TRANSNET SECOND DEFINED BENEFIT FUND

RULES

[These Rules have been published as a schedule to Act 41 of 2000 wef 1 November 2000]

Schedule amended by

Rule Amendment No 1 published in GN 620 of 13 July 2007; Effective Date 31.03.2007

Rule Amendment No 2 published in GN 1236 of 24 December 2010; Effective Date 24.12.2010

Rule Amendment No 3 signed on 30.04.2012; Effective Date 30.04. 2012

Rule Amendment No 4 signed on 30.07.2013; Effective Date 30.07. 2013

Rule Amendment No 5 signed on 13.11.2014; Effective Date 13.11.2014

Rule Amendment No 6

Rule Amendment No 7

Rule Amendment No 8 approved 30.10.2019 Effective Date 30.10.2019

Rule Amendment (Pension Increase) Rule 24 updated by GN 43495 of 3 July 2020

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GENERAL
DEFINITIONS

1 GENERAL

This Fund, established at the commencement date provides benefits exclusively for Pensioners, Special Pensioners and Beneficiaries to the extent permitted by the Act.

[Rule 1 substituted by GN 620 of 13 July 2007]

2 DEFINITIONS

In these Rules, unless the context otherwise indicates-

2006 Rule Amendment Date means the date which the Minister by notice in the *Government Gazette* declares that amendments to these Rules made in 2006 will take effect;

[Definition of '2006 Rule Amendment Date' inserted by GN 620 of 13 July 2007]

actuary means a fellow of any institute, faculty, society or chapter of actuaries appointed in terms of section 6 of the Act;

Administrator means any person or legal entity appointed by Transnet to manage and to attend to the administrative functions of the Fund;

[Definition of 'Administrator' inserted by GN 620 of 13 July 2007]

auditor means an auditor registered under the Auditing Profession Act, 2005 (Act 26 of 2005), and appointed by the Board in terms of Rule 9 (3);

[Definition of 'auditor' substituted by GN 620 of 13 July 2007]

Beneficiary means a Spouse, a Child, and any person, other than a Pensioner, who transferred from the Transport Pension Fund in terms of section 14B of the Act and who received a benefit from the Transport Pension Fund prior to such transfer to the Fund;

[Definition of 'Beneficiary' inserted by GN 620 of 13 July 2007]

Board or **Board of Trustees** means the Board of Trustees referred to in rule 5;

[Definition of 'Board' substituted by GN 620 of 13 July 2007]

Child means -

(i) a child born to a Pensioner; or

(ii) a child who as at the 2006 Rule Amendment Date was a stepchild or adopted child of a Pensioner;

and who

(i) has survived the Pensioner, and is not more than 18 years of age; or

(ii) has survived the Pensioner, and is more than 18 years of age and in respect of whom it has been demonstrated to the satisfaction of the Board that-

(a) he or she is engaged in full-time tuition at an education institution registered as such with the Department of Education, since the commencement of such full-time tuition prior to 18 years of age, and is not more than 26 years of age; or

(b) (i) he or she is mentally or physically incapable of supporting him or

herself; and

(ii) in respect of whom the Board has at intervals not exceeding 5 years exercised its discretion to treat him or her as a qualifying Child for the purposes of these Rules for a period or further period not exceeding 5 years,

and **"Children"** shall bear a corresponding meaning.

[Definition of 'Child' inserted by GN 620 of 13 July 200, substituted by GN 1236 of 24 December 2010 and amended wef 13 November 2014]

commencement date means the commencement date to be published by the Minister by notice in the *Gazette* ;

Company ......

[Definition of 'Company' deleted by GN 620 of 13 July 2007]

Date of Retirement means the normal retirement date applicable to a Pensioner in terms of his or her conditions of service as at the date that he or she actually retired from employment and became a pensioner of the Transport Pension Fund;

[Definition of 'Date of Retirement' inserted by GN 620 of 13 July 2007]

'Dependant in relation to a Pensioner means-

(i) a Spouse;

(ii) a Child;

[Definition of 'dependant' substituted by GN 620 of 13 July 2007]

employer ......

[Definition of 'employer' deleted by GN 620 of 13 July 2007]

Fund means the Transnet Second Defined Benefit Fund established in terms of section 14B of the Act;

[Definition of 'Fund' inserted by GN 620 of 13 July 2007]

interest means interest compounded monthly;

Investment Consultant means a natural or legal person who is appointed to furnish advice to the Fund on the strategic investment of its assets and the allocation of mandates to Investment Managers and who performs any other function as the Board may decide;

[Definition of 'Investment Consultant' inserted by GN 620 of 13 July 2007]

Investment Manager means a natural or legal person who invests assets of the Fund on its behalf and in accordance with its instructions;

[Definition of 'Investment Manager' inserted by GN 620 of 13 July 2007]

Managing Director ......

[Definition of 'Managing Director' deleted by GN 620 of 13 July 2007]

meeting includes an adjourned meeting;

Minister means the Minister of Public Enterprises;

GENERAL
DEFINITIONS

Pensioner means a pensioner member transferred from the Transport Pension Fund in terms of section 14B of the Act and who was employed by or rendered services to Transnet, its predecessor, or a subsidiary of Transnet prior to receiving a benefit from the Transport Pension Fund;

[Definition of 'pensioner' substituted by GN 620 of 13 July 2007]

Registrar ......

[Definition of 'Registrar' deleted by GN 620 of 13 July 2007]

Recognised Marriage means, in relation to a Pensioner-

(i) a civil marriage or customary marriage or a marriage by religious rites; or

(ii) a union as defined in the Civil Union Act 17 of 2006 ; or

(iii) cohabitation between a Pensioner and another person which the Board in its discretion has determined to be a Recognised Marriage:

Provided that any relationship referred to in (i) to (iii) which constitutes a Recognised Marriage, should have existed prior to or at the 2006 Rule Amendment Date and continued to exist until the date of death of the Pensioner;

[Definition of 'recognised marriage' substituted by GN 620 of 13 July 2007]

Rules means these Rules of this Fund;

[Definition of 'Rules' inserted by GN 620 of 13 July 2007 and substituted by GN 1236 of 24 December 2010.]

Special Pensioner means a person who, as at the 2006 Rule Amendment Date

(a) was in receipt of a pension and/or other benefit paid by Transnet;

(b) was not entitled to a pension and/or other benefit paid by the Fund, the Transport Pension Fund or the Transnet Retirement Fund;

[Definition of 'Special Pensioner' inserted by GN 620 of 13 July 2007]

Spouse means a person who was a party to a Recognised Marriage with a Pensioner;

[Definition of 'Spouse' inserted by GN 620 of 13 July 2007]

the Act means the Transnet Pension Fund Act, 1990 (Act 62 of 1990);

Transnet means Transnet Limited.

[Definition of 'Transnet' inserted by GN 620 of 13 July 2007]

Transport Pension Fund means the Fund established in terms of the Act and formerly known as the Transnet Pension Fund; and

[Definition of 'Transport Pension Fund', previously 'Transnet Pension Fund', substituted by GN 620 of 13 July 2007]

The headings to the Rules shall not be taken into account in the interpretation of the Rules. If there is any inconsistency between the Act and these Rules, the provisions of the Act will prevail. A reference to the singular shall include the plural and *vice versa*. Expressions in the masculine shall include the feminine and *vice versa*.

[Text inserted by GN 620 of 13 July 2007]

FUND OBJECT, MEMBERSHIP CONTRIB., TRANSFERS
REGISTERED OFFICE
BOARD OF TRUSTEES

3 FUND: OBJECT, MEMBERSHIP, CONTRIBUTIONS AND TRANSFERS

(1) The Fund to which these Rules apply, is the Transnet Second Defined Benefit Fund established by section 14B of the Act.

(2) In terms of section 14B (4) of the Act, the Fund is vested with legal personality and is capable of suing or being sued in its own name and of doing all such things as may be necessary for or incidental to the exercise of its powers or the performance of its functions in terms of the Rules.

[Subrule (2) substituted by GN 620 of 13 July 2007]

(3) The object of these Rules shall be to maintain and regulate a fund, from which benefits to Pensioners, Special Pensioners and Beneficiaries shall be paid, and for whose benefit this Fund is established.

[Subrule (3) substituted by GN 620 of 13 July 2007]

(4) Membership shall commence from

(a) in the case of a Pensioner, the date of transfer of the Pensioner from the Transport Pension Fund in terms of section 14B of the Act; and

(b) in the case of a Special Pensioner, the date with effect from which he or she first became entitled to a pension from this fund in terms of these Rules.

[Subrule (4) substituted by GN 620 of 13 July 2007]

(5) No Pensioner, Special Pensioner or Beneficiary shall contribute to this fund: Provided that Transnet, if the Board of Trustees deems this necessary after consultation with the actuary, shall contribute to the Fund.

Subrule (5) substituted by GN 620 of 13 July 2007]

(6) The Fund shall have the power to receive transfer values of pensioners from Transport Pension Fund.

[Subrule (6) substituted by GN 620 of 13 July 2007]

4 REGISTERED OFFICE

The registered office of the Fund shall be at such address as the Board of Trustees may decide, notification of which must be given to the Minister.

[Rule 4 substituted by GN 620 of 13 July 2007]

5 BOARD OF TRUSTEES

(1) The Board of Trustees shall comprise four trustees and their alternates appointed by Transnet and four trustees to be elected and appointed by the Pensioners, Dependants and Special Pensioners from amongst the Pensioners in accordance with rule 32 ('Pensioner-elected Trustees').

[Subrule (1) substituted by GN 1236 of 24 December 2010 and further amended 30.04.2012]

(2) The Board of Trustees shall control the Fund.

(3) The Board shall, based on criteria determined by the Board, appoint a chairperson for the Board who shall not be a trustee.

Amended 30.10.2019 wef 30.10.2019

(a) For a period of 48 months with the option to extend the term for no longer than a further 48 months

Inserted 30.10.2019 wef 30.10.2019

(4) Subject to there being sufficient members to form a quorum as laid down in rule 7 (5), the Board of Trustees shall be entitled to function notwithstanding the existence of any vacancy.

(5) The duty of the chairperson, members of the Board of Trustees and their alternates towards the Fund shall be of a fiduciary nature and they shall, when acting in such capacities, act only in the interests of the Fund, to the exclusion of all other considerations or objectives. The chairperson, members of the Board of Trustees and their alternates shall also act in good faith towards all of the stakeholders in the Fund including Pensioners, Beneficiaries, Special Pensioners and Transnet.

(6) The members of the Board of Trustees shall conduct themselves, at meetings of the Board, in a responsible manner that is in harmony with their status as members of that Board. Should a member of the Board act in breach of this requirement, the Board may, by a majority vote of at least two thirds of the members of the Board of Trustees present at the meeting at which such breach occurs, require the person concerned to leave the meeting or take such other decision or action as may, in the circumstances, be necessary.

[Rule 5 substituted by GN 620 of 13 July 2007]

6 DISQUALIFICATION AND TENURE OF OFFICE OF BOARD MEMBERS

(1) Any of the following persons shall be disqualified from being appointed or acting as the Chairperson or a member of the Board:

(a) a minor or a person that is certified as mentally ill, or who is physically or otherwise incapable of acting;

(b) a person whose estate is sequestrated, surrendered or assigned in favour of his or her creditors and has not been rehabilitated by a court;

(c) a person who has been convicted by a court of law of theft, forgery or fraud or a similar offence involving dishonesty and has not been pardoned or granted amnesty for that offence;

(d) a person who has been previously expelled from this Board or any other position of trust as a result of misconduct, or on account of not being a fit and

proper person to occupy such a position;

(e) a person who has previously displayed dishonesty or conduct which, in the opinion of the Board and the Electoral Officer, indicates that he or she is not a fit and proper person to occupy a position of trust;

(f) a person who is in a position in which his or her interests (other than as a Member of the Fund), and/or the interests of a third party are likely to conflict with his or her duties to the Fund; and

(g) a person who in the opinion of 75% of the members of the Board of Trustees is not a fit and proper person to occupy the position

(h) a body corporate

Inserted 30.10.2019 wef 30.10.2019

(1AA) In addition to the disqualifications in (1) (a) to (g) above - any of the following persons shall be disqualified from being appointed as the Chairperson of the Board:

(a) A Pensioner or Beneficiary of the Fund and their immediate family

(b) A person or his or her immediate family who is currently employed by Transnet or the Fund in any executive or non-executive capacity or who has been employed in such capacity during the preceding three financial years

(c) An existing professional adviser to Transnet or the Fund or a professional advisor to Transnet or the Fund during the preceding three financial years and their immediate family

(d) The designated external auditor for the Fund or Transnet or key member of the external audit firm's audit team or such auditor and key member during the preceding three financial years and their immediate family

Inserted 30.10.2019 wef 30.10.2019

(2) The chairperson or a member of the Board shall cease to hold office upon-

(a) resignation from the Board;

(b) disqualification in terms of subrule (1) (1AA); or

(c) termination of appointment by Transnet in the case of those Trustees who are not Pensioner-elected Trustees

(d) in case of the chairperson, termination of appointment by the Board.

Inserted 30.10.2019 wef 30.10.2019

(3) A Pensioner-elected Trustee will remain in office for a period of not more than five years but will be eligible for re-election, subject to the terms of subrule (1), on the expiry of his or her period of office.

[Rule 6 amended by GN 620 of 13 July 2007, substituted by GN 1236 of 24 December 2010 and further amended on 30.04.2012]

7 MEETINGS OF BOARD OF TRUSTEES

(1) The Board shall meet at least every quarter and at such other times as the Board may decide.

(2) The Board shall at the last meeting of every year determine the dates for the quarterly meetings to be held in the forthcoming year.

(3) A special meeting shall be called at any time on the instruction of the Chairperson or at the written request of any three members of the Board.

(4) The Chairperson, when unable to attend any meeting, shall appoint an Acting Chairperson for that meeting, or failing such appointment, the Board of Trustees shall appoint an Acting Chairperson.

(5) The majority of the members of the Board shall constitute a quorum for a meeting of the Board.

(6) A decision by a majority of the members of the Board present at a meeting of the Board shall constitute a decision of the Board.

(7) Decisions of the Board shall be taken by a show of hands or, if so required by any member of the Board present at the meeting, by ballot.

(8) The Chairperson shall not have a deliberative vote.

(9) The Chairperson shall have a casting vote, which may be exercised in the event of an equality of votes.

(10) An acting chairperson appointed in terms of 7 (4) above, shall not have a casting vote.

Inserted 30.10.2019 wef 30.10.2019

(11) If a trustee of the Board is appointed as the acting chairperson in terms of 7 (4) above, such trustee shall have a deliberative vote but not a casting vote.

Inserted 30.10.2019 wef 30.10.2019

(12) If there is no quorum at a meeting of the Board within thirty (30) minutes after the time fixed for its commencement, the meeting shall adjourn for a period of not less than two weeks and not more than four weeks.

[Subrule (10) now 12 substituted by GN 620 of 13 July 2007]

(13) At such adjourned meeting the members present shall form a quorum.

(14) With the consent of the chairperson, a decision may be taken by the members of the Board of Trustees by "round robin" resolution provided that every board member who is in the Republic of South Africa at the time exercises a vote in respect of that decision and the decision is noted at the next meeting of the Board.

[Subrule (12) now 14 inserted by GN 620 of 13 July 2007]

8 MINUTES

(1) The Board shall record the minutes of all its meetings.

(2) Such minutes, if signed by any person purporting to be the Chairperson of the meeting to which it relates, shall be regarded as a true record of the proceedings of that meeting.

9 POWERS OF BOARD OF TRUSTEES

(1) The Board may prescribe the manner in which the award of benefits shall be considered by the Fund.

(2) The Board may take any action (including the control of the finances and the administration of the Fund) not specifically provided for in these Rules that may be necessary to achieve the objects of the Fund provided that such action is not inconsistent with the Act or these Rules.

[Subrule (2) substituted by GN 620 of 13 July 2007]

(3) The Board shall appoint an auditor for the Fund and the contract effecting the appointment may be terminated by notice duly given by either party.

(4) The Board shall appoint-

(a) an Executive Committee which shall consist of a minimum of-

(i) a chairperson appointed by the Board;

(ii) the principal officer of the Fund; and

(iii) two other people appointed by the Board who may be, but need not be, members of the Board of Trustees; or

(iv) alternates to the trustees in (i) to (iii) above, which alternates must themselves be members of the Board;

(b) an Investment Committee which shall consist of a minimum of-

(i) a chairperson appointed by the Board;

(ii) the principal officer of the Fund; and

(iii) two other people appointed by the Board who may be, but need not be, members of the Board of Trustees; or

(iv) alternates to the trustees in (i) to (iii) above, which alternates must themselves be members of the Board.

[Subrule (4) substituted by GN 620 of 13 July 2007 and by GN 1236 of 24 December 2010.]

(5) The Board has the discretion to delegate to another person or body selected by it such powers and functions as it may determine but this does not mean that the Board does not retain its overall responsibility for the exercise of those powers and

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the fulfilment of those functions.

[Subrule (5) inserted by GN 620 of 13 July 2007]

(6) Transnet must appoint the first Investment Consultant appointed after the 2006 Rule Amendment Date and shall pay the fees of that Consultant for the period of that appointment. Any appointment of an Investment Consultant thereafter must be made by the Fund at its expense.

[Subrule (6) inserted by GN 620 of 13 July 2007]

(7) The Board shall determine the investment policy of the Fund and shall review, and if necessary, revise it at intervals of not more than three years. The Board shall also determine the strategy of the Fund after taking into account the recommendation of the Investment Committee and review, and, if necessary, revise it at intervals of no more than 12 months. Provided that the Board's decisions on the investment policy and strategy of the Fund will be of no force or effect unless-

(i) the actuary has in writing declared that it is suitable for the Fund; and

(ii) Transnet has in writing approved it.

[Subrule (7) inserted by GN 620 of 13 July 2007]

(8) The investment policy of the Fund may not be changed without the approval of the actuary and Transnet: Provided that if within 60 days of the date on which the proposed new investment policy is in writing submitted to Transnet for consideration Transnet does not in writing indicate whether or not it has approved or rejected the proposed new investment policy, it will be deemed to have approved it.

[Subrule (8) inserted by GN 620 of 13 July 2007]

EXECUTIVE COMMITTEE
INVESTMENT COMMITTEE

10 EXECUTIVE COMMITTEE

The Executive Committee shall-

(a) deal with all disputes in respect of benefits;

[Para. (a) substituted by GN 620 of 13 July 2007]

(b) authorise the payment of benefits to a guardian of a minor or to a curator of a person under legal disability; and

(c) perform any other duties prescribed by the Board.

11 INVESTMENT COMMITTEE

(1) The Investment Committee shall-

(a) after taking advice on the matter from the Investment Consultant and after taking into account the characteristics and circumstances of the Fund, formulate a proposed investment policy and strategy for the Fund, including a proposal in regard to the appointment of an Investment Manager or Investment Managers, for consideration by the Board. Provided that such investment strategy may not provide for the investment outside of the Republic of a greater percentage of its assets than that which a pension fund registered in terms of the Pension Funds Act, 1956 (Act 24 of 1956) may so invest;

(b) subject to rule 9 (7)-

(i) implement or procure the implementation of the policy and strategy;

(ii) monitor the performance of the Fund's investments; and

(iii) review, and, when it believes it to be appropriate, recommend changes to the Fund's investment policy and strategy;

(c) submit reports on the investments to the Board at such intervals and in such form as the Board may prescribe; and

(d) keep complete accounts, records and minutes of all actions taken in the performance of its functions and the exercise of its powers.

(2) The Investment Committee may, for the purpose of subrule (1) or subrule (4), make use of the services of Investment Managers.

(3) Any security belonging to the Fund and held by it or an Investment Manager on its behalf shall be kept in safe custody in the safes or strongrooms at the registered office of the Fund or at any bank or building society approved by the Board or in the safe custody of the Fund's approved custodian/s.

(4) Subject to subrule (1) the Investment Committee shall have the power to do anything relating to the making of investments or the protection of investments which in its opinion is to the best advantage of the Fund-

(a) to enable the Fund to meet its current and future liabilities;

(b) without limiting subrule (4) *(a)* , to reduce investment risk;

(c) without limiting subrule (4) *(a)* , to ensure efficient portfolio management;

(d) to facilitate the discharge of its functions in terms of subrules (1)*(a)*, (4)*(a),* (4)*(b)* or (4)*(c)*

(5) All actions taken by the Investment Committee must be consistent with the investment policy approved in terms of rules 9 (7) and (8) and any diversion from this investment policy must therefore be approved by the Board of Trustees in terms of rules 9 (7) and (8).

[Rule 11 substituted by GN 620 of 13 July 2007]

12 ADMINISTRATOR AND PRINCIPAL OFFICER

[Heading substituted by GN 620 of 13 July 2007]

(1) Transnet shall appoint the Administrator and the principal officer of the Fund and may, at any stage, terminate such appointments. The costs of the principal officer shall be borne by Transnet.

[Subrule (1) substituted by GN 620 of 13 July 2007]

(2) Should the principal officer be absent from the Republic for more than thirty days or be otherwise unable to fulfil his or her functions, Transnet shall appoint another person to act as principal officer for the period of such absence or inability and shall advise the Board of the appointment.

[Subrule (2) substituted by GN 620 of 13 July 2007]

(3) The principal officer shall have power-

(a) to open a banking account in the name of the Fund;

[Para. (a) substituted by GN 620 of 13 July 2007]

(b) with the approval of the Board or any sub-committee thereof including the Investment Committee and the Executive Committee, to enter into and sign any contract on behalf of the Fund;

[Para. (b) , previously para. (d) deleted and substituted by GN 620 of 13 July 2007]

(c) with the approval of the Board or any sub-committee thereof including the Investment Committee and the Executive Committee to institute or defend any legal proceedings by or against the Fund and to instruct a legal representative with regard to such proceedings;

[Para. (c) , previously para. (e) deleted and substituted by GN 620 of 13 July 2007]

(d) to procure the execution of the decisions of the Investment Committee by the Investment Managers or any other person or body authorised to execute those decisions; and

[Para. (d) , previously para. (g) renumbered and substituted by GN 620 of 13 July 2007]

APPOINTMENT OF SECRETARY
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(e) to procure the execution of the decisions of Board and the Executive Committee by the Administrator or any other person or body authorised to execute those decisions.

[Para. *(e)* , previously para. *(h)* renumbered and substituted by GN 620 of 13 July 2007]

(f) ......

[Para. (f) deleted by GN 620 of 13 July 2007]

(g) ......

[Para. (g) renumbered to para. (d) by GN 620 of 13 July 2007]

(h) ......

[Para. (h) renumbered to para. (e) by GN 620 of 13 July 2007]

[Subrule (3) amended by GN 620 of 13 July 2007]

(4) The Administrator shall have the power as the agent of the Fund and subject to any terms and conditions set out in any agreement concluded between it and the Fund to-

(a) to operate a banking account in the name of the Fund;

(b) to receive and administer the moneys of the Fund required to meet current expenses;

(c) with the approval of the Board to borrow money from any source and to obtain an overdraft from a bank or building society;

(d) to exercise such powers as it may be given and to fulfil such functions as it may be required to fulfil in terms of any agreement between it and the Fund.

[Subrule (4) inserted by GN 620 of 13 July 2007]

13 APPOINTMENT OF SECRETARY

The principal officer shall appoint the secretary of the Fund and may, at any stage, terminate any such appointment. The cost in respect of the remuneration of the secretary shall be borne by Transnet.

[Rule 13 substituted by GN 620 of 13 July 2007]

14 DUTIES OF SECRETARY

The Secretary shall-

(a) keep all documents relating to the business of the Fund in safe custody, except those which are prescribed by law to be kept by any other person;

(b) submit to the Board all matters and documents received;

[Para. (b) substituted by GN 620 of 13 July 2007]

(c) receive notices of matters to be considered by the Board;

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(d) convene all meetings of the Board, Executive Committee and Investment Committee;

(e) record the minutes of the proceedings of all meetings of the Board, Executive Committee and Investment Committee;

(f) circulate copies of all minutes of the Board to all members of the Board; and

(g) perform such other duties as the Board may from time to time prescribe.

15 CONFIDENTIALITY

The Chairperson, members of the Board and their alternates, and all persons engaged in the administration of the Fund, shall treat all matters and information that relate to the Fund as confidential.

16 INDEMNIFICATION AND INSURANCE

(1) The Fund shall indemnify the chairperson, members of the Board and their alternates, the principal officer and the secretary against all costs and expenses incurred by reason of any act carried out in good faith in the performance of their duties in connection with the Fund.

(2) The Board shall insure the Fund against losses due to dishonesty, negligence and fraud of officials of the Fund including members of the Board.

[Rule 16 substituted by GN 620 of 13 July 2007]

17 ADMINISTRATION EXPENSES

Transnet shall pay to the Fund annually all expenses in connection with the administration of the Fund subject to the condition that such expenses have been provided for in an annual budget prepared by the Fund and approved by Transnet.

[Rule 17 substituted by GN 620 of 13 July 2007]

18 ACCOUNTS, AUDIT AND ACTUARIAL VALUATION

(1) *(a)* The Board shall keep such accounts, entries, registers and records which are essential for the proper functioning of the Fund.

(b) The accounts shall be prepared in the format prescribed in terms of legislation applicable to retirement funds not established by law and shall be balanced at the end of each financial year and shall be audited by the auditor.

[Para. (b) substituted by GN 620 of 13 July 2007]

(c) The Board shall, at the end of the financial year, submit to Transnet-

(i) an annual report on all matters relating to the Fund; and

(ii) the financial statements pertaining to the Fund.

[Para. (c) substituted by GN 620 of 13 July 2007]

(d) The auditor shall have access to all books, vouchers, accounts and documents of the Fund.

(e) When an audit report reflects that the Fund's accounts are not managed on a sound financial basis, the Board shall inform the Minister.

(f) The financial year of the Fund shall be from 1 April up to and including 31 March of the following year.

(2)*(a)* The Board shall cause accurate records to be kept to enable the actuary to make an actuarial valuation at any time.

[Para. (a) substituted by GN 620 of 13 July 2007]

(b) The Fund shall be valued by the actuary at intervals of not more than three years, in the discretion of the Minister, to determine whether the Fund is in a financial position to pay the benefits provided for in these Rules and the actuary shall submit the report of the valuation to the Minister, the Minister of Finance, Transnet and the Board.

[Para. (b) substituted by GN 620 of 13 July 2007]

19 UNSOUND FINANCIAL POSITION

(1) When an actuarial report referred to in rule 18 (2) *(b)* indicates that the Fund is not in a financially sound position, the Minister, with the concurrence of the Minister of Finance, may direct the Board to submit a schedule setting out arrangements designed to restore the fund to a financially sound position within three months from the date of receipt of such direction, together with a report thereon by the actuary.

(2) When any audit or actuarial report indicates a deficiency in the Fund, the Board shall, within three months from the date of such report, submit a scheme to the Minister and the Minister of Finance setting out the arrangements which have been made or which it is intended to make to eliminate the deficiency, together with a report thereon by the actuary.

(3) If the Minister and the Minister of Finance are satisfied that the arrangements referred to in sub rule (1) or (2) should suffice to accomplish the objects of this rule, the Minister with the concurrence of the Minister of Finance shall approve the scheme.

[Subrule (3) substituted by GN 620 of 13 July 2007]

(4) The Minister, if not satisfied with such arrangements, shall, in concurrence with the Minister of Finance, request the Board to make such amendments to the scheme, or to submit a new scheme, and the Board shall, within a period prescribed by the Minister, which is not less than 30 days from the date of the request, furnish the

Minister and the Minister of Finance with a report on such amendments or such new scheme and a report by the actuary, and the provisions of subrule (3) shall apply to any such amended scheme or new scheme which the Board may submit.

(5) The Board shall carry out the terms of any scheme approved by the Minister under this rule: Provided that-

(a) the Minister may, with the concurrence of the Minister of Finance, permit the Board to amend such scheme from time to time;

(b) if any information submitted to the Minister during the currency of such scheme indicates, in the opinion of the Minister, that the scheme is unlikely to accomplish the objects of this rule, such approval of the scheme may be withdrawn, and the Board shall, within three months thereafter, prepare a further scheme to which the provisions of this rule shall apply with the changes required by the context; and

(c) if, in the opinion of the Minister of Finance, the financial condition of the Fund is no longer unsound, the former shall inform the principal officer to that effect and, on receipt of such communication, the obligations of the Fund in respect of that scheme shall terminate.

[Para. (c) substituted by GN 620 of 13 July 2007]

(6) If the Minister, in concurrence with the Minister of Finance, is of the opinion that the Fund is in such an unsound financial condition that any scheme contemplated in this rule would be ineffective, impracticable or unsatisfactory, the Minister may-

(a) apply to the court for an order directing that the provisions of these Rules relating to the appointment, powers, remuneration (if any) and removal from office of the person managing the business of the Fund, or relating to such other matter as he or she may regard appropriate, be altered in a manner to be specified in such application, or directing that the whole or any part of the business of the Fund be wound up; or

[Para. (a) substituted by GN 620 of 13 July 2007]

(b) call on a guarantee to be furnished by Transnet to place the Fund in a financially sound condition on terms specified by the Minister.

[Para. (b) substituted by GN 620 of 13 July 2007]

20 APPEALS

(1) If a person is dissatisfied with any decision of the principal officer or Administrator such person shall have a right of appeal to the Executive Committee.

[Subrule (1) substituted by GN 620 of 13 July 2007]

DISPOSITION OF PENSION BENEFITS ON DEATH OF PENSIONER
PENSION BENEFITS
DEATH OF PENSIONER

(2) If a person is dissatisfied with a decision of the Executive Committee, including a decision on appeal in terms of subrule (1), such person shall have a right of appeal to the Board.

(3) The decision of the Board on any such appeal shall be final and binding on the parties.

21 DISPOSITION OF PENSION BENEFITS ON DEATH OF PENSIONER

(1) No benefit will be paid to a Child or Spouse unless within 12 months of the date upon which notice of the death of the Pensioner was received in writing by the Fund the benefit has been in writing claimed for him or her.

[Subrule (1) substituted by GN 620 of 13 July 2007]

(2) For the purpose of this rule a payment by the Fund to a trustee contemplated in the Trust Property Control Act, 1988 (Act 57 of 1988), for the benefit of a person contemplated in these Rules shall be deemed to be a payment to such person.

[Subrule (2) substituted by GN 620 of 13 July 2007]

22 PENSION BENEFITS

(1) The pension payable to a Pensioner or Beneficiary shall be the pension to which he or she was entitled immediately prior to the 2006 Rule Amendment Date increased from time to time as may be determined in terms of rule 24.

(2) Subject to rule 21 (1), a Spouse or Child shall be entitled to a benefit as determined in terms of rule 23 with effect from the first day of the month following the date of death of the Pensioner increased from time to time as may be determined in terms of rule 24.

[Rule 22 substituted by GN 620 of 13 July 2007]

23 DEATH OF PENSIONER

(1) Upon the death of a Pensioner there shall be paid to the Dependant or Dependants a benefit provided for in this sub rule in relation to the particular class of Dependant.

(2) In relation to the death of a Pensioner who was a female Pensioner, no benefit is paid to her Dependants if-

(a) such Pensioner had retired before 1 January 1991; and

(b) such member while a member of the Transport Pension Fund elected on or before 1 January 1991 to exclude her Dependants from receiving any benefit upon her death.

DISPOSITION OF PENSION BENEFITS ON DEATH OF PENSIONER
PENSION BENEFITS
DEATH OF PENSIONER

(3) Subject to rule 22, the aggregate of the benefit payable to Spouses and Children in terms of these Rules shall not exceed 70% of the benefit that was payable to the deceased Pensioner at the date of his or her death, or such adjusted benefit as determined in terms of rule 23A, as the case may be.

(4) In the event that there is only one Spouse and no Children, such spouse shall receive 70% of the benefit that was payable to the deceased Pensioner at the date of his or her death, or such adjusted benefit as determined in terms of rule 23A, as the case may be.

(5) In the event that there is more than one Spouse and no Children, each Spouse shall receive an equal share of the total benefit referred to in in rule 23(3).

(6) In the event that there is one Spouse and Children, the Board shall have the discretion to distribute the amount of the benefit referred to in rule 23(3) between such Spouse and such Children as the Board may deem fit.

(7) In the event that there is more than one Spouse and Children, the Board shall have the discretion to pay such benefit as is referred to in rule 23(3) to any one of the Spouses or to all of the Spouses in the proportion as the Board deems fit subject to the Board's further discretion to pay all of such benefit or a portion thereof to some or all of the Children in such proportions as the Board deems fit.

(8) In the event that there is no Spouse who is entitled to a benefit but only a Child or Children at the date of death of the Pensioner, the total benefit payable to such Child or Children in terms of these Rules shall not exceed 56% of the benefit that was payable to the deceased Pensioner at the date of his or her death. In this event the Board has the discretion to allocate the total benefit or a part thereof in terms of this sub rule in such proportions as the Board may deem fit for the benefit of all or only one or more of such Children as the Board may deem fit.

(9) The Board may in its discretion pay any benefit allocated to those Children, individually or as a group into a trust as contemplated in the Trust Property Control Act. 1988 (Act 57 of 1988) for the benefit of such Children and it shall be deemed to be a payment to such Children.

(10) In the event that a benefit is payable to a Pensioner or Beneficiary in the month in which he or she dies, but has not been paid before his or her death, the benefit payable in respect of that month will be paid to the estate of the deceased Pensioner or Beneficiary and thereafter there will be no further amount payable in respect of him or her.

[Rule 23 substituted by GN 620 of 13 July 2007]

Although GN R620 of 13 July 2007 amended the various subrules, the rule was effectively substituted in its entirety.

CALCULATION OF BENEFIT
ANNUAL INCREASE

23A CALCULATION OF BENEFIT

(1) Subject to the provisions of subrule (4), if the Pensioner had retired on attaining the Date of Retirement, the benefit payable in terms of these Rules to all Beneficiaries after the death of the Pensioner shall not exceed in aggregate 70% of the benefit which was payable to the deceased Pensioner on the date of his or her death.

(2) Subject to the provisions of subrule (4), if the Pensioner had retired before attaining the Date of Retirement, the total benefit payable in terms of these Rules to all Beneficiaries, Spouses and Children shall not exceed in aggregate an amount calculated by multiplying 70% of the benefit which was payable by this Fund or the Transport Pension Fund, whichever is applicable at the date of the death of the Pensioner by the factor which is arrived at by dividing the sum of the total of service and the number of years service that the Pensioner could have still rendered from the date of his or her death to the Date of Retirement by the pensionable service.

(3) Subject to the provisions of sub rule (4), if the deceased Pensioner to whom a benefit was paid by this Fund and/or the Transport Pension was paid due to dismissal after the completion of 20 years of service with Transnet, its predecessor or a subsidiary of Transnet, the benefit referred to in sub rule (1) is payable.

(4) *(a)* Where the age difference between the Pensioner and the Spouse is not more than five years and where a Recognised Marriage has been entered into by the Pensioner subsequent to retirement but before the 2006 Rule Amendment Date, the benefit determined in subrules (1) or (2), as the case may be, shall be payable.

(b) Where the age difference between the Pensioner and the Spouse is more than five years and where a Recognised Marriage has been entered into by the Pensioner subsequent to retirement but before the 2006 Rule Amendment Date, the benefit as determined in subrules (1) or (2), as the case may be, is adjusted by multiplying the benefit by a factor that is arrived at by dividing the age of the Spouse by that of the Pensioner, as at the date of death of the Pensioner, provided that the benefit shall not exceed the benefit as determined in sub rules (1) and (2).

[Rule 23A inserted by GN 620 of 13 July 2007]

24 ANNUAL INCREASE

24.1. The pension received by a Pensioner or Beneficiary immediately before each anniversary of the date on which the pension commenced shall be increased by 2% on that anniversary: Provided that in the case of a Beneficiary, the anniversary date shall be the anniversary of the date on which the pension first became payable to the Pensioner from whose membership the Beneficiary's claim is derived.

[Rule 24 substituted by GN 620 of 13 July 2007]

PAYMENT TO OTHER PERSON
PAYMENT TO ESTATE
PENSIONER RE-EMPLOYED
PAYMENT OF PENSIONS

24.2. The Board may consider the granting of additional pension increases (in addition to the 2% outlined above) from time to time.

24.3. Any increase in pensions as provided in 24.2 shall be determined in line with the Fund's Pension Increase and Bonus Policy and shall be subject to:

24.3.1. the **Fund** being able to afford such increase according to the discretion of the **Board**;

24.3.2. the actuary's written confirmation that such increase is affordable by the **Fund**; and

24.3.3. the written approval by the **Employer**.

Rule 24 updated by GN 43495 of 3 July 2020

25 PAYMENT TO PERSON OTHER THAN BENEFICIARY

The Board may if it is satisfied, after having considered a report by two medical practitioners, that any Beneficiary, Special Pensioner or Pensioner to whom any amount is payable under these Rules is, by reason of a mental condition, unable to manage his or her own affairs, order-

(a) That such amount be paid to some other person upon such conditions as the Board may determine as to its administration for the benefit of the Beneficiary Special Pensioner or Pensioner; or

(b) That a portion of such amount be paid to the Beneficiary, Special Pensioner or Pensioner, and that the balance be paid, in the order of preference laid down in rule 23 to the persons mentioned in that paragraph who are dependent upon the Beneficiary, Special Pensioner or Pensioner or to some other person upon such conditions as the Board may determine as to its administration, in accordance with the said order of preference, for the benefit of any such person or that the balance be partly so paid to any such person and partly to such other person upon the said conditions: Provided that no such order shall be made in respect of a Beneficiary, Special Pensioner or Pensioner, for the administrator of whose estate a *curator bonis* has been appointed and that any such order shall lapse if a *curator bonis* for the administration of the estate of the Beneficiary, Special Pensioner or Pensioner concerned is appointed.

[Rule 25 substituted by GN 620 of 13 July 2007]

26 PAYMENT TO ESTATE

When the amounts referred to in rule 23 have been paid to any person mentioned therein other than the person lawfully administering the estate of a deceased Pensioner, no such

PAYMENT TO OTHER PERSON
PAYMENT TO ESTATE
PENSIONER RE-EMPLOYED
PAYMENT OF PENSIONS

amount shall be deemed to form part of the estate of the deceased Pensioner and there will be no further claim against either Transnet or the Fund in terms of that rule.

[Rule 26 substituted by GN 620 of 13 July 2007].

27 PROVISION IN CASE OF PENSIONER WHO IS RE-EMPLOYED

If a person has been granted a pension under these Rules or appropriate provisions that preceded these Rules and is thereafter re-employed, such member shall continue to receive the pension being paid.

[Rule 27 substituted by GN 620 of 13 July 2007]

28 PAYMENT OF PENSIONS

(1) The Board shall arrange for the monthly amount of a pension to be credited to an account in the name of the Pensioner, Beneficiary or Special Pensioner at a bank to

PAYMENT OF INTEREST

be nominated by the Pensioner, Beneficiary or Special Pensioner, as the case may be.

(2) *(a)* Where exceptional circumstances prevail, the Board may arrange for the payment of pensions by means of pension warrants, the encashment of which shall be subject to such condition as the Board may prescribe and which shall be reflected on the warrants.

(b) The payment of a pension by means of warrants shall be made monthly and not earlier than a date to be determined by the Board, which date shall be reflected on the warrants.

(3) In the case of a pension payable to the Master of the High Court for deposit in the Guardian's Fund on behalf of a person entitled to that pension, the Executive Committee may waive compliance with all or any of the requirements prescribed in sub rule (2).

[Rule 28 substituted by GN 620 of 13 July 2007]

28A PAYMENT OF INTEREST

(1) The Fund must pay to a Pensioner, Beneficiary, Dependant or Special Pensioner interest on the amount of any benefit payable to him or her in respect of the period commencing 60 days after the date on which all conditions for the payment of the benefit have been fulfilled and ending on the date of payment of the benefit.

(2) The conditions for payment contemplated in subrule (1) above include, but are not limited to-

(a) the receipt by the Fund of such information as it may require for the purpose of determining the amount of the benefit to be paid after the deduction of amounts which may be deducted in terms of the Act and these Rules including, but not limited to-

(i) such directive from the SA Revenue Service as may be required for the purpose of determining the tax, if any, to be deducted from the amount of the benefit;

(ii) proof of amounts deductible from the benefit and payable to the former spouse, housinq finance provider or former employer of the Pensioner, Beneficiary, Dependant or Special Pensioner, as applicable; and

(b) the receipt by the Fund of the information reasonably required by it for the secure payment of the benefit into the bank account of the Pensioner, Beneficiary, Dependant or Special Pensioner, as the case may be.

(3) The rate at which interest will be payable in terms of this Rule will be determined from time to time by the Board after they have taken into account all relevant factors

TRANSFER OF LIABILTIES IRO SPECIAL PENSIONERS
MINIMUM PENSION PAYMENT

including, but not limited to the rates of return earned on the investment of the unpaid benefits over the period in respect of which the interest is payable.

[Rule 28A inserted by GN 1236 of 24 December 2010.]

29 TRANSFER OF LIABILITIES IN RESPECT OF SPECIAL PENSIONERS

(1) Subject to the Act and the approval of Transnet and the Board of Trustees the Fund may accept the obligation to pay a pension and/or other benefit to a Special Pensioner from date of acceptance to the date of his or her death in an amount not less than the amount of the pension and/or benefit enjoyed by him or her immediately before the date of acceptance, provided that there is paid to the Fund an amount equal in value to the actuarial value of the Fund's liability to pay the pension and/or other benefit until the date of his or her death determined on a basis agreed between the Fund's actuary and an actuary appointed by Transnet or, failing such agreement, on a basis determined by an actuary appointed for this purpose by the president for the time being of the Actuarial Society of South Africa.

(2) Following the acceptance of the obligation in terms of rule 29(1), the Special Pensioner will be entitled to receive from the Fund a pension and/or other benefit equal to the pension and/or other benefit he or she received immediately before the transfer and will have no claim to a pension and/or other benefit from Transnet.

(3) By agreement between the Fund and Transnet, the pension and/or other benefit payable to a Special Pensioner in terms of rule 29(2) may be increased as contemplated in rule 24, with any changes required by the context.

[Rule 29 inserted by GN 620 of 13 July 2007]

30 MINIMUM PENSION PAYMENT

(1) Subject to the approval of Board of Directors of Transnet, the Fund may determine a minimum pension which shall be payable to a Pensioner, Special Pensioner or Beneficiary, as the case may be, multiplied, in the case of a Beneficiary, by the same proportion that was used to determine the Beneficiary's pension as a proportion of the Pensioner's pension from whose membership the Beneficiary's pension is derived.

(5) The Fund may in terms of subrule (1) determine a different minimum pension in respect of Pensioners, Special Pensioners and/or Beneficiaries. A minimum pension may be determined in respect of only one or more of these categories of persons and if a minimum pension is determined in respect of one category, this will not entitle any person falling within a different category to the same or a different minimum pension.

(3) The determination of a minimum pension to be paid to persons falling within a category in any one year will not mean that the Fund is required to determine a higher minimum pension to be paid to such persons in any subsequent year.

[Rule 30 inserted by GN 620 of 13 July 2007]

31 BONUS PAYMENTS

(1) If, in the opinion of the actuary, the value of the Fund's assets is in excess of the value of its actual and contingent liabilities as determined by the actuary, the Board may, with the approval of the Board of Directors of Transnet, use part of the surplus to grant a once-off bonus to each Pensioner, Special Pensioner and/or Beneficiary.

(2) Different bonuses may be granted to different categories of Pensioners, Special Pensioners and Beneficiaries and a bonus may be granted only to a category of Pensioners, Special Pensioners or a category of Beneficiaries.

(3) The payment of a bonus to one category of Pensioners, Special Pensioners or Beneficiaries will not entitle any person falling within a different category of Pensioners, Special Pensioners or Beneficiaries to an equivalent bonus.

(4) The payment of a bonus to a Pensioner, Special Pensioner or Beneficiary in any one year will not entitle that Pensioner, Special Pensioner or Beneficiary to an equivalent bonus or any bonus at all in any subsequent year.

[Rule 31 inserted by GN 620 of 13 July 2007]

32 THE ELECTION OF PENSIONER TRUSTEES TO THE BOARD OF TRUSTEES

(1) Appointment of the Independent Electoral Officer

(a) The Board must appoint an independent electoral officer (which may be a natural or juristic person) to:

(i) oversee the nomination and election of pensioner-elected trustees in accordance with the Rules;

(ii) ensure that it is conducted in a manner that is free and fair;

(iii) deal with all complaints and objections that may be raised in relation to the nomination and election process, provided that such complaints and objections will not necessarily invalidate or delay the nomination and election process unless the Fund resolves otherwise; and

(iv) issue a report to the Board after of [sic] the conclusion of the election process.

(b) The Board must determine the process to be followed in appointing the independent electoral officer.

(2) Eligibility to stand for election

(a) The nomination of any person disqualified from being appointed in terms of rule 6 (1) or Rule 6(1A), for the position of trustee or alternate is null and void.

[amended wef 30.04.2012]

BONUS PAYMENTS
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(b) Should any nominee fall into one of the categories mentioned in rule 6(1) and subrule (3)*(d)* after the nomination process but before the voting process, he or she is immediately disqualified from standing for election. The nominee with the next highest number of votes must then replace him or her. If there have been fewer than four persons nominated, further nominations must be called for in accordance with the process set out in subrule (3)*(h)* and *(i)*.

(c) If there is any dispute as to a person's eligibility to be nominated or to stand for election, a hearing must be conducted by the independent electoral officer, who must then make a final decision on the issue.

(3) Nomination Process

(a) Each Pensioner, Dependant and Special Pensioner is entitled, but not required, to nominate one candidate for election to the post of Pensioner-elected Trustee.

(b) A nomination form, prepared in the manner and form determined by the Board of Trustees, must be sent by post to each Pensioner, Dependant and Special Pensioner and must be accompanied by:

(i) information about the nomination and election process;

(ii) the name and contact details of the independent electoral officer; and

(iii) a pre-paid reply envelope bearing the address of the electoral officer.

Nominations can only be made by properly completing the nomination form referred to in Rule 32 (3) *(b)* above. Nominations provided in any other form will not be accepted. The electoral officer will have the discretion to decide whether a nomination form has been properly completed.

(c) All nominated candidates will, if possible, be contacted by the independent electoral officer to confirm their acceptance of the nomination and their willingness to abide by the Codes of Conduct and Rules referred to below. The nominees must then sign a written declaration confirming the same and supply any additional information required by the independent electoral officer.

(d) If a person who has been nominated and-

(i) has not given written notice to the electoral officer of his or her acceptance of the nomination; and/or

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(ii) has been nominated by fewer than 10 persons who are Pensioners and/or Dependants and/or Special Pensioners; and/or

(iii) the electoral officer has been unable to make contact with the nominee within 10 days of receiving his or her nomination; and/or

(iv) fails or declines to undertake in writing to abide by-

a. the Fund's Code of Conduct for Candidates for Election; and

b. the Fund's Code of Conduct for Trustees; and

c. the Fund's Rules; and/or

(v) declines to provide the information that the independent election officer requires that he or she provides, within the time period specified for the purpose by the electoral officer, the nomination will fall away and will be deemed not to have been made.

(e) All nominations must reach the electoral officer on or before the date specified by the electoral officer in writing.

(f) Nominations can only be opened by the independent electoral officer.

(g) Before accepting the nomination, the independent electoral officer must verify the information on the nomination form using the Fund's data base.

(h) If only 1 (one) or 2 (two) valid nominees [*sic*] are received, the candidates will be regarded as automatically having been elected, and the Board will appoint two or three other Pensioners, as the case may be, to act as pensioner-elected trustees or alternates, as the Board so decides.

(i) If three or more valid nominations are received, the election will be conducted. If a post of alternate pensioner-elected trustee remains vacant, the Board may appoint a Pensioner to fill it.

(4) Who can vote

(a) Each Pensioner, Dependant and Special Pensioner may vote for not more than four persons.

(5) Voting

(a) If more than 2 (two) valid nominations are received, ballot papers and information to be given to the voters must be prepared in the manner and form determined by the Board.

(b) The ballot papers must be sent by post to all Pensioners, Dependants and Special Pensioners and must be accompanied by:

(i) information about each of the nominees;

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(ii) an explanation of the voting process; and

(iii) a pre-paid reply envelope bearing the address of the Fund.

(c) No vote will be regarded as having been validly exercised unless-

(i) it was made on a ballot paper given to the Pensioner, Dependant or Special Pensioner;

(ii) it was placed inside the pre-paid envelope and posted or delivered (not telefaxed or emailed) to the electoral officer; and

(iii) the pension number of the Pensioner, Dependant or Special Pensioner appears on the outside of the pre-paid envelope.

(d) All completed ballot papers must reach the Fund within the period determined by the independent electoral officer.

(e) The independent electoral officer must verify and record the ballot papers after the closing date for submission of ballot papers, utilising the Fund's data capturing system, and must forward the results to the Fund's Principal Officer.

(f) Candidates for election or their properly authorised representatives will be permitted to observe the counting of votes by the independent electoral officer.

(g) The 4 (four) nominees with the highest number of votes will be regarded as the properly elected trustees. The result of the election will be communicated to Pensioners, Special Pensioners and Dependants as soon as is reasonably possible.

[Rule 32 inserted by GN 1236 of 24 December 2010 and amended wef 30.04.2012.]

(h) Any vacancy in the office of a trustee (or his/her alternate, if applicable) who has been elected by Pensioners, Dependants and Special Pensioners in terms of Rule 32, shall be filled by the nominee who obtained the next highest number of votes during the last election process, provided such nominee is still available, and will fill such office for the remainder of the period referred to in Rule 6(3).

[Sub-rule 5(h) inserted wef. 30.07.2013]