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(To all self-administered funds, all fund administrators, and the administering insurers of funds exempted in terms of section 2(3)(a) of the Act)

PURCHASE OF ANNUITIES ON THE RETIREMENT OF INDIVIDUAL MEMBERS

For some years there has been uncertainty as to whether the purchase of an annuity on the retirement of an individual member constitutes a transfer of business in terms of section 14 of the Pension Funds Act. This circular confirms that the Registrar accepts that the purchase of an annuity, in accordance with the rules of the fund on the retirement of an individual member, on such a basis that the member (or another beneficiary to whom the annuity may be payable on the member's death after retirement) becomes the owner of the annuity policy, constitutes the payment of a benefit, therefore falling outside the scope of section 14 of the Pension Funds Act.

1. Funds who wish to pay benefits on this basis in future should satisfy the following requirements:

   1.1 The Rules must state that membership of the fund shall cease as soon as the purchase of the annuity, or annuities, is concluded and the balance of any benefit payable in cash is paid.

   1.2 The annuity policies must be purchased from registered insurers by the fund in such a way that the member, and any other beneficiaries who are entitled to an annuity on the member's death after retirement, become the owners of the policies.

   1.3 The Rules must state that the Fund will have no obligation towards the member once the purchase is concluded.

2. It is desirable that the member should have choice over the terms of the annuity purchased. The Rules may, however, lay down certain conditions:

   2.1 The minimum period of a guarantee.

   2.2 Whether any income should be payable to the member's spouse or other beneficiaries on the member's death after retirement, in which case the Rules may specify the minimum proportion of the member's annuity which should be paid to the beneficiary. The Rules may specify, also, that such spouse's annuity is payable only to the spouse to whom the member is married at the date of retirement.

   2.3 The insurance company (or companies) from whom the annuity (or annuities) may be purchased.

   2.4 The minimum provision to be included in the annuity for subsequent increases in annuity payments.

3. Either the Rules, or a practice note adopted by the board of management of the fund and lodged with the Registrar, must state clearly how the capital amount to be used on retirement to fund the payment of cash and the purchase of one or more annuities will be determined:

   3.1 If the Fund is a defined benefit fund, the capital amount should be at least either:

      3.1.1 the actuarial reserve corresponding to the benefit defined in the Rules, as calculated by the actuary, either using the assumptions adopted in the immediately previous actuarial valuation as submitted to the Registrar, or using factors attached as an Appendix to the Rules; or

      3.1.2 the purchase price of an annuity policy from a registered insurer, which policy shall provide a stream of income equivalent to the pension expected by the member from the Fund.

   The reasonable benefit expectations of members must be taken into account in establishing such capital amount.

3.2 If the Fund is a defined contribution fund, the capital amount should be the full individual account value, or equishare, corresponding to the member, with augmentation, if any, from any reserve account at the discretion of the Trustees.

4. Many funds have in the past purchased annuity policies with the fund as the owner of the policies. Conversion of such policies to policies, where the member, or a beneficiary who is entitled to an annuity following the member's death after retirement, owns the policies, represents the transfer of business in terms of section 14 of the Pension Funds Act. A simplified procedure to achieve this transfer will be issued as a separate circular after communication with stakeholders.

In confirming the above, the Registrar is aware that there is uncertainty as to whether such purchases of annuities will, in practice, relieve the Fund of all liability towards the member. A Court may decide otherwise. In order to put the issue beyond doubt, the Registrar is drafting a change to the Pension Funds Act to exclude this sort of transaction from the scope of section 14.

15/4/97

REGISTRAR OF PENSION FUNDS