

# IGP Country Profile

## **South Africa**





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# Regulatory environment

## Important acts

A retirement fund must be “registered” under the [Pension Funds Act](#) and is usually “approved” for tax purposes under the [Income Tax Act 58 of 1962](#). To obtain registration and approval, the rules must conform to the requirements laid down in these Acts, be registered with the Registrar of Pension Funds and be approved by the Commissioner of Revenue Services. The Pension Funds Act and the regulations and other sub-ordinate regulatory instruments set out standards, requirements and guidelines for the conducting of pension fund business by boards of retirement funds and administrators of retirement funds. These, inter alia, provide that boards of funds;

- must be 50% member elected (commercial and other umbrella funds may be exempted from the requirement provided that the board is made up of a certain prescribed percentage of persons who are independent from the sponsor of these funds) and
- are solely responsible for operating the fund and that they owe a fiduciary duty towards the fund and the fund members.

The [Basic Conditions of Employment Act](#) and the [Employment Equity Act](#) require employers to provide retirement and disability benefits in a non-discriminatory manner.

- The Basic Conditions of Employment Act is legislating practices regarding the payment of contributions to various funds.
- The Employment Equity Act impacts on retirement fund practices, e.g. the act disallows pre-employment medical testing, unless this can be justified in the light of fair distribution of employee benefits or the inherent requirements of the job, among other things. Testing of an employee’s HIV status is prohibited unless the Labor Court has determined it to be justifiable.

The [Recognition of Customary Marriages Act](#), which came into effect on November 15, 2000, requires that the retirement funds administrators consider customary wider range of spouses when distributing death benefits of fund members. The allocation of benefits is extended to common-law partners, same-sex partners and any other person who can prove dependency on the deceased.

The Policyholders Protection Rules (PPR) related to the [Long-Term Insurance Act](#), aims to protect the individual or fund as a policyholder. The PPR compel fund administrators to provide

information that is of importance to the members and funds in the interest of transparency.

The introduction of the [Financial Advisory and Intermediary Services Act \(FAIS\)](#) has added another dimension to consumer protection already provided by the Policyholder Protection Rules. The FAIS Act requires authorization of the various categories of advisors and intermediaries after assessment in terms of the specified minimum requirements. Different codes of conduct are also prescribed for the various groups.

The [Pension Funds Second Amendment Act](#), otherwise called the [Surplus Act](#), deals with the issue of apportionment of pension fund surpluses between former members, pensioners, active members, and the employers. Furthermore, it introduced minimum benefits to be paid by retirement funds in defined circumstances.

## Other fund and member protection mechanisms

### Adequacy of provisions

For funds whose method of funding requires valuations, the procedures for actuarial valuations are prescribed, e.g. a full valuation of the fund every three years by an actuary.

The actuarial method and assumptions must conform to guidelines of the Actuarial Society of South Africa (ASSA), which provides that, among other things, salaries must be projected to normal retirement age. The program for funding actuarial deficits must provide for the deficit to be funded within three years. Where a sudden deficit arises through benefit improvements, it may be funded over nine years.

### Fund legal status & limitation of liabilities

Funds are separate legal persons, independent of the employer. Consequently, fund members are protected from the financial problems of the employer. Funds must be structured in such a way that it prohibits the employer from benefiting directly from their operation and contributions should be paid to the fund within seven days of the end of the period to which they relate.

## Taxation

Approval under the Income Tax Act confers privileged tax status on the fund and means acceptance of certain restraints on benefit and contribution levels. Funds may be approved as pension or provident funds or retirement annuity or preservation funds.

## Appointment of board of management

The Pension Funds Act 24 of 1956 was amended to create compulsory democratic boards of management by December 1998. All retirement funds now must be managed by such a board and fund members have the right, subject to an exemption relating to Umbrella Funds, to elect at least 50% of the members of the board of management.

## Pension funds adjudicator:

The Pension Funds Adjudicator office exists since January 1, 1998 and deals with complaints from any member, ex-member or beneficiary of a retirement fund. The mandate, in terms of the Pension Funds Act 24 of 1956, is to ensure that complaints are adjudicated in a fair, economical, and expeditious manner.

## HIV/Aids

The Promotion of Equality and Prevention of Unfair Discrimination Act was introduced to address among other issues the equitable treatment of retirement fund members.

Trustees need to ensure that the fund's HIV/Aids policy does not unfairly discriminate against members.

Members of group assurance arrangements enjoy cover up to the free cover limit irrespective of their HIV status. Insurers also need to ensure that their pricing and claims assessment practices do not discriminate unfairly.

## Governance

The Pension Funds Act requires all funds to have a management board consisting of at least four trustees, with fund members (subject to an exemption relating to Umbrella Funds) having the right to elect 50% of the board members.

This heralded a completely new decision-making dynamic within such boards. Decision-making, once regarded the prerogative of the employer, has now shifted to the fund's trustees.

The role of the trustee has become much more onerous with more skill and diligence being required of them. Managing "conflict of interests" also remains a topical issue and the independence of trustees may be questioned, e.g. in umbrella funds where trustees could be employees of the insurer / administrator.

## Umbrella funds

Employer sponsored retirement funds that have been established for the benefit of employees of different employers.

# Customary private employee benefits

## Introduction

The South African government provides different types of social grants as part of the social security framework. The benefit amounts are reviewed annually as part of the budgeting process for the country. Applicants must be South African citizens and reside in South Africa at the time of application. Social grants are all means tested.

However, the social grants are not available to all members of the population and therefore benefits provided by Employers and Funds are very important since these would be the only risk benefits available to most of the members who would not have individual risk cover elsewhere.

## Death benefits

The majority of funds provide lump-sum death benefits. A few schemes also provide flexible death benefits. There is a trend away from providing spouse's and children's pensions.

Some employers provide for disability, dread disease, funeral benefits, medical aid waivers and education plan benefits.

## Disability benefits

Some funds provide for permanent disability benefits.

## Retirement benefits

Employer sponsored retirement fund arrangements in South Africa can be either pension or provident funds. This demarcation is defined in the Income Tax Act. The main difference between these funds up to 1 March 2021 was how the member could access their benefit on retirement. With effect from 1 March 2021 both pension and provident fund members are subject to the same commutation and annuitization regime at retirement and subject to the protection of certain provident fund member vested rights to commutation:

### Pension fund

A pension fund may only provide one third of benefits as a lump-sum with the rest as a regular income.

### Provident fund

With effect from 1 March 2021, a provident fund may, subject to the protection of certain provident fund member vested rights to commutation, only provide one third of benefits as a lump-sum with the rest as a regular income.

### Defined Contribution fund

Defined contribution arrangements normally take the form of a specified contribution rate for the employee and the employer.

The benefit equals both the employer and employee contributions plus interest accrued plus (if applicable) any risk benefit.

Employees generally favor this system due to its simplicity and ease of understanding. The employers also favor it because it defines and fixes the cost of the benefit provision and is easier to administer. Most funds in South Africa are Defined Contribution funds.

The defined contribution fund is most attractive to individual fund members, who are unwilling to be subject to cross subsidization inequalities and to employers unwilling to continue financing potentially rising costs.

### Defined Benefit fund

Defined benefit funds are still preferred by certain market segments – mainly pension funds.

The fund rules determine the employer and employee contributions. It also states the formula used to calculate the final benefit for each member, with the most common and acceptable being to link benefits to years of service and earnings.

The Surplus Act, concerning surplus and minimum benefits payable on normal withdrawal of a member, has had an impact on these types of funds.

## Medical benefits

In South Africa, medical services are provided in both the public and private sector. The public health sector is responsible for meeting the medical needs of the majority of South Africans.

The health sector has adopted a 10 Point Plan, which includes:

- Provision of Strategic leadership and creation of a Social Compact for better health outcomes.
- Implementation of a National Health Insurance Plan (NHI).
- Improving the quality of health services.
- Overhauling the health care system and improve its management.
- Improving human resources planning, development and management.
- Revitalization of physical infrastructure.
- Accelerated implementation of the HIV, Aids and sexually transmitted infections plan and an increased focus on TB and other communicable diseases.
- Mass mobilization for better health for the population.
- Review of the drug policy.
- Strengthening research and development.

# Trends

## Pension environment

The Financial Sector Conduct Authority (FSCA) is responsible for the supervision of retirement funds. On 21 August 2017 the Financial Sector Regulation Act (FSR Act) was signed into law. Among other changes, the FSR Act created a prudential regulator, the Prudential Authority (PA) and a market conduct regulator, the Financial Sector Conduct Authority (FSCA).

The FSCA (previously known as the FSB) stated in its 2020 Annual Report, that it supervised 5,070 registered retirement funds (as of 31 March 2022).

Industry size (Retirement Funds only) as of 31 December 2020:

- Number of funds: 5 090
- Membership: 17.702 million
- Assets: ZAR 4.346 trillion
- Benefits paid: ZAR 362 billion (pensions, lump sum on retirement, death & resignations)

## Distribution channels

Companies either use intermediaries and consulting actuaries or interact directly with insurance companies and pension fund administrators for employee benefits-related services.

## Services & remuneration

Intermediaries are remunerated according to a fixed scale, or by negotiation with the client.

Actuarial work can be performed either by consulting actuaries or by the actuaries of the insurance company. In either case, a fee would be negotiated with the client.

Insurance companies or specialist portfolio managers undertake investments for funds at a negotiated fee.

Administration of member benefits is carried out by insurance companies, intermediaries or consulting actuaries.

The group risk market in South Africa is very competitive. Employers and brokers shop around regularly to seek the best rate. As a result, there are very low profit margins included in the prices.

The average cost for the provision of risk benefits is approximately:

- 1.6% of salaries for death benefits of 2-3 times annual salary
- 1.1% for disability income benefits with replacement ratio of 75% of salary

## Regulatory and policy development

Constitutional and legal developments have put the spotlight on TCF, equity, transparency and compulsory member representation on management boards of pension funds. Consequently:

- Fund sponsors and trustees need to critically examine their practices to identify and address any practices that are contradictory to legislative requirements and/or are discriminatory in nature.
- There is an increased need for member education and communication.
- Compulsory member representation on management boards created a need for effective training of trustees as most fund members have no experience in this field.

Growing trustee responsibility coupled with increasing compliance and fund management costs, are resulting in a number of organizations preferring to “contract out” the trustee function by joining an “Umbrella Fund.”

Independent professional boards of trustees, usually appointed by the product provider, e.g., an insurer, manage the arrangements. The range of benefit structures under such arrangements varies: some provide a basic structure while others offer more sophisticated benefits such as member-level investment choice.

# Typical employee benefits plans and benchmarking

## Motor industry (114 employees)

Age	Death benefit - Multiple of annual earnings
18-40	14
41-44	13
45-46	12
47-49	11
50-51	10
52-53	9
54-59	8
60-61	7
62-64	6
65	5

- With an option to convert to individual cover at withdrawal or retirement.
- Benefit ceases at age 65.
- Evidence of health limit of R12,050,000 insured amount.

## Retail (4,052 Employees)

### Death benefit

- 3 times Annual Salary, with an option to convert to individual cover at withdrawal or retirement.
- Also has continuation of cover for disability claimants with escalation.
- Benefit ceases at age 63 or 65.
- Evidence of health limit of R6,000,000 insured amount.

### Income Protection benefit:

- 86% of the first R6,250 monthly salary, plus
- 71% of the first R10,416 monthly salary, plus
- 51% of the balance, subject to a maximum of R280,000 per month
- Waiting period of 3 months.
- Initial disability definition: Own occupation with any employer
- Extended disability definition: alternative occupation thereafter.

- Option to convert cover on withdrawal and retirement.
- Escalation, CPI subject to a maximum of 8%
- Benefit ceases at age 63 or 65.
- Evidence of health limit of R95,000 benefit per month.

## Engineering (237 Employees)

### Death benefit

- 4 times Annual earnings
- Also has continuation of cover for disability claimants with escalation

### Accident Death cover

- 1 times annual earnings

### Lump sum disability

- 2 times Annual earnings
- Waiting period of 6 months.
- Evidence of health limit – R14,000,000 insured amount
- Cover ceases at 63.

## Electrical (2,974 Employees)

### Death benefit

- 3 times Annual earnings, with an option to convert to individual cover at withdrawal or retirement.
- Also has continuation of cover for disability claimants with escalation.
- Benefit ceases at age 65, with deferred retirals until age 70.
- Evidence of health limit – R3,000,000 insured amount

### Income Protection benefit

- 82,50% of Annual earnings, with a maximum of R230,000 per month, with 5% benefit
- Increase per annum (limited to the increase in the headline inflation index).



- Waiting period of 6 months.
- Initial disability definition: Own occupation with Any Employer
- Extended disability definition: Any/alternative occupation with Any Employer
- Also an option to convert to individual cover at withdrawal or retirement
- Benefit ceases at age 65
- Evidence of health limit – R70,000 benefit per month

## Health (27 Employees)

### Death benefit

- Option A = 1 times annual earnings
- Option B = 3 times annual earnings
- Option C = 5 times annual earnings
- Option D = 4 times annual earnings times Annual Salary, with an option to convert to individual cover at withdrawal or retirement..
- Benefit ceases at age 65 or an earlier date (not earlier than age 55) with deferred retirals until age 70 (for death).
- Continuation of cover for temporary disability claimants.
- Evidence of health limit – R1,340,000 insured amount

### Lump Sum disability:

- Option A = 1 times annual earnings
- Option B = 3 times annual earnings
- Option C = 3 times annual earnings
- Option D = 3 times annual earnings
- Subject to a maximum of R10 000 000 cover.
- Waiting period – 6 months

### Temporary Income Protection:

- Members who elected 15% employer waiver: 90 % of monthly basic earnings.
- Members who elected 18.2% employer waiver: 93.2 % of monthly basic earnings.
- Subject to a maximum of R230,000 per month
- Waiting period of 1 month
- Initial disability definition of own occupation with own employer

# Useful links

## **Demographic information and macro-economic indicators**

[CIA World Factbook](#) (please select the country to review)

[World Bank Group](#) (please select the country to review)

## **Gitiones ea cuptin**

[Experibus doluptatur](#)

## **Social security**

[www.gov.za](http://www.gov.za)

## **More information on Old Mutual Life Assurance Company (South Africa) Limited**

### **Your Local Link to IGP in South Africa**

[Go to partner page on www.igpinfo.com](http://www.igpinfo.com)





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