



PENSION FUNDS ACT, 1956

DRAFT NOTICE NO. XX OF 2017

PENALTIES IMPOSED IN TERMS OF SECTION 37(2)

I, Dube Phineas Tshidi, Registrar of Pension Funds, hereby publish for comment the proposed maximum penalty to be prescribed in terms of section 37(2) of the Pension Funds Act, 1956 (No. 24 of 1956).

1. INTRODUCTION

Section 37(2) of the Pension Funds Act, 1956 ('the Act') empowers the Registrar of Pension Funds ('Registrar') to impose an administrative penalty for the failure by a pension fund, administrator or third party to submit to the Registrar or any person within a period specified in terms of this Act or in a directive or condition imposed by the Registrar in terms of the Act, any scheme, statement, report, return or other document or information required in terms of this Act to be submitted. The current maximum penalty is R1000 for every day during which the failure continues.

Section 37(2) further enables the Registrar to prescribe a different maximum amount that may be imposed as an administrative penalty.

2. PRESCRIBED PENALTY

The Registrar intends to, in terms of section 37(2) of the Act, prescribe the administrative penalty which may be imposed by the Registrar to be an amount not exceeding **R4 000** per day for each day during which the failure continues.

This Notice will come into effect on 1 December 2017.

Comments must be forwarded to Alta Marais (Alta.Marais@fsb.co.za) before or on 20 November 2017.

A handwritten signature in black ink, appearing to read 'D. Tshidi' with a stylized flourish at the end.

DUBE TSHIDI
REGISTRAR OF PENSION FUNDS



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Explanatory Memorandum

1. Section 37(2) of the Pension Funds Act, 1956 (“the Act”) permits the Registrar to prescribe a maximum penalty amount that can be imposed on a pension fund, administrator or third party for the failure to submit to the Registrar or any person within a period specified in terms of this Act or in a directive or condition imposed by the Registrar in terms of the Act, any scheme, statement, report, return or other document or information required in terms of this Act to be submitted.
2. The current maximum penalty prescribed in terms of section 37(2) of the Act is R1000 for every day the non-compliance continues. This maximum administrative penalty amount has remained the same since 2008, and non-compliance continues from some of the funds in the industry.
3. The Registrar considers it necessary to increase the maximum penalty amount in section 37(2) as it appears that the current maximum administrative penalty does not have a deterrent effect on entities to encourage future compliance with the requirements of the Act
4. The Registrar has, therefore, considered it necessary to prescribe an increased administrative penalty referred to in section 37(2) from R1 000 to **R4 000** for each day that the non-compliance continues.