
GOVERNMENT NOTICES

DEPARTMENT OF PUBLIC ENTERPRISES

No. 1022

8 December 2011

TRANSNET PENSION FUND ACT, 1990 (ACT NO. 62 OF 1990)
RULES IN TERMS OF SECTION 5(3) OF THE TRANSNET PENSION FUND ACT

In terms of section 5(3) of the Transnet Pension Fund Act, 1990 (Act No. 62 of 1990) I, MalusiGigaba, have approved the following amendments to the General Rules of the Transport Pension Fund.

Malusi Gigaba MP

MINISTER OF PUBLIC ENTERPRISES

**AMENDMENT OF THE GENERAL RULES
OF THE TRANSPORT PENSION FUND**

GENERAL EXPLANATORY NOTE :

[] Words in bold type in square brackets indicate omissions from existing rules.

_____ Words underlined with a solid line indicate insertions in existing rules.

1. Amendment of Rule 1 of the General Rules of the Transport Pension Fund

- 1.1 by the substitution for the definition of "**Dependant**" of **General Rule 1.1.10** of the following definition :

1.1.10 **Dependant** : means

1.1.10.1 **Qualifying Spouse**; and

1.1.10.2 **Qualifying Child** [; and

1.1.10.3 **any other person who, in the opinion of the relevant Sub-Fund Board, was upon the death of the Member or Pensioner in fact dependent on the Member or Pensioner for maintenance;]**

- 1.2 by the substitution for the definition of "**Pension**" of **General Rule 1.1.20** of the following definition :

1.1.20 **Pension** : means the monthly pension payable from a **Sub-Fund** in terms of the **Special Rules** to a **Pensioner** or **Dependant**; [and which monthly pension shall in the case of the Pensioner or **Qualifying Spouse** respectively cease at the death of such Pensioner or **Qualifying Spouse** and in the case of the death of a **Qualifying Child**, may be allocated to other **Qualifying Children** as may be determined by the **Sub-Fund Board**]

- 1.3 by the substitution for the definition of "**Qualifying Child**" of **General Rule 1.1.25** of the following definition :

- 1.1.25 **Qualifying Child** : means, in relation to a **Member** or **Pensioner**, [children, stepchildren, legally adopted children, posthumous children or children borne out of wedlock, whose ages are not more than 18 years and who survived the death of such **Member** or **Pensioner** and who were factually dependant upon the **Member** or **Pensioner**. Notwithstanding the abovementioned the relevant Sub-Fund Board has the discretion to extent this definition to include children older than 18 years provided such children are studying or are physically or mentally handicapped, and who were factually dependant upon the **Member** or **Pensioner**, at the time of the death of the **Member** or **Pensioner**, for such period as the relevant Sub-Fund Board may deem fit] a "Qualifying Child" as defined in the rules of the Sub-Fund to which that **Member** or **Pensioner** is attributed.
- 1.4 by the substitution for the definition of **"Qualifying Spouse"** of General Rule 1.1.26 of the following definition :
- 1.1.26 **Qualifying Spouse** : means a "Qualifying Spouse" as defined in the rules of the Sub-Fund to which that **Member** or **Pensioner** is attributed [the surviving spouse(s) of a **Member** or **Pensioner** in a **Recognised Marital Union** existing at the time of the death of the **Member** or **Pensioner**.]
- 1.5 by the deletion of the definition of **"Recognised Marital Union"** of General Rule 1.1.27 :
- 1.1.27 [**Recognised Marital Union** : means a lawful marriage or customary marriage or a marriage by religious rites. In the event of a cohabitation or any other union between a **Member** or **Pensioner** and another person, the Sub-Fund Board in its discretion, may deem such a cohabitation or any other union as a **Recognised Marital Union**;]
- 1.6 by the deletion of the definition of **"Transnet Second Defined Benefit Fund"** of General Rule 1.1.39 :
- [1.1.39 **Transnet Second Defined Benefit Fund** : means the fund established in terms of section 14B of the Act;]
- 1.7 re-number the definitions alphabetically.
- 1.8 by the insertion of the definition of **"2008 First Rule Amendment date"** as General Rule 1.1.40 as follows :

1.1.40 **2008 First Rule Amendment date** means 1 April 2008, the date with effect from which the first **General Rule** amendments approved by the Board in 2008 come into retrospective effect.

2. Amendment of Rule 3 of the General Rules of the Transport Pension Fund

2.1 by the substitution for **General Rule 3.9.1** of the following **General Rule** :

3.9.1 The refund budget for each **Sub-Fund** is subject to the [eth] approval of the **Board** and the sum of these **Sub-Fund** refund budgets shall equal the total refund budget for the **Fund**.

2.2 by the substitution for **General Rule 3.14.4** of the following **General Rule** :

3.14.4 The **Actuary** shall submit the actuarial report of the valuation to the **Responsible Ministers** and shall submit copies of the report to the Minister of Finance, the **Principal Employers**, the **Board**, [and] the Sub-Fund Boards and the Registrar of Pension Funds as contemplated in section 3 of the Pension Funds Act, 1956.

2.3 by the substitution for **General Rule 3.15.4** of the following **General Rule** :

3.15.4 The **Responsible Minister**, if not satisfied with such arrangements, shall, in concurrence with the Minister of Finance, request the **Sub-Fund Board** to make such amendments to the scheme, or to submit such new scheme as will be satisfactory, and the **Sub-Fund Board** shall comply with the request within a period prescribed by the **Responsible Minister**, not being less than 30 days from the date of the request, and shall at the same time furnish the **Responsible Minister** and the Minister of Finance with a report on such amendments or such new scheme by the **Actuary** and the provisions of **Rule 3.15.3[2]** shall apply to any such amended scheme or new scheme which the **Sub-Fund Board** may submit with the approval of the **Board**.

3. Amendment of Rule 4 of the General Rules of the Transport Pension Fund

3.1 by the substitution for **General Rule 4.11.3** of the following **General Rule** :

4.11.3 In the event that one or more **Members** elect that their **Actuarial Values** be drawn from his/her/their **Sub-Fund** and be transferred to **Approved Fund/s** in terms of **Rule 4.11**, there shall be drawn from that **Sub-Fund [transfer]** such assets as determined by the **Actuary** which shall be commensurate with the value of such **Member's** benefit in the **Sub-Fund** as determined in terms of **Rule 4.11.1** and the equivalent amount will be transferred to the **Approved Fund/s**.

4. Amendment of Rule 8 of the General Rules of the Transport Pension Fund

4.1 by the substitution for **General Rule 8** of the following **General Rule** :

Rule 8 : 2000 SURPLUS DISTRIBUTION

8

- 8.1 The sharing of the actuarial surplus which existed in the **Fund** as at 1 November 2000, between **Transnet** and the **Fund** in the ratio of 40:60 respectively, and the payment in 2001 to **Transnet** of its share, together with the return earned on the investment of that share from 1 November 2000 to the date of payment is authorized in terms of these **Rules**.
- 8.2 The actuarial surplus allocated to the **Fund** in terms of **Rule 8.1** together with any investment return thereon shall not be taken into consideration for purposes of calculating the current actuarial surplus in respect of the **Fund** or any **Sub-Fund**.
- 8.3 The portion of the actuarial surplus allocated to the **Fund** in terms of **Rule 8.1** shall be allocated to all persons who as at 1 November 2000 were **Members** and the **Dependants** of such persons who have since then died and dealt with in terms of the **Special Rules**. The surplus allocated to each such person or the **Dependants** of such persons will be equal to 2,997% (two comma nine nine seven per cent) of the transfer value (excluding any enhancement from the **Employer**) the person would have been entitled to had the person elected to transfer to the **Transnet Retirement Fund** with effect from 1 December 2000, plus the equivalent of the return earned on the investment of such amount. The aggregate of the amounts so allocated may not exceed the surplus amount reflected in the actuarial valuation report of the **Fund** of 31 March 2001 plus the returns, positive or negative, earned on the investment of that amount since 1 November 2000 without the prior approval of the relevant **PrincipalEmployer**.
- 8.4 The actuarial surplus calculated in respect of every **Member** or deceased person referred to in **Rule 8.3** in terms of that **Rule** shall be payable as follows :
- 8.4.1 In respect of **Members** who at the time of approval of these substituted **Rules** qualified as **Members** as defined, the portion of actuarial surplus allocated to every **Member** in terms of **Rule 8.3**, shall be paid in the form of a lump sum [in accordance with the Special Rules of the Sub-Fund pertaining] to [a] the Member upon termination of membership of the **Fund**, in addition to any benefits payable in terms of the **Special Rules** of such **Sub-Fund**, subject to any tax directive issued by the **Revenue Authorities**.
- 8.4.2 In respect of persons who were **Members** but who have resigned or have been retrenched or dismissed or whose membership have terminated as contemplated

in **Rules 4.2, 4.3 or 4.8** prior to the approval of these substituted **Rules**, the portion of actuarial surplus allocated to every such **Member** in terms of **Rule 8.3** shall be paid in the form of lump sums **[accordance with the Special Rules of the Sub-Fund pertaining to such manner of termination of membership of the Fund]** to **[which]** such former Members **[would have been attributed,]** subject to any tax directive by the **Revenue Authorities**.

8.4.3 In the event of the demise of a **Member** prior to being retired **[and prior to the approval of these substituted Rules,]** the actuarial surplus allocated to such a **Member** in terms of **Rule 8.3**, shall be paid **[made]** in accordance with the **Special Rules** of the **Sub-Fund** to which such a **Member** would have been attributed, subject to any tax directive issued by the **Revenue Authorities**.

8.4.4 In respect of **Members** who have retired prior to the approval of these substituted **Rules**, the portion of actuarial surplus allocated to every such **Member** in terms of **Rule 8.3** shall be paid to such **Member** in his/her capacity as a **Pensioner**, or in the event of the demise of such **Pensioner** prior to payment being effected, payment shall be made in the form of a lump sum **[accordance with the Special Rules of the Sub-Fund to which such Pensioner would have been attributed,]** in addition to any other benefit which may be payable in terms of the **Special Rules**, subject to the tax directive of the **Revenue Authorities**.