceases to be in the employ of a local authority which is associated with the fund he shall, subject to the provisions of these Regulations, forthwith cease to be a member.*
- (15)** (8) *If a person becomes a member on transfer from the Superannuation Fund or the Provident Fund in terms of Subregulation (4), the following conditions shall apply:*

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- (a) *For all purposes except those referred to in paragraphs (c), (e) and (f), a period in respect of his membership of the Superannuation Fund or the Provident Fund, as determined by the committee acting on the advice of the actuary, shall be included in his continuous service in the fund.*
- (b) *His contributions to the Superannuation Fund or the Provident Fund shall be included in his contributions to the fund.*
- (c) *For the purpose of calculating his final average emoluments, his pensionable emoluments and continuous service in the Superannuation Fund or the Provident Fund shall be included in his pensionable emoluments and continuous service in the fund.*
- (d) *Any restriction on his membership of the Superannuation Fund or the Provident Fund in terms of Regulations corresponding to Subregulations (2) and (3) of regulation 16 shall apply -mutatis mutandis to his membership of the fund.*
- (19) (e) *For the purpose of the qualifying period of continuous service referred to in Regulations 16(2)(ii)(b), 22(3) and (4), 23(1), 24(1) and (3), 25, 27(4), 29(1)(b) and 37A(c) and 37B(c) his continuous service in the Superannuation Fund or the Provident Fund shall be included in his continuous service in the fund.*
- (f) *For the purposes of Regulation 27(1) or 29(1)(a), his continuous service in the Superannuation Fund or the Provident Fund shall be included in his continuous service in the fund.*

Transfer of operation or service

- (11) 14A. *If any part of the operation or service provided by any person, body or institution is transferred to a local authority, each member employed in that operation or service who becomes a member of the Fund as a result of that transfer shall, if an amount is transferred from a pension or provident fund established for the benefit of the employees of that person, body or institution to the Fund, be credited, on terms and conditions approved by the Committee of Management, with a period of continuous service calculated by the Actuary to be equal in value to the amount transferred.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

(15)**Transfer of membership**

- (27)** 14B. (1) *A member may elect to terminate his membership of the fund and to become a member of either the Superannuation Fund or the Provident Fund, or the KZN Municipal Pension Fund if the local authority employing such member is associated with that Fund in accordance with its regulations (hereinafter referred to as a transfer election), subject to the provisions of subregulation (2) or (3), as the case may be.*
- (2) *If a member is a member referred to in Regulation 14(1) and the transfer election is his first such election, he shall give written notice to the Fund and the following provisions shall apply:*
- (18)**
- (a) *If such notice is received on or before 30 June 1996, the operative date of such transfer shall be 1 July 1996.*
- (b) *If such notice is received after 30 June 1996, the operative date of such transfer shall be the commencement of the municipal year in the following calendar year.*
- (3) *If the transfer election is not in terms of Subregulation (2), the member shall give twelve months' written notice to the Fund and the operative date of such transfer shall be at least five years after the date of his last becoming a member of the fund.*
- (18)**
- (27)** (4) *If a member elects to become a member of the Superannuation Fund, the Provident Fund or the KZN Municipal Pension Fund in terms of Sub-Regulation (1), an amount equal to his interest in the fund at the date of transfer of membership, as determined by the committee acting on the advice of the actuary, shall be transferred to the Superannuation Fund, the Provident Fund or the KZN Municipal Pension Fund, as the case may be.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

Contributions by members

- (20)** 15. Every member shall contribute to the Fund as from the date of becoming a member 7 per cent of his pensionable emoluments.

Payment to secure additional continuous service

- 15A. A person who becomes a member of the Fund may be permitted to purchase from the Fund such additional continuous service on such terms and conditions as the Committee, after consultation with an Actuary, may decide; **provided that** in respect of additional continuous service purchased after 1 April 1984:
- (1) the member shall produce, at his own expense, evidence of sound health acceptable to the Committee at the time of making application to purchase additional continuous service; and
- (2) the additional service so purchased shall not count towards any qualifying period set out in the regulations;
provided further that, if the Committee finds that such member is not in a sound state of health, it shall notify him in writing that his additional continuous service shall be subject to the restriction that if, within five years from the date of purchase of the additional continuous service:
- (15)** (a) he is retired on account of ill-health or dies in the service of a local authority from an illness which, in the opinion of the Committee, is or is the result of the illness or condition that caused it to find that he was not in a sound state of health, no pension or lump sum shall be payable in terms of these regulations in respect of the additional continuous service purchased and instead there shall be granted a lump sum equal to the amount which he paid plus 4% compound interest from the date of payment to the date of retirement or death; or
- (b) he leaves the service of a local authority associated with the Fund he shall not be entitled to transfer his pension rights in respect of the additional continuous service to any other fund, except with the consent of that fund, and if the transfer is not effected, he shall be entitled to a benefit equal to the amount paid plus 4% compound interest from the date of payment to the date of his leaving the service.

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

Evidence of age to be produced, etc.

16. (1) *Evidence of age satisfactory to the Committee shall be produced by each member at the date of commencement of his contributions to the Fund and failing such production the age of such member shall be as determined by the Committee.*
- (15)
- (7)(15) (2) *An employee referred to in Subregulation (2) or (3) of Regulation 14, shall, at the equal cost of the Fund and of the local authority produce to the Committee within three months of becoming a member, such evidence of health as the Committee may require, and upon its being satisfied that he is -*
- (i) *in a sound state of health, he shall be eligible for the benefits granted under these regulations, or*
- (ii) *not in a sound state of health, it shall notify him in writing that his membership shall be subject to the restrictions, which may be withdrawn at a later date that -*
- (a) *if he dies in the service of a local authority after less than 10 years continuous service from an illness which, in the opinion of the committee, is or is the result of the illness or condition that caused it to find that he was*
- (15) *not in a sound state of health, no pension or lump sum shall be payable in terms of regulation 30(1) and (2) and instead there shall be granted a lump sum equal to the benefit specified in regulation 25(a); and*
- (b) *if he leaves the service of a local authority associated with the fund after less than 10 years continuous service while the restriction referred to in sub-paragraph (a) is still in force he shall not be entitled to transfer his pension rights to any other fund except with the consent of that fund, and if this transfer is not effected, he shall be entitled to a benefit in terms of regulation 27.*
- (3) *An employee who fails to produce such evidence of health as is required in terms of Subregulation (2) shall be deemed to be not in a sound state of health for the purpose of that Subregulation unless the committee shall otherwise decide.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

How contributions by members are to be paid

17. (1) *The contributions to be paid by a member in terms of Regulation 15 shall be a first charge upon the salary or wage payable to such member, and shall be deducted monthly or weekly by the local authority concerned and paid to the fund as provided in Regulation 18.*
- (1) (2) *The local authority shall within seven days after the expiration of the period in respect of which the contribution is being paid certify in writing to the Director the amount of the contributions and interest paid by the members to the Fund in the preceding calendar month and shall further supply to the Director such information as the Committee may require for the purpose of these regulations.*

Contributions by local authorities

- (1)(38)18. (1) *A local authority shall pay to the Fund not later than the 10th day of each calendar month -*
- (a) *the contributions paid by the members in the preceding calendar month;*
- (11)(38) (b) *an amount equal to one comma nine five times the contributions paid by the members in terms of Regulation 15;*
- (38) (c) *an amount equal to the contributions paid by the members in terms of Regulation 19; and*
- (38) (d) *any adjusted contribution or lump sum payable as contemplated in the definition of "pensionable emoluments"*

provided that *if the member is paying by instalments, the local authority may make a lump sum payment to the Fund in lieu of its instalments.*

- (2)(27) (2) *Whenever a local authority fails to make payment in accordance with the provisions of Subregulation (1), it shall pay to the fund interest on the amount payable at the rate prescribed by the national Minister of Finance in terms of section 13A(7) of the Act from time to time.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (3) (3) *Should the services of a member be terminated in terms of the provisions of regulation 27 or of regulation 29 within twelve months of the commencement of membership, the contributions paid by the local authority in terms of Subregulation (1) shall be refunded to the local authority; **provided that** this Subregulation shall not apply where the service of the member has been transferred from the service of another local authority or when the member resigns in order to enter the service of another local authority.*
- (15)

Contributions whilst on leave

19. (1) *When a member is on leave with full pay or with pay less than full pay, he shall continue to contribute to the fund on the basis of his full pensionable emoluments.*
- (2) *When a member is on leave without pay he may, on application to the committee, be permitted to contribute to the Fund on the basis of his full pensionable emoluments for the calendar month immediately preceding the commencement of his leave without pay, but such application shall be made and the amount due in respect thereof shall be paid by the member within one month of his return to duty; **provided that** the member may be permitted by the committee to refund the amount in six or less monthly instalments which may be deducted from the emoluments payable to him; **provided further that** absenteeism shall not be regarded as leave without pay.*

**How reduction in pensionable emoluments
or hours of duty to be treated**

20. (1) *Subject to the provisions of Subregulation (2), if the pensionable emoluments of a member are reduced for any reason other than misconduct, he may elect to contribute to the Fund on the basis of his pensionable emoluments as they were immediately before such reduction took place, in which event his pensionable emoluments, for so long as they are less than they were before such reduction, shall, for all purposes of these Regulations, be his pensionable emoluments as they were immediately before such reduction.*

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- (2) *If a member leaves the service of a local authority, and enters the service of another local authority, and his pensionable emoluments in the latter local authority are lower than his pensionable emoluments in the former local authority, the provisions of Subregulation (1) shall apply, mutatis mutandis;*

provided that -

- (a) *he did not leave the service of the former local authority on account of misconduct;*
- (b) *he entered the service of the latter local authority within six months after leaving the service of the former; and*
- (c) *the consent of the latter local authority is first obtained.*
- (3) *When the ordinary salary or wages or working hours of duty of a section of members have been reduced as a measure of economy, such members may contribute on the basis of the pensionable emoluments on which they were contributing immediately before the reduction.*

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CHAPTER IV

(15) PENSIONS AND LUMP SUMS

Retiring benefit

(9)(15)(19)21. *The retiring benefit payable to a member who retires on or after 1 April 1992, shall consist of a pension and a lump sum based on his final average emoluments at the following rates:*

(20)	<i>Exact age at Retirement</i>	<i>For each year of continuous service</i>	
		<i>Pension %</i>	<i>Lump sum %</i>
	55	1,40 (1,47)	4,00
	56	1,45 (1,56)	4,15
	57	1,50 (1,66)	4,30
	58	1,56 (1,75)	4,45
	59	1,62 (1,83)	4,60
	60	1,68 (1,94)	4,75
	61	1,75 (1,94)	4,90
	62	1,83 (1,94)	5,05
	63	1,91 (1,94)	5,20
	64	2,00 (2,00)	5,35
	65	2,10 (2,10)	5,50

The rates of pension in brackets apply to a female member who was a member on 30 June 1987 and who at the date of her retirement elects that her husband shall not be entitled to a pension in terms of Regulation 30. Where the age at retirement is not an exact number of years, allowance shall be made by interpolation for completed months of age.

Memorandum account

(5) 21A (1) *The Actuary shall, with effect from the first day of April 1988, maintain a memorandum account in such a form as will enable him to determine year by year whether there are profits on the share of the Fund which is attributable to the pensions in payment and, if so, the percentage extent to which pensions could be augmented from such profits for the whole balance of the estimated period for which such pensions would be payable by the Fund.*

(5) (2) *The memorandum account shall -*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (a) be credited with -
- (15) (i) the capital value, as determined by the actuary, of each pension that becomes payable, and
- (ii) interest on the amount of the said account at the rate of not less than 5,5 percent a year, earned on the total net assets of the Fund during each financial year; and for the purposes hereof the rate during a financial year shall be calculated by the actuary in accordance with the following formula:-
- (5)
$$\frac{A}{B}$$
- in which formula -
- "A" represents the total investment income, including capital profits and losses and any appreciation or depreciation in the value of the assets, of the Fund during such financial year;
- "B" represents the mean of the total net assets of the Fund at the beginning and at the end of such financial year less one-half of the aforesaid total investment income;
- the total net assets being calculated on a basis consistent with the method used for the last valuation of the Fund in terms of Regulation 11, and
- (15) (b) be debited with all payments of pension made.
- (5)(15)(19)(3) The pensions payable shall, with effect from 1 July 1989 and each year thereafter, be increased to the extent of the percentage calculated by the actuary in terms of Subregulation (1); **Provided that** -
- (a) if the percentage calculated in terms of Subregulation (1) is less than three-quarters of the percentage increase in the Consumer Price Index for South Africa (as published by the Department of Statistics) for the twelve months to December of the financial year in respect of which the profits have been determined in accordance with subregulation (1), the annuities shall be increased by three-quarters of such percentage increase in the Consumer Price Index;

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- (b) *if the percentage calculated in terms of Subregulation (1) is greater than three-quarters of the percentage increase in the Consumer Price Index referred to in paragraph (a), the annuities shall be increased by a percentage which shall not exceed the lowest of -*
- (i) *the percentage increase in the Consumer Price Index referred to in paragraph (a);*
 - (ii) *the mean of the percentage increase calculated in terms of Subregulation (1) and three-quarters of the percentage increase in the Consumer Price Index referred to in paragraph (a); or*
 - (iii) *the percentage increase calculated in terms of Subregulation (1) if any surcharge made in terms of Subregulation (5) during the year for which profits are being determined in accordance with Subregulation (1) and one-half of any such surcharge during the preceding year were deducted from the profits;*
- (c) *if any pension becomes payable for the first time during the year for which profits are determined in accordance with Subregulation (1), the percentage increase for such pension shall be reduced pro-rata to the period during which the pension was not payable, and*
- (d) *the reduction in the percentage increase referred to in paragraph (c) shall not apply in the case of a spouse or a child pension derived from a pensioner unless the pensioner from whom such spouse or child pension was derived was only granted a pension during the year for which profits are determined in accordance with Subregulation (1), in which event the percentage increase for such pension shall be reduced pro-rata to the period during which the pensioner was not in receipt of a pension.*
- (5)(15)** (4) *The capitalised cost of any further increase in pensions in terms of Subregulation (3)(a) shall be calculated and such cost shall be borne by the local authorities associated with the Fund.*
- (5)(13)** (5) *The manner in which local authorities shall bear the cost of further increases calculated in terms of Subregulation (4) shall be by means of a percentage surcharge on the contributions payable by the local authorities in terms of Regulation 18(1)(b). The surcharge shall be estimated by the Actuary and the local authority shall be advised of the estimated*
- (6)** *percentage surcharge not later than the thirty-first day of March in the year in which such further increases are to be granted.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

The estimated surcharge shall become effective in respect of the contributions payable by the local authority from the first day of July of such year for the immediately ensuing twelve months. The Actuary, when he has completed his analysis of the operations of the memorandum account shall determine the actual percentage surcharge required. If this percentage surcharge is greater than the amount previously estimated, the shortfall shall be accumulated to the first day of July of the following year, and shall be taken into account by the Actuary in determining any subsequent surcharge that is required from that date.

If the actual percentage surcharge required is less than the estimated percentage, the local authority shall continue to contribute at the estimated rate of surcharge until the thirtieth day of June of the following year, and the excess surcharge shall be accumulated in the memorandum account and taken into account by the Actuary in

(15)

(19)

*determining any subsequent surcharge that is required: **Provided that***

if the last valuation by the actuary in terms of Regulation 11 disclosed that the fund had a surplus a portion of the cost of the further increases up to an amount equal to one percent of the pensionable emoluments of members shall be met from the contributions payable in terms of Regulation 18(1)(b) and only the balance of the cost shall be met by a percentage surcharge in terms of this Regulation.

(14)(1)

Retirement at pension age or earlier

- (1)** 22. (1) *A member shall be deemed to have retired from the service of a local authority on the last day of the month in which he attains the pension age.*
- (2) *Upon a member retiring under the provisions of Subregulation (1), he shall be granted a retiring benefit calculated as provided in Regulation 21.*
- (3) *A member who has attained an age seven years earlier than the pension age, and who has had at least ten years' continuous service, may be required by the local authority to retire, in which event he shall be granted a retiring benefit calculated as provided in Regulation 21 except that the rates shall be those which apply at the pension age; **provided that** all payments of pension in terms of Regulation 21 made before the member has reached the pension age shall be paid by such local authority out of its own revenue, and that the lump sum shall be paid partly out of the Fund and partly out of the revenue of the local authority in accordance with the tables approved by the committee on the recommendation of the actuary.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (1) (4) *Notwithstanding the provisions of Subregulations (1) to (3), a member who has had at least ten years' continuous service and who has attained an age seven years younger than the pension age, or ten years younger than the pension age, if he was a member on 30 June 1987, shall have the right to retire on a retiring benefit calculated in terms of Regulation 21.*
- (14) (5) *Notwithstanding the provisions of Subregulations (1) to (4), a member who has had at least ten years' continuous service and who has not attained an age seven years less than the pension age may make application to the local authority for permission to retire. If such permission is granted he shall be granted a retiring benefit calculated as provided in Regulation 21 except that the rates shall be those which would apply at the age seven years less than the pension age: **Provided that** all payments of pension in terms of Regulation 21 made before the date on which the member attains the age seven years less than the pension age shall be paid by such local authority out of its own revenue, and that the lump sum shall be paid partly out of the Fund and partly out of the revenue of the local authority in accordance with the tables approved by the Committee on the recommendation of the actuary.*

Retirement owing to ill-health

- (11) 23. (1) *If a member who has had at least ten years' continuous service or the local authority in whose service such member is, is of the opinion that such member is permanently incapable of efficiently discharging his duties by reason of any bodily or mental infirmity, the following documents shall be submitted by the local authority to the Committee:*
- (a) *An affidavit in a form approved by the Committee, setting out the state of health of the member and sworn to by the member.*
- (b) *A report by the local authority in a form approved by the Committee, setting out the member's state of health, the manner in which his work is performed and the amount of sick leave granted to the member during the immediately preceding two years and conveying such other information as the Committee may require.*
- (c) *Reports concerning the member's state of health completed independently by two medical practitioners of whom one shall be selected by the local authority and the other shall be selected by the member.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (15)
- (2) *Upon receipt of the affidavit and reports contemplated in Subregulation (1) the Committee may require the member to be further examined by medical practitioners appointed by the Committee.*
 - (3) *If the Committee, after consideration of all the information at its disposal, is of the opinion that the member is permanently incapable of discharging his duties and that his state of health was not occasioned by his own wilfulness or negligence, such member shall, on the termination of his services with the local authority, be entitled to a retiring benefit calculated as provided in Regulation 21 except that the rates shall be those which apply at the pension age.*
 - (4) *If the Committee is of the opinion that the member's state of health as contemplated in Subregulation (3) was occasioned by the member's own wilfulness or negligence, such member shall be entitled only to a lump sum specified in Regulation 27 as if such member had retired voluntarily from the service of the local authority concerned.*
 - (5) *The fees payable to medical practitioners in regard to the examination of a member for the purposes of this Regulation shall be paid by the Fund; **provided that** in the circumstances contemplated in Subregulation (4) or where the Committee is of the opinion that the member is not permanently incapable of discharging his duties, such fees shall be payable by the member or local authority, as the case may be, at whose request the member's state of health was examined.*

Retirement owing to reorganisation etc.

- (1) 24. (1) *If the employment of a member who has had at least ten years' continuous service is discontinued owing to -*
- (a) *the abolition of his office or post;*
 - (b) *a reduction in or reorganisation of staff;*
 - (c) *retrenchment generally; or*
 - (d) *in order to facilitate improvements in efficiency or organisation,*
- then, unless such member is offered a commensurate office or post, he shall be entitled to receive a retiring benefit calculated as provided in Regulation 21 except that the rates shall be those which apply at the pension age.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (2) *Of the benefit payable in terms of Subregulation (1) the local authority out of its own revenue shall pay -*
- (a) *the whole amount of the pension payable until the member reaches the pension age; and*
- (15) (b) *a proportion of the lump sum calculated in accordance with tables approved by the committee on the recommendation of the actuary.*
- (25) (3) *Notwithstanding the provisions of Subregulation (1), if there is any alteration in the continued existence of any municipal council as a result of the provisions of the Municipal Structures Act, the provisions of Subregulation (1) shall apply to those members who have completed five years' continuous service and whose positions become redundant as a result of said alteration; **provided further that**, if the alteration is the division of a municipal council into two or more municipal councils, the payments in terms of Subregulation (2) shall be divided between the new municipal councils in proportion to their total assessment rate income on the day following the division.*
- (15) (15) **Retirement owing to ill-health, reorganisation, etc.**
- (11) 25. *If a member who has had less than ten years' continuous service is retired by a local authority in terms of Regulation 23(1) or Regulation 24(1) or if the provisions of Regulation 24(3) apply and a member has had less than five years' continuous service, he shall be entitled to receive a lump sum equal to the amount of twice his contributions increased by three per cent of such amount for each complete year of his continuous service.*

Commutation of certain pensions

- (5) 26. (1) *The committee in its absolute discretion may commute a pension of one thousand rand (R1000) or less a year into a lump sum.*
- (2) *The amount of such lump sum shall be equivalent in value to the pension so commuted as decided by the committee acting on the advice of the actuary, and for this purpose the committee may require the recipient to be medically examined at the expense of the Fund.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

Voluntary retirement or leaving service of local authority in circumstances not elsewhere provided for

- (20)** 27. (1) *If a member retires voluntarily from the service of a local authority, or leaves the service for any reason not elsewhere provided for in these Regulations, he shall be entitled to receive a lump sum equal to the sum of –*
- (a) *the amount of his contributions;*
 - (b) *five-twelfths of one per cent of the amount in (a) for each months of his continuous service; and*
 - (c) *five per cent of the amounts in (a) and (b) for each complete year of his continuous service up to a maximum of one hundred per cent*
- (2) *Notwithstanding anything contained in Subregulation (1), if a member retires voluntarily from or leaves the service of a local authority in order to enter the service of another local authority whether associated with the Fund or not in such circumstances that the relevant provisions of Regulations 28 or 37 apply to him, he shall not be entitled to a lump sum in terms of Subregulation (1).*
- (3) *The lump sum in terms of Subreguation (1) shall be paid as soon as administratively possible, but not later than three calendar months after the end of the month in which the member ceases to be a member.*
- (31)** (4) *"Notwithstanding anything contained in Subregulation (1), when a member who has had at least ten years' continuous service becomes entitled to a lump sum in terms of that Subregulation, he may elect to receive a retirement benefit at an age before his pension age but not before age 55, in which event the benefit shall be calculated as provided in regulation 21 at the date of retirement but based on final average emoluments and continuous service at the date of leaving service: Provided that –*
- (34)** (a) *the pension and lump sum shall be increased in terms of regulation 31"*
 - (34)** (b) *the provision of regulation 26 shall apply when the retiring benefit becomes payable;*
 - (34)** (c) *if he dies before payment of the retirement benefit the provision of regulation 26 shall apply when the retiring benefit becomes `payable;*
 - (d) *if he dies before payment of the retiring benefit, the benefit payable from the Fund shall be determined by the Committee acting upon the advice of the actuary;*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

Member rejoining service of same or another local authority

28. *If a member leaves the service of a local authority for any reason other than retirement upon a retiring benefit as contemplated in Regulation 21 or dismissal in terms of Regulation 29 and receives a benefit in terms of Regulations 25 or 27, and if he is re-employed before he has attained the pension age by the same local authority or by another local authority associated with the Fund, then, if the date of*
- (14)** *his re-employment is within twelve months from the date of his having left such service, he may elect, not more than four months after the date on which he rejoins the service to refund any benefit received from the Fund in one sum, or by instalments approved by the committee, together with interest at a rate decided by the committee, compounded yearly from the date he received such benefit to the date or dates of repayment, whereupon the break in service shall be condoned and he shall again*
- (3)** *contribute to the Fund as from the date of re-employment; **provided that** if the date of re-employment is more than twelve months but less than twenty-four months after*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (3)** *the date of his having left such service, he may elect, not more than four months after the date on which he rejoins the service and with the consent of the committee, to refund any benefit received from the Fund and the provisions of this Regulation shall apply; **provided further that** if a benefit has been paid in terms of Regulation 29, the Committee, in its absolute discretion, may decide that the exclusion from the provisions of this Regulation shall not apply.*

Dismissal and other forms of termination of service

29. (1) *If a member is dismissed from the service of a local authority due to a criminal offence, misconduct, negligence, dereliction of duty or other act prejudicial to the good and proper working of the local authority's service, or if he is allowed to retire or resign in order to avoid dismissal, he shall -*
- (20)**
- (a) *be entitled to receive a lump sum equal to the sum of -*
- (i) *the amount of his contributions;*
- (ii) *five-twelfths of one per cent of the amount in (i) for each month of his continuous service; and*
- (iii) *five per cent of the amounts in (i) and (ii) for each complete year of his continuous service up to a maximum of one hundred per cent; or*
- (b) *if he has had at least ten years' continuous service and has attained an age seven years younger than the pension age or, if he was a member on 30 June 1987, ten years younger than the pension age, have the right to retire on a retiring benefit calculated in terms of Regulation 21;*

Provided that *if his conduct shall have involved the municipal council in financial loss, the amount of such loss, as certified by the municipal manager or chief executive officer as the case may be, shall, subject to the provisions of Section 37D of the Act, be deducted from such benefit and be paid over to the municipal council as a preferential charge.*

- (2) *Any resignation tendered during an enquiry into the conduct of a member before the result of such enquiry is announced shall be deemed to be a resignation in order to avoid dismissal.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (15) (3) *If the services of a member are terminated or dispensed with for reasons not solely within his control, other than those specified in Sub regulation (1) or elsewhere in these Regulations, he shall receive a lump sum equal to*
- (15) *twice the amount of his contributions, increased by three percent of such*
- (19) *amount for each complete year of his continuous service, and he shall cease to be a member of the Fund; **provided that** the final decision as to whether or not this Regulation shall apply shall rest with the committee.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

Death

- (3)(15)(19)30.** (1) *If a member dies while in the service of a local authority there shall be paid to his eligible spouse -*
- (a) *an amount equal to his annual pensionable emoluments at the date of his death; and*
- (20)** (b) *a pension equal to 1,05% of his final average emoluments multiplied by P*
- where P = continuous service to the date of death plus 75% of potential service from date of death to the pension age;*
- (7)** **Provided that** *if the member leaves more than one eligible spouse, the Committee, in its absolute discretion, may divide the amounts in terms of paragraph (a) and (b) between the eligible spouses in proportions decided by it.*
- (34)** "(2) *If a member dies while in the service of a local authority and no pension is payable in terms of Subregulation (1), there shall be payable a lump sum benefit equal to*
- (a) *an amount equal to his annual pensionable emoluments at the date of his death; and*
- (34)** (b) *the greater of*
- (34)** (i) *twice the total of the member's contributions; or*
- (34)** (ii) *the lump sum calculated in accordance with the provisions of regulation 27(1)."*
- (9)(15)(19)(3)**
(23) *If a pensioner dies and leaves an eligible spouse, there shall be paid to the eligible spouse a pension equal to 1,05% or, in the case of a pensioner who retired before 1 July 1999, one one-hundred-and-thirtieth of his final emoluments for each year of his continuous service increased at the same rate as the pensioner's pension was increased; provided that if the pensioner leaves more than one eligible spouse, the Committee in its absolute discretion, may divide the pension between the eligible spouses in proportions decided by it.*
- (5)**

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (1)(15)**
- (4) *If a pensioner dies within five years of his retirement and no pension is payable in terms of Subregulation (3), there shall be paid to his dependants an amount equal to the total of the pension payments that would have been made to him during the balance of the period of five years from the date of his retirement.*
 - (5) *The Committee shall, in its absolute discretion determine whether a deceased member or pensioner left a dependant or dependants, and pay any benefit due under Subregulation (2) or (4) in such proportions and on such terms as it may determine.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (6) *Interest may be added to amounts payable in terms of subregulation (5) at such rate as the Committee may determine.*
- (7) *If, in the discretion of the Committee of Management, no claim is made within a reasonable period of time (which shall not be less than twelve months) after the death of a member or pensioner, it shall be presumed that no dependant exists, and an amount equal to twice his contributions less the amount (if any) which he may have received in payment of retiring benefit shall, subject to the provisions of Section 37C of the Act, be paid to his estate, and there shall thereafter be no claim on the Fund in respect of him.*
- (19)** (8) *Subject to the provisions of these Regulations:*
- (a) *a pension to a pensioner shall cease on his death; and*
- (15)(19)(26)** (b) *a pension granted to an eligible spouse shall cease on her death.*
- (9) *Notwithstanding anything contained in these Regulations, it is specially provided that if -*
- (a) *when no further payments of pension are due in terms of Subregulation (1) in respect of a deceased member, the Committee shall pay to such persons as it deems fit the amount by which the total of the payments in terms of paragraph (b) of Subregulation (1) is less than twice the total of his contributions; or*
- (b) *when no further payments of pension are due in terms of Subregulation (3) in respect of a deceased pensioner, the Committee shall pay to such persons as it deems fit the amount by which the total of the payments in terms of that Subregulation is less than the benefit that would have been payable in terms of Subregulation (4) had no annuity been payable.*
- (15)** (10) *If an eligible spouse whose pension has ceased on her remarriage is again*
- (19)** *widowed or is divorced, the Committee may, in its absolute discretion, reinstate her pension; **provided that** if a payment has been made by the Fund*
- (15)** *in terms of Subregulation (9), the reinstated spouse's pension shall not commence until the pension payments that would have been made to her amount to the payment made in terms of Subregulation (9).*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

(5) Recalculation of pensions

- 30A (1) *The pension of every person in receipt of a pension on 31 March 1989 shall be increased with effect from 1 April 1989 by five per cent.*
- (2) *Every pension payable on 31 March 1989 shall be increased with effect from 1 April 1989, after the increase in terms of Sub-Regulation (1), as follows:-*
- (a) *if the pension is payable to a pensioner, by 1/30th;*
- (b) *if the pension is payable to the widow of a member who died, or a pensioner who retired, before 1 July 1987, 13/29ths; or*
- (c) *if the pension is payable to the widow of a member who died, or a pensioner who retired on or after 1 July 1987, 1/29th.*
- (9) (3) *Every pension payable to the widow of a member or pensioner on 31 March 1992 shall be increased with effect from 1 April 1992 by 15/130ths.*

Bonus additions to pensions

- (27)(31)** 31. *The committee shall review the level of pension being paid from the Fund and may direct that pensions be increased. Any increase in pension shall be paid in terms of the pension increase policy adopted by the committee in consultation with the actuary from time to time, and shall be payable from the date set out in the pension increase policy and subject to the minimum pension increase in terms of the Act.*

Pensions etc. not assignable or executable

32. *No benefit or right to a benefit shall be capable of being assigned or transferred or otherwise ceded or of being pledged or hypothecated, nor shall the same or any contributions made by a member or on his behalf be liable to be attached or subjected to any form of execution under the judgement or order of any court of law, and in the event of the beneficiary attempting to assign, transfer or otherwise cede or to pledge or hypothecate a benefit or right to a benefit, payment of the same may be withheld, or suspended, if the committee so determine; **provided that** the committee may direct the payment of a benefit or part thereof to any one or more dependants of the beneficiary or to a trustee for such dependant or dependants during such period as it may think fit.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

How pensions affected by insolvency etc.

33. (1) *If the estate of any person in receipt of a pension is sequestered or surrendered or assigned for the benefit of his creditors, the pension shall forthwith determine; **provided that**, in any case, all or any part of the pension may, in the discretion of the committee, be paid to or for the benefit of such person or all or any of his dependants. If the payment is to such person, it shall be for his own personal use and shall, subject to section 11(2) of the Maintenance Act, 1963 (Act 23 of 1963) not in any way be taken, attached, sold or appropriated by the trustee in insolvency or by any assignee or by his creditors, or form part of his insolvent estate.*
- (15) (2) *Whenever a pension has determined under this Regulation it may, in the discretion of the committee, be revived on rehabilitation of the person in receipt of the pension, or on the setting aside of the sequestration of his estate, or on the claims of his creditors being satisfied, in which event he shall receive a pension at the same rate and under the same conditions as before sequestration, surrender or assignment, together with any arrears that may have accrued.*

How pensions affected by conviction for any offence

34. (1) *If a person in receipt of a pension is convicted before any court of any offence, and is sentenced therefor to death or to any term of imprisonment exceeding twelve months without the option of a fine, the pension shall cease to be paid to such person, and in place thereof the pension shall during such person's imprisonment be paid to his dependants.*
- (2) *Whenever the payment of any pension has ceased under subregulation (1), it shall be revived on the discharge of the person in receipt of the pension from prison, and he shall receive the pension at the same rate and under the same conditions as before his imprisonment, together with any arrears that may have accrued.*

(15) **Deduction from benefit of debt due to local authority**

35. (1) *For the purpose of this Regulation -*
- (a) *"debt" means a money debt due by a member to a local authority; and*

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- (25) (b) *any such debt shall be deemed to be so due, if it is certified by the municipal manager or chief executive officer as the case may be, of the municipal council to be so due.*
- (15) (2) *Notwithstanding anything to the contrary contained in these Regulations or in any other law, any debt due by a member to a local authority may, subject to the provisions of Section 37D of the Act, be deducted in a lump sum from the benefit payable to or in respect of him, or, in the case of a pension payable to such member, in such instalments as the committee may decide, and the amounts so deducted shall be paid by the Fund to such local authority.*
- (3) *If more than one claim for the payment of debts is received by the committee, the committee shall decide the order of priority of the payment of such claims or the apportionment between such claims of the amount available for payment in terms of this Regulation.*
- (4) *It shall not be competent to bring any action against the Fund in respect of any amount paid by it to a local authority in terms of this Regulation.*

Unclaimed benefits

36. *If an amount due to a former member is not paid to him or on his behalf within three years of his leaving the service of a local authority, the amount shall cease to be due to him and shall be forfeited to the Fund; **provided that** the committee may in its absolute discretion, at a later date pay such amount to him, or, if he has died, to his dependants (subject to the provisions of Regulation 30(5) mutatis mutandis) or, failing dependants, to his estate; **provided that** no interest shall be added to any benefit which remained unclaimed for three years which may become payable in terms of this Regulation."*

(10) **Delayed payment of benefits**

- (18) 36A. *If payment of a benefit is not made to the former member or beneficiary on the date on which the member leaves the service of the local authority, interest shall be added to the benefit for the period from the date on which he left the service of the local authority to the actual date of payment at a rate determined by the Committee acting on the advice of the Actuary.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

Transfer

- (15)** 37. *The provisions of Regulation 47 of the Regulations governing the Superannuation Fund shall apply to the Fund.*

(10) Transfer of operation or service

37A. *If any part of an operation or service provided by a local authority is transferred to any person, body or institution, each member employed in that operation or service whose continuous service is discontinued as a result of that transfer shall elect either -*

- (a) to be paid an amount equal to the first transfer value calculated as provided for in Regulation 37, subject to a minimum of twice his contributions;*
- (b) to have an amount equal to the amount referred to in paragraph (a) transferred to a retirement annuity fund or the pension fund established for the benefit of the employees of that person, body or institution;*
- (c) if he has had at least 10 years' continuous service, to receive the benefit as contemplated in Regulation 27(4); or*
- (d) if he was a member on 31 March 1993, to be regarded as retired in terms of Regulation 24(1).*

(11) Closure of operation or service

37B. *If any part of the operation or service provided by a local authority is closed, each member employed in that operation or service whose continuous service is discontinued as a result of that closure shall elect either -*

- (a) to be paid an amount equal to the transfer value calculated as provided in Regulation 37, subject to a minimum of twice his contributions;*
- (b) to have an amount equal to the amount referred to in paragraph (a) transferred to a retirement annuity fund or a pension fund of which he then becomes a member;*
- (c) if he has had at least ten years' continuous service, to be entitled to the benefits as provided in Regulation 27(4); or*

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- (d) *if he was a member on 31 March 1993, to be regarded as retired in terms of Regulation 24(1).*

(15)***Winding-up of local authorities***

37C. 1. *If all the local authorities associated with the Fund cease to exist, the Committee shall, subject to the approval of the Registrar, appoint a liquidator, who shall, from the date of the approval of his appointment, liquidate the fund by dividing the moneys of the fund among the members and persons in receipt of pensions and prospectively entitled to pensions in a manner recommended by the actuary and approved by the liquidator:*
Provided that -

- (a) *the amount available for a person in receipt of a pension shall be used to purchase a pension for him from a registered insurer;*
- (b) *the amount available for a person prospectively entitled to a pension shall be transferred to another pension fund or a retirement annuity fund for his benefit or used to purchase a deferred pension for him from a registered insurer;*
- (c) *if a person to whom an amount is payable cannot be traced, it shall be disposed of in accordance with provisions included in the scheme of liquidation of the fund **provided that** no payment shall be made to a local authority; and*
- (d) *every member who left the service of a local authority during such period immediately before the date of liquidation as may be determined by the liquidator, either voluntarily or due to a reduction or reorganisation of staff, shall for the purposes of this Regulation be regarded as being a member on the date of liquidation of the fund, but the benefit already paid to him shall be taken into consideration in determining the amount payable to him:*
Provided further that *if the local authorities cease to exist but are reconstructed in a similar or amended form, the reconstructed entities or organisations shall take the place of local authorities and the fund shall not be affected except that "local authorities" shall then mean the entities or organisations as reconstructed.*

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2. *If one of the local authorities associated with the fund ceases to exist, then, unless a reconstructed entity or organisation or another local authority takes the place of that local authority, the Committee shall instruct the actuary to determine the interest in the fund of the members in the service of that local authority, subject mutatis mutandis to proviso (d) to Subregulation (1), on a date determined by the Committee, and the amount of each such member's interest shall, as the Committee in its absolute discretion decides, be transferred to a retirement annuity fund or another pension fund for his benefit or paid to him, and that local authority shall cease to be associated with the fund and those members shall cease to be members with effect from that date.*

(15)

Termination of fund

- 37D. *Notwithstanding anything in these Regulations and subject to the approval of the Minister, the general committee may terminate the fund, provided at least 90% of the members of the general committee present and voting at a special meeting of the general committee called for the purpose vote in favour of such termination, in which case the provisions of Regulation 37C(1) shall apply mutatis mutandis.*

(12)

Employees of fund on 31 August 1994

- 37E. *Each member employed by the Fund on 31 August 1994 shall cease to be a member with effect from 1 September 1994 and shall elect either -*
- (a) *to be paid an amount equal to his interest in the Fund at the said date as determined by the Committee acting on the advice of the Actuary;*
 - (b) *to have an amount equal to the amount referred to in paragraph (a) transferred to a Retirement Annuity Fund or a Pension Fund of which he becomes a member; or*
 - (c) *if he has had at least ten years' continuous service, to receive the benefit contemplated in Regulation 27(4).*

**Local authority with separate fund
becoming associated with the fund**

- (15)** 38. *The provisions of Regulation 46 of the Regulations governing the Superannuation Fund shall apply to the Fund.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

(27)

Minimum Benefits

(31) 38A *If a person ceases to be a member of the Fund prior to retirement, in circumstances other than the liquidation of the Fund, the benefit paid to or in respect of him or her shall not be less than his minimum individual reserve.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

SPECIAL CONDITIONS APPLICABLE TO PERSONS WHO WERE MEMBERS OF THE PIETERMARITZBURG CORPORATION PROVIDENT FUND ON 31 DECEMBER 1981

39. (1) *Notwithstanding the provisions of these Regulations the special conditions set out in this Regulation shall apply to every member of the Pietermaritzburg Corporation Provident Fund on 31 December 1981 who elected to become a member of the Fund from 1 January 1982.*
- (2) *If he had not attained the age of 57 years on 1 January 1982, he shall be credited in the Fund with continuous service before 1 January 1982 equal to*
- (15)** *140% of his period of membership of the Pietermaritzburg Corporation Provident Fund up to 31 December 1981.*
- (9)** (3)
- (4) *If a member referred to in Subregulation (2) becomes entitled to a benefit in terms of Regulation 25 or 29(3), or dies in the service leaving dependants and no pension is payable to his eligible widow, the amount payable in respect of his continuous service to 31 December 1981 shall be*
- (15)** *109,83725% of his full benefit in the Pietermaritzburg Corporation Provident Fund at that date, plus 10% per annum compound interest from that date to the date of ceasing to be a member.*
- (15)** (5) *If a member referred to in Subregulation (2) becomes entitled to a benefit in terms of Regulation 27 or 29(1), or dies in the service leaving no dependants, the amount payable in respect of his continuous service to 31*
- (15)** *December 1981 shall be 54,918625% of his full benefit in the Pietermaritzburg Corporation Provident Fund at that date, plus 10% per annum compound interest from that date to the date of ceasing to be a member.*
- (9)** (6)

CHAPTER V
**SPECIAL CONDITIONS APPLICABLE TO PERSONS WHO ARE CONTRACT EMPLOYEES
IN ACCORDANCE WITH THE MUNICIPAL SYSTEMS ACT**

(30) 40. *In this Chapter -*

"Contract Employee" means a person who is in the service of a Local Authority on a fixed period contract in accordance with the provisions of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

"Municipal Systems Act" means Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and

"Pensionable emoluments" means a percentage of the total remuneration package of a contract employee, being the total cost to the employer of employing a contract employee as his pensionable emoluments amounted to at the commencement of this Chapter: Provided that such contract employee shall not be entitled to adjust his pensionable emoluments during the period of his membership of the Fund save for any inflation linked adjustments to his total package remuneration pursuant to his (fixed period) contract and: Provided further that at all times the pensionable emoluments may be adjusted by the Committee at their sole discretion after consultation with the actuary and: Provided further that pensionable emoluments of contract employees who concluded fixed period contracts prior to the commencement of this Chapter shall not be adjusted retrospectively.

(30) 41. *"Notwithstanding the provisions of these regulations, the provisions of this Chapter shall apply only to persons who are in the service of a Local Authority for a fixed period in accordance with the provisions of the Municipal Systems Act."*

(30) 42. (1) *No contract employee who immediately prior to the commencement of his fixed period contract and was a member of the Fund, shall be obliged on the commencement of his fixed period contract to retain his membership of the Fund and in the event of the contract employee electing to remain a member, the provisions of Regulation 14 shall apply with the necessary changes to his membership: Provided that no contract employee who was not at the commencement of his contract a member of the Fund shall be entitled to become a member of the Fund.*

NATAL JOINT MUNICIPAL PENSION FUND (RETIREMENT)

- (2) *A percentage required to be contributed in terms of Regulations 15, 17, 18 and 19 together with any additional contribution or surcharge in terms of Regulation 11 shall be deducted in full from the contract employee's total package remuneration, being the total cost to the employer, and all such contributions less any costs referred to in Regulation 46(2) shall be deemed to be employee contributions for the purposes of Regulation 44.*
- (30)** 43. *The provisions of Regulation 24 shall not apply to contract employees.*
- (30)** 44. *In the event that a contract employee ceases to be a member -*
- (a) *in the circumstances other than those referred to in Regulations 21, 22, 23, 27(4) or 30; and*
- (b) *is a member of the Fund in terms of Regulation 42,*
- the provisions of Regulations 27(1)(a) and (b) shall apply in respect of the fixed period contract and the provisions of Chapter IV shall apply in respect of any other period of service: Provided that the member shall not be entitled to twice his total contributions as contemplated in the proviso to Regulation 30(2)(b).*
- (30)** 45. *Upon any renewal of a contract employee's fixed period contract by the Local Authority there shall be deemed to be a continuance of the contract employee's membership of the fund and there shall not be a termination of membership at the expiration of the initial period and any renewal thereafter of such fixed period contract.*
- (30)** 46. (1) *If a fixed period contract is terminated by either the member or the Local Authority, or is not renewed, the member shall be entitled to the benefits provided for in Regulation 44.*
- (2) *There shall be excluded from the calculation of any benefit payable to a contract employee in accordance with subregulation (1) any administration charges of the Fund, including any costs in respect of death or disability cover, in an amount as determined from time to time by the Committee upon the advice of the actuary.*
- (30)** 47. (1) *A member who becomes a contract employee shall inform the Fund thereof within two months of the commencement of the contract with the Local Authority, or such longer period as the Committee may determine.*

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- (2) *The member may within such period of two months apply to the Fund that his contributions shall not be based on his pensionable emoluments as defined in terms of Regulation 40, but upon such pensionable emoluments as may be determined by such member. Approval of such application may be subject to such conditions as the Committee may determine.*
- (3) *If -*
- (a) *the member fails to inform the Fund in terms of the provisions of subregulation (1) that he receives a package remuneration;*
 - (b) *the member's application in terms of subregulation (2) is granted; and*
 - (c) *the member's contributions are not based on his pensionable emoluments as defined in Regulation 40,*

The contract employee's continuous service, as defined, may be adjusted by the Committee in consultation with the Actuary.

- (30)** 48. *The provisions of this Chapter shall apply to all contract employees notwithstanding that their fixed period contracts were concluded with the Local Authorities concerned prior to the commencement of this Chapter.*
- (30)** 49. *In an event that, a contract employee who was compelled to become a member of the Fund in accordance with Regulation 14(3) elect, after the commencement of this Chapter, not to remain a member of the Fund, the benefits payable to such members shall be in accordance with Regulation 44.*
- (30)** 50. *Nothing contained in this Chapter shall derogate from any greater right acquired by or accrued to any contract employee in terms of these Regulations, provided that proof of the greater right shall be upon the contract employee who shall establish same to the satisfaction of the Committee in consultation with the Actuary and if so established, shall thereupon be entitled to any such additional benefits.*