

Draft NOTICE ... OF 2015
FINANCIAL SERVICES BOARD
PENSION FUNDS ACT, 1956

SECTION 9A – APPOINTMENT OF A VALUATOR

I, **Dube Phineas Tshidi**, Registrar of Pension Funds, publish for comment revised particulars relevant to the appointment of a valuator to a fund as required by section 9A of the Pension Funds Act, 1956, as set out in the Schedule and Annexures.

Notice 154 of 2014 will be replaced when the revised Notice becomes effective.


DP TSHIDI

REGISTRAR OF PENSION FUNDS

SCHEDULE

1. **Definition** – In this Schedule, ‘**the Act**’ means the Pension Funds Act, 1956 (Act No. 24 of 1956) and any word or expression to which a meaning is assigned in the Act has the meaning so assigned to it for purposes of this Schedule.
2. **Format and submission**
 - 2.1 A fund registered in terms of the Act must furnish the registrar in a single submission the information contained in Annexures A and B, duly completed, in respect of the appointment of a valuator. This information must be provided to the registrar within 30 days after the appointment of a valuator, failing which the registrar may impose a penalty on the fund in terms of section 37(2) of the Act.
 - 2.2 A valuator of a fund whose appointment has been terminated, or who resigns an appointment, must submit a written report, detailing the reasons for the termination conveyed to him or her or the reasons for resignation, in the format set out in Annexure C, duly completed. The written report must be provided to the registrar within 21 days of the termination of appointment or resignation of a valuator, failing which the registrar may impose a penalty on the valuator in terms of section 37(2) of the Act.
 - 2.3 Any submission to the registrar in respect of this Notice must be made electronically on the official web site (www.fsb.co.za) in portable document format (PDF).

3. Period prescribed under section 9A(3)

3.1 Section 9A(3) of the Act provides that a fund must appoint another valuator within a prescribed period when its valuator resigns or where the valuator is unable for any reason to discharge any of his or her statutory duties.

3.2 The period prescribed in terms of section 9A(3) is 90 days from the date of termination of the appointment of its current valuator.

3.3 A registered fund which –

3.3.1 is not valuation exempt at the date of publication of this Notice;
or

3.3.2 does not have an appointed valuator on the date of publication of this Notice,

must appoint a valuator within 90 days after the date of publication of this Notice.

3.4 The registrar may refer a fund to the Financial Services Board enforcement committee if it fails to appoint a valuator within the prescribed period.

4. Affidavit by applicant as a valuator

4.1 An actuary applying to be considered, whether initially or subsequently, as a valuator as contemplated in section 1(1) of the Act, must submit an affidavit in the format set out in Annexure D.

- 4.2 Where a fund appoints a valuator who has already submitted the affidavit set out in Annexure D, the valuator must confirm that all particulars contained in the most recent affidavit submitted are still accurate. If any of the particulars have changed, full details must be provided by the valuator.

5. Professional indemnity insurance

- 5.1 Subject to subparagraph (5.2), a valuator must maintain in force suitable professional indemnity insurance with regard to the fund for which the valuator is appointed.
- 5.2 A valuator, who is a sole practitioner and in regard of whom the fund for which he or she is appointed has consented not to require professional indemnity insurance, may apply to the registrar to be exempted from the requirement to maintain professional indemnity insurance by submitting a fully motivated application, with –
- 5.2.1 a copy of the letter disclosing to the fund that the valuator does not have professional indemnity insurance, and the reasons therefore; and
- 5.2.2 a copy of a letter of acceptance by the fund of the situation set out in subparagraph (5.2.1).

6. Short title

This Notice is called the Notice on the appointment of a Valuator, 2015.

ANNEXURE A

NOTIFICATION OF THE APPOINTMENT OF ... *(insert valuator name)*
AS VALUATOR TO
THE ... FUND (12/8/ ...) *(insert fund name and registration number)*
IN TERMS OF SECTION 9A(2), READ WITH SECTION 8(3),
OF THE PENSION FUNDS ACT, 1956

1. We, duly authorised by the board of the fund, hereby declare that the board has considered and resolved to appoint ... *[insert full names of valuator]* with effect from ... *(insert effective date)* as valuator to the fund.
2. The fund was previously valuation exempt which exemption expired on ... *(insert date of expiry of valuation exemption)*. Hence the requirement to appoint the valuator referred to in paragraph 1.

OR

The valuator referred to in paragraph 1 replaces ... *[insert full names of previous valuator]* who terminated his / her *(delete which is not applicable)* appointment to the fund on ... *(insert date of termination of the appointment of the previous valuator)*.

(delete which is not applicable)

3. The board is not aware of any grounds that may impact on the fitness and propriety of the valuator.
4. The valuator is covered under an insurance policy for professional indemnity.
5. We attach a declaration by the valuator, as set out in Annexure B.

6. We, as the board of the fund, further undertake to without unreasonable delay, given the circumstances, inform the registrar in writing where we are of the opinion that the valuator is no longer fit and proper to be the fund's valuator, or after the termination of the appointment for whatever reason.

CHAIRPERSON / AUTHORISED MEMBER OF THE BOARD	AUTHORISED MEMBER OF THE BOARD	PRINCIPAL OFFICER
FULL NAME IN PRINT	FULL NAME IN PRINT	FULL NAME IN PRINT
DATE	DATE	DATE

ANNEXURE B

DECLARATION BY THE APPOINTED VALUATOR IN TERMS OF SECTION 9A(2), READ WITH SECTIONS 8(3) and 8(5), OF THE PENSION FUNDS ACT, 1956

I, ... *[insert full names of valuator]*, have been appointed as valuator to the ... Fund (12/8/...) *(insert fund name and registration number)*, with effect from ... *(insert date)*.

I hereby declare that:–

1. I have been considered by the registrar as a valuator for defined contribution / defined contribution and defined benefit *(delete whichever is not applicable)* categories of retirement funds.
2. I hold a valid practicing certificate issued by the Actuarial Society of South Africa for the categories of retirement funds as indicated above, which practicing certificate expires on ... *(insert date)*.
3. If the practicing certificate expires during the tenure of my appointment as valuator to the fund, I will apply for renewal of recognition as a valuator in time to ensure continuity in the registrar's recognising me as a valuator and if I fail to renew my recognition as valuator, or if the registrar does not recognise me as a valuator upon application for renewal, I will notify the fund of this outcome and terminate my appointment as valuator to the fund.
4. I am covered under an insurance policy for professional indemnity insurance through my employer, and attach proof to such extent as an addendum to this declaration.

OR

I am covered under / have been exempted by the registrar to be covered under (*delete whichever is not applicable*) an insurance policy for professional indemnity insurance, and attach proof to such extent as an addendum to this declaration.

5. I am resident in the Republic of South Africa.
6. I last submitted an affidavit dated ... (*insert date*), in the prescribed format of Annexure D, to the registrar in recognition of me being a valuator and I confirm that all particulars relating to the affidavit remain accurate.

Where any particulars of the affidavit are no longer accurate, full details are provided below (*delete if not applicable*):

.....
.....
.....
.....

7. I believe that it is appropriate to appoint me as valuator to the fund, based on my qualifications, retirement fund experience and previous conduct and activities in business or financial matters. I thus accept this appointment with effect from ... (*insert date of commencement as valuator to the fund*).
8. I am aware that as valuator, I would be required to report the following to the registrar:
 - (a) In terms of section 8(6)(a), I must within 21 days of my appointment being terminated, other than where the appointment is terminated as a result of the registrar objecting to my appointment in terms of section 8(5)(b), submit a written report to the registrar detailing the perceived reasons for such termination; and

- (b) Section 8(6)(b) requires that where I become aware of any matter relating to the affairs of the pension fund which, in my opinion, may prejudice the fund or its members, I must inform the registrar of this in writing.

VALUATOR

DATE

ANNEXURE C
NOTIFICATION OF THE TERMINATION OF THE APPOINTMENT
OF A VALUATOR
IN TERMS OF SECTION 9A(2), READ WITH SECTION 8(6),
OF THE PENSION FUNDS ACT, 1956

1. I, ... *[insert full names of valuator]*, hereby inform the registrar that: –

I resigned my appointment to the ... Fund (12/8/...) with effect from *(insert date)*; the reason(s) for resigning my appointment is / are as follows:

.....
.....

OR

My appointment to the ... Fund (12/8/...) was terminated by the board of the fund with effect from ... *(insert date)*; the reason(s), or perceived reason(s), for terminating my appointment is / are as follows:

.....
.....

(delete whichever is not applicable)

2. I attach an addendum outlining in relation to the fund, to the best of my knowledge, all statutory requirements that are outstanding or unresolved at the time of resigning my appointment / my appointment being terminated.
(delete whichever is not applicable)

VALUATOR

DATE

ANNEXURE D
AFFIDAVIT BY AN ACTUARY APPLYING
TO BE CONSIDERED AS A VALUATOR
IN TERMS OF SECTION 1(1) OF THE PENSION FUNDS ACT, 1956

AFFIDAVIT
[CONFIDENTIAL ONCE COMPLETED AND SUBMITTED]

I, the undersigned

[INSERT FULL NAMES]

do hereby make oath and say:

1. I am an adult person resident at *[insert full residential address]* and I am self-employed / employed by *[insert full name of employer]* at *[insert physical address of employer]* *(delete whichever is not applicable)*.
2. The facts set out in this affidavit are within my personal knowledge and to the best of my belief true and correct.
3. My identity number is *[insert identity number]*.
4. I am a member in good standing of the Actuarial Society of South Africa.

5. I have not :

- 5.1 been convicted, after 27 April 1994, in the Republic of South Africa or elsewhere of theft, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004, an offence under the Prevention of Organised Crime Act, 1998, or any offence involving dishonesty;
- 5.2 been convicted of an offence committed after the Constitution of the Republic of South Africa, 1993, took effect and for which I was sentenced to imprisonment without the option of a fine;
- 5.3 contravened the provisions of any law, the object of which is the protection of the public against any financial loss, in any material respect;
- 5.4 taken part in business practices that were deceitful, prejudicial, or otherwise improper (whether unlawful or not) or which otherwise brought discredit to my methods of conducting business;
- 5.5 taken part or been associated with any other business practices, or conduct that casts doubt on my competence and soundness of judgement; or
- 5.6 conducted myself in a manner inconsistent with the *Code of Professional Conduct*, since its publication and as amended from time to time, which is binding on the members of the Actuarial Society of South Africa.

6. I have not, within a period of five years immediately preceding the date of this affidavit, –

6.1 been removed from a position of trust; or

6.2 been found guilty in any criminal proceedings or liable in any civil proceedings by a court of law (whether in the Republic or elsewhere); or by the Actuarial Society of South Africa or any voluntary professional body (whether in the Republic or elsewhere); or by any regulatory or supervisory body (whether in the Republic or elsewhere); or had my authorisation to carry on business refused, suspended or withdrawn by any such body

on account of an act of dishonesty, fraud, negligence, in breach of a fiduciary duty, incompetence or mismanagement sufficiently serious to impugn my honesty and integrity.

7. I have not at any time prior to the date of this affidavit been disqualified or prohibited by any court of law (whether in the Republic or elsewhere) from taking part in the management of any company or other statutorily created or regulatory body, notwithstanding such disqualification having since been lifted.

8. My estate has never been sequestrated. If not, the date of sequestration is ... *(delete whichever is not applicable)*.

9. I have never been a director, or otherwise involved in the senior management of a business which at the time was placed under judicial management or compulsory liquidation. If so, I have been rehabilitated on ... *(insert date)* *(delete whichever is not applicable)*.

10. I have not been barred from entry into any profession or occupation, or having entered, subsequently been disbarred.

[INITIALS AND SURNAME]

I certify that this affidavit was signed and sworn to / affirmed (*delete whichever is not applicable*) before me in my capacity as Commissioner of Oaths at ... (*insert place*) on this the ... day (*insert day*) of ... (*insert month and year*) by the deponent who:

confirmed that he/she (*delete which is not applicable*):

knows and understands the contents of this affidavit;

has no reservations about taking the oath;

considers the oath as binding on his/her (*delete which is not applicable*)

conscience;

uttered the words "***I swear that the contents of this affidavit are true, so help me God***" or "***I truly affirm that the contents of this affidavit are true***" (*delete whichever is not applicable*).

Commissioner of Oaths

Full names :

Full address :

Area :

Capacity :