

7 May 2019

**TO: PRINCIPAL OFFICERS OF ALL REGISTERED PENSION
FUND ORGANIZATIONS**

CIRCULAR NO: PF/CIR/02/2019

EFFECTIVE DATE: 7 MAY 2019

SUBJECT: HANDLING OF UNCLAIMED PENSION FUND BENEFITS

1. INTRODUCTION

1.1. This Circular is issued by virtue of the Namibia Financial Institutions Supervisory Authority's ("the Authority") functions and powers, and those of its Chief Executive Officer in his capacity as the Registrar of Pension Funds, in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956) ("the Act"), read with Namibia Financial Institutions Supervisory Authority Act, 2001 (Act No. 3 of 2001), and is applicable to all registered pension fund organizations under the Act.

1.2. This Circular provides clarity and guidance on the handling of unclaimed benefits.

2. THE CURRENT PRACTICE

The Authority has observed that some Funds do not publish statement of benefits that have remained unclaimed for a period of 5 years or more in terms of section 93(1) of the Administration of Estates Act, 1965 (Act No. 66 of 1965). The Authority has further observed that where the Fund has published a statement of benefits that have remained unclaimed for a period of 5 year or more some Funds do not, after expiry of 3 months from the date of publication of the said statement in the Gazette, forthwith transmit a statement and affidavit in the prescribed form to the Master and deposit in the Guardian's Fund to the credit of the rightful owners of all such amounts still remaining unclaimed in terms of section 93(3) of the Administration of Estates Act.

3. THE LAW

3.1. Section 86(1)(b) of the Administration of Estates Act provide

"(1) There is hereby established a guardian's fund to be known as the Guardian's Fund of South West Africa (in this Act referred to as the guardian's fund) which shall consist of all moneys –

(b) which have been or are so accepted by the Master in trust for any known or unknown person."

3.2. Section 93(1) and (3) of the Administration of Estates Act stipulate

"(1) Every person carrying on business in Namibia shall in the month of January in each year prepare in the prescribed form and publish in the Gazette a detailed statement in respect of all amounts of the amount prescribed or more which were held by him or her or by any agent on his or her behalf in Namibia on the thirty-first day of December of the immediately preceding

year and which were not his or her property or subject to any valid lien, but at the time of the preparation of the said statement have remained unclaimed for a period of five years or more by the rightful owners.

(3) *After the expiration of three months from the date of publication of the said statement, such person shall forthwith transmit a statement and affidavit in the prescribed form –*

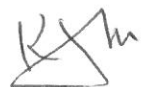
(a) *to the Master and deposit in the guardian's fund to the credit of the rightful owners all such amounts still remaining unclaimed by the rightful owners..."*

3.3. In terms of Regulation 2 of the Regulations made under the Administration of Estates Act read with section 93(1) of the Administration of Estates Act prescribes that N\$10 or more held by a Fund must have remained unclaimed for a period of 5 years or more for a Fund to prepare a statement and have same published in terms of Section 93(1) of the Administration of Estates Act.

3.4. In terms of section 102(1)(g)(iii) of the Administration of Estates Act any person who contravenes or fails to comply with the provisions of subsection (1) or (3) of section 93 shall be guilty of an offence and liable on conviction to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding 12 months or both such fine and such imprisonment.

4. THE AUTHORITY'S POSITION

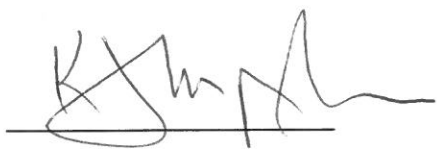
4.1. Funds holding benefits of N\$ 10 or more that have remained unclaimed for a period of 5 years or more as at 31 December must prepare and publish in the Gazette during the month of January of the following year statement of unclaimed benefits.



- 4.2. The statement of unclaimed benefits must be published in the Gazette. Funds may publish in the newspapers in addition to publishing in the Gazette, if they so wish.
- 4.3. Any benefits that remain unclaimed after 3 months from the date of publication of the statement in the Gazette must forthwith be deposited in the Guardian's Fund. The deposit to the Guardian's Fund must be done immediately; without delay.
- 4.4. In order to ensure proper supervision by the Registrar of the handling of unclaimed benefits Funds must submit to the Registrar proof of deposit in the Guardian's Fund of the unclaimed benefits within 14 days after the expiry of 3 months from the date of publication of statement of unclaimed benefits in the Gazette.
- 4.5. A Fund that is deregistering or inactive may deposit the Fund benefits in the Guardian's Fund that have remained unclaimed at the time of cancellation of the registration of the Fund in terms of section 86(1)(b) of the Administration of Estates Act.

The Registrar therefore requires full cooperation and support in this process by all Funds and stakeholders at large.

Should you require more clarity on this Circular, kindly contact the Manager of the Pension Funds and Friendly Societies Department at telephone number 061-290 5000.

A handwritten signature in black ink, appearing to read 'K. S. Matomola', is written over a horizontal line.

Kenneth S. Matomola
Registrar of Pensions Funds