

22 January 2016

TO: Principal Officers of all registered Pension Funds
Boards of Trustees of all registered Pension Funds

CC: Chairperson: RFIN

DIRECTIVE: PI/PF/DIR/01/2016

EFFECTIVE DATE: 22 January 2016

SUBJECT: COSTS INCURRED IN THE ADMINISTRATION OF UNCLAIMED BENEFITS

1 Introduction

- 1.1 This Directive is issued by virtue of NAMFISA's functions and powers and those of its acting CEO in his capacity as the Registrar of Pension Funds in terms of the Namibia Financial Institutions Supervisory Authority Act, 2001 (Act no. 3 of 2001) ("the NAMFISA Act") and is applicable to all pension fund organizations registered under the Pension Funds Act, 1956 (Act No. 24 of 1956) ("the PF Act").
- 1.2 The purpose of this Directive is to prohibit registered funds from deducting costs (including tracing costs) incurred in the administration of an unclaimed benefit from the unclaimed benefit itself unless the Registrar's approval has been obtained in terms of section 37D(c)(iii) of the PF Act.

2 The current practice

It has come to the attention of the Registrar that there is no clear guidance in the pension fund industry with regard to the funding of costs (including tracing costs) incurred in the administration of unclaimed benefits. The Registrar has also learned that no permissible provision for the funding of the said costs is made in the rules of many registered funds and some indicate in their rules that such costs will be paid from members' benefits/retirement savings,

which is in contravention of section 37A of the PF Act. This means that the particular member or beneficiary will eventually receive a benefit that is less than what he or she would have received if the costs incurred in the administration of unclaimed benefits were not deducted from his or her unclaimed benefit itself or the value of the benefit that has accumulated over the period that he or she remained active in the fund; in other words, the member's "retirement savings" as provided for in the rules of the fund.

3 The law

Section 37A of the PF Act provides as follows:

3.1 "37A *Pension benefits not reducible transferable or executable*

(1) Save to the extent permitted by this Act, the Income Tax Act, 1962 (Act 58 of 1962), and the Maintenance Act, 1963 (Act 23 of 1963), no benefit provided for in the rules of a registered fund (including an annuity purchased or to be purchased by the said fund from an insurer for a member), or right to such benefit, or right in respect of contributions made by or on behalf of a member, shall notwithstanding anything to the contrary contained in the rules of such a fund, be capable of being reduced, transferred or otherwise ceded, or of being pledged or hypothecated [...]."

- 3.2 In terms of section 37D(c)(iii) of the PF Act, a registered fund may deduct any amount which the fund has paid or will pay by arrangement with, and on behalf of, a member or beneficiary in respect of any purpose approved by the registrar, on the conditions determined by him, upon a request in writing from the fund.

4 Conclusion

Once a benefit has been provided for in the rules of a registered fund, it enjoys the protection of section 37A of the PF Act, subject to the provisions of section 37D of the PF Act; the Income Tax Act (as amended) and the Maintenance Act (as amended). Thus, the reduction of the value of the member's accumulated benefit (which includes his/her retirement savings, whilst the member is

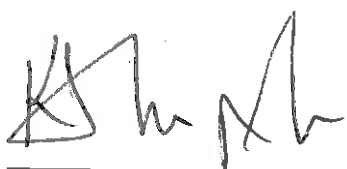
still active in the fund (as provided for in the rules of the fund) is prohibited, subject to the provisions that are referred to above.

5 The Directive

- 5.1 The Board of Trustees of all registered funds are hereby prohibited from recovering costs (including tracing costs) incurred in the administration of unclaimed benefits from the unclaimed benefit itself, as provided for in the rules of the fund, unless the Registrar's approval is obtained in terms of section 37D(c)(iii) of the PF Act. Such approval must be requested on the form annexed hereto, marked "Annexure A" and it must be submitted together with the form annexed hereto, marked "Annexure B".
- 5.2 In the event that a registered fund wishes to take the course of action referred to in the preceding paragraph, the Board of Trustees of all registered pension funds are further directed to ensure that the fund's rules are amended to allow it to request the Registrar's said approval in terms of section 37D(c)(iii) of the PF Act.

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

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



Kenneth S. Matomola
Acting CEO
Registrar of Pension Funds

FUND'S REQUEST IN TERMS OF SECTION 37D(C)(III) OF THE PENSION FUNDS ACT, ACT NO. 24 OF 1956

I/We, the undersigned, hereby request for approval to deduct a reasonable amount from the pension benefits of the members listed below in order to defray the necessary and reasonable costs incurred in connection with the administration of their unclaimed benefits (including tracing costs).

DETAILS OF THE UNCLAIMED BENEFITS

Name of the fund and registration number:

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Please explain the reasonable steps, and provide proof thereof, that the fund has taken to avoid the unclaimed benefit in question from arising:

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Applicant's declaration

I _____, in my capacity as the
Chairperson of the Board of Trustees of _____
(name and registration number of fund),

hereby declare that:

- (a) all the information and documents provided in this request are complete, correct and can be relied on; and

- (b) if any information in this request changes before and/or after this request is approved, the fund will immediately notify NAMFISA in writing of the changes.

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Full Name (Principal Officer)

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Signature

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Date

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Full Name (Trustee)

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Signature

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Date

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Full Name (Chairperson)

.....

Signature

.....

Date



MEMBER AUTHORIZATION FORM IN TERMS OF SECTION 37D(C)(III) OF THE PENSION FUNDS ACT, ACT NO. 24 OF 1956

Instructions for completion and submission

- 1. A MEMBER IS UNDER NO OBLIGATION TO SIGN THIS FORM IF HE OR SHE DOES NOT AGREE TO ITS CONTENTS.**
2. This form must be completed and signed by a member upon joining a new pension fund or within a reasonable time after joining a new fund if he/she agrees to its contents. In the case of existing members, this form must be signed at any time before the member exits the fund.
3. The form must be completed and signed by the member. Incomplete forms will not be accepted.
4. The form must be returned to the Principal Officer of the Fund within thirty (30) calendar days.

1. Personal information of the member

Title:

First name(s):

Surname:

Previous surname(s) (if applicable):



Nationality:

Place of birth (Town/Village):

Date of birth:

Identification/Passport number:

Postal address:

Residential address:

Cellphone number:

E-mail address:

2. Personal and information of the next of kin

First name(s):

Surname:

Relationship:

Postal address:

Residential address:



Cellphone number:

E-mail address:

3. Member's Authorization

I,

(Full names of the Member)

by virtue of my membership of the

(Name of the Fund)

hereby authorize and arrange with the abovementioned fund to deduct a reasonable amount from my pension benefits in order to defray the necessary and reasonable costs incurred or to be incurred in connection with the administration of my unclaimed benefit (including tracing costs) in the event that I or my beneficiaries fail to claim such pension benefits within the time stipulated by the Fund.

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Full Name (Member)	Signature	Date
.....		
Full Name (Principal Officer)	Signature	Date
Or		
.....		
Full Name (HR Official)¹	Signature	Date

¹ HR official on behalf of the employer, specifically for participating employers where applicable.