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GENERAL NOTICE

NOTICE 276 OF 2012

AMENDMENT OF THE RULES OF THE GOVERNMENT EMPLOYEES PENSION FUND

In terms of section 29 of the Government Employees Pension Law, 1996 (Proclamation No.21 of 1996), the Board of Trustees hereby amends the rules of the Government Employees Pension Law, 1996, as set out in the Schedule.

K A Moloto

Chairperson of the Board of Trustees

On behalf of the Board of Trustees

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SCHEDULE

The Rules of the Government Employees Pension Law, 1996 is hereby amended as follows:

1. ***By the insertion of the following definitions after the definition of "disabled" in rule 1:***

*"**divorce**" means the termination of a marriage or the dissolution of a customary marriage or civil union between a member of the Fund and another person by order of court;*

*"**divorce debt**" in relation to a member means an amount equivalent to the amount of the pension interest assigned to the member's former spouse in terms of a divorce order or decree of dissolution of marriage accumulated from the date of payment to the former spouse to the date on which a benefit is paid to the member in terms of the rules together with the interest from the date of payment to the former spouse at the rate or rates determined from time to time by the Board as the rate or rates of interest payable in respect of monies owed to the Fund;*

*"**divorce order**" means an order for the divorce of a member in terms of which a share of a member's pension interest in this Fund is assigned to the member's former spouse;*

2. ***By the insertion of the following definitions after the definition of "final salary":***

*"**former spouse**" means the person from whom a member is divorced in terms of a divorce order;*

*"**former spouse election date**" means the date contemplated in rule 14.10.3;*

*"**former spouse's share**" means an amount equal to the share of a member's 'pension interest' assigned to his or her former spouse in terms of a divorce order, accumulated with interest at a rate or rates determined from time to time by the Board from the former spouse election date to the date of payment or transfer, as the case may be;*

3. ***By the insertion of the following definition after the definition of "pensionable emoluments":***

*"**pension interest**" means the lump sum cash benefit to which a member would have been entitled in terms of these rules had he or she resigned from service on the date on which he or she was divorced from his or her former spouse;*

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4. ***By inserting the words "Subject to rule 14.10" at the beginning of rules 14.1, 14.2, 14.3, 14.4, 14.5, 14.7, 14.8, 15, 16, and 17.***

5. ***By the substitution of rule 12.1.3 (b) with the following rule:***

'(b) *The Fund pays, subject to the provisions of subparagraph (c), to the related fund the amount that the Fund has at its disposal in respect of the member upon his or her termination of membership of the Fund, as determined by the Board after consultation with the actuary less the amount of the divorce debt contemplated in rule 14.10, if any, applicable to the member, together with the interest as from the date on which the person ceased to be a member of the Fund up to and including the date on which the amount is paid.'*

6. ***By the substitution of rule 14.4.1 with the following rule:***

14.4.1 *A member who resigns from his or her employer's service or is discharged from his or her employer's service because of misconduct or ill-health occasioned by his or her own doing of for a reason not specifically mentioned in the rules and who is not entitled to receive benefits provided elsewhere in the rules, is entitled, a benefit calculated as the higher of –*

(a) *7.5% of his or her final salary multiplied with the period of his or her pensionable service, and increased by ten per centage points for each full year of pensionable service between 5 and 15 years; and the member's Actuarial Interest in the Fund.*

Interest shall be added to the transfer benefit to account for any delay in payment thereof to the approved retirement fund. Such transfer shall be made subject to the rules of the approved retirement fund specifying that, with reference to the transfer benefit, any subsequent lump sum benefit payable by that fund or any successor fund to the member and/or his beneficiaries shall be limited to one third of the said transfer benefit, with interest. The balance of the member's transfer benefit with interest, after deduction of any lump sum payment referred to above, shall be applied for the purchase of an annuity, albeit immediately or upon the member's ultimate retirement.

7. ***By the substitution of rule 14.6.2 with the following rule:***

14.6.2 *If a pensioner dies and he or she is survived by a spouse, there shall be paid to such spouse a spouse's pension which is equal to one-half of the annuity which the pensioner received on the date of his or her death, provided that:*

(a) *each pensioner of the fund as at 1 April 2012 may elect, at any time within the six month period commencing on 1 April 2012 and ending on 1 September 2012, that the pension payable to his spouse on his death shall be increased to three-quarters of the annuity which the pensioner*

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receives on the date of his or her death and that his or her annuity be reduced accordingly;

(b) *for members who opted for a reduced annuity or gratuity in terms of rule 14.2.2, the spouse's pension will be increased to three quarters of the annuity which the pensioner received on the date of his or her death;*

Provided further that:

(i) *where there is more than one spouse, the spouse's pension will be divided equally among the spouses. In the event of spouses and orphans being eligible for benefits, the deceased parent of the orphans will also be treated as a spouse for the purpose of apportioning the spouse's pension;*

(ii) *the reduction applicable to the annuity of a pensioner who makes an election in terms of (a) above shall be calculated by the actuary taking into account all relevant factors.*

8. By the substitution of rule 14.6.3 with the following rule:

14.6.3 If a pensioner, whose pension either:

(i) *commenced on or after 1 December 2002; or*

(ii) *commenced prior to 1 December 2002 and who is still alive as at 1 April 2012;*

dies and there is no surviving spouse or where a spouse who receives benefits in terms of rule 14.6.2 subsequently dies, an orphan's pension will be payable, calculated as ten percent of the pensioner's annuity on the date of his or her death, for each eligible child, as defined, orphaned by the death of the pensioner, his or her spouse or other parent, natural or adopted, subject to a minimum orphan's pension as determined by the Board of Trustees, which minimum orphan's pension may not be less than R200.00 per month:

Provided that where an orphan's pension only commences after the subsequent death of the spouse who receives benefits in terms of rule 14.6.2, the orphan's pensions will be based upon the annuity which the pensioner received on the date of his or her death, increased by the ratio of the spouse's pension at the date of his or her death to the initial spouse's pension.

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9. By the substitution of rule 14.9.1 with the following rule:

14.9 Funeral benefits

14.9.1 In the case of:

(i) a member; or

(ii) a pensioner, whose pension either:

(aa) commenced on or after 1 December 2002; or

(bb) commenced prior to 1 December 2002 and who is still alive as at 1 April 2012;

the funeral benefits payable upon the death of such member or pensioner and/or his or her spouse and/or eligible children and/or stillborn, as defined, are as follows:

(a) in the case of the member or pensioner, a payment of R7 500;

(b) in the case of a spouse, a payment of R7 500;

(c) in the case of an eligible child, a payment of R3 000 per child;

(d) in the case of a stillborn, a payment of R3 000.00 per stillborn:

Provided that any termination of pregnancy as determined in the Choice on Termination of Pregnancy Act, Act 92 of 1996, as amended, or any termination of pregnancy that is self-inflicted is specifically excluded.

10. By the insertion of the following rule after rule 14.9.2:

14.10 Assignment of a share of a member's pension interest to his or her former spouse

14.10.1 If a copy of a divorce order certified as a true copy by a commissioner of oaths is delivered to the Fund then the following provisions will be applicable, -

14.10.2 Within 45 days after the submission of the divorce order by the former spouse, the Fund must request the former spouse to elect if the amount to be deducted must be—

a) paid directly to the former spouse; or

b) transferred to an approved retirement fund on the former spouse's behalf.

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14.10.3 The former spouse must, within 120 days of being requested to make an election—

a) inform the Fund of how the former spouse's share must be dealt with; and

b) if the former spouse elects that the amount must be paid to the former spouse directly, provide the Fund with the details of how that payment must be effected; or

c) if the former spouse elects that the amount must be transferred to an approved retirement fund on his or her behalf, provide the Fund with the details of that approved retirement fund.

14.10.4 The Fund must pay or transfer the amount within 60 days of being informed of how the amount must be dealt with in accordance with the former spouse's election.

14.10.5 In the event that the former spouse fails to make an election or identify the approved retirement fund to which the amount should be transferred within the 120 day period referred to, the Fund must pay the amount directly to the former spouse within 30 days of the expiry of that period.

14.10.6 On the date on which it is given written notice of the former spouse's choice, or on the expiry of a period of 120 days after the Fund's invitation was sent by it to the former spouse, whichever is the earlier, the Fund must–

14.10.6.1 record in the books of the Fund a divorce debt in respect of the member in the amount of the former spouse's share; and

14.10.6.2 allocate the former spouse's share to an account in the books of the Fund in the name of the former spouse.

14.10.7 Notwithstanding rule 14.10.5, in the event that the Fund cannot reasonably ascertain how the payment to the former spouse must be effected, the Fund must retain the amount plus interest as determined by the Board in the Fund, until such time as details of how that payment must be effected is made available to the Fund by the member, the former spouse or any other person whom the Fund is satisfied has the necessary authority and capacity to instruct the Fund in that respect.

14.10.8 A former spouse is not a member or beneficiary in relation to the Fund and is only entitled to interest, as determined by the

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Board, from the expiry of the period referred to in rule 14.10.3 until payment or transfer thereof, but not to any other interest or growth.

14.10.9 *When a benefit becomes payable to the member in terms of these rules* –

14.10.9.1 *the amount of the gratuity, if any, then payable to the member must be reduced by the amount of the divorce debt; and*

14.10.9.2 *if the amount of the divorce debt exceeds the amount of the gratuity and there is an annuity payable to the member then* –

(a) *the capital value of the annuity must be determined by the actuary;*

(b) *the value determined by the actuary must be reduced by an amount equal to the balance of the divorce debt then remaining; and*

(c) *the capital value that results from this calculation must be annuitized by the actuary on a basis determined by the board in consultation with the actuary to determine the amount of the annuity which will then be payable.*

14.10.10 *The balance of the gratuity, if any, and the annuity, or annuity adjusted in terms of rule 14.10.9 as applicable will be the benefit or benefits to which the member will be entitled in place of the benefit or benefits to which he or she would have been entitled, but for the operation of this rule.*

11. Commencement date

The amended rules shall come into operation on 1 April 2012.

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