



**CIRCULAR NUMBER 5 OF 2017**

**TO: PENSIONS FUNDS  
LIFE OFFICES  
FUND ADMINISTRATORS**

**FROM: COMMISSIONER OF INSURANCE, PENSIONS AND PROVIDENT  
FUNDS**

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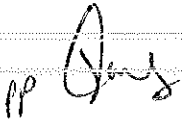
**DATE: 25 APRIL 2017**

**AMENDMENT OF FUND RULES TO COMPLY WITH PRESCRIBED  
REQUIREMENTS**

1. This Circular has been issued in terms of Section 8 of the Pensions and Provident Funds Act [*Chapter 24:09*] which empowers the Commissioner, for the purposes of complying with the Act, to direct a fund to amend its rules.
2. In terms of section 7 of the Act, all fund rules must comply with the prescribed requirements.
3. The fund rules set out how the fund operates and all members are subject to the fund rules. The rules empower trustees hence the rules must be kept up to date to ensure that the trustees have all the necessary powers to comprehensively and legally administer the fund.
4. The Commissioner has noted, with great concern that most fund rules are not being amended in response to the amendments done to our laws, changes in the pension landscape and changes in the operating environment.
5. Most funds which were converted from defined benefit schemes to defined contribution schemes have not made amendments that adequately reflect the shift of risks the fund is exposed to from the employer to the fund members.
6. The Commissioner has also noted that rules for most pension funds do not have provisions on who will transact on behalf of the fund or what should be done in the event a duly

constituted board of trustees is incapacitated for one reason or another. The situation includes cases where the sponsoring employer will have been liquidated and contracts of all employees will have been terminated leaving the former employees with no capacity to be trustees since they will have been trustees by virtue of them being employees of the sponsoring employer.

7. The Commissioner requires **ALL** funds to, by 30 June 2017, amend their rules so that they comply with the prescribed requirements and respond to changes in the pension landscape and operating environment.
8. Where a fund amends its rules at most three times, such a fund is required to file with the Commission a consolidated set of its fund rules.
9. Any fund that fails to comply with this directive shall, in terms of section 8(4a), be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
10. Be guided accordingly



T.Karonga (Mr)

**Commissioner of Insurance, Pension and Provident Funds**