

**15 September 2017**

**Edition 2 of 2017**

FINAL DEFAULT REGULATIONS

The final default regulations to the Pension Funds Act (“the regulations”) were published on 25 August 2017. Draft versions were issued for comment in 2015 and 2016. The regulations are meant to improve the outcomes for members by ensuring that they get good value for their savings and retire comfortably.

**Effective Date**

The regulations are effective from 1 September 2017. However, all funds registered before 1 March 2018 have been exempted from the provisions of the regulations until **1 March 2019**.

**Brief summary of the provisions of the regulations**

1. **Default investment portfolio**

* All retirement funds with a defined contribution category are required to have a default investment portfolio(s);
* The investment portfolio(s) that members are defaulted into should be appropriate, reasonably priced, well communicated to members, and offer good value for money;
* The default investment portfolio(s) may differ from member to member, depending on the
  + Age or likely date of retirement of the member;
  + Value of the retirement benefit;
  + Actual or expected contributions to the fund; and
  + Other reasonable factors the trustees consider to be appropriate;
* In designing the default portfolio(s) trustees should consider the objective, asset allocation, fees, charges, risks and returns of the portfolio;
* Trustees should consider both passive and active investment options;
* Members may not be locked into the default portfolio and must be allowed to switch out of the default portfolio, at least once every 12 months;
* Trustees are required to monitor investment portfolios regularly to ensure continued compliance with these principles and rules;
* Performance fees will be allowed, but subject to a standard to be issued by the FSB and a regulatory or policy review;
* Loyalty bonuses are not permitted;
* The default investment portfolio regulation, for now, does not apply to retirement annuity and preservation funds.

1. **Default preservation**

* Funds will have to amend their rules to allow for members who leave the service of the participating employer before retirement to automatically leave their accumulated retirement savings in the fund;
* The member, however, will have the right and option to withdraw, upon request, the accumulated savings or to transfer them to any other fund;
* Members will be required to first seek retirement benefits counselling before they make a decision to take cash or transfer the benefit;
* Paid-up membership certificates must be issued by a fund within 2 calendar months after the fund becomes aware that the member has left the employer’s service;
* Investment fees for default portfolios must be the same for paid-up members and active members;
* Administration fees charged to paid-up members must be fair, reasonable and commensurate to the fees charged for administrative services for active members;
* No initial once-off charge may be levied for paid-up members when they become paid-up;
* Funds must allow for transfers in from other funds. When individuals join an occupational fund, the fund must within 4 months ask that member for a list of all paid-up membership certificates. The fund must ask the member if he/she wants to transfer any savings into the fund. The fund must arrange the transfer and cannot levy a charge on the transfer amounts;
* Fund rules must state that paid-up members:
  + cannot pay contributions to the fund;
  + cannot have deductions made for risk benefits ;
  + who have a defined benefit amount must have their benefit converted to a defined contribution amount; and
  + must be eligible to receive their fund credit on death, retirement and early retirement as per the fund rules;
* The default preservation regulation does not apply to retirement annuity and preservation funds.

1. **Annuity strategy**

* A fund should have an annuity strategy with annuity options for retiring members. This may be an in-fund or out-of-fund annuity or annuities. This means the annuity can be in the name of the fund or the member;
* Two types of annuities exist, a living and a life annuity. A life annuity, once chosen or defaulted into, becomes irreversible. To better manage this irreversibility, it was decided that funds should first require the active participation of members, who should indicate beforehand, which type of annuity (e.g. life or living annuity) should be paid. This required pre-selection by the member makes the purchase of an annuity a “soft default” by having the member “opt-in” instead of “opting-out”; i.e. a member must first indicate which annuity product he/she would prefer being enrolled into;
* The “default” annuity should also be appropriate for members, well communicated and offer good value for money;
* Trustees must, as far as reasonable, ascertain:
  + the level of income payable to members;
  + the investment, inflation and other risks in the annuity; and
  + the level of income payable to beneficiaries.
* Trustees must review the annuity strategy annually;
* Living annuities can be paid directly by the Fund or through a Fund owned policy or sourced from an external provider as part of the annuity strategy, provided that in each case, the investment choice is limited to four investment portfolios, which portfolios are compliant with the regulations and Regulation 28. Where the living annuity is provided by the Fund or through a Fund owned policy, the Fund must monitor the sustainability of income drawn by retirees in these living annuities and make such members aware if their drawdown are deemed not to be sustainable;
* Members should be given access to retirement benefits counselling not less than 3 months before their normal retirement date to assist them in understanding and giving effect to the annuity strategy;
* Pension funds, pension preservation funds and retirement annuity funds are required to establish an annuity strategy;
* Provident and provident preservation funds must only establish an annuity strategy if the fund enables the member to elect an annuity;
* This does not mean that members of provident funds are compelled by these regulations to purchase an annuity upon retirement; the annuitisation of provident funds remains under discussion at Nedlac.

