

**REQUIREMENTS FOR REGISTRATION AS A PENSION FUND**

**An application for registration as a Pension Fund in terms of** **the Pension Funds Act, 1956 (Act No. 24 of 1956) (“the Act”) must comply with the requirements and be accompanied by the information and documentation set out herein:**

1. **LEGAL REQUIREMENTS**

Below are extracts of relevant section of the Act, however you will need to familiarise yourself with the entire Act so as to ensure compliance with all sections:

**Section 4**

**Registration of pension funds**

1. Every pension fund shall apply to the registrar for registration under this Act.
2. An application under subsection (1) shall be accompanied by particulars of the name and address of the person charged with the management of the affairs of the fund to which the application relates, and a copy of the rules of such fund, together with a certificate by a valuator as to the soundness of such rules from a financial point of view or, if no valuator has been employed, such information regarding their financial soundness as the applicant may possess, and the registration fee prescribed by regulation, and, in the case of a fund in existence at the commencement of this Act-
3. a statement in detail of the revenue and expenditure of the fund in question for the last financial year for which accounts have been prepared, and a copy of its balance sheet as at the end of that year; and
4. a statement showing in detail the latest valuation of assets and liabilities made by a valuator, including particulars as to the principles applied in making such valuation, or, if no such valuation has been made, such particulars regarding the financial condition of the fund as the applicant may possess.
5. The registrar shall, if the fund has complied with such requirements as he may have prescribed and he is satisfied that the registration of the fund is desirable in the public interest, register the fund provisionally and forward to the applicant a certificate of provisional registration.
6. If after considering any such application, the registrar is satisfied-
7. in the case of a fund which is in existence at the commencement of this Act-
   1. that the rules of the fund are not inconsistent with this Act and are based on sound financial principles; and
   2. that the fund is in a financially sound condition or that adequate arrangements have been made to bring it into a financially sound condition within a period which the registrar considers satisfactory; or
8. in the case of a fund established after such commencement, in respect of the matters specified in subparagraph (i) of paragraph (a), he shall register the fund as a pension fund and send to the applicant a certificate of registration as well as a copy of the rules of the fund bearing an endorsement of the date of registration, and thereupon the fund shall cease to be provisionally registered.
9. If after considering any such application, the registrar is not satisfied as regards all the matters in respect of which he is in terms of subsection (4) required to be satisfied, he shall in writing indicate to the applicant the requirements to be complied with in order that he may be so satisfied.
10. Subject to the provisions of subsection (7) the provisional registration of a fund under subsection (3) shall be valid for a period of five years, but may in the discretion of the registrar and subject to such conditions and limitations as he may consider desirable, be renewed from time to time for periods not exceeding twelve months at a time and not exceeding five years in the aggregate.
11. Whenever a fund which is provisionally registered under this section has complied with all the requirements specified in subsection (4), the registrar shall register the fund and transmit to it a certificate of registration as well as a copy of its rules with the date of registration duly endorsed thereon, and thereupon the fund shall cease to be provisionally registered.
12. No fund shall be registered or provisionally registered under this Act except as provided in this section.

**Section 5**

**Effect of registration of pension fund**

1. Upon the registration under this Act-
   1. of a fund which is a pension fund organization in terms of paragraph (a) of the definition of "pension fund organization" in subsection (1) of section one, the fund shall, under the name by which it is so registered, and in so far as its activities are concerned with any of the objects set out in that definition, become a body corporate capable of suing and being sued in its corporate 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 its rules;
   2. of a fund which is a pension fund organization in terms of paragraph (b) of the said definition, all the assets, rights, liabilities and obligations pertaining to the business of the fund shall, notwithstanding anything contained in any law or in the memorandum, articles of association, constitution or rules of any body corporate or unincorporate having control of the business of the fund, be deemed to be assets, rights, liabilities and obligations of the fund to the exclusion of any other person, and no person shall have any claim on the assets or rights or be responsible for any liabilities or obligations of the fund, except in so far as the claim has arisen or the responsibility has been incurred in connection with transactions relating to the business of the fund;
   3. of any fund, the assets, rights, liabilities and obligations of the fund (including any assets held by any person in trust for the fund), as existing immediately prior to its registration, shall vest in and devolve upon the registered fund without any formal transfer or cession.

(1)bis The officer in charge of a deeds registry in which is registered any deed or other document relating to any asset or right which in terms of paragraph (c) of subsection (1) vests in or devolves upon a registered fund shall, upon production to him by the fund of its certificate of registration or of provisional registration, as the case may be, and of the deed or other document aforesaid, without payment of transfer duty, stamp duty, registration fees or charges, make the endorsements upon such deed or document and the alterations in his registers that are necessary by reason of such vesting or devolution.

1. All moneys and assets belonging to a pension fund shall be kept by that fund and every fund shall maintain such books of account and other records as may be necessary for the purpose of such fund.
2. **INFORMATION & DOCUMENTATION:**

An applicant is required to submit the following for registration of a Pension Fund:

**AN APPLICATION FORM ACCOMPANIED BY:**

* 1. Two copies of the proposed rules of the fund;
  2. The date on which the fund will come into operation;
  3. Full details of those who will be participating employers of the fund (if applicable);
  4. Number of members who will immediately join the fund upon registration;
  5. Code of conduct for the members of the Board of Trustees (if available);

**INTERIM BOARD OF TRUSTEES INFORMATION**

* 1. Two copies of the Interim Board of Trustees resolution for the establishment of the pension fund;
  2. Full details of the proposed interim trustees;
  3. Curriculum vitae’s of the proposed interim trustees;
  4. Identification documents of proposed interim trustees;
  5. Completed disclosure of interest report by the proposed interim trustees;
  6. Proof of application for the Police Clearance by the Police/Certificate of conduct by the Police;
  7. Completed fit and proper form for each trustee;

**PRINCIPAL OFFICER INFORMATION**

(m) The proposed interim Board of Trustees resolution approving the appointment of the principal officer;

(n) Curriculum vitae of the proposed Principal Officer;

(o) Proof of Namibian citizenship or permanent residence of principal officer;

(p) Completed fit and proper form;

**THIRD PARTY INFORMATION**

(q) Two copies of the Valuator’s Certificate of financial soundness of the rules;

(r) Copy of the proposed administration agreement between the fund and the administrator (if applicable)

(s) Copy of any other agreements between the fund and any other party (benefit consultant, valuator, auditor, investment manager) (if applicable)

**REGULATORY REQUIREMENTS**

(t) Proof of payment of the prescribed application fee.