

# FINANCIAL SERVICES BOARD

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DATE: 15 June 2007

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CASE NUMBER: 120909

Dear Sir/Madam

## REVISED RULES: MINEWORKERS PROVIDENT FUND

Your letter of 21 May 2007 refers. I have enclosed a copy of the rules duly approved and registered in terms of section 12(4) of the Pension Funds Act, No. 24 of 1956.

Yours faithfully

**REGISTRAR OF PENSION FUNDS**

Enclosure

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**MINeworkERS PROVIDENT FUND**

**RULES**

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The Trustees of the Mineworkers Provident Fund resolved that the Rules of the Fund shall be revised with effect from 1 July 2005. The reason for the revision is to consolidate amendments number 1 to 9 and to update the rules to comply with practice and with legislation.

Certified that the Resolution has been adopted in accordance with the provisions of the Rules of the Fund.

*[Signature]*

**Chairman of Trustees**

*[Signature]*

**Trustee**

*[Signature]*

**Principal Officer**

Certified that the above amendments are financially sound.

*[Signature]*

**Actuary to the Fund**

*D. M. HERDEASON B. Auc. SL. FCA*

REGISTERED BY ME ON THIS THE
15
DAY OF June 2007
<i>[Signature]</i>
Registrar of Pension Funds

# **MINEWORKERS PROVIDENT FUND**

## **RULES**

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The Trustees of the Mineworkers Provident Fund resolved that the Rules of the Fund shall be revised with effect from 1 July 2005. The reason for the revision is to consolidate amendments number 1 to 9 and to update the rules to comply with practice and with legislation.

Certified that the Resolution has been adopted in accordance with the provisions of the Rules of the Fund.



## **MINEWORKERS PROVIDENT FUND**

### **RULES**

#### **CONSTITUTION**

1. (1) The Fund known as "Mineworkers Provident Fund", which was established with effect from 14th June 1989, shall be governed by these rules which are revised with effect from 1 July 2005. *Amend 5*
- (2) The registered office of the Fund shall be at 2nd Floor, Life Centre, 45 Commissioner Street, Johannesburg, and every payment due to or by the Fund shall be made at the registered office of the Fund in the currency of the Republic of South Africa, or elsewhere on such terms as the Trustees think fit. *Amend 4*
- (3) The main object of the Fund shall be to provide benefits for Employees of the Employers on their retirement, and for the Dependants of Members who die in Service. *Amend 4*

## DEFINITIONS

2. In these rules words defined in the Act but not defined in these rules shall bear the meanings assigned to them in the Act, and unless inconsistent with the context, all words and expressions importing the masculine gender shall include the feminine; words signifying the singular number shall include the plural and *vice versa*; and

"ACT" shall mean the Pension Funds Act, 1956 (No. 24 of 1956), as amended, and the regulations framed thereunder.

"ACTUARY" shall mean a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland, appointed in terms of Rule 15. *Amend 4*

"ADDITIONAL PERCENTAGE" shall mean a percentage calculated by the Actuary as the value of the amount standing to the credit of the investment reserve account as at the date of calculation, less one years' expected administration costs, divided by the value of the sum of the amounts standing to the credit at that date of the Members' Account, the Employer's Account, the Members' Voluntary Account and the Member's Transfer Account. *Amend 2*

"ADJUDICATOR" the Pension Funds Adjudicator appointed in terms of Section 30C(1) of the Act.

"AFFILIATED ORGANIZATION" shall mean any one of the following:

- Rand Refinery Limited;
- Nuclear Fuels Corporation Limited;
- The Rand Mutual Hospital
- The Chamber of Mines Training College.

Teba Limited  
Shaft Sinkers

**"APPOINTMENT DATES"** shall mean 1st September 1992 and 1st September of every second subsequent calendar year.

**"APPROVED PENSION FUND"** shall mean a pension fund, other than a Preservation Pension Fund, approved as such by the Revenue Authorities. *Amend A*

**"APPROVED PROVIDENT FUND"** shall mean a provident fund, other than a Preservation Provident Fund, approved as such by the Revenue Authorities. *Amend 4*

**"APPROVED RETIREMENT ANNUITY FUND"** shall mean a retirement annuity fund approved as such by the Revenue Authorities for the purposes of these rules.

**"AUDITOR"** shall mean a person appointed as Auditor in terms of Rule 15.

**"CATEGORY A MEMBER"** shall mean a MEMBER who is admitted to membership of the FUND in terms of Rule 17 and who participates in the death benefits in terms of Rule 27(1)(a).

**"CATEGORY B MEMBER"** shall mean a MEMBER who is admitted to membership of the Fund in terms of Rule 17 and who participates in the death benefits in terms of Rule 27(1)(b).

**"CHAIRMAN"** shall mean the Chairman appointed in terms of Rule *Amend 4*

**"CHAMBER"** shall mean the Chamber of Mines of South Africa.

**"DEEMED MONTHLY EARNINGS"** shall mean the basic monthly rate of pay.

**"DEFERRED BENEFIT"** shall mean the benefit retained in the Fund in respect of a Member who elects to defer his benefit in the Fund in terms of Rule 29A (1)

(b) increased by interest until it becomes payable in terms of Rule 30 (2) but less such administration expenses as may be determined by the Trustees arising during the period when the benefit is retained in the Fund.

**"DEPENDANT"**, in relation to a Member, shall mean -

- (i) a person in respect of whom the Member is legally liable for maintenance;
- (ii) a person in respect of whom the Member is not legally liable for maintenance provided such a person is -
  - (a) considered by the Trustees as having been in fact dependent on the Member for maintenance at the time of the death of the same,
  - (b) the spouse of the Member, including a party to a customary union according to Black law and custom or to a union recognised as a marriage under the tenets of any Asiatic religion,
  - (c) a child of a Member including a posthumous child, an adopted child and an illegitimate child;
- (iii) a person in respect of whom the Member would have become legally liable for maintenance, had the Member not died. *Amend 4*

**"EMPLOYEE"** shall mean a person who is in the full time Service of an Employer.

**"EMPLOYER"** shall mean a company which is:

- (a) a member of the Chamber; or
- (b) an Affiliated Organisation; or
- (c) an associate of a financial corporation member of the Chamber, where participation in the Fund has been approved by the Trustees; or

- (d) any other company or organisation whose participation in the Fund has been approved by the Trustees.

**"EMPLOYERS' PORTION"** of a Full Benefit for any Member shall consist of -

- (a) the total amounts contributed by the Employers in respect of him in terms of Rule 22(2)(i);
- (b) the total amounts deemed to have been contributed by Employers in respect of him in terms of Rule 23;
- (c) transfers from the risk reserve account in terms of Rule 24A;
- (d) the total amount of profit credited to the Employers' Portion of the Full Benefit up to and including the preceding review in terms of Rule 24B; and
- (e) interest on the amounts referred to in (a), (b), (c) and (d) from the date of the preceding review, or the date of commencement of his membership, whichever is the later, at a rate determined by the Trustees from time to time. *Amend 2*

**"EMPLOYERS' TRUSTEE"** shall mean a Trustee appointed in terms of Rule 6

**"ESTABLISHMENT DATE"** shall mean the date referred to in Rule 1(1).

**"FINANCIAL INSTITUTION"** shall mean a Financial Institution as defined in the Financial Institutions (Investment of Funds) Act, 1984 (No. 39 of 1984). *Amend 4*

**"FINANCIAL YEAR END"** shall mean the 31 December each year.

**"FIXED DATE"** shall mean 1st July 1989.

**"FULL BENEFIT"** for any Member shall consist of the total of the Member's

and Employers' Portions for that Member less any expenses deemed reasonable by the Trustees. *Amend. 2 / Amend 4*

**"FUND"** shall mean Mineworkers Provident Fund.

**"MEMBER"** shall mean a person who was a Member on 30 June 2005 or who has become a Member in terms of Rule 17 and who has not ceased to be a Member in terms of these rules.

**"MEMBER'S PORTION"** of a Full Benefit for any Member shall consist of-

- (a) the total amount contributed by him in terms of Rule 22(2)(i);
- (b) the total amount deemed to have been contributed by him in terms of Rule 23;
- (c) transfers from the risk reserve account in terms of Rule 24A;
- (d) the total amount of profit credited to the Member's Portion of the Full Benefit up to and including the preceding review in terms of Rule 24B; and
- (e) interest on the amounts referred to in (a), (b), (c) and (d) from the date of the preceding review, or the date of commencement of his membership, whichever is the later, at a rate determined by the Trustees from time to time; *Amend 4*

**"MEMBER'S TRANSFER PORTION"** shall consist of -

- (a) the total amounts deemed to have been contributed by him in terms of Rule 23;
- (b) the total amount of profit credited to the Member's Transfer Portion up to and including the preceding review in terms of Rule 24B; and

- (c) interest on the amounts referred to in (a) and (b) from the date of the preceding review, or the date of commencement of his membership, whichever is the later, at a rate determined by the Trustees from time to time.

**"MEMBERS' TRUSTEE"** shall mean a Trustee appointed or elected in terms of Rule 5.

**"MEMBER'S VOLUNTARY PORTION"** shall consist of -

- (a) the total amounts contributed by him in terms of Rule 22(5);
- (b) the total amount of profit credited to the Member's Voluntary Portion up to and including the preceding review in terms of Rule 24B; and
- (c) interest on the amounts referred to in (a) and (b) from the date of the preceding review, or the date of commencement of his membership, whichever is the later, at a rate determined by the Trustees from time to time. *AMEND 2*

**"NOMINATED BENEFICIARY"** shall, in relation to a Member, mean a beneficiary nominated by him in terms of Rule 20(1).

**"NORMAL RETIREMENT AGE"** shall mean, for an Underground Member, the age of 60 years and, for a Surface Member, the age of 63 years. *AMEND 4*

**"NUM"** shall mean National Union of Mineworkers.

**"PARTICIPATION DATE"** shall mean, in relation to an Employee in the Service of an Employer in a particular class of Employees, the date with effect from which that Employer agrees with the Trustees in terms of Rule 17(2) to participate in the Fund in respect of that class of Employees.

**"PRESERVATION PENSION FUND"** shall mean an Approved Pension Fund recognised as a preservation fund, subject to the conditions set out by the Revenue Authorities from time to time. *Amend 4*

**"PRESERVATION PROVIDENT FUND"** shall mean an Approved Provident Fund recognised as a preservation fund, subject to the conditions set out by the Revenue Authorities from time to time. *Amend 4*

**"PRINCIPAL EXECUTIVE OFFICER"** shall mean the Principal Executive Officer appointed in terms of Rule 16.

**"REGISTERED INSURER"** shall mean an insurer registered in terms of the Long-term Insurance Act, 1998.

**"REVENUE AUTHORITIES"** shall mean the South African Revenue Service and any other statutory revenue authority who requires to be notified of amendments to these rules.

**"SERVICE"** shall, subject to the provisions of Rule 18, mean permanent employment with one or more Employers.

**"SURFACE MEMBER"** shall ~~mean a Member who is not an Underground Member.~~ *Amend 4*

**"TERMINAL ILLNESS"** shall mean an illness, condition or disease which infers progressive degeneration until death and limits the Member's life expectancy to twelve months or less from the date of diagnosis of such Terminal Illness and prevents the Member from being actively at work during such period.

**"TERMINALLY ILL MEMBER"** shall mean a Member under the Normal Retirement Age who has retired from Service having been diagnosed as having a Terminal Illness by a qualified medical practitioner approved by his Employer and the Trustees.



"TRUSTEES" shall mean the Trustees appointed or elected in terms of these rules, or their alternates when acting as Trustees. *Amend 4*

"UNDERGROUND MEMBER" shall mean a Member who has 25 years or more of Underground Service or whose Underground Service is at least two-thirds of his total Service.

"UNDERGROUND SERVICE", in relation to any person, shall mean the period of Service in work underground, according to the classification used by his Employers; the Underground Service of a Member shall be proved to the satisfaction of the Trustees and in the absence of proof shall be estimated by the Trustees, whose decision shall be final.

"UNION" shall mean a trade union that is entitled to appoint one or more Members' Trustees in terms of these rules.

"WAGES" shall mean the earnings of a Member while he is an Employee, excluding any payment for overtime or for substitute work, any bonus or allowance and any payment in kind, that is, the basic wages of the Member.

## ADMINISTRATION

### Number of Trustees

3. (1) The Fund shall be administered and controlled, subject to the provisions of the Act and these rules, by ten Trustees, of whom:
- (a) *5* shall represent the Members; and
  - (b) *5* shall represent the Employers.

*Amend 3 / Amend 4*

- (2) ~~Subject to the provisions of Rule 4, one of the Trustees shall be appointed as Chairman.~~ *Amend 4*

### Chairman

4. (1) The Chairman shall be appointed with effect from 1st September 1992 and each year thereafter with effect from 1st September.
- (2) The Chairman shall alternately be appointed by the Members' Trustees every second year and by the Employers' Trustees every other year, as provided in subrules (3) and (4).
- (3) The Chairman to be appointed in terms of subrule (1) in 1993 and every second year thereafter shall be appointed by the Members' Trustees.
- (4) The Chairman to be appointed in terms of subrule (1) in 1992 and every second year thereafter shall be appointed by the Employers' Trustees.
- (5) If the Chairman ceases to be a Trustee he shall cease to be the Chairman.
- (6) The Chairman may at any time resign his office.
- (7) A Chairman appointed by the Members' Trustees may at any time be removed from his office by a majority of the Members' Trustees.
- (8) A Chairman appointed by the Employers' Trustees may at any time be removed from his office by a majority of the Employers' Trustees.
- (9) If a Chairman appointed by the Members' Trustees ceases to be the Chairman in terms of subrule (5), (6) or (7), a new Chairman shall be appointed by the Members' Trustees. *Amend 4*

- (10) If a Chairman appointed by the Employers' Trustees ceases to be the Chairman in terms of subrule (5), (6) or (8), a new Chairman shall be appointed by the Employers' Trustees.
- (11) If more than one person has been nominated by the Members' Trustees for appointment in terms of subrule (3) or (9), the appointment shall be made by election at a meeting of the Trustees. Each Members' Trustee present at such meeting shall for the purposes of such election be entitled to cast one vote. The nominee in favour of whom the greatest number of votes is cast shall have been duly elected.
- (12) If more than one person has been nominated by the Employers' Trustees for appointment in terms of subrule (4) or (10), the appointment shall be made by election at a meeting of the Trustees. Each Employers' Trustee present at such meeting shall for the purposes of such election be entitled to cast one vote. The nominee in favour of whom the greatest number of votes is cast shall have been duly elected.
- (13) Subject to the provisions of sub-rules (5), (6), (7), (8) and (9), the Chairman shall cease to hold office when another Chairman is appointed in terms of sub-rule (1). *Amend 4*

### **Members' Trustees**

5. (1) With effect from the Establishment Date, and subject to sub-rules (4) and (5), the NUM shall appoint five Members' Trustees and five alternates to act during their absence as required in terms of this rule from time to time. *Amend 4*

- (2) Subject to the provisions of Rule 7, a Members' Trustee or alternate appointed in terms of sub-rule (1) shall cease to hold office on the day immediately preceding the first appointment date after the establishment of the Fund. A Members' Trustee or alternate who has ceased to hold office in terms of this subrule shall be eligible for reappointment in terms of this rule.
- (3) With effect from the first appointment date after the establishment of the Fund and with effect from every subsequent appointment date, Members' Trustees and alternates shall be appointed or elected as provided in subrules (4) to (9).
- (4) If on any appointment date the number of Members who are Members of the NUM is not less than the number of Members who are Members of any other registered trade union, the NUM shall, with effect from that date, appoint a Members' Trustee or Members' Trustees and an alternate or alternates to act during their absence depending on the percentage of Members who are Members of the NUM as follows:

*Amend 4*

Percentage of Members who are Members of the NUM	Number of Members' Trustees to be appointed by the NUM	Number of alternates to be appointed by the NUM
less than 20%	1	1
at least 20% but less than 40%	2	2
at least 40% but less than 60%	3	3
at least 60% but less than 80%	4	4
at least 80% but less than 100%	5	5

- (5) If on any appointment date the number of Members who are Members of the NUM is less than the number of Members who are Members of any other registered trade union but is at least 10% of the total number of Members, the NUM shall with effect from that date appoint a Members' Trustee or Members' Trustees and an alternate or alternates to act during their absence, depending on the percentage of Members who are Members of the NUM as follows *Amend 4*

<u>Percentage of Members who are Members of the NUM</u>	<u>Number of Members' Trustees to be appointed by the NUM</u>	<u>Number of alternates to be appointed by the NUM</u>
at least 10% but less than 18,75%	1	1
at least 18,75 but less than 30%	1	2
at least 30% but less than 31,25	2	2
at least 31,25 but less than 43,75%	2	3
at least 43,75%	2	4

- (6) If a Members' Trustee or alternate appointed in terms of subrule (4) or (5) ceases to hold office before the day referred to in subrule (10), the NUM shall appoint a Members' Trustee to replace him.
- (7) For the purposes of this rule each number referred to in this rule shall be determined at such date and by such methods as the Trustees may determine and each number so determined shall apply to the next succeeding appointment date.
- (8) If according to numbers determined in terms of subrule (7) the number of Members' Trustees that will be required to be appointed by the NUM in terms of this rule at the next succeeding appointment date is less than five, the other Members' Trustees, and alternates to act during

their absence, shall be appointed or elected with effect from that date by such method and subject to such conditions, including conditions relating to removal and resignation, as the Trustees may determine; provided that if the Trustees are unable to reach a decision with regard to the determination of such method it shall be referred to arbitration; provided further that the total number of alternates appointed or elected in terms of this rule shall be equal to eight.

- (9) If a Members' Trustee or alternate appointed or elected in terms of subrule (8) ceases to hold office before the day referred to in subrule (10), a Members' Trustee or alternate as the case may be shall be appointed or elected by the method and subject to the conditions determined in terms of that subrule, or by such other method as, subject to the provisos to subrule (8), the Trustees may determine, to replace him.
- (10) Subject to the provisions of Rule 7, a Members' Trustee or alternate appointed or elected in terms of subrule (4), (5), (6), (8) or (9) shall cease to hold office on the third anniversary of his appointment date. A Members' Trustee or alternate who has ceased to hold office in terms of this subrule shall be eligible for reappointment or re-election in terms of this rule.
- (11) The NUM may at any time redeploy a Members' Trustee or an alternate appointed by it in terms of this rule. *Amend 1*
- (12) A Members' Trustee appointed by the NUM in terms of this rule may resign at any time on giving one month's written notice to the NUM and the Trustees.

### **Employers' Trustees**

6. (1) The Chamber shall appoint Employers' Trustees as required in terms of this rule from time to time and five alternates to act during their absence and may at any time remove an Employers' Trustee or alternate. *Amend 4*

- (2) Subject to the provisions of Rule 7, an Employers' Trustee or alternate appointed in terms of this rule on or before the day immediately preceding the first appointment date after the establishment of the Fund shall cease to hold office on that day and an Employers' Trustee or alternate appointed in terms of this rule after that day shall cease to hold office on the day immediately preceding the third anniversary of his appointment date next following the date with effect from which he was appointed. An Employers' Trustee or alternate who has ceased to hold office in terms of this subrule shall be eligible for reappointment in terms of this rule.
- (3) An Employers' Trustee or alternate appointed in terms of this rule may resign at any time on giving one month's written notice to the Chamber and the Trustees.

### Termination of office of Trustees

7. A Trustee or alternate shall cease to hold office if:

- (i) he is redeployed or resigns or his term of office expires in accordance with these rules; *Amend 1*
- (ii) he becomes insane or otherwise incapable of performing his duties as a Trustee;
- (iii) his estate is sequestrated or surrendered or assigned for the benefit of his creditors;
- (iv) he is removed by a court of law on account of misconduct from any office of trust;

- (v) he is convicted of theft, fraud, forgery or uttering of a forged document or perjury; or
- (vi) he has been convicted and sentenced either to Imprisonment without the option of a fine or to a fine exceeding R100 for one of the following: theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992, any offence involving dishonesty or any offence in connection with the promotion, formation or management of a company.

### **Meetings of Trustees**

8. The Trustees shall meet at such intervals as they may decide, but shall meet not less than four times during the course of any one calendar year. A meeting of the Trustees shall be called by the Principal Executive Officer at any time on the instruction of the Chairman or at the written request of any three Trustees. Unless otherwise agreed by each Trustee, a meeting so called shall be convened within fourteen days but not within seven days after it has been so called.

### **Quorum and voting**

9. (1) At any meeting of the Trustees, eight Trustees present shall form a quorum, of whom four shall be Employers' Trustees and four shall be Members' Trustees. In the event of a difference of opinion the decision of the majority of those present shall be the decision of the Trustees. Decisions of the Trustees shall be taken on a show of hands or, if so required by any Trustee present at the meeting, by ballot. The Chairman shall have no vote in addition to his vote as a Trustee. *Amend 4*
- (2) If a quorum is not present at any meeting of the Trustees within forty-five minutes after the time fixed for its commencement, the meeting



shall stand adjourned for seven days. At such adjourned meeting the Trustees present shall form a quorum.

- (3) A resolution in writing signed by all the Trustees (for which purpose an alternate may sign in the absence of the Trustee for whom he is an alternate) shall be of the same force and effect as a resolution passed at a meeting of the Trustees and must be recorded in the Fund's minute book.

### **Absence of Chairman**

10. If at any meeting of the Trustees the Chairman is absent, the Trustees present shall choose one of their number to be Chairman of the meeting. ~~Amend A~~

### **Adjournment of meeting**

11. Where, in the opinion of the Chairman presiding at a meeting of the Trustees, an important question of principle is involved, and not all the Trustee referred to in Rule 3(1)(a) and (b) are present, the discussion of that question shall stand over and the matter shall be considered at a special meeting of the Trustees to be held on a day not less than seven days later. At such a special meeting the Trustees present shall form a quorum.

### **Minutes**

12. The Trustees shall cause minutes of their proceedings and of all meetings to be recorded, and such minutes when signed by the Chairman shall be *prima facie* evidence of the correctness of the matters therein recorded. Such minutes shall be circulated to the Trustees, the unions and the Chamber. ~~Amend A~~

### **Indemnification**

13. (1) The Trustees and all officers 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.

- (2) The Trustees shall insure the Fund at the expense of the Fund against any loss resulting from the dishonesty or fraud of any of its officers or Trustees. *Amend 5*

### **Trustees' discretion and disputes**

14. (1) The Trustees shall be entitled, in their absolute discretion, to make any arrangements and regulations for the administration of the Fund, and to do anything not inconsistent with the provisions of these rules, as amended from time to time, that, in their opinion, is for the benefit and protection of Members and beneficiaries.
- (2) Subject to the provisions of subrule (6), the decision of the Trustees as to the meaning of or interpretation of these rules or of any particular rule or part thereof shall be final and binding on the Employers, Members, or former Members and every person claiming to be entitled to a benefit under these rules, subject to the provisions of Section 30A of the Act.
- (3) Any question that may arise with regard to a claim by any person under these rules shall be decided by the Trustees, subject to the provisions of Section 30A of the Act.
- (4) In deciding on any question of fact, the Trustees shall act upon such evidence as they deem adequate and shall not be bound by the rules of evidence applicable in a court of law.
- (5) In arriving at a decision, the Trustees shall not be obliged to afford a hearing to any person affected by their decision, but may receive representations orally or in writing in such manner and on such terms

as they may determine.

- (6) If any person affected by a decision of the Trustees in terms of sub-rule (3) is dissatisfied with the decision, he shall have the right to lodge a written complaint as envisaged in Section 30A of the Act. If such person remains dissatisfied he may lodge his complaint with the Pension Funds Adjudicator appointed in terms of the Act which shall be dealt with in accordance with Section 30D to 30P of the Act.
- (7) The Employer, the Trustees (or one or more of their number), or any other person having a complaint or dispute of fact or law shall, notwithstanding anything to the contrary in these Rules, have the right to invoke the complaint procedures in accordance with the *Amend 4*

### **Auditor, Actuary and other advisers**

15. (1) Subject to the approval of the Chamber and the Unions, the Trustees shall appoint an Auditor for such periods as they determine, and an Actuary, and may withdraw any such appointment and make another appointment in its place. The Auditor and Actuary may also withdraw their respective appointments at any time. *Amend 4*
- (2) The Trustees may appoint such other advisers as they consider necessary from time to time.

### **Appointment of officers**

16. The Trustees shall appoint a Principal Executive Officer and may appoint other officers of the Fund for such periods as they determine and may withdraw any such appointment and make another appointment in its place. The Trustees shall determine the scope of the officers' duties and their emoluments, if any.

*16(A) Rule Amend 5*

## **MEMBERSHIP**

### **Admission to membership**

17. (1) If an Employer elects to participate in the Fund in respect of a particular class of Employees in terms of an agreement concluded with those Employees or with their representative on their behalf, he shall notify the Trustees in writing of such election and of the date on which it is proposed they shall become Members.
- (2) If an Employer has notified the Trustees in terms of subrule (1) in respect of a particular class, every Employee in his Service in that class shall become a Member with effect from a date to be agreed between the Employer and the Trustees.
- (3) An Employee as envisaged in (1) or (2) above who on the Participation Date is on authorised leave of absence with full pay, with less than full pay or without pay shall not become a Member until he returns to work.
- (4) Every person who becomes an Employee as envisaged in (1) or (2) above, after the Participation Date shall become a Member on the date on which he becomes an Employee.
- (5) An Employer who elects to participate in the Fund in terms of sub-rule (1) shall have the option to elect whether he requires Members employed by him to participate in the death benefit provided for in Rule 27(1)(a) or not. Should such Employer elect that his Members not participate in the aforementioned death benefit, he may elect that they so participate at a later date; provided that if such Employer has elected for Members employed by him to participate, he will not be allowed to revoke such election.

## Service

18. A Member who is on authorized leave of absence with full pay, with pay less than full pay or without pay shall be deemed to be in the Service during the period of such leave. *Amend 4*

## Cessation of membership

19. (1) Except as provided in Rule 19(4), a Member shall not be permitted to withdraw from his membership while he remains in the Service.
- (2) Subject to the provisions of Rules 30 and 37(1), a Member who leaves the Service for any reason shall cease to be a Member upon termination of his Service.
- (3) Notwithstanding the provisions of Rules 25 to 30, if a person ceases to be a Member in terms of subrule (2) and again becomes a Member in terms of Rule 17(3), no further benefit shall become payable to or in respect of him for his Service before the date on which he last ceased to be a Member.
- (4) Provided the election is made voluntarily and without coercion, a Member who continues to be eligible for membership but who is eligible to participate in another provident or pension fund in which his Employer participates, may elect to withdraw from his membership for the purpose of participating in that other fund. If any Trustee has evidence that an election was not made voluntarily but was made as a result of coercion or intimidation, the Trustees shall arrange for the circumstances behind the election by the Member to be investigated and, if they find on a balance of probabilities, that the election was made as a result of coercion or intimidation, the application for withdrawal in terms of this rule shall be rejected.

- (5) The Employer shall advise the Trustees of a Member's election to withdraw from his membership in terms of Rule 19(4).
  
- (6) Should the aggregate amount of benefits that would have to be transferred at any one time to another fund in terms of Rule 30A be of such magnitude as to cause liquidity problems for the Fund, the Trustees may require that the withdrawal of membership and the transfer of benefits to the other fund be delayed for such period not exceeding sixty days as is considered necessary.

### Information to Trustees

20. (1) The Trustees may, if they consider that circumstances warrant it, require a Member to produce a birth certificate or other satisfactory evidence of his age and such other information as they require for purposes of the Fund; provided that, if satisfactory evidence of age is not produced for any reason, the Trustees shall determine the Member's date of birth for the purposes of the Fund. In particular, each Member shall from time to time give the Trustees particulars of his Dependants and shall nominate in writing for the guidance of the Trustees, who shall not be bound by the nomination, a beneficiary or beneficiaries to receive the benefits or a portion of the benefits in terms of Rule 27.
- (2) If a Member fails to comply with the provisions of this rule, the Trustees may defer payment of any benefit due to or in respect of him until the provisions are complied with.

### Documents

21. (1) ~~Each person who becomes a Member in terms of Rule 17 shall be given a certificate of his membership.~~ *Amend 4*
- (2) Each Member shall, as soon as is practicable after the expiry of a period determined by the Trustees, not exceeding 12 months, after the date on which he became a Member or the date on which the previous such period expired whichever is the later, be given a statement of the amount that would have been payable to or in respect of him if on the expiry of that period a benefit had become payable to or in respect of him in terms of any rule that the Trustees consider relevant for the purposes of such statement.

- (3) Every Member shall be entitled to receive, on application, a copy of -
- (a) the rules of the Fund; and
  - (b) the last revenue account and balance sheet.
- (4) Every Member shall be entitled to inspect any of the documents mentioned in section 35(2) of the Act.

## **CONTRIBUTIONS**

22. (1) Contributions shall be paid by and in respect of every Member who during any month is an Employee.
- (2) The total contribution payable by and in respect of each Member in the Gold Mines, who are subject to the Wage Agreement 2005/6 concluded between National Union of Mineworkers, United Association of South Africa, Solidarity and Chamber of Mines on 23 August 2005, shall be as follows :
- (i) for the purpose of retirement funding, 14.5% of his Wages actually earned each month; plus
  - (ii) for the purposes of risk benefits, 6.5% of Deemed Monthly Earnings from which shall be deducted the cost of funeral benefits provided by a separate policy of Insurance.

The total contribution payable by and on behalf of each Member employed in the Collieries, who are subject to the Wage Agreement 2005/6 concluded between the National Union of Mineworkers, United



Association of South Africa (UASA) and the Chamber of Mines on 2 September 2005 as follows:

For Members employed by Anglo Coal, Eyesizwe Coal, Kangra Coal, Springlake Colliery or Xstrata Coal in categories 3 to 8 –

- (i) for the purpose of retirement funding, 14.55 % of his wages actually earned in each month; plus
- (ii) for the purposes of risk benefits, 6% of deemed Monthly Earnings from which shall be deducted the cost of funeral benefits provided by a separate policy of insurance.

For Members employed by Delmas Coal in categories 3 to 8 –

- (i) for the purpose of retirement funding, 14.5% of his Wages actually earned in each month; plus
- (ii) for the purposes of risk benefits, 6% of Deemed Monthly Earnings from which shall be deducted the cost of funeral benefits provided by a separate policy of insurance.

For Members employed by Ingwe Collieries in categories 3 to 8 –

- (i) for the purpose of retirement funding, 15 % of his Wages actually earned in each month; plus
- (ii) for the purposes of risk benefits, 6% of Deemed Monthly Earnings from which shall be deducted the cost of funeral benefits provided by a separate policy of insurance.

For all other Members the total contribution payable by and in respect of each Member shall be as follows:

- (i) for the purpose of retirement funding, 14% of his Wages actually earned in

each month; plus

- (ii) for the purpose of risk benefits, 6 % of Deemed Monthly Earnings from which shall be deducted the cost of funeral benefits provided by a separate policy of insurance.

2. Resolved that with effect from 1 July 2006, the Rules of the Fund shall be amended as follows:

Rule 22(2) shall be amended as follows:

- (2) the total contribution payable by and on behalf of each Member in the Gold Mines, which is subject to the Wage Agreement 2005/6 concluded between the Chamber of Mines, National Union of Mineworkers, United Association of South Africa and Solidarity on 23 August 2005, shall be as follows:

- (i) for the purpose of retirement funding, 14.5% of his Wages actually earned in each month; plus
- (ii) for the purpose of risk benefits, 7% of Deemed Monthly Earnings from which shall be deducted the cost of funeral benefits provided by a separate policy of insurance.

The total contribution payable by and on behalf of each Member in Collieries, which in terms of the Wage Agreement 2005/6 concluded between the National Union of Mineworkers, United Association of South Africa (UASA) and the Chamber of Mines on 2 September 2005, shall be as follows:

For members employed by Anglo Coal, Eyesizwe Coal, Kangra Coal, Springlake Colliery and Xstrata Coal in categories 3 to 8 –

- (i) for the purpose of retirement funding, 15.5% of his Wages actually earned in each month; plus

- (ii) for the purpose of risk benefits, 6% of Deemed Monthly Earnings from which shall be deducted the cost of funeral benefits provided by a separate policy of insurance.

For Members employed by Ingwe Collieries in categories 3 to 8 –

- (i) for the purpose of retirement funding, 16.5% of his Wages actually earned in each month; plus
- (ii) for the purpose of risk benefits, 6% of Deemed Monthly Earnings from which shall be deducted the cost of funeral benefits provided by a separate policy of insurance.

For Members employed by Delmas Coal in categories 3 to 8 –

- (i) for the purpose of retirement funding , 14.5% of his Wages actually earned in each month ; plus
- (ii) for the purpose of risk benefits, 6% of Deemed Monthly Earnings from which shall be deducted the cost of funeral benefits provided by a separate policy of insurance.

For all other Members the total contribution payable by and in respect of each Member shall be as follows:

- (iii) for the purpose of retirement funding, 14% of his Wages actually earned in each month ; plus
- (iv) for the purpose of risk benefits, 6% of Deemed Monthly Earnings from which shall be deducted the cost of funeral benefits provided by a separate policy of insurance.

- (3) The contribution payable by a Member shall be at such rate as set out in the agreement referred to in Rule 17(1). The balance of the contributions payable in terms of sub-rule (2) above shall be payable by

his Employer.

- (4) Notwithstanding the provisions of sub-rule (2)(i) above, the Trustees shall accept such lower percentage in respect of retirement funding for all or a category of Employees in the Service of an Employer who was a participating employer on 1 July 1997 as set out in the agreement referred to in Rule 17(1).
- (5) A Member may, subject to such conditions as the Trustees determine, pay additional voluntary contributions to the Fund.
- (6) The contributions payable by each Member shall be deducted by his Employer from the Wages for his Service during that month and paid to the Fund with the contributions due by the Employer to the Fund for the benefit of the Member, within seven days of the expiry of the period in respect of which they are paid. *Amend. 2*
- (7) Minimum information to be furnished by every Employer to the Fund with regard to payment of contributions in terms of Section 13A(2) of the Act shall comply with the requirements set out in Regulation 33 as amended.

### Transfer of moneys to the Fund

23. Subject to the approval of the Trustees, if an amount is paid to the Fund in respect of a Member from any source otherwise than in terms of Rule 22, such portion of that amount as the Trustees in their absolute discretion determine shall be deemed to be a contribution by that Member and shall be allocated to the Member's Portion and/or the Member's Transfer Portion and the balance shall be deemed to be a contribution by an Employer in respect of that Member and shall be allocated to the Employer's Portion of that Member's Full Benefit. *Amend 2 / Amend 4*

### Interest on contributions

- 23A. If a contribution payable in terms of Rule 22(3) is not paid to the Fund before the expiry of the period within which it is required to be paid, the Employer shall pay to the Fund interest thereon at such rate and on such basis as the Trustees shall from time to time determine. *Amend 4 / Amend 5*

### **New Employers**

- 23B. Notwithstanding any other provisions in these rules, if any Employer elects to participate in the Fund in terms of Rule 17, the Trustees, after consulting the Actuary, shall have power to make such financial and other arrangements and impose such conditions as they think fit to ensure that the admission of the Employees of that Employer shall not be to the disadvantage of the existing Members, and in particular the Trustees may require the new Employer and/or Members to pay such an initial contribution to the investment reserve account or risk reserve account as certified by the Actuary to be necessary.

## **ACCOUNTING PROVISIONS AND FINANCIAL REVIEW**

### **Accounts**

24. (1) The assets of the Fund shall be held in six accounts, to be known as the Members' Account, the Employers' Account, the Members' Voluntary Account, the Members' Transfer Account, the Risk Reserve Account and the Investment Reserve Account. The assets comprising the Members' Account, the Employers' Account, the Members' Voluntary Account and the Members' Transfer Account shall be allocated amongst the Members and the records shall be maintained as such. The assets comprising the Investment Reserve Account shall be allocated to all accounts in terms of Rule 24 (7) (b) (i) and in terms of Rule 24 B (5). The assets comprising the Risk Reserve Account shall not be allocated amongst the Members but shall be maintained for the Fund as a whole. Each account shall be maintained separately from the others and transfers between accounts shall take place only as specified in the rules. *Amend. 2*

- (2) **The Members' Account**

The Members' account shall comprise the Members' Portions. The following transactions shall be recorded in this account:

(a) **Credits**

- (i) contributions made by the Members in terms of Rule 22(2)(i);
- (ii) investment earnings transferred from the investment reserve account in terms of Rule 24B;
- (iii) transfers from the risk reserve account in terms of Rule 24A;
- (iv) deemed contributions in terms of Rule 23. *Amend 2*

(b) **Debits**

- (i) benefits paid in terms of Rules 25, 26, 27, 28 and 29;
- (ii) transfers to another fund in terms of Rule 30A.
- (iii) amounts deducted for purposes of repayment of an outstanding housing loan in terms of Rule 31(10)(2)(e) *Amend 2*

(3) **The Employers' Account**

The Employers' account shall comprise the Employers' Portions. The following transactions shall be recorded in this account:

(a) **Credits**

- (i) contributions made by the Employers in terms of Rule 22(2)(i);
- (ii) investment earnings transferred from the investment reserve account in terms of Rule 24B;
- (iii) transfers from the risk reserve account in terms of

## Rule 24A;

- (iv) deemed contributions in terms of Rule 23.

## (b) Debits

- (i) benefits paid in terms of Rules 25, 26, 27, 28 and 29.
- (ii) transfers to another fund in terms of Rule 30A;
- (iii) amounts deducted for purposes of repayment of an outstanding housing loan in terms of Rule 31(10)(2)(e);
- (iv) pro rata portion of fund expenses incurred. *Amend 2*

## (4) The Members' Voluntary Account

The Members' voluntary account shall comprise the Members' Voluntary Portions. The following transactions shall be recorded in this account:

## (a) Credits

- (i) contributions made by the Members in terms of Rule 22(5);
- (ii) investment earnings transferred from the investment reserve account in terms of Rule 24B.

## (b) Debits

- (i) benefits paid in terms of Rules 25, 26, 27, 28 and 29.
- (ii) transfers to another fund in terms of Rule 30A;

- (iii) amounts deducted for purposes of repayment of an outstanding housing loan in terms of Rule 31(10)(2)e.

**(5) The Members' Transfer Account**

The Members' transfer account shall comprise the Members' Transfer Portions. The following transactions shall be recorded in this account :

**(a) Credits**

- (i) deemed contributions in terms of Rule 23.

- (ii) Investment earnings transferred from the investment reserve account in terms of Rule 24B.

**(b) Debits**

- (i) benefits paid in terms of Rules 25, 26, 27, 28 and 29.

- (ii) transfers to another fund in terms of Rule 30A;

- (iii) amounts deducted for purposes of repayment of an outstanding housing loan in terms of Rule 31(10)(2)e.

- (iv) pro rata portion of expenses incurred by the Fund.

**(6) The Risk Reserve Account**

The primary purpose of the risk reserve account is to provide for future death benefit payments in excess of those covered by the deceased Member's Full Benefit. The following transactions shall be recorded in this account:



**(a) Credits**

- (i) contributions paid to the Fund by each Employer in terms of Rule 22(2)(i);
- (ii) contributions paid to the Fund by each Member in terms of Rule 22(2)(ii);
- (iii) payments to the Fund by a registered Insurer with whom the Fund has effected a group life assurance policy on the lives of Members in the event of the death of a Member;
- (iv) investment earnings transferred from the investment reserve in terms of Rule 24B; *Amend 2*

**(b) Debits**

- (i) payments of premiums to a registered insurer or Insurers with whom the Fund has effected a group life policy on the lives of Members;
- (ii) transfers to the Members Account in terms of Rule 24A;
- (iii) expenses.

**(7) The Investment Reserve Account**

The purpose of the investment reserve account is to manage fluctuations in the market value of the Fund's investments and to facilitate transfers of assets among the different accounts. This account is also intended to meet expenses related to the management and administration of the Fund and to meet any other unforeseen

contingencies. In addition, it may be used to provide investment declarations to the other accounts. The following transactions shall be recorded in this account:

(a) **Credits**

- (i) all interest, dividends, rentals received and any other revenue and capital appreciation or depreciation on the assets of the Fund.

(b) **Debits**

- (i) investment declarations to all accounts;  
 (ii) payment of expenses in terms of Rule 33.

*Amend 2*

**Transfers between accounts**

24A (1) In the event of the death of a Category A Member, an amount equal to 36 times his deemed monthly earnings calculated immediately prior to his death shall be transferred to the Member's account from the Risk Reserve Account to be paid to the Member's dependants and/or nominated beneficiaries. *Amend 2*

(2) The Trustees may, after consultation with the Actuary, transfer monies from the risk reserve account to the other accounts to be allocated as they see fit; provided that no transfer shall be made to any account in respect of a Category B Member. *Amend 2*

**Financial review**

24B. (1) At the end of every calendar year, or at such shorter intervals as the Trustees decide, the financial condition of the Fund shall be reviewed

by the Actuary. Subject to the provisions of subrule (2), any profit or loss made by the Fund since the preceding review shall be determined and allocated by the Trustees on the advice of the Actuary.

*Amend, 7*

- (2) For the purposes of this rule, any profit or any portion of any profit may be allocated:
- (i) by crediting it to the Members' account; or
  - (ii) by crediting it to the Employers' account; or, be re
  - (iii) by crediting it to the Members' voluntary account; or
  - (iv) by crediting it to the Members' transfer account; or
  - (v) by crediting it to the risk reserve account *Amend, 4*

- (3) For the purposes of this rule, any loss may be allocated:

- (i) by deducting it from a profit to be credited in terms of subrule (2)(i), (ii), (iii) or (iv); or
- (ii) by debiting it to the risk reserve account or the investment reserve account;

provided that any loss resulting from the operation of the risk reserve account shall be debited to that account.

- (4) In the event that the contribution paid towards risk benefits is not sufficient, the Trustees shall restructure the benefits accordingly.
- (5) When a financial review is conducted in terms of Rule 24(B)(1), and as any other time as the Trustees decide to be necessary, the Trustees shall declare the Additional Percentage from the assets of the

Investment Reserve Account. The Additional Percentage shall be applied in terms of Rule 30B. *Amend 2*

## BENEFITS

### Retirement

25. (1) A Member who has attained the Normal Retirement Age shall retire from the Service; provided that he may, if he and his Employer agree, continue in the Service for a further period.
- (2) A Member who has attained the age of 55, may, with the consent of his Employer retire at any time before he attains the Normal Retirement Age.
- (3) A Member who retires in terms of this rule shall become entitled to an annuity or annuities of such amount as can be purchased by his Full Benefit plus his Member's Voluntary Portion and his Member's Transfer Portion; provided that the Member may elect to commute part or the whole of such benefit for a lump sum. *Amend 2*
- (4) An annuity which becomes payable in terms of Rule 25(3) shall be purchased by the Fund in the Member's name from a Registered Insurer, subject to the following provisions: *Amend 4*
- (a) The Trustees must approve the annuity or annuities and the Registered Insurer from whom they are to be purchased;
  - (b) the annuity or annuities so purchased shall be compulsory, non-commutable and non-assignable and payable for life; and
  - (c) the purchase shall be subject to any further requirements of the Revenue Authorities if more than one annuity is purchased.

Thereafter the Fund shall have no further liability in respect of the Member, such liability resting with the Registered Insurer from whom such annuity or annuities are purchased.

### Incapacitation

- 26 (1) A Member who satisfies the Trustees that:
- (a) he is permanently unfit to continue in or to resume employment in the category of work on which he has been employed in the Service of an Employer; and
  - (b) he is permanently unfit to continue in or to resume employment in any other category of work for which the Chamber minimum annual basic Wages are greater than or equal to those for the category of work in which he has been so employed

shall be entitled to a Full Benefit plus his Member's Voluntary Portion and Member's Transfer Portion. *Amend 2 / Amend 4*

### Death

27. (1) (a) (i) If a Category A Member dies, a benefit equal to his Full Benefit at the date of death and thirty-six times his Deemed Monthly Earnings calculated immediately prior to his death shall, subject to the provisions of this rule, be granted to his Dependants and/or nominated beneficiaries.
- (ii) In addition, the deceased Member's Member's Voluntary Portion and Member's Transfer Portion shall be paid to his Dependants and/or nominated beneficiaries.

(b) (i) If a Category B Member dies a benefit equal to his Full Benefit at the date of death shall, subject to the provisions of this rule, be granted to his Dependants and/or nominated beneficiaries.

(ii) In addition, the deceased Member's Member's Voluntary Portion and Member's Transfer Portion shall be paid to his Dependants and/or nominated beneficiaries. *Amend 2*

(2) If within twelve months of the death of a Member the Trustees become aware of a Dependant or Dependants of the Member and the Member has not nominated, in terms of Rule 20(1), a beneficiary other than a Dependant, the benefit referred to in subrule (1) shall be paid to such Dependants or, in such proportions as the Trustees may deem equitable, to such Dependants. *Amend 4*

(3) If the Trustees cannot trace any Dependant of the Member within twelve months of the death of the Member and the Member has nominated, in terms of Rule 20(1), a beneficiary other than a Dependant to receive the benefit referred to in subrule (1) or such portion of that benefit as is specified by him in terms of that rule, the benefit or such portion of the benefit shall be paid to such Nominated Beneficiary; provided that where the aggregate amount of the debts in the estate of the Member exceeds the aggregate amount of the assets in his estate, so much of the benefit as is equal to the difference between such aggregate amount of debts and such aggregate amount of assets shall be paid into the estate and the balance of such benefit or the balance of such portion of the benefit as specified by the Member in terms of Rule 20(1) shall be paid to the Nominated Beneficiary. *Amend 4*

(4) If the Member has a Dependant and the Member has also nominated a beneficiary in terms of Rule 20(1) to receive the benefit referred to in

subrule (1) or such portion of that benefit as is specified by him in terms of that rule, the Fund shall within twelve months of the death of such Member pay the benefit or such portion thereof to such Dependant or Nominated Beneficiary in such proportions as the Trustees may deem equitable. *Amend 4*

- (5) If the Trustees cannot trace any Dependant of the Member within twelve months of the death of the Member and the Member has not nominated a beneficiary in terms of Rule 20(1), or if the Member has nominated a beneficiary to receive a portion of the benefit referred to in subrule (1), the benefit or the remaining portion of the benefit after payment to the Nominated Beneficiary, shall be paid into the estate of the Member or, if no inventory in respect of the Member has been received by the Master of the Supreme Court in terms of section 9 of the Estates Act, 1965, into the Guardian's Fund and there shall be no further claim on the Fund in respect of him; provided that if an amount has been paid into his estate in terms of the proviso to subrule (3), the benefit shall for the purposes of this subrule be reduced by such amount. *Amend 4*
- (6) The Trustees shall have the power to effect with a registered insurer and to keep in force a group life assurance policy or policies on the lives of Members for amounts recommended from time to time by the Actuary, provided that, if the life of any Member is not insured for the amount so recommended, the benefits payable in terms of this rule shall be reduced as the Trustees, after consulting the Actuary, determine, and the Member shall be notified of the restriction. The cost of such group life assurance policy or policies shall be met from the risk reserve account.
- (7) If a Terminally Ill Member who was a Category A Member dies within twelve months of leaving the Service or the attainment of the Normal Retirement Age whichever occurs first an amount equal to thirty-six times his Deemed Monthly Earnings calculated immediately prior to his leaving the Service shall, subject to the provisions of this rule, be

granted to his Dependants and/or nominated beneficiaries.

- (8) Notwithstanding the other provisions of this Rule, if a Member who left the Service and received a benefit, rejoins the Fund within twenty-four months of leaving the Service the benefit paid in respect of him in terms of this Rule 27(1) and 27(7) shall be reduced by the amount of his Full Benefit at the date he previously left the Service; provided that any such reduction shall not reduce the amount of this benefit to less than the deceased Member's Full Benefit, Member's Voluntary Portion and Member's Transfer Portion.

### Retrenchment and reorganization

28. If a Member who is not entitled to a benefit in terms of Rule 25 or 26 is discharged by his Employer owing to a general scheme for the reduction or reorganization of staff, or to retrenchment generally, he shall be granted a Full Benefit plus his Member's Voluntary Portion and Member's Transfer Portion.

*Amend 2*

### Resignation

29. (1) If a Member who has not become entitled to a benefit in terms of Rule 25 or 26 has resigned voluntarily or has been discharged or has left the Service for a reason for which a benefit is not specifically provided elsewhere in these rules, and has not returned to the Service within 6 months of the date on which he last left the Service, he shall be granted his Full Benefit.

- (2) In addition to the benefit set out in sub-rule (1), the Member shall be paid his Member's Voluntary Portion and Member's Transfer Portion.

*Amend 2*

- (3) Where the Trustees are satisfied that such action is justified, they shall have the power to reduce or waive the period of 6 months referred to in sub-rule (1) in respect of a class of Members. Such reduction or waiver



shall be effected by resolution valid for a period not exceeding 6 months. ~~Amend 4~~

29.A. (1) The benefit in terms of Rule 28 or Rule 29 shall be paid to the Member as a lump sum; provided that ~~Amend 4~~

- (a) the Member may elect to transfer his benefit in terms of Rule 29A (2); or
- (b) subject to the requirement that the value of the benefit payable in terms of Rule 28 or Rule 29 is of such minimum amount as the Trustees at their discretion may decide from time to time, the Member may elect to become a deferred beneficiary in terms of the provisions of Rule 30 (2).

It is specifically provided that if the Member does not elect within 6 months after the date of leaving Service that his benefit be paid to him as a lump sum or transferred in terms of Rule 29A (2) then provided the value of such benefit is of such minimum amount as the Trustees may determine, he shall become a deferred beneficiary in terms of the provisions of Rule 30.

- (2) Instead of receiving the benefit entirely as a lump sum, the Member may transfer all, or, subject to the proviso to this rule, part of the benefit to another Approved Provident Fund, a Preservation Provident Fund, an Approved Pension Fund or an Approved Retirement Annuity Fund; provided that transfer to a Preservation Provident Fund is subject to the requirements of the Revenue Authorities as specified from time to time
- (3) When a benefit has been paid to the Member as a lump sum in terms of sub-rule (1) or transferred in terms of sub-rule (2), the Member shall have no further claim on the Fund.

## Deferred Beneficiary

30. (1) Notwithstanding the other provisions of these rules, a Member who becomes entitled to a benefit in terms of Rule 25 or Rule 26 and has not attained the Normal Retirement Age may elect in a form and manner prescribed by the Trustees not to receive his benefit but to remain a Member of the Fund. If such Member so elects

- Amend. 2*
- (a) on attaining retirement age, such Member shall be granted a Full Benefit together with his Member's Voluntary Portion and Member's Transfer Portion;
  - (b) if such Member dies before his benefit is paid to him, an amount equal to his Full Benefit together with the Member's Voluntary Portion and Member's Transfer Portion shall be granted to his Dependants and/or Nominated Beneficiaries.

- (2) If a Member is permitted to exercise the option referred to in Rule 29A (1) (b) the following provisions shall apply:

- (a) contributions in terms of Rule 22 shall cease;
- (b) that part of the death benefit payable in terms of Rule 27 (1) (a) (i) that is calculated as a multiple of the Member's Deemed Monthly Earnings shall not be payable;
- (c) if the Member dies before reaching his Normal Retirement Age, the benefit shall become payable to his Dependants and/or Nominated Beneficiaries in terms of the provisions of Section 37C of the Act;
- (d) when the Member reaches his Normal Retirement Age, the benefit shall become payable in accordance with the provisions

of Rule 25 (4).

### **Benefit on transfer to another fund**

30A A Member who elects, in terms of Rule 19(4), to withdraw from his membership for the purpose of participating in another Approved Provident Fund or Approved Pension Fund in which his Employer participates, may elect either to have an amount equal to his Full Benefit plus his Member's Voluntary Portion and Member's Transfer Portion transferred to that other fund or to become a deferred beneficiary in terms of Rule 30. *Amend. 2*

30B Whenever a benefit becomes payable to or in respect of a Member on retirement, incapacitation, death, retrenchment or reorganisation, resignation or transfer in terms of Rule 25,26,27,28,29 or 30A, the Trustees shall increase his Full Benefit by a share of the Investment Reserve Account, calculated as at the date on which the applicable circumstance listed above applies. The share of the Investment Reserve Account shall be calculated by applying the Additional Percentage to his Full Benefit and shall be paid from the Investment Reserve Account to the Member or if applicable, to his beneficiaries.

Provided that if an amount was transferred into the Fund in respect of any Member within 24 months of the above date, the Additional Percentage shall not be that as calculated in terms of the definition in Rule 2, but shall be such other percentage as the Trustees, after consulting the Actuary decide, having regard to the period since the amount was received by the Fund, the investment earnings of the Fund and the interest credited in that period.

## **FINANCIAL PROVISIONS**

### **Investments**

31. (1) All moneys received on account of the Fund shall be paid into an

account opened in the name of the Fund with a registered banking Institution.

- (2) The Trustees shall have power, subject to the provisions of section 19 of the Act and this rule, to invest in immovable property and otherwise invest, lend, put out at interest, place on deposit, make advances of, or otherwise deal with all the moneys of the Fund upon such securities and in such manner as they from time to time determine, and to dispose of immovable property and realise, vary, reinvest, or otherwise deal with such securities and other investments as they from time to time determine.
- (3) The power of the Trustees to make investments and to realise, vary, reinvest or otherwise deal with the securities concerned, may be delegated by the Trustees, on such terms and conditions as they may specify, to:
- (a) a sub-committee of such of their number as they nominate;
  - (b) a financial institution as defined in the Financial Institutions (Investment of Funds) Act, 1984;
- or
- (c) a person approved in terms of Section 4(1)(a) of the Stock Exchange Act, 1985.

The Trustees shall not be liable for the negligence, dishonesty or fraud of an institution referred to in (b) or a person referred to in (c); provided that the Trustees have received written confirmation that the institution referred to in (b) or the person referred to in (c) have arranged insurance cover of an amount satisfactory to the Trustees in respect of any liability which may be incurred by such person or institution in

respect of the Fund's investments.

- (4) Any amount advanced on mortgage of immovable property except to a Member shall not, together with any other amount that has been or can be advanced on security of a prior or *pari passu* mortgage of that property, exceed seventy-five per cent of the value of the property on the date of the advance.
- (5) The Fund may make a loan to a Member to buy or improve immovable property subject to the limits and conditions prescribed in the Act.
- (6) Investments in immovable property shall be subject to the conditions laid down by the Registrar.
- (7) The Trustees may obtain an overdraft from a bank, or borrow from an Employer or any other party, on such terms as they think fit, such sum as they approve for the purpose of completing any investment or meeting any temporary unforeseen cash shortage, and for this purpose may give such security as they decide.
- (8) Every document of title to an investment shall be registered in the name of the Fund or of a nominee company approved by the Registrar. Every document of title belonging to or held by the Fund shall be kept in the safes or strongrooms at the registered office of the Fund or in a banking institution, as decided by the Trustees.
- (9) Subject to the consent of the Registrar in terms of section 19(6) of the Act, shares in the capital of or debentures issued by an Employer or a subsidiary of an Employer may be purchased, provided such shares or debentures are listed on the Johannesburg Stock Exchange.
- (10) (1) The Fund shall have the power to bind itself to guarantee and/or stand surety in favour of one or more recognised financial

institutions in respect of housing loans granted by such recognised financial institutions to members.

(2) The Fund shall guarantee such loans to members subject to the following conditions :

- (a) the loans must be for the purpose of housing and in accordance with the requirements stipulated in Section 19(5) of the Act,
- (b) the amount in respect of which the guarantee is furnished shall not exceed sixty per cent of an amount equal to the member's withdrawal benefit that would have been paid had the member withdrawn from the Fund on the date on which the application for the said loan was made,
- (c) the member must sign all the necessary forms required by the administrators, the financial institutions or the employer from time to time,
- (d) on the members retirement, death or withdrawal from the Fund, the Fund shall be entitled to deduct from the member's benefit, the amount due to the said recognised financial institution in respect of the said loan, together with interest, as advised to the Fund in writing by the said Institution, but not exceeding the total amount of the guarantee given by the Fund.
- (e) In the event that a Member remaining in Service defaults in repayments on a housing loan granted by a recognised financial institution and guaranteed by the Fund in terms of Rule 31(10)(1) above, and such Institution demands from the Fund payment of the full outstanding amount of the housing loan granted to the Member, the Fund shall

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be entitled, after due consideration by the Board of all available alternatives for repayment of the loan by the Member, to direct as a last resort that the amount of the loan, together with any interest or tax which may be payable on such amount, be recovered from the benefit to which the Member would have been entitled in terms of Rule 29, had he resigned from Service on the date on which the Board authorises payment of the housing loan amount to such institution, provided that, in the event that the amount to be recovered exceeds the Member's benefit in terms of Rule 29, the Board may, at its sole discretion, deduct such amount from the Member's Full Benefit as at the date on which the Board authorises payment of the housing loan amount to such institution. The Member's Portion, Member's Voluntary Portion, Member's Transfer Portion and Employer's Portion held in the Fund in respect of the Member, shall be adjusted accordingly.

*Amend 2*

### Signing powers

32. Every cheque, contract or other document pertaining to the Fund shall be signed by such persons as the Trustees by resolution appoint.

### Expenses

33. (1) The whole of the expenses of the Fund shall be paid by the Fund. *Amend 2*
- (2) Subject to the provisions of subrule (3), if an Employer recognizes a bargaining unit or elects to participate in the Fund in terms of the definition of "eligible employee" in Rule 2 and a person in its Service who is not already a Member becomes a Member as a result of such recognition or election on or within three months after the date of such recognition or election, such Employer shall, for each such person, contribute the amount of R2-00, or such greater amount to allow for inflation as the Trustees may decide, towards the initial expenses of

*Amend 4*

the Fund in respect of that Employer.

- (3) ~~The Trustees may at any time waive the provisions of subrule (2).~~

*Amend 4*

### **Accounts**

34. The Trustees shall cause full and true accounts of the Fund to be kept, to be made up annually as at 31st December, and to be audited by the Auditor.

*34(A) Amend 5*

### **MISCELLANEOUS PROVISIONS**

#### **Communication**

35. The procedure and related expenditure for the establishment of Regional Advisory Committees and other methods of communication between the Trustees and the Members shall be approved by both a majority of the Members' Trustees and a majority of the Employers' Trustees.

#### **Effect on terms of employment**

36. (1) Nothing in these rules shall in any way restrict the right of an Employer to terminate the employment of any Member, or the right of a Member to terminate his own employment.
- (2) No person shall have any claim concerning the Fund either upon the Fund or against the Trustees or the Employers, except in accordance with these rules.
- (3) No benefit, right or interest to which a Member may claim to be entitled in terms of these rules shall be used as a ground for damages in any action brought by him against his Employer.

#### **Variation of method of payment**

37. Notwithstanding a contrary provision contained in the rules, if the Trustees, in their absolute discretion, for some good and sufficient reason deem it not



advisable to make payment of a benefit in the manner elsewhere provided for in these rules, they may pay the benefit in one of the following ways:

- (1) To a Trustee contemplated in the Trust Property Control Act, 1988 (Act NO. 57 of 1988), for the benefit of the beneficiary, in the case of death benefits; and/or
- (2) Where a beneficiary is a minor, to the guardian of such minor; and/or
- (3) Where the court has appointed a curator bonis for a beneficiary, to the curator bonis for the benefit of such beneficiary. Where a beneficiary is contractually incapacitated, to the curator of such beneficiary, for the benefit of the beneficiary; and/or
- (4) In the case of death benefits, to a minor beneficiary in instalments, provided that interest at a reasonable rate, having regard to the investment return earned by the Fund shall be added to the outstanding balance at such times as the Trustees may determine and provided further that any balance owing to such beneficiary at the date on which he attains majority or dies, whichever occurs first, shall be paid in full; and/or
- (5) In the case of death benefits, to a major beneficiary in instalments, provided that the amount of the payments, intervals of payment, interest to be added and other terms and conditions are disclosed in a written agreement and that the agreement may be cancelled by either party on written notice not exceeding 90 days, provided further that in the event that the agreement is cancelled that balance of the benefit shall be paid to the beneficiary in full.

A decision of the Trustees in terms of this rule may be varied by them from time to time in their sole discretion.

A payment made in terms hereof shall not be made in a manner which

conflicts with the provisions of the Act or the Revenue Authorities.

### Unpaid benefits

38. (1) If a Member does not claim payment of his benefit within three years after leaving the Service, or, in the case of a Member who has made an election in terms of Rule 30(1), within three years after attaining the Normal Retirement Age, the benefit shall be transferred to the Guardian's Fund or any Unclaimed Benefits Fund that may be set up by Legislation, whereupon the Fund shall cease to have any liability in respect of the said benefit. *Amend 2 / Amend 4*

### Deductions from benefits

39. (1) The Trustees shall have the right to make such deductions from the benefit to which a Member or other beneficiary is entitled in terms of the rules as are permitted in terms of Section 37D of the Act and in respect of which a claim has been lodged in writing within such reasonable time of the event giving rise to the benefit as the Trustees may from time to time fix for making such claims.

Notwithstanding any other provisions of these rules, the Trustees may, where an employer has instituted legal proceedings in a court of law and/or laid a criminal charge against the Member concerned for compensation in respect of damage caused to the Employer as contemplated in Section 37D of the Act, withhold payment of the benefit until such time as the matter has been finally determined by a competent court of law or has been settled or formally withdrawn; provided that:

- (a) the amount withheld shall not exceed the amount that may be deducted in terms of Section 37D(b)(ii) of the Act;
  - (b) the Trustees in their reasonable discretion are satisfied that the Employer has made out a prima facie case against the Member concerned and there is reason to believe that the Employer has a reasonable chance of success in the proceedings that have been instituted;
  - (c) the Trustees are satisfied that the Employer is not at any stage of the proceedings responsible for any undue delay in the prosecution of the proceedings;
  - (d) once the proceedings have been determined, settled or withdrawn, any benefit to which the Member is entitled is paid forthwith; and
  - (e) the Trustees, at the express written request of a Member whose benefit is withheld, may, if applicable and practical, permit the value of the Member's benefit as at the time of such request to be isolated, in whatever manner the Trustees believe appropriate, from the possibility of a decrease therein as a result of poor investment performance. *Amend 2*
- (2) Notwithstanding anything to the contrary contained in these rules, if a Member who has received a loan from the Fund ceases to be a Member, any amount owing by him to the Fund in respect of such loan shall become due and payable forthwith and the Trustees shall be entitled, but not bound, to apply the provisions of subrule (1) to the loan.

40. (1) No right to a benefit payable in terms of these rules shall be capable of being ceded or hypothecated or be liable to be attached or be subject to any form of execution under a judgement or order of a court of law.
- (2) If any person attempts to cede or hypothecate any right to a benefit to which he is entitled in terms of these rules, the benefit shall be withheld or suspended as the Trustees decide; provided that they may pay the whole or part of the benefit to one or more of his Dependants during such period as they determine.
- (3) If the estate of a Member or beneficiary is sequestrated or assigned, the right to any benefit to which he is entitled in terms of these rules shall not form part of the assets of his insolvent or assigned estate.
- (4) Except as provided in Rules 27(3) and 38, no right to a benefit under these rules shall become an asset in the deceased estate of any person.

### Winding-up and withdrawal of Employers

41. (1) If all the Employers are wound up, whether voluntarily or not, or if all the Employers cease to carry on business, the Trustees shall, subject to the approval of the Registrar, appoint a liquidator, who shall, as from the date of the approval of his appointment, liquidate the Fund by dividing the moneys of the Fund, after payment of all expenses incurred in terminating the Fund, among the Members and beneficiaries in such shares and manner as may be decided by the liquidator after consulting the Actuary; provided that -
- (a) if a person to whom an amount is payable cannot be traced, the benefit due to such person shall be transferred to the Guardian's Fund. Upon transfer of the benefits, the Fund shall cease to have any liability in respect of said benefit, and *Amend 4*
- (b) every Member who left the Service of the Employers

- (b) every Member who left the Service of the Employers immediately before the date of liquidation, either voluntarily or due to a reduction or reorganization of staff, shall for the purpose of this rule be regarded as being a Member on the date of liquidation of the Fund, but any benefit already paid to him shall be taken into consideration in determining the amount payable to him;

provided further that if the Employers are wound up for the purpose of reconstruction in a similar or amended form, the reconstructed companies shall have the right of taking the place of the Employers, and if they exercise that right, the Fund shall not be affected except that "Employers" shall then mean the companies as reconstructed.

- (2) If all the Employers that are Members of the Chamber cease to be Members of the Chamber, the Trustees may elect -
- (i) to transfer the interest of each Member and beneficiary, as determined by the Trustees after consulting the Actuary, to another Approved Provident Fund, Preservation Provident Fund, Approved Pension Fund or Approved Retirement Annuity Fund provided that the transfer to a Preservation Provident Fund is subject to the requirements of the Revenue Authorities; or
  - (ii) to continue the Fund in respect of the existing members and beneficiaries without the Employers' contributions, in which event the rules shall be amended on the advice of the Actuary and the Fund shall not be otherwise affected; or
  - (iii) that the Fund shall be terminated in accordance with subrule (1).
- (3) If an Employer that is a Member of the Chamber ceases to be a Member of the Chamber it shall cease to be an Employer unless the Chamber and a majority of the Members' Trustees agree to a written request from such Employer that it remain an Employer.

- (4) If an Employer ceases to be an Employer in terms of sub-rule (3) or because of an amendment to the definition of "Affiliated Organization" in Rule 2 and participates in another Approved Provident Fund or an Approved Pension Fund of which any of the Members in the Service of such Employer are entitled to become Members, it may elect, subject to the approval of the Trustees which shall not be unreasonably withheld, that for each such Member an amount equal to his Full Benefit be transferred to such fund.
- (5) An Employer may, on giving twelve months' written notice to the Trustees, withdraw from the Fund in respect of all its Employees, in which event it shall cease to be an Employer.
- (6) If an Employer withdraws from the Fund in terms of sub-rule (5) and participates in another Approved Provident Fund or Approved Pension Fund of which any of the Members in respect of whom it is withdrawing are entitled to become Members, it may elect, subject to the approval of the Trustees which shall not be unreasonably withheld, that for each such Member an amount equal to his Full Benefit, his Member's Voluntary Portion and his Member's Transfer Portion be transferred to such fund. *Amend 2*
- (7) A Member who has ceased to be an eligible employee because his Employer has ceased to be an Employer in terms of sub-rule (3) or has withdrawn from the Fund in terms of sub-rule (5) may, if the provisions of sub-rules (4) and (6) do not apply, elect that an amount equal to his Full Benefit, his Member's Voluntary Portion and Member's Transfer Portion be transferred to another Approved Provident Fund Preservation Provident Fund, Approved Pension Fund or Approved Retirement Annuity Fund; provided that transfer to a Preservation Provident Fund is subject to the requirements of the Revenue Authorities. *Amend 2*

- (8) A Member referred to in sub-rule (7) who does not make an election in terms of that sub-rule and is not entitled to a benefit in terms of Rule 25 shall be deemed to have resigned voluntarily and the provisions of Rule 30(1)(b) shall apply.

### Termination of Fund

42. All the Employers' Trustees or all the Members' Trustees may, on giving twelve months' written notice to the Fund, require that the Fund be terminated, in which event the provisions of Rule 41(1) or 41(2)(i), as decided by the Trustees, shall apply; provided that if such termination is required by the Employers' Trustees, the provisions of Rule 41(1) apply and the Members' Trustees unanimously agree, at a duly constituted meeting of the Trustees, to continue the Fund without the Employers' contributions, then the rules shall be amended on the advice of the Actuary and the Fund shall not be otherwise affected.

### Amendments to rules

43. (1) The Trustees may amend these rules by making new rules and altering or rescinding any existing rule; provided that every proposed amendment shall be referred to the Chamber and the Unions for approval, and no amendment shall be adopted without the concurrence of the Chamber and the Unions.
- (2) Every proposed amendment to these rules affecting the financial basis of the Fund shall be reported upon by the Actuary before being adopted.
- (3) The Trustees shall notify the Revenue Authorities of each amendment to these rules within two months of its approval by the Registrar.

*Amend 4*





**MINEWORKERS PROVIDENT FUND**

**Amendment No. 1**

The Trustees of the Mineworkers Provident Fund resolved on ~~23 November 2007~~ that with effect from ~~1 July 2008~~ the Rules of the Fund shall be amended as follows -

1. Rule 5 (11) shall be amended by the deletion of the word 'redeploy' and replacement with the word 'remove'.
2. Rule 7(i) shall be amended by the replacement of the word 'redeployed' with the word 'removed'.

*The reason for the amendment is to correct an error that arose in the revision and consolidation of the rules with regard to the incorrect reference in the revised rules to the redeployment of trustees by NUM instead of recording the right to remove trustees as per the previously registered rules. The correction also ensures that NUM's rights related to removal of trustees and those of the Chamber of Mines in this regard are aligned and that the contradictions arising as a result of the dual reference can be avoided.*

Certified that the above resolution has been adopted by the Trustees in accordance with the provisions of the Rules of the Fund.

  
Chairman of the Board

  
Trustee

  
Principal Officer

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	4 <sup>th</sup>
DAG VAN	February 2008
DAY OF	
Registratour van Pers. N'ndas Department of Labour	

Certified that the above amendment is financially sound and will not render the fund unable to meet its obligations to its members in terms of the Rules.

D. M. HENDERSON

Actuary to the Fund



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# FINANCIAL SERVICES BOARD

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ENQUIRIES: **Edwin Tshabalala**  
OUR REF: **12/8/23053/1**  
DATE: **15 September 2008**

D. DIALING NO.: **012 428 8154**  
FAX: **012 422 2951**  
E-MAIL: **edwint@fsb.co.za**

**Portia Mashigo**  
Mineworkers Provident Fund  
P O BOX 1583  
**JOHANNESBURG**  
2000

**CASE NUMBER: 186777**

Dear Madam

## **AMENDMENT No. 2: MINEWORKERS PROVIDENT FUND**

Your letter of 19 May 2008 refers. I have enclosed a copy of the Amendment duly registered in terms of section 12(4) of the Pension Funds Act, No. 24 of 1956.

Yours faithfully

for: **REGISTRAR OF PENSION FUNDS**

## MINEWORKERS PROVIDENT FUND

### AMENDMENT NO: 2 TO THE REVISED RULES

Extracts from the minutes of a meeting of the Trustees of the Mineworkers Provident Fund held at Johannesburg on the 20 day of JUNE of 2008.

**Resolved** that with effect from 01 January 2006, the Rules of the Fund shall be amended as follows:

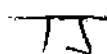
1. The definitions "Additional Percentage" and "Full Benefit" in Rule 2 shall be replaced as follows:

**"ADDITIONAL PERCENTAGE"** shall mean a percentage calculated by the Actuary as the value of the amount standing to the credit of the Investment Reserve Account as at the date of calculation, less one years' expected administration costs, divided by the value of the amount standing to the credit at that date of the Members Account.

**"FULL BENEFIT"** shall mean, for any Member at any particular date, the amount determined in terms of Rule 24(2).

2. The definitions "Employer's Portion", "Member's Portion", "Member's Transfer Portion" and "Member's Voluntary Portion" in Rule 2 shall cease to exist.
3. The definitions "Management Fees" and "Non-Member Spouse" shall be added in Rule 2 to read as follows:

**"MANAGEMENT FEES"** shall mean a Members' share of the cost of the management of and administration of the Fund, including, but not limited to, bank charges, costs relating to the valuation and audit of the Fund, the management of the assets of the Fund, the remuneration of the Trustees (if applicable), costs relating to the administration of housing guarantees contemplated in Rule 31(10), costs relating to the policies contemplated in these Rules, levies and fees payable to any institution in terms of relevant legislation, any commission or advisory fee payable to an intermediary and such other expenses as may be determined by the Trustees from time to time.



**"NON-MEMBER SPOUSE"** means a non-member spouse as defined in the Act.

4. Rule 22(6) shall be replaced by the following:

(6) The contributions payable by each Member shall be deducted by his Employer from the Wages for his Service during that month and paid to the Fund with the contributions due by the Employer for the benefit of the Member, within seven days of the expiry of the period in respect of which they are paid, failing which the Employer shall be liable to pay interest as prescribed by the Act from time to time on the amount outstanding.

5. Rule 23 shall be replaced by the following:

**Transfer of money to the Fund**

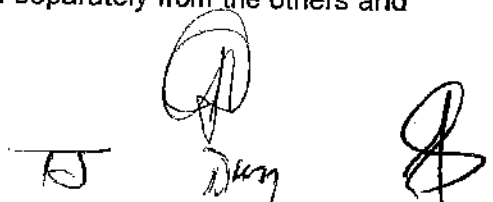
23. Subject to the approval of the Trustees, if an amount is paid to the Fund in respect of a Member from any source otherwise than in terms of Rule 22, such amount shall be deemed to be a contribution by that Member and shall be allocated to the Members Account.

6. Rule 24 shall be replaced as follows:

**ACCOUNTING PROVISIONS AND FINANCIAL REVIEWS**

**Accounts**

24 (1) The assets of the Fund shall be held in three accounts, to be known as the Members Account, the Risk Reserve Account and the Investment Reserve Account. The assets comprising the Members' Account shall be allocated amongst the Members and the records shall be maintained as such. The assets comprising the Investment Reserve Account shall be allocated to all accounts in terms of Rule 24(4)(b)(i) and in terms of Rule 24(B)(5). The assets comprising the Risk Reserve Account shall not be allocated amongst the Members but shall be maintained for the Fund as a whole. Each account shall be maintained separately from the others and

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transfers between accounts shall take place only as specified in the Rules.

(2) **The Members Account**

The Members Account shall comprise of each Member's Full Benefit. The following transactions shall be recorded in this account:

(a) **Credits**

- (i) contributions made by Members towards their retirement funding in terms of Rule 22(2);
- (ii) contributions made by the Employers towards the Members retirement funding in terms of Rule 22(2);
- (iii) any contributions made by Members in terms of Rule 22(5);
- (iv) any deemed contributions in terms of Rule 23;
- (v) any transfers from the Risk Reserve Account in terms of Rule 24A, and
- (vi) investment earnings transferred from the Investment Reserve Account in terms of Rule 24(4)(b)(i).

(b) **Debits**

- (i) pro rata share of the Management Fees, if applicable;
- (ii) benefits paid in terms of Rules 25, 26, 27, 28 and 29;
- (iii) any amounts transferred to another fund in terms of Rule 30A;

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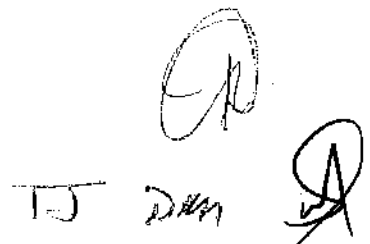
- (iv) any amounts deducted for the purpose of repayment of an outstanding housing loan in terms of Rule 31(10)(2)(e);
- (v) any amount assigned from a Member's benefit to his Non-Member Spouse in terms of an order that is binding on the Fund made by a competent court as well as employee's tax thereon, and
- (vi) any tracing costs referred to in Rule 38(b).

(3) **Risk Reserve Account**

The primary purpose of the Risk Reserve Account is to provide for future death benefits payments in excess of those covered by the deceased Member's Full Benefit. The following transactions shall be recorded in this account:

(a) **Credits**

- (i) contributions paid to the Fund by each Employer towards the Member's risk benefit in terms of Rule 22(2);
- (ii) contributions paid to the Fund by each Member towards the Member's risk benefit in terms of Rule 22(2);
- (iii) payments to the Fund by a Registered Insurer with whom the Fund has effected a group life assurance policy on the lives of Members in the event of the death of a Member;
- (iv) investment earnings transferred from the Investment Reserve Account in terms of Rule 24(4)(b)(i).


  
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**(b) Debits**

- (i) payments of premiums to a Registered Insurer or Registered Insurers with whom the Fund has effected a group life policy on the lives of Members; and
- (ii) any transfers to the Members Account in terms of Rule 24A.

**(4) Investment Reserve Account**

The purpose of the Investment Reserve Account is to manage fluctuations in the market value of the Fund's investments and to facilitate transfers of assets among the different accounts. This account is also intended to meet expenses related to the management and administration of the Fund and to meet any other unforeseen contingencies. In addition, it may be used to provide investment declarations to the other accounts. The following transactions shall be recorded in this account:

**(a) Credits**

All interest, dividends, rentals received and any other revenue and capital appreciation or depreciation of the assets of the Fund.

**(b) Debits**

- (i) investment declarations to all accounts, and
- (ii) payment of expenses in terms of Rule 33.

**Transfers between accounts**

- 24A (1) In the event of the death of a Category A Member, an amount equal to 36 times his deemed monthly earnings calculated immediately prior to his death shall be transferred to the Members Account from the Risk Reserve

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Account to be paid to the Member's Dependents and/or Nominated Beneficiary.

- (2) The Trustees may, after consultation with the Actuary, transfer monies from the Risk Reserve Account to the other accounts to be allocated as they see fit; provided that no transfer shall be made to any account in respect of a Category B Member.

### Financial Review

- 24B (1) At the end of every calendar year, or at such shorter intervals as the Trustees decide, the financial condition of the Fund shall be reviewed by the Actuary. Subject to the provisions of sub-rule (2), any profit or loss made by the Fund since the preceding review shall be determined and allocated by the Trustees on the advice of the Actuary.
- (2) For the purposes of this rule, any profit or any portion of any profit may be allocated:
- (i) by crediting it to the Members Account; or
- (ii) by crediting it to the Risk Reserve Account.
- (3) For the purpose of this Rule, any loss may be allocated:
- (i) by deducting it from a profit to be credited in terms of sub rule (2)(i); or
- (ii) by debiting it to the Risk Reserve Account or the Investment Reserve Account; provided that any loss resulting from the operation of the Risk Reserve Account shall be debited to that account.
- (4) In the event that the contribution paid towards risk benefit is not sufficient, the Trustees shall restructure the benefits accordingly.

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- (5) When a financial review is conducted in terms of Rule 24(B)(1) and as any other time as the Trustees decide to be necessary, the Trustees shall declare the Additional Percentage from the assets of the Investment Reserve Account. The Additional Percentage shall be applied in terms of Rule 30B.
7. Rule 25(3) shall be replaced by the following:
- (3) A member who retires in terms of this rule shall become entitled to an annuity or annuities of such amount as can be purchased by his Full Benefit; provided that the Member may elect to commute part or the whole of such benefit for a lump sum.
8. The reference to "Member's Voluntary Portion" and Member's Transfer Portion" in the last paragraph of Rule 26(1) shall be deleted.
9. Paragraph (ii) of Rule 27(1)(a) shall cease to apply.
10. Paragraph (ii) of Rule 27(1)(b) shall cease to apply.
11. Rule 28 shall be replaced by the following:

**Retrenchment and re-organisation**

28. If a Member who is not entitled to a benefit in terms of Rule 25 or Rule 26 is discharged by his Employer owing to a general scheme for the reduction or reorganisation of staff, or to retrenchment generally, he shall be granted his Full Benefit.
12. Rule 29(2) shall cease to apply.
13. Paragraphs (a) and (b) in Rule 30(1) shall be replaced by the following:
- "(a) On attaining retirement age, such Member shall be granted a Full Benefit;"

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"(b) if such Member dies before his benefit is paid to him, an amount equal to his Full Benefit shall be granted to his Dependants and/or Nominated Beneficiaries."

14. Rule 30A shall be replaced by the following:

**Benefit on transfer to another Fund**

30A. A Member who elects, in terms of Rule 19(4), to withdraw from his membership for the purpose of participating in another Approved Provident Fund or Approved Pension Fund in which his Employer participated, may elect either to have an amount equal to his Full Benefit transferred to that other fund or to become a deferred beneficiary in terms of Rule 30.

15. The last sentence of Rule 31(10)(2)(e) shall be deleted.

16. Rule 33(1) shall be replaced by the following:

(1) The whole of the expenses of the Fund referred to in the definition of Management Fees shall be paid by the Fund.

17. Rule 38 shall be replaced by the following:

**Unpaid benefits**

38. Any benefit payable in terms of these Rules shall be claimed within any period stipulated in the Act or the Income Tax Act, 1962 (Act No. 58 of 1962) ("the Income Tax Act" or any period prescribed from time to time by the Registrar of Pension Funds or the Revenue Authorities, whichever is applicable. Should such benefit not be claimed as provided in this Rule, the benefit shall be kept in the Fund for a Member or a person who is entitled to the payment of the benefit in terms of these Rules; provided that

(a) if a Member or a person who is entitled to the payment of the benefit in terms of these Rules approach the Fund at any time, the Trustees shall consider his claim and if the circumstances so warrant, pay the benefit

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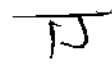


less any tax payable thereon in terms of the Income Tax Act and the requirements of the Revenue Authorities as prescribed from time to time;

- (b) any reasonable costs incurred as a consequence of the Trustees tracing the Member or any person who is entitled to the payment of the benefit in terms of these Rules may, at the discretion of the Trustees, be recovered from such benefit;
- (c) if required by any applicable legislation, the Fund may, at any time and in accordance with such legislation, direct that any unclaimed monies in the Fund be paid to any other fund established by law to receive such benefit, and
- (d) any unclaimed monies remaining in the Fund at the date of termination of the Fund shall be paid to the Guardian's Fund or any other fund established by law to receive such benefits.

18. The reference to "his Member's Voluntary Portion and his Member's Transfer Portion" wherever it appears in Rule 41(6) and Rule 41(7) shall be deleted.

*The reasons for the amendment are:*

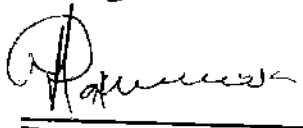
- (a) *to remove three reserve accounts which are currently dormant in the Fund;*
- (b) *to provide for payment of late payment interest in the event of late payment contributions,*
- (c) *to update the rules in respect of unclaimed benefits in line with recent legislative requirements, and*
- (d) *to make provision for tracing expenses to be deducted from the Member's benefit.*


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Certified that the above resolution has been adopted in accordance with the provisions of the Rules of the Scheme.

  
Chairman of Trustees

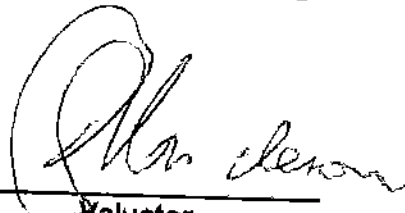
20/06/08  
Date

  
Trustee

DEUR MY GEREKISTREER OF WEDS DIE REGISTERED BY ME ON THIS THE	20/06/08
15	Date
DAG VAN SEPTEMBER 2008 DAY OF	
	
REGISTRATEUR VAN PENSIOENFONDSE REGISTRAR OF PENSION FUNDS	20/6/08
	Date

  
Principal Officer

Certified that the above amendments are financially sound and will not render the Fund unable to meet its obligations to its Members in terms of the Rules.

  
Valuator

25/06/2008  
Date

D. M. HENDERSON

A. B. S. F. A.



**MINeworkERS PROVIDENT FUND**

**AMENDMENT NO: 3 TO THE REVISED RULES**

Extracts from the minutes of a meeting of the Trustees of the Mineworkers Provident Fund held at Johannesburg on the 24<sup>th</sup> day of October of 2008.

Resolved that with effect from Date of registration, the Rules of the Fund shall amended as follows:

Rule 3 shall be amended to read as follows:

**"ADMINISTRATION**

**Number of Trustees**


3. (1) The Fund shall be administered and controlled, subject to the provisions of the Act and these rules, by eighteen Trustees, whom:
- (a) 9 shall represent the Members, and
  - (b) 9 shall represent the Employer."

*The reason for the amendment is to change the number of trustees.*

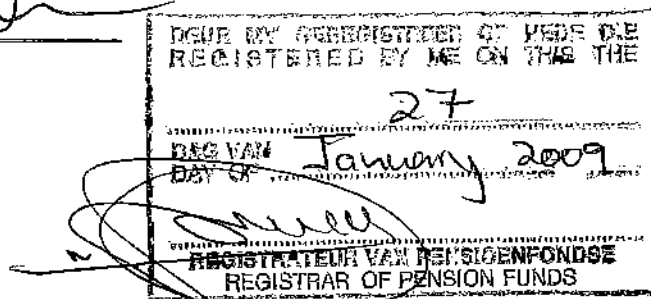
**Certified that the above resolution has been adopted in accordance with the provisions of the Rules of the Scheme.**

  
Chairman of Trustees

30/10/08  
Date

  
Trustee

30/10/08  
Date






  
\_\_\_\_\_  
Principal Officer

25/10/08  
Date

**Certified that the above amendments are financially sound and will not render the F  
unable to meet its obligations to its Members in terms of the Rules.**

  
\_\_\_\_\_  
Valuator

27/11/2008  
Date

D. H. MENDEZ CW

  
\_\_\_\_\_  
National Union of Mineworkers

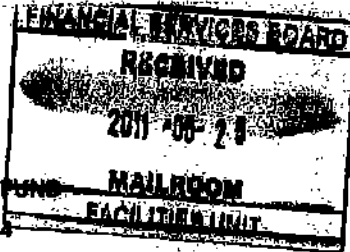
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**MINEWORKERS PROVIDENT FUND  
RULE AMENDMENT NO. 4**

The Board resolved, at a meeting held at Parktown on 12/03/2011, that the Rules of the Fund be amended as follows with effect from 18/3/2011

- 1. Rule 1(2) be deleted and replaced as follows:

The registered office of the Fund is at 4<sup>th</sup> Floor - 10 Fraser Street, Johannesburg. Every payment due to or by the Fund shall be made at the registered office of the Fund in the currency of the Republic of South Africa, or elsewhere on such terms as the Trustees think fit.

- 2. Rule 1(3) shall be deleted and replaced as follows :



The main object of the Fund shall be to provide benefits for Members when they reach their retirement dates, or for the dependants of Members who die whilst in Service.

- 3. Rule 2 shall be amended by the deletion and replacements of the following definitions with the definitions set out in this amendment :

- a. 'ACTUARY shall mean an actuary defined in the Act who is appointed by the Trustees in terms of Rule 15 and whose appointment is approved by the Registrar as envisaged by the Act.'
- b. 'ADMINISTRATOR shall mean the person or organisation approved by the Registrar in terms of Section 13B of the Act who has been appointed by the Trustees to administer the Fund, and whose appointment has been recorded by the Registrar.'
- c. 'APPROVED PENSION FUND shall mean a fund registered in terms of the Act and approved as a pension fund by the Revenue Authorities in terms of the Income Tax Act.'

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- d. 'APPROVED PRESERVATION PENSION FUND' shall mean a fund registered in terms of the Act and approved by the Revenue Authorities in terms of the Income Tax Act as a pension preservation fund.'
- e. 'APPROVED PROVIDENT FUND' shall mean a fund registered in terms of the Act and approved as a provident fund by the Revenue Authorities in terms of the Income Tax Act.'
- f. 'APPROVED PRESERVATION PROVIDENT FUND' shall mean a fund registered in terms of the Act and approved by the Revenue Authorities in terms of the Income Tax Act as a provident preservation fund.'
- g. 'BOARD' shall mean the board of trustees appointed in terms of Rule 3, who shall be responsible for the management, control and oversight of the operations of the Fund in accordance with the applicable laws and the rules of the Fund.'
- h. 'BENEFICIARY' shall mean a nominee of a Member or a Dependant of a Member who is entitled to a benefit as provided for in the rules of the Fund.'
- i. The definition of CHAIRMAN shall be deleted and replaced by - 'CHAIRPERSON shall mean the Independent Chairperson appointed in terms of Rule 4.'
- j. 'DEPENDANT' means in relation to a member, means-
- a) a person in respect of whom the member is liable for maintenance;
  - b) a person in respect of whom the member is not legally liable for maintenance, if such person-
    - i) was, in the opinion of the board, upon the death of the member in fact dependent on the member for maintenance;
    - ii) is the spouse of the member;

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ii) is a child of the member, including a posthumous child, an adopted child and a child born out of wedlock.

c) a person in respect of whom the member would have become legally liable for maintenance, had the member not died;

k. 'FINANCIAL INSTITUTION shall mean a financial institution as defined in the Financial Institutions (Protection of Funds) Act, 2001 (Act 28 of 2001).'

l. 'FULL BENEFIT shall mean the total of the Member's Portion, Member's Voluntary Portion, Member's Transfer Portion and the Employer's Portion, less fund expenses plus such amount of interest earned between the date of accrual of the Full Benefit to any Member or beneficiary, and the date of payment of such benefit.'

m. 'FUND RETURNS shall mean in respect of each Member, the net investment gain or loss credited (or debited) to his Full Benefit at the rate declared by the Trustees from time to time in consultation with and upon the recommendation of the actuary, taking into account the actual investment returns earned on the assets of the Fund, and investment expenses incurred.'

n. 'MEMBER PORTION shall mean for any Member -

- (a) The total amount contributed by him in terms of Rule 22(2)(i);
- (b) The total amount deemed to have been contributed by him in terms of Rule 23;
- (c) Transfers from the risk reserve account in terms of Rule 24A;
- (d) The total amount of Fund Returns allocated by the Trustees from the investment reserve account;
- (e) Any future surplus that may, at the discretion of the Trustees, be released from any of the contingency reserve accounts and allocated to Member Portions.'

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- o. **'MONITORING PERSON** shall mean the person appointed by the Trustees for purposes of performing the duties of monitoring person as envisaged in terms of Section 13A of the Act with regard to the compliance with the provisions of this section. In the absence of such an appointment, the Principal Executive Officer shall be the Monitoring Person for all purposes envisaged in Section 13A of the Act.
- p. **'NORMAL RETIREMENT AGE** shall mean, for an Underground Member, the age of 60 years, and for any other member, the age of 63 years.
- q. The definition of **'SURFACE MEMBER'** shall be deleted.
- r. **'TRUSTEES** shall mean the Trustees appointed and/or elected in terms of these Rules, or their alternates when acting as Trustees.

4. Rule 3(1) be deleted and replaced as follows:

"The Fund shall be administered and controlled, subject to the provisions of the Act and these Rules, by nineteen Trustees, of whom:

- (a) Nine shall be known as the Member Trustees;
- (b) Nine shall be known as the Employer Trustees; and
- (c) One shall be an independent Trustee who is not employed by any of the Employers nor a member of the Union nor a Member of the Fund. In addition, such independent Trustee will be the Chairperson of the Board."

5. Rule 3(2) be deleted.

6. Rule 4 be deleted and replaced as follows:

**"4. The Chairperson**

The Trustees referred to in Rules 3(1)(a) and 3(1)(b) will appoint the Chairperson by consensus, provided that if there is a deadlock

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in respect of the appointment of the Chairperson, such deadlock shall be dealt with in terms of Rule 14(7).

- (1) The Chairperson will be a Trustee and will hold office for three years, unless he/she resigns or is removed from office in terms of these Rules.
- (2) On the expiry of his/her term of office, the Chairperson may be re-appointed.
- (3) The Chairperson may, at any time, resign his/her office.
- (4) The Chairperson may, at any time, be removed from office by the Trustees referred to in Rules 3(1)(a) and 3(1)(b) in the event of a breach of his/her fiduciary duties to the Fund, provided that a hearing must be held and the Chairperson must given the opportunity to state his/her case. A decision by 75% of the Trustees, other than the Chairperson, will be sufficient for the removal of the Chairperson.
- (5) If the Chairperson ceases to be a Trustee of the Fund, he/she shall cease to be the Chairperson of the Board of Trustees, and in such event the Board of Trustees shall be required to appoint an interim Chairperson from their number, provided that a new Chairperson shall be appointed within 4 weeks of the termination of appointment of the Chairperson, or such longer period of time as may be agreed upon by the Board as may be reasonably necessary to make such appointment in terms of the Rules."

7. Rule 5 (1) shall be deleted and replaced as follows:

"(1) With effect from 18/2/2011, and subject to sub-rules (4) and (5) NUM shall appoint the 9 (nine) Member Trustees and alternates to act in their absence as required in terms of the sub-rule from time to time."

8. Sub-Rules 5(4), 5(5) shall be deleted and replaced with the following -

Mineworkers Provident Fund

Amendment No. 4

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- (4) If on any appointment date the number of Members who are Members of the NUM is not less than the number of Members who are Members of any other registered trade union, the NUM shall, with effect from that date, appoint a Members' Trustee or Members' Trustees and an alternate or alternates to act during their absence depending on the percentage of Members who are Members of the NUM as follows:

Percentage of Members who are Members of the NUM	Number of Members' Trustees to be appointed by the NUM	Number of alternates to be appointed by the NUM
less than 20%	2	2
at least 20% but less than 40%	4	4
at least 40% but less than 60%	5	5
at least 60% but less than 80%	7	7
at least 80% but less than 100%	9	9

- (5) If on any appointment date the number of Members who are Members of the NUM is less than the number of Members who are Members of any other registered trade union but is at least 10% of the total number of Members, the NUM shall, with effect from that date appoint a Members' Trustee or Members' Trustees and an alternate or alternates to act during their absence, depending on the percentage of Members who are Members of the NUM as follows -



<u>Percentage of Members who are Members of the NUM</u>	<u>Number of Members' Trustees to be appointed by the NUM</u>	<u>Number of alternates to be appointed by the NUM</u>
at least 10% but less than 18,75%	2	2
at least 18,75 but less than 30%	3	3
at least 30% but less than 31,25	3	3
at least 31,25 but less than 43,75%	4	4
at least 43,75%	4	4

9. Rule 8(1) shall be deleted and replaced as follows:  
 "The Chamber shall appoint the 9 (nine) Employer's Trustees as required in terms of this rule from time to time, and alternates to act in their absence, and may at any time remove an Employer's Trustee or alternate."

10. Rule 9(1) be deleted and replaced as follows:  
 "At any meeting of the Board of Trustees eight Trustees plus the Chairperson will form a quorum, provided that at least four Employer's Trustees and four Member's Trustees are present at the meeting. Each Trustee, including the Chairperson, will be entitled to one vote and the Chairperson will not have a casting vote in the event of a deadlock. In the event of a difference of opinion the decision of the majority of those Trustees present shall be the decision of the Board. Decisions of the Board shall be taken on a show of hands or, if so required by any Trustee present at the meeting, by ballot.  
 Should the Chairperson be unavailable to attend a meeting due to incapacity or another reason acceptable to the Board, and there be at least four Employer's Trustees and four Member's Trustees present at the meeting, the Trustees in attendance may elect a interim Chairperson for that meeting from their number, and the meeting shall be deemed to be quorate."

*M. J.M.*

11. Rule 10 be deleted and replaced as follows:

**"10 Remuneration of Chairperson**

The Chairperson shall be entitled to such remuneration as the Trustees referred to in Rules 3(1)(a) and 3(1)(b) shall determine from time to time."

12. Rule 12 shall be amended by the deletion of the last sentence.

13. Rule 14(7) shall be deleted and replaced by the following :

'In the event of a difference of opinion, other than in respect of the appointment of the Chairperson in terms of Rule 3, the decision of the majority of those present shall be the decision of the Trustees; provided that each Trustee including the Independent Chairperson, shall have one vote. The Chairperson shall not have a casting vote in the event of a deadlock. Decisions of the Trustees shall be taken on a show of hands or, if so required by any Trustee present at the meeting, by ballot.

The Trustees must make a reasonable effort to obtain a majority. However, where no majority can be obtained on any matter, the following procedure shall apply:

- (a) The Trustees shall decide whether to defer the matter in question to the following meeting of the Trustees or to a special meeting of the Trustees to be convened within 15 (fifteen) days for the specific purpose of reconsidering the matter under dispute.
- (b) If at the meeting referred to in (a) above, the matter remains in dispute, then:
  - (i) The Trustees can agree that the dispute be mediated by a mediator agreed to by the Trustees. The cost of the mediation is to be borne by the Fund, or
  - (ii) The Trustees can agree that the matter instead be referred by the Trustees to an expert, the identity of whom

must be agreed by the Trustees. The expert shall, at the cost of the Fund, submit a written recommendation on the matter to the Trustees at a meeting at which the issue will be considered;

- (iii) If the dispute is not resolved at that meeting, the matter shall, at the cost of the Fund, be referred to an arbitrator agreed by the Trustees. The arbitrator's decision shall be regarded as a decision made by the Trustees and shall be binding on all parties.

Any person who has a complaint or a dispute in fact or in law shall, notwithstanding anything to the contrary in the Rules, have the right to invoke the complaint procedures in terms of the Act.

14. Rule 14 shall be amended through insertion of sub-rule (8) as follows:

'14(8) Appointment of sub-committees

The Trustees may, at their discretion, appoint one or more sub-committees to deal with specific issues delegated to such sub-committees on behalf of the Board. A sub-committee so established shall consist of a number of Trustees as determined by the Board, and the sub-committee's authority will be set out, and be subject to such limitations set by the Board. Should a sub-committee be granted authority to take decisions on behalf of the Board, any decision taken by the sub-committee shall be referred to the Board for ratification at the next meeting of the Board.'

15. Rule 15(1) shall be deleted and replaced as follows :

(1) The Trustees shall appoint an auditor in terms of Section 9 of the Act, to perform the duties required from an auditor in terms of the Act, subject to such requirements of the Registrar as may be prescribed in the Act, and may withdraw the appointment of the auditor at any time, and appoint a new auditor.

The Trustees shall appoint an Actuary to the Fund to perform the duties required of a valuator in terms of the Act, unless the Fund has applied for, and been granted exemption from the requirement. The appointment of the Actuary shall be subject to such requirements as may be prescribed by the Registrar in terms of the Act, and the Trustees may withdraw the appointment at any time and appoint a new Actuary.

The Actuary and Auditor may resign or withdraw from their respective appointments at any time.

16. Rule 18 shall be deleted and replaced with the following:

'A Member who is on authorised leave with full pay shall be regarded as being in Service during such period of leave and all contribution obligations and benefits will continue during such leave. In the event that a member is temporarily absent from Service with the approval of his Employer but with no remuneration or remuneration at a lower amount, the Member shall have the option to continue contributing to the Fund based on the lower remuneration percentage applicable, or may elect to suspend contributions during the period of approved temporary absence. In the event that contributions are suspended, the benefits in terms of the rules will be adjusted accordingly.'

17. Rule 21(1) shall be deleted.

18. Rule 23 shall be deleted and replaced as follows:

'Subject to the approval of the Trustees and completion of legally prescribed processes (if applicable), the Fund may receive transferred amounts into the Fund in respect of any Member from any Approved Pension Fund or Approved Provident Fund, or any Approved Preservation Pension Fund or Approved Preservation Provident Fund. Monies so received in respect of a Member shall be allocated to the Full Benefit of such Member as envisaged in the transfer documentation.'

19. Rule 23A shall be amended through the inclusion of the following:

'The Trustees shall appoint a Monitoring Person to fulfil all the duties of such person as set out in Section 13A of the Act with regard to the monitoring and reporting of non-payment or under-payment of contributions to the Fund.'

20. Rule 24A(2) shall be deleted.
21. Rule 24B(2) shall be extended by the inclusion of sub-section (vi) as follows:

'(vi) by crediting it to the investment reserve account.'

22. Rule 25(2) shall be deleted and replaced by :

'(2) A Member who has attained the age of 50 may, subject to agreement being reached between him and his Employer in this regard, retire early from service and become entitled to a retirement benefit determined in terms of Rule 25(3), determined as at his date of actual retirement.'

23. Rule 25(4) shall be amended by the deletion of sub-section (a) thereof, and renumbering of the sub-sections following.

24. Rule 26 shall be amended by addition of the following to the last sentence -

'provided that the benefit shall accrue as an early ill-health retirement benefit and all relevant provisions of Rule 25 shall apply to such Member.'

25. Rule 27(2) shall be deleted and replaced by the following:

'(2) Any benefit that becomes payable on the death of a Member in terms of Rule 27(1)(a) or (b) above, shall subject to disposal in terms of Section 37C of the Act, accrue to the Dependant and/or Beneficiary as an annuity, which annuity the Dependant or Beneficiary shall have the right to commute in full or in part. In the absence of notification by the Dependant or Beneficiary of the insurer from which the annuity should be purchased, and completion of all documentation required to give effect to such purchase, the Dependant or Beneficiary shall be deemed to have elected to commute the benefit in full and to receive the allocated benefit as a lump sum. Should the

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Dependant/Beneficiary choose to receive an annuity, the annuity shall be purchased in the name of the Dependant/Beneficiary with a registered life insurer selected by the Dependant/Beneficiary.

26. Rule 27(3) and (4) and (5) shall be deleted and replaced with the following:

'(3) In the event of the death of a Member, any lump sum benefit payable shall not form part of the assets in the deceased Member's estate, but shall be dealt with by the Trustees in accordance with Section 37C of the Act.'

27. Rule 29(1) shall be deleted and replaced as follows:

'(1) If a Member who has not become entitled to a benefit in terms of Rules 25 or 26 has resigned or has been discharged from Service for any reason for which a benefit is not specifically provided elsewhere in the Rules, he shall become entitled to payment of his Full Benefit determined as at the date that he became to entitled.'

28. Rule 29(3) shall be deleted.

29. Rule 29A(1) shall be amended by the deletion of the last paragraph thereof.

30. Rule 33(2) and 33(3) shall be deleted.

31. Rule 38 (1) shall be deleted and replaced by the following:

'If a Member does not claim payment of his benefit within two years after leaving Service, or in the case of a Member who has made an election in terms of Rule 30(1) within two years after attaining the Normal Retirement Age, the Trustees may, at their discretion, determine that the benefit be transferred to a registered unclaimed benefits fund or any fund established by law for purposes of preserving such unclaimed benefits for the person entitled thereto. In the absence of a Trustee decision to transfer the unclaimed benefits to another fund, the benefit shall be retained in the Fund and shall continue to be credited with fund returns, provided however that there shall be deducted from the

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benefit such amounts expended for purposes of tracing the Member or person entitled to the benefit as well as general fund expenses incurred."

32. Rule 41(a) shall be amended by the insertion of the words 'to an unclaimed benefits fund or' immediately prior to the reference to the Guardian's Fund.

33. Rule 43(3) shall be deleted and replaced by:

'The Trustees shall notify the Revenue Authorities of each amendment to these rules within the period prescribed in the Income Tax Act for this purpose, or failing which, within two months of registration thereof by the Registrar.'

**The REASONS for the amendments are -**

- To change the registered office of the Fund.
- To amend outdated definitions, delete obsolete definitions, and add new definitions required as a result of changes in legislation.
- To provide for the appointment of an Independent Trustee, who will also serve as chairperson, to deal with matters related to the chairperson.
- To increase the size of the board and address proportionate appointment relative to membership.
- To address issues related to the increased number of trustees not previously addressed, or which should as a matter of good governance be dealt with in greater detail, eg. dispute resolution.
- To amend requirements regarding decision-making and communication to the union and employers, thereby vesting the trustees with unfettered authority.
- To ensure that minimum benefit requirements are met, and that dependants of deceased members have the option to receive an annuity instead of a lump sum benefit.
- Generally to update contradictory provisions or unreasonable provisions.


**CERTIFIED that the above resolution has been adopted in accordance with the provisions of the Rules of the Fund.**

Mineworkers Provident Fund

Amendment No. 4

M. J.M.


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Chairman

16/5/2011  
Date

  
Principal Officer

16/5/2011  
Date

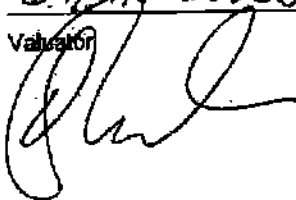
  
Board Member

16-05-2011  
Dated

Certified that the above amendments will not impact on the financial soundness of the fund.

D. H. HENDERSON FASSA  
Valuator

23/5/2011  
Dated

  
~~23/5/2011~~ DMM.





**MINeworkERS PROVIDENT FUND**  
**("the Fund")**

**AMENDMENT NO. 5 TO THE REVISED RULES**

Extract from the minutes of a meeting of the Trustees of the Fund held at Winnipeg on 12 July 2011.

Resolved that with effect from 1 January 2011 the Rules of the Fund be amended as follows:

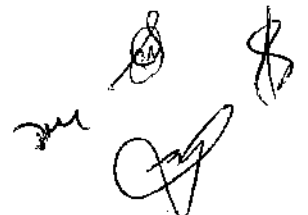
1. Rule 1(1) shall be deleted and replaced as follows:

1.(1) The Fund known as "Mineworkers Provident Fund" was established with effect from 14<sup>th</sup> June 1989. With effect from 1 January 2011, the Fund shall become self-administered and the Fund shall be operated on a unitized basis.

2. The definition "MANAGEMENT FEES" in Rule 2 shall be deleted and replaced with the following:

**"MANAGEMENT FEES"** shall mean a Member's share of the cost of the management of and administration of the Fund, including but not limited to, bank charges, costs relating to the valuation and audit of the Fund, the management of the assets of the Fund, the remuneration of the Trustees (if applicable) and employees of the Fund referred to in Rule 34.A(1)(b), costs relating to the administration of housing guarantees contemplated in Rule 31(10), costs relating to the policies contemplated in these Rules, levies and fees payable to any institution in terms of relevant legislation and such other expenses as may be determined by the Trustees from time to time.

3. The following definitions shall be added in Rule 2:



**"RESPONSIBLE PERSON"** shall mean an employee of the Fund whose function includes receipt of contributions from the Employer/s.

4. The heading **"ADMINISTRATION"** appearing before Rule 3.(1) shall be deleted and replaced with **"MANAGEMENT OF THE FUND"**.
5. The heading **"FINANCIAL PROVISIONS"** appearing before Rule 31.(1) shall be deleted and replaced with **"OPERATION OF THE FUND"**.
6. Rule 13 shall be deleted and replaced with the following:

#### **Indemnity and Fidelity Guarantee**

13. (1) Each Trustee and all officers of the Fund, including employees appointed in terms of Rule 34.A(1) shall be indemnified by the Fund against all claims, proceedings, costs and expenses made against, or incurred by them, by reason of any act or omission occurring in the course of the exercise of their powers and functions as Trustees, provided such does not arise from their gross negligence, wilful misconduct, dishonesty or fraud.

(2) The Trustees must ensure that the indemnity and fidelity cover is obtained and maintained for such an amount as it regards as being sufficient protection against any loss resulting from the negligence, dishonesty or fraud of any of its Trustees, officers (including employees appointed in terms of Rule 34.A(1)) or any other person to whom they have delegated their powers or functions. This indemnity is to be provided by way of a policy of insurance or in such other manner as the Registrar may approve.

7. Rule 16.A shall be added to the Rules to read as follows:



## **Powers and Duties of the Trustees**

16.A Without in any way derogating from the other common law and statutory duties, the Trustees shall, in administering the Fund in terms of Rule 3(1) and Rule 34.A:

- (1) take all reasonable steps to ensure that the interests of Members in terms of the Rules and the Act are protected at all times;
- (2) act with due care, diligence and good faith;
- (3) disclose and properly manage conflicts of interest where they arise;
- (4) act with impartiality in respect of all Members and Beneficiaries;
- (5) obtain expert advice on matters in respect of which the Trustees may lack sufficient expertise;
- (6) procure that any contributions or other monies received by the Fund, shall, pending the investment or application thereof in accordance with the Rules, be deposited into the banking account not later than the first business day following the day on which the Fund received the contributions or other monies;
- (7) operate a banking account opened in the name of the Fund with a bank registered in terms of the Banks Act, 1990 (Act No. 94 of 1990);
- (8) procure that every cheque, contract or other document pertaining to the Fund shall be signed by such persons as the Trustees by resolution appoint;

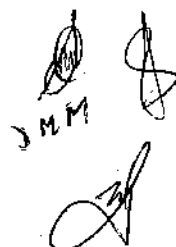


- (9) institute effective control and risk management measures in respect of the investments of the FUND and ensure compliance with its investment policy and strategy;
- (10) review all valid divorce orders that have properly been issued in terms of the Divorce Act, 70 of 1979 and authorise the deduction of any amount due to the Non-Member Spouse in terms of the divorce order from the Member's deemed benefit or from any benefit due in respect of the Member in terms of the Rules, as the case may be, and authorise payment of such amount to the Non-Member Spouse in accordance with the Act and the relevant income tax in accordance with the Income Tax Act, 1962 (Act No. 58 of 1962);
- (11) review any claims in respect of a maintenance order granted against a Members in accordance with the Maintenance Act, 1998;
- (12) furthermore, the Trustees must specifically ensure that:
  - (a) proper control systems are employed;
  - (b) proper registers, books and records of the operations of the Fund are kept, including proper minutes of all resolutions passed by the Trustees and a register or registers envisaged in Regulation 31 of the regulations to the Act;
  - (c) adequate and appropriate information in communicated to the Members informing them of their rights, benefits and duties in terms of the Rules;
  - (d) contributions are paid timeously to the Fund in accordance with the provisions of the Act;

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- (e) the Rules and the operation and administration of the Fund comply with the provisions of the Act, all other applicable laws, any ruling laid down by the Registrar and the Revenue Authorities and any other applicable laws;
- (f) the investments shall be made in accordance with sound financial principles and an investment policy and strategy developed by the Trustees;
- (g) the investment policy and strategy shall have due regard to the income needs and long term interests of the Fund and its Members and shall include guidelines on the investment objectives of the Fund, the nature of the investments appropriate to the liabilities of the Fund, the type of investments permitted or not permitted and provision for appropriate performance reviews;
- (h) every title deed and other document which proves that the Fund is the owner of a particular property is kept in a secure environment as approved by the Trustees at the registered office of the Fund;
- (i) the only persons who sign cheques, contracts or other documentation on behalf of the Trustees, or who authorise electronic payments, are those who have the authority, in terms of a resolution passed by the Trustees where necessary, and who are legally able to do so.

8. Rule 23.A shall be deleted and replaced with the following:



JMM

*[Signature]*

*[Signature]*

## Payment of Contributions

- 23.A (1). The contributions payable by each Member shall be deducted by his Employer from the Member's Wages and Deemed Monthly Earnings and paid to the Fund together with the contributions due by the Employer for the benefit of the Members, within 7 (seven) days from the end of the calendar month to which such contributions relate.
- (2) The Employer shall further ensure that the minimum information prescribed in Regulation 33 of the regulations to the Act with regard to payment of contributions is submitted to the Fund within the period prescribed by the Act.
- (3) Should the Employer fail to pay contributions as set out in (1) above, the following shall apply:
- (a) the Employer shall be liable to pay interest on the outstanding amount at a rate prescribed in the Act and such interest shall be deemed to be an investment income for the Fund;
  - (b) the Fund shall not be liable for payment of any benefit payable in terms of these Rules which would have been secured by the contributions not transmitted to the Fund; Provided that the Trustees shall take all reasonable steps in ensuring that contributions are paid to the Fund and the interests of the Members are protected in terms of the Act, any other applicable legislation and these Rules;
  - (c) the Responsible Person shall report outstanding contributions and non-transmission of the minimum information to the Monitoring Person within the period prescribed in the Act;

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- (d) the Monitoring Person shall then in writing report the matter to the Trustees within 7 (seven) days after receipt of the report from the Responsible Person;
- (e) within such reasonable period as determined by the Trustees after receipt of the Monitoring Person's report referred to in (d) above, the Trustees shall instruct the Monitoring Person to report non-payment of contributions to the Members who have been affected by non-payment of contributions; Provided that such Members can be identified, failing which the non-payment must be reported to all the Members, and
- (f) where the Employer has not paid contributions for a period of 90 (ninety) days or more, the Monitoring Person shall report the matter to the Director of Public Prosecution within 14 (fourteen) days after the end of the 90 (ninety) day period in accordance with the provisions of the Act and the requirements of the Registrar. The Monitoring Person shall also advise the Registrar accordingly.

9. Rule 34.A shall be added immediately after Rule 34 to read as follows:

#### **Administration**

34.A (1) The Fund shall be administered in accordance with the Rules, the Act, any applicable law and the requirements of the Registrar as prescribed from time to time; Provided that:

- (a) the Trustees may, subject to compliance with any relevant legislation, appoint employees required for purposes of administering the Fund and conclude relevant agreements with such employees which shall set out the terms and conditions regulating the appointment of employees, and

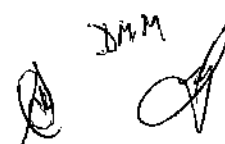
 Jim B



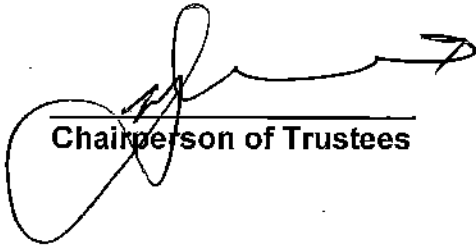
- (b) the appointed employees shall be entitled to such remuneration as determined from time to time by the Trustees and set out in each employee's contract of employment.
- (2) The Employers shall from time to time furnish to the Fund, in respect of those employees who are Members, all necessary information affecting their contributions, benefits or their entitlement to benefits. The Fund shall be entitled to act upon such particulars without further enquiry and shall not be responsible to any Member or to the Employer or to any other person or body whatsoever for any misstatements or errors or omissions which may be contained in such information.
- (3) The Trustees shall keep a complete record of all necessary particulars of Members and of all persons entitled to benefits under the Fund and of all other matters essential to the operation of the Fund.

*The reasons for the amendment are:*

1. In respect of item 1, to reflect that with effect from 1 January 2011 the Fund is self-administered and operates on a unitized basis;
2. In respect of items 3 and 8, to make provision for the procedure applicable on late or non-payment of contributions;
3. In respect of items 4 and 5, to cater for the insertion of new Rule 34.A;
4. In respect of items 2, 6, 7 and 9, to provide for the self-administration of the Fund and appointment of personnel for purposes of self-administration.

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Certified that the above resolution has been adopted in accordance with the provisions of the Rules of the Fund.

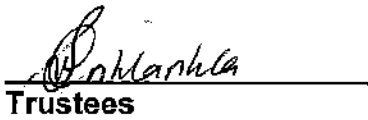


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Chairperson of Trustees

12/7/2011  
\_\_\_\_\_

Date

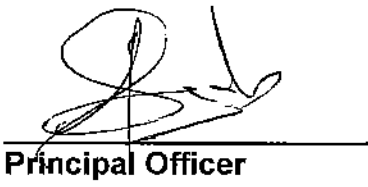


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Trustees

12/7/2011  
\_\_\_\_\_

Date



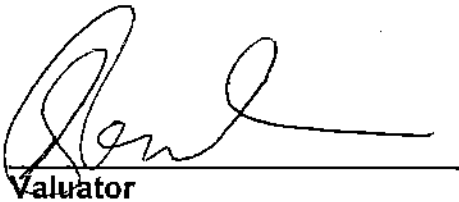
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Principal Officer

12/7/2011  
\_\_\_\_\_

Date

Certified that the above amendments are financially sound and will not render the Fund unable to meet its obligations to its Members in terms of the Rules.



\_\_\_\_\_

Valuator

12/7/2011  
\_\_\_\_\_

Date