

# PENSION FUNDS ACT AMENDMENTS SECTION 14

Des Partridge

- **Objective – “regulate the amalgamation or transfer of business” by focussed FSB intervention & self regulation & stricter compliance measures**
- **Section 14(8) exemption for certain transfers**
- **Submission of s14 application w ithin 180 days of effective date**
- **App lapse if query not answered within 180 days**
- **Withdraw or amend if info inaccurate or bona fide error**
- **Open RA to RA transfer & no fees or commission**
- **Transfer within 60 days of date of issue of certificate**

Changes - Easier and more efficient?

- “ Effective 13 September 2007**
- “ Where members informed & objections resolved to satisfaction of Board; and**
- “ Transferring (transferor) fund & receiving (transferee) fund is valuation exempt or outside ambit of PF A**
- “ Requirement to keep proper records of transfers**
- “ Comply with requirements (Info Circ 6)**
- “ Assets & liabilities transferred within 180 days of transfer**
- “ Assets increased/decreased with fund return from effective date to date of payment**

- ” Issued 12 October 2007**
- ” Objective: Prescribe conditions that are required to comply with ito s14(8)**
- ” Form H – certification by transferor and transferee funds that conditions met**
- ” Form J – Recognition of the transfer that is effected**
- ” Transfer ito s14(8) of no force or effect if “in the Registrar’s view, the transaction effected does not comply with the provisions of the PF A or the conditions prescribed in this circular ” – open-ended possibility of annulment of transfer**

- **Completion of Forms H & J**
- **Proof on file that transfer been communi cated & objections by affected member s resolved to the satisfaction of fund (member 's request for voluntary transfer from one RA to another RA is proof)**
- **Proof of valuation exemption**
- **Proof of “approval” of funds’ surplus/nil s scheme by Registrar**
- **Where no further ass ets & liabilities – application for de-registration (Forms F & F 1 of PF120) within 180 days**

- Transfer can only be effected to rules of the two funds (RA to RA transfer – RA funds' rules exempted)
- where transfer may cause prejudice – prior approval of at least 75% of affected members
- Transfer of no force or effect unless:
  - both funds agreed to transfer by completion of Form H
  - date of payment recorded on Form H
  - Transferor fund completes Form J & sends copy to transferee fund within 7 days of payment

- “ **Conditions not complied with – then fall under section 14(1) ? (e.g. where no retrospective condoning of exceeding 180 days under s33**
  
- “ **75% approval by members**
  - **Argument in Parliament agreed**
  - **No discretion for Registrar to approve if say 70% approve**
  - **Voluntary savings vehicles (retirement annuity funds, preservation funds, unit trusts etc)**
  
- “ **List of valuation exempt funds?**
  
- “ **Compliance with rules**
  
- “ **Transfers in terms of s37D(1)(e)(ii) – i.e. divorce orders. Form of payment?**

- “ Requirement to new s33A
- “ Consolidate all transfer requirements (PF120 & Info Circ 6 with all forms)
- “ Transactions that do not fall within s14 (annuity, divorce order, s15E ER surplus account, right to cash or elect to translocate)
- “ Transfers effected without approval – threat to revoke administrator’s 13B approval
- “ Retrospective transfers (no of members & amounts known)
- “ Prospective transfers (blanket transfers – 12 months)
- “ Bulk outsourcing of annuities
- “ Agterskot adjustments
- “ Fund return adjustments from effective date to date of payment
- “ Benefits arising before transfer effected

- “ Divorce orders
- “ Purchased annuities – trustees responsible for disclosure requirements!
- “ “resignation, retrenchment, dismissal or leaves service for other reason, or liquidation – entitled to cash or elect to translocate”
  - . S197 – Telkom v Blom – Add C RF1/98
- “ Approval of members - example

**Questions?**

**THANK YOU!**