

DE BEERS PENSION FUND

FUND PRACTICE NOTE

RECOGNITION OF COMMON LAW SPOUSES

Revision no	Review cycle	Effective date
02	Two years	01 December 2022



DEFINED BENEFIT



DEFINED CONTRIBUTION

DE BEERS PENSION FUND

FUND POLICY DOCUMENT					
Organisation	De Beers Pension Fund (the Fund)				
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FUND POLICY DOCUMENT

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1. PURPOSE

The purpose of this document is to record the Fund's prevailing policy considering the requirements of the Pension Funds Act, 1956 (referred to as the Act), the Fund's Rules and Rulings when considering whether a common law spouse may be eligible for widow/widower benefits and for the approval thereof by the Death Benefit Board Committee.

2. SCOPE

This policy applies to Defined Benefit (DB) members, DB pensioners, DB Deferred pensioners, DB Paid up pensioners, Defined Contribution (DC) members and DC Deferred pensioners.

3. RESPONSIBILITY AND AUTHORITY

Designation	Responsibility
Principal Officer	- To approve the policy and revisions in terms of Fund's Signing Authorities and Approval Framework Policy; - To take ownership of the policy and provide interpretation as required; - To ensure that this policy is implemented and updated as appropriate; - To promote and ensure compliance with the policy; and - To deal with any queries in relation to the policy.
Fund Manager	- To draft and maintain the policy in consultation with Fund Management; - To align the policy with associated Fund policies and procedures, as well as regulatory requirements and provisions; and - To advise the Principal Officer of any non-compliance with the policy.

4. POLICY STATEMENT

4.1. THE FUND RULES, RULINGS AND DEFINITIONS IN BRIEF

4.1.1. DEFINITIONS OF COMMON LAW SPOUSE/PARTNER

A common law spouse/partner is the term widely used to refer to either a heterosexual life partner or a partner in a same-sex relationship. Common law "marriages" / relationships for purposes of this document will be deemed to include "partners who have been cohabiting as if married with the intention to continue doing so on a permanent basis" and will be referred to as Life Partner(s). The Fund's Rules state that for a spouse to be eligible for a widow's benefit they must have been married (or deemed to be married) to the fund member/pensioner for a period of at least 12 months prior to retirement (pensioner) or 12 months prior to death (active member).

4.1.2. WIDOW / WIDOWER AS DEFINED

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- (a) a person married or deemed by the TRUSTEES to have been married to the MEMBER for a year or more at the date of his death, provided that the TRUSTEES may at their discretion recognise as a widow / widower a person married or deemed to have been married to the MEMBER for less than one year, or
- (b) a person married or deemed by the TRUSTEES to have been married to a PENSIONER at the date of his death and who was married or deemed by the TRUSTEES to have been married to the PENSIONER for a year or more prior to his retirement

Provided that the Trustees may direct that more than one person may be regarded as a WIDOW/WIDOWER. In such case, the total benefits payable to such persons shall be equal to the benefit which would have been payable to one WIDOW/WIDOWER.

4.1.3. RULING 40 RECOGNITION OF WIDOW / WIDOWER PENSIONS

That, for the payment of widow/widower pensions the Fund recognises relationships of mutual dependency with the MEMBER, living together as if married with the commitment of doing so permanently and had been so cohabiting for 1 year or more

4.2. STATUTES

4.2.1. THE CONSTITUTION, 1996

Since enactment of the Constitution in 1996 all retirement funds were required to cease past discriminatory practices.

The Constitution provided that national legislation would address specific practices. All retirement funds were required to amend their rules to conform to the Constitution: as for widow/widower benefits this meant that the eligibility requirements were expanded to include both legally married couples as well as couples deemed so married (being in less formal relationships): these latter relationships were made subject to certain restraints imposed in the discretion of the Trustees as a prerequisite to eligibility to benefits.

4.2.2. THE PENSION FUNDS ACT, 1956

With effect from 2007, the Pension Funds Act, 1956 had included a broad definition of a spouse, namely "Spouse means a person who is the permanent life partner or spouse or civil unions partner of a member in accordance with the Marriage Act, 1961 (Act 68 of 1961), the Recognition of the RSA of Customary Marriages Act, 1998 (Act 68 of 1997), or the Civil Union Act, 2006 (Act 17 of 2006); or the tenets of religion."

4.3. TRUSTEE REQUIREMENTS FOR THE APPROVAL OF COMMON LAW SPOUSE TO BE ELIGIBLE FOR WIDOW / WIDOWER BENEFITS

Whilst Members are still active members of the Fund and they wish to apply for the above benefit, they and their Life Partner are encouraged to complete either the attached Annexure DC 5 or Annexure DB 5 form. Similarly, Pensioners with Life Partners should also complete the said form.

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The following criteria should accompany the application.

- Documents submitted must show that the relationship occurred at least 12 months prior to retirement or death of a member as may be applicable
- A copy of the member's will in which the life partner has been acknowledged.
- Affidavits from close family members (life partner and Member's family) confirming the relationship as life partners and the fact that they were co-habiting as such sharing a common household. (The affidavit must state the person's relationship to the couple, how long the person has known the couple and that those making the statements do not stand to gain in any way from making the statement as well as the person's contact details.). Contact details must also be provided
- Affidavits from a religious leaders, doctors, lawyers or respected community leaders confirming the relationship as life partners and the fact that they were co-habiting (The affidavit must contain statements with regards to how long the person has known the couple, the fact that no conflict of interest exists and that those making the statements do not stand to gain in any way from making the statement). Contact details must also be provided.
- Any other evidence that supports the existence of the relationship for example:
 - A. Confirmation of children born out of the relationship (Certified copies of full birth certificates to be provided/DNA Tests).
 - B. Certified copies of valid insurance policies where the partner has been acknowledged as a Common law Partner.
 - C. Proof of registration of the life partner on the member's medical aid as a dependant
 - D. Proof of joint property ownership by way of a certified copy of the title deed
 - E. Proof of joint banking accounts by way of certified copies of relevant documentation
 - F. Other affidavits confirming the members/pensioners relationship as life-partners and the fact that they were co-habiting as spouses.
 - G. Proof of joint household accounts by way of certified copies of relevant documentation

Each case will be considered on its own merits taking account of their circumstances. The Fund reserves the right to call for additional evidence or conduct its own investigation to confirm the existence of the relationship:

Although the Trustees will take cognisance of the above evidence, the final decision rests with them. The Fund reserves the right, subject to the Fund's practice note, prevailing legislation and the Fund's rules to reconsider the registration of life partners as a fund beneficiary in the future.

Where the Trustees has approved to register a member/pensioners' "marriage" with their common law spouse as per the requirements above, the spouse will be eligible for widow's benefits in terms of the Fund's rules. This is subject to the Fund being satisfied that the relationship continued to exist until the death of the member/pensioner concerned.

Where prior application has not been made for the registration of members' relationships with the Fund, the Trustees will on a retrospective application for such registration by the partner concerned, consider whether the said partner will be eligible for "Widow's" benefits in terms of the Fund rules, based on the above requirements. Each case will be considered on its own merits by taking account of the particular circumstances. The Fund reserves the right to call for any additional evidence or to conduct its own investigation with a view to confirm the existence of the relationship.

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5. AUTHORISATION AND APPROVAL

Approved by the Principal Officer

Stanley M Mathonzi

Date: 24 November 2022

REVISION HISTORY

Revision no	Description	Date Reviewed	Date Approved	Minute no
01	Policy review	2011	24 March 2011	06.11.7
02	Review per "Schedule of Policies and Other Governance Documents"	November 2022	24 November 2022	Not required