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Draft for discussion purposes

SCHEDULE A: FORMS OF SUMMONS

Part A: Summons to appear and give evidence and, where applicable, produce Material

Part B: Summons to produce Material

General

The forms constitute Schedule A to the Guidelines on the exercise of powers by the Pension Funds Adjudicator under section 30J(3) of the Pension Funds Act, 1956 ("the **Guidelines**"), published by the Pension Funds Adjudicator ("the **Adjudicator**") and made available on the Office of the Pension Funds Adjudicator's website at www.pfa.org.za.

This Schedule A must be read together with the Guidelines.

PART A - SUMMONS TO APPEAR AND GIVE EVIDENCE

**SUMMONS UNDER SECTION 30J(3) OF THE PENSION FUNDS ACT, 1956 ("THE ACT")
READ WITH SECTION 3 OF THE COMMISSIONS ACT, 1947 ("THE COMMISSIONS ACT")
AND THE GUIDELINES ON THE EXERCISE OF POWERS BY THE PENSION FUNDS
ADJUDICATOR UNDER SECTION 30J(3) OF THE ACT**

OPFA Reference Number: _____

In the matter between:

Complainant: _____

Respondent: _____

TO:

Name of person summonsed: _____

Capacity (if applicable): _____

Physical address: _____

Contact details: _____

PURPOSE OF THE SUMMONS

The Adjudicator is investigating the above Complaint. The Adjudicator reasonably believes that you may possess evidence, information, Material or explanations relevant to the Investigation and determination of the Complaint.

YOU ARE HEREBY REQUIRED to appear before the Adjudicator in relation to the Complaint, under section 30J(3) of the Act read with section 3 of the Commissions Act, to give evidence

for purposes of the Investigation on the date, at the time and at the venue or virtual platform stipulated below.

Date: _____

Time: _____

Mode of Appearance:

☐ In Person

☐ Virtual* (**If virtual, the platform details will be provided by the Secretary*)

☐ Hybrid

Venue (In Person):

MATERIAL OR INFORMATION TO BE PRODUCED

☐ No Material or information is required to be produced.

OR

☐ You are required to produce the Material and/or information listed below.

ITEM	DATE / PERIOD	DESCRIPTION	ORIGINAL / COPY / ELECTRONIC

IMPORTANT INFORMATION

1. You may be required to give evidence under oath or affirmation.
2. You are required to answer fully and satisfactorily all questions lawfully put to you by the Adjudicator, or by any person authorised by the Adjudicator, and to remain in attendance until the conclusion of the Proceedings or until excused by the Adjudicator.
3. If you contend that any Material or information is unavailable, lost, destroyed, privileged, confidential, commercially sensitive, or not within your possession, custody or control, you must provide a written explanation setting out the basis for the contention and the steps taken to locate, preserve or obtain the Material or information.
4. A claim of confidentiality, commercial sensitivity or protection of personal information does not, on its own, relieve you from your obligation to comply with a Summons.

LEGAL PROFESSIONAL PRIVILEGE: If you claim legal professional privilege over any Material, you must identify the Material, or category of Material concerned, and provide sufficient information to enable the Adjudicator to assess the claim without disclosing the privileged content.

SELF-INCRIMINATION: If you contend that answering a question or producing Material raises an issue of self-incrimination, you must raise that issue with the Adjudicator as soon as it arises. The Adjudicator will deal with the issue in accordance with the Commissions Act, the Constitution and any other applicable law.

POSTPONEMENT REQUESTS: If you are unable to appear before the Adjudicator on the date, at the time at the place or on the virtual platform specified in this Summons, then you must apply in writing to the Secretary for a postponement as soon as reasonably practicable and in any event at least 5 (five) Business Days before the scheduled appearance, unless this is not reasonably possible. The application must set out the reasons for the postponement and be accompanied by any supporting information or documentation on which you rely.

The submission of a postponement application does **not** suspend your obligation to comply with this Summons unless the Adjudicator directs otherwise. The unavailability of a legal representative does not, by itself, constitute sufficient grounds for postponement.

LEGAL REPRESENTATION OR ASSISTANCE: Section 30K of the Act applies to Proceedings. Any issue concerning legal representation or assistance must be raised with the Adjudicator and will be dealt with in accordance with section 30K of the Act, procedural fairness and applicable law.

WITNESS FEES: A person summonsed as a witness, or who gives evidence before the Adjudicator, is entitled to witness fees in accordance with section 3(4) of the Commissions Act.

WARNING: Failure to comply with this Summons without sufficient cause may constitute an offence under section 6 of the Commissions Act, and may result in further steps being taken by the Adjudicator in accordance with the Act, the Commissions Act, or any other applicable law.

ISSUED BY THE SECRETARY

Signed and issued in accordance with section 3(2) of the Commissions Act, as applied by section 30J(3) of the Act.

Signed at _____ on this _____ day of _____ 20_____.

SECRETARY

Office of the Pension Funds Adjudicator

Name: _____

Designation: _____

Contact Details: _____

Email address: _____

SERVICE ENDORSEMENT: This Summons was served by:

- ☐ personal service
- ☐ Sheriff
- ☐ Authorised Person
- ☐ electronic mail
- ☐ other method reasonably likely to bring it to the attention of the person concerned.

Date and time of service: _____

Person effecting service: _____

Proof of service attached:

- ☐ Yes
- ☐ No

PART B - SUMMONS TO PRODUCE MATERIAL

**SUMMONS UNDER SECTION 30J(3) OF THE PENSION FUNDS ACT, 1956 ("THE ACT")
READ WITH SECTION 3 OF THE COMMISSIONS ACT, 1947 ("THE COMMISSIONS ACT")
AND THE GUIDELINES ON THE EXERCISE OF POWERS BY THE PENSION FUNDS
ADJUDICATOR UNDER SECTION 30J(3) OF THE ACT**

OPFA Reference Number: _____

In the matter between:

Complainant: _____

Respondent: _____

TO:

Name of person summonsed: _____

Capacity (if applicable): _____

Physical address: _____

Contact details: _____

PURPOSE OF THE SUMMONS

The Adjudicator is conducting an Investigation into the above Complaint. The Adjudicator reasonably believes that Material or information in your possession, custody or control may be relevant to the Investigation and determination of the Complaint.

YOU ARE HEREBY REQUIRED to produce the Material and/or information on the date and at the time specified below.

Date: _____

Time: _____

Method of Production:

- ☐ Email
- ☐ Physical Delivery
- ☐ Other

MATERIAL OR INFORMATION TO BE PRODUCED

ITEM	DATE / PERIOD	DESCRIPTION	FORMAT REQUIRED

IMPORTANT INFORMATION

1. Material must be produced in the format specified by the Adjudicator or, where no format is specified, in the form in which it is ordinarily kept.
2. Where reasonably necessary, Material may be required to be indexed, paginated, certified, verified by affidavit, or accompanied by explanatory information.
3. You may be required to give evidence under oath or affirmation.

5. If you contend that any Material or information is unavailable, lost, destroyed, privileged, confidential, commercially sensitive, or not within your possession, custody or control, you must provide a written explanation setting out the basis for the contention and the steps taken to locate, preserve or obtain the Material or information.
6. A claim of confidentiality, commercial sensitivity or protection of personal information does not, on its own, relieve you from your obligation to comply with a Summons.

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- ☐ Authorised Person
- ☐ electronic mail
- ☐ other method reasonably likely to bring it to the attention of the person concerned.

Date and time of service: _____

Person effecting service: _____

Proof of service attached:

☐ Yes

☐ No

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