

No. 1024**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, Malusi Gigaba, have approved the following amendments to the Special Rules of the SAA Sub-Fund of the Transport Pension Fund.

Malusi Gigaba MP

MINISTER OF PUBLIC ENTERPRISES

**AMENDMENT OF THE SPECIAL RULES OF THE
SOUTH AFRICAN AIRWAYS (PTY) LTD SUB-FUND 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 Special Rule A of the Special Rules of the SAA Sub-Fund of the Transport Pension Fund -

1.1 by the insertion of **Special Rule A.3** as follows :

A.3 These **Special Rules** relate to the **SAA Sub-Fund** which is a sub-fund of the Transport Pension Fund.

2. Amendment of Special Rule B of the Special Rules of the SAA Sub-Fund of the Transport Pension Fund -

2.1 by the substitution for the definition of "**Actuarial Surplus**" of **Special Rule B.1** of the following definition :

B.1 **Actuarial Surplus** means the excess in the value of –

(a) the value that the **Actuary** has placed on the assets assigned to the **Sub-Fund** less any credit balances in the **Pensioner Surplus Reserve** and the **Employer Surplus Reserve**; over

(b) the value that the **Actuary** has placed on –

(i) the liabilities of the **Fund** insofar as they relate to the **Sub-Fund**; and

(ii) reserves held by the **Fund** in respect of the **Sub-Fund** including solvency reserves and reserves in respect of contingent liabilities;

2.2 by the insertion of the definition of "**Employer Surplus Account**" as **Special Rule B.4** as follows :

B.4 Employer Surplus Account means the account established in terms of Special Rule 18.1.2:

- 2.3 by the insertion of the definition of “**Pension Increase Policy**” as **Special Rule B.6** as follows :

B.6 Pension Increase Policy means a policy determined by the Trustees from time to time in consultation with the Actuary;

- 2.4 by the insertion of the definition of “**Pensioner Surplus Account**” as **Special Rule B.7** as follows :

B.7 Pensioner Surplus Account means the account established in terms of Special Rule 18.1.1:

- 2.5 by the substitution for the definition of “**Qualifying Child**” of **Special Rule B13** of the following definition :

B.13 Qualifying Child means –

B.13.1 a child born to a deceased Member; and/or

B.13.2 a child of the deceased Member who had not yet been born at the date of his or her death; and/or

B.13.3 a child who was adopted by or became a stepchild of the deceased Member before the date of retirement of that deceased Member; or

B.13.4 a child who before the 2008 First Rule Amendment Date was born to, became adopted by or became a stepchild of a person who was then a Pensioner and who has since died;

and

B.13.5 was dependent on the Member or Pensioner at the date of his or her death or, but for the Member's or Pensioner's death, would have become dependent on him or her;

and

B.13.5.1 is under the age of 18; or

B.13.5.2 is over the age of 18; and

(i) was engaged in full- time tuition at an education institution registered as such with the Department of Education, has been continuously in such full-time tuition since then, and is not more than 26 years of age; or

(ii) in respect of whom it has been demonstrated to the satisfaction of the Sub-Fund Board that-

- a. he or she is mentally or physically incapable of supporting him or herself, and –
- b. in respect of whom the Sub-Fund Board has at intervals not exceeding 5 years exercised its discretion to treat him or her as a Qualifying Child for the purposes of these Special Rules for a period or further period not exceeding 5 years.

and “Qualifying Children” shall bear a corresponding meaning.

- 2.6 by the substitution for the definition of “Qualifying Spouse” of Special Rule B.14 of the following definition :

B.14 Qualifying Spouse means 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 of the Pensioner provided that in the relation to a Pensioner such Recognised Marital Union had to have been established before the 2008 Rule Amendment Date;

- 2.7 by the substitution for the definition of “Recognised Marriage” of Special Rule B.15 of the following definition :

B.15 Recognised Marital Union means a lawful marriage in terms of the Marriage Act, 1961 or a civil union in terms of the Civil Union Act, 2006 or a 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;

- 2.8 by the insertion of the definition of “2008 First Rule Amendment Date” as Special Rule B.20 as follows :

B.20 2008 First Rule Amendment date means 1 April 2008, the date with effect from which the first rule amendments approved by the Sub-Fund Board in 2008 come into retrospective effect.

3. Amendment of Special Rule 1 of the Special Rules of the SAA Sub-Fund of the Transport Pension Fund -

- 3.1 by the substitution for Special Rule 1.1.2 of the following Special Rule :

1.1.2 Each Sub-Fund Board [Committee] shall consist of :

1.1.2.1 1 (one) [m]Member and one alternate appointed by each Registered Trade Union which represents for purposes of collective bargaining with their Employer, [m]Members assigned to a particular Sub-Fund Board,

provided that each of the [m]Members and alternate [m]Members appointed in terms of this Sub-Rule must be a Member of the Fund, and

3.2 by the insertion of **Special Rule 1.1.2.2** as follows :

1.1.2.2 1 (one) Member and one alternate elected by the Pensioners of the Sub-Fund Board from Pensioners of the Sub-Fund; and

3.3 by the substitution for **Special Rule 1.1.2.3** of the following **Special Rule** :

1.1.2.3 [m]Members and alternates which the Principal Employer and the Employers related to it may jointly appoint to the particular Sub-Fund Board [Committee], equal in aggregate to the number of [m]Members appointed by all Registered Trade Unions to such Sub-Fund Board [Committee] as contemplated in **Special Rule 1.1.2.1** and the number of Members appointed in terms of **Special Rule 1.1.2.2**, provided that, of these members of the Sub-Fund Board, [Committee] and of these alternates, at least 50% must be Members of the Fund

3.4 by the insertion of **Special Rule 1.1.2A** as follows :

1.1.2A The term of office of a Member of the Sub-Fund Board shall be for such period as the Sub-Fund Board may determine, but no longer than 4 years. A Member of a Sub-Fund Board on the termination of his or her term of office will be capable of being re-elected or re-appointed, as the case may be.

3.5 by the substitution for **Special Rule 1.1** of the following **Special Rule** :

1.1 Sub-Fund Board [Committees]

1.1.1 A Sub-Fund Board [Committee] shall be established in respect of each Sub-Fund in terms of the Act.

1.1.2 Each Sub-Fund Board [Committee] shall consist of :

1.1.2.2 [m]Members and alternates which the Principal Employer and the Employer related to it, may jointly appoint to the particular Sub-Fund Board [Committee], equal in aggregate to the number of [m]Members appointed by all Registered Trade Unions to such Sub-Fund Board [Committee] as contemplated in **Special Rule 1.1.2.1**, provided that, of these [m]Members of the

Sub-Fund Board [Committee], and of these alternates, at least 50% must be **Members** of the **Fund**;

1.1.3 A **Sub-Fund Board [Committee]** **[m]Members** shall cease to hold office upon :

1.1.3.1 resignation as a **Sub-Fund Board [Committee]** **[m]Members**; or

1.1.3.4 disqualification in terms of **General Rule 3.3** whether or not the **Sub-Fund Board [Committee]** **[m]Members** is a **Trustee**.

3.6 by the substitution for **Special Rule 1.2** of the following **Special Rule** :

1.2 Meetings of Sub-Fund Board [Committees]

1.2.1 The **[m]Members** of every **Sub-Fund Board [Committee]** shall appoint a chairperson from amongst their **[m]Members** at the first **Sub-Fund Board [Committee]** and shall elect a new chairperson thereafter at intervals of 12 (twelve) consecutive months, at which event a previous chairperson may be re-elected.

1.2.2 The chairperson, when unable to attend any meeting, shall appoint an acting chairperson for that meeting, who shall be a **[m]Member** of the **Sub-Fund Board [Committee]** or failing such appointment, the **[m]Members** present shall appoint an acting chairperson for that meeting from amongst themselves.

1.2.3 The **[m]Members** of a **Sub-Fund Board [Committee]** may convene meetings as the chairperson or the majority **[m]Members** may deem fit, which meetings shall be held not less than once every 2 (two) months.

1.2.4 A quorum at the meetings of the **Sub-Fund Board [Committee]**, shall be a majority of **[m]Members** of such **Sub-Fund Board [Committee]**, excluding any vacancies.

3.7 by the substitution for **Special Rule 1.3** of the following **Special Rule** :

1.3 Powers of Sub-Fund Board [Committees]

Subject to the provisions of the **Act** and the **Rules**, the **Sub-Fund Board [Committee]** shall have the following powers :

1.3.4 to invest, lend, place on deposit, make advances of, or otherwise deal with all moneys and investments of the **Sub-Fund** upon such securities and in such

manner as the **Sub-Fund Board [Committee]** may determine from time to time; and, in particular, to invest the whole or part of the moneys or investments of the **Sub-Fund**, for such period and on such terms as the **Sub-Fund Board [Committee]** may determine, in an investment policy issued by an **Insurer**;

- 1.3.11 to appoint and to delegate powers and functions to any sub committee or such professionals or consultants, at the cost of the **Sub-Fund**, as the **Sub-Fund Board [Committee]** deems fit;

4. **Amendment of Special Rule 5 of the Special Rules of the SAA Sub-Fund of the Transport Pension Fund -**

- 4.1 by the insertion of **Special Rule 5.1A** as follows :

5.1A The **Employer** shall contribute to the **Sub-Fund** annually at least such an amount as the **Actuary** has determined on an annual basis, not taking into consideration the amounts in **Employer Surplus Account** or the **Pensioner Surplus Account**, which is reasonably necessary to maintain the actuarial funding level of the **Sub-Fund** at least at a 100% (one hundred per cent) actuarial funding level as determined by the **Actuary** from time to time.

5. **Amendment of Special Rule 10 of the Special Rules of the SAA Sub-Fund of the Transport Pension Fund -**

- 5.1 by the substitution for **Special Rule 10.1.4.1 (d)** of the following **Special Rule** :

10.1.4.1(d) retires on or before the attainment of the retirement age of **63 [60]** years:

- 5.2 by the substitution for **Special Rule 10.1.4.2** of the following **Special Rule** :

10.1.4.2 The following benefit is payable to a **Member** intended in **Special Rule 10.1.4.1** where such **Member's** services are terminated before the attainment of the retirement age of **63 [60]** years, on grounds of permanent ill-health or physical disability and where a medical practitioner certified that such permanent ill-health or physical disability is not caused by the **Member's** own default:

- 5.3 by the substitution for **Special Rule 10.1.6.1(e)** of the following **Special Rule** :

19.1.6.1(e) retires on or before the attainment of the retirement age of **63 [60]** years:

- 5.4 by the substitution for **Special Rule 10.1.6.2** of the following **Special Rule** :

10.1.6.2 The following pension benefit is payable to a **Member** intended in **Special Rule 10.1.6.2** where such **Member's** services are terminated before the attainment of the retirement age of 63 [60] years on grounds of permanent ill-health or physical disability and where a medical practitioner certified that such permanent ill-health or physical disability is not caused by the **Member's** own default:

5.5 by the substitution for **Special Rule 10.1.7.3** of the following **Special Rule** :

10.1.7.3 The following pension benefit is payable to a **Member** referred to in **Special Rule 10.1.7.1** at retirement on or before the attainment of the retirement age of 63 [60] years:

5.6 by the substitution for **Special Rule 10.1.7.4** of the following **Special Rule** :

10.1.7.4 The following benefit is payable to a **Member** intended in **Special Rule 10.1.7.1** where such **Member's** services are terminated before the attainment of the retirement age of 63 [60] years, on grounds of permanent ill-health or physical disability and where a medical practitioner certified that such permanent ill-health or physical disability is not caused by the **Member's** own default:

5.7 by the substitution for **Special Rule 10.1.8.1(a)** of the following **Special Rule** :

10.1.8.1(a) A **Pension** which shall be calculated as a fraction of the **Member's Average Pensionable Salary** during the last 12 months prior to retirement. The numerator of the fraction shall be the period of membership of the **Fund** expressed in years, with each day of an incomplete year being reckoned as one three hundred and sixty-fifth of a year, and the nominator shall be 50. Such pension shall be debited to the **Employer** until the **Pensioner** reaches the age of 63 [60].

5.8 by the substitution for **Special Rule 10.1.8.1(b)** of the following **Special Rule** :

10.1.8.1(b) A cash sum which shall be calculated by multiplying each rand of one-third of the **Pension** calculated in terms of paragraph 0 by the applicable factor set out in the following table:

Age	Factor
45	15,69
46	15,47
47	15,24
48	15,00
49	14,75

50 14,50

provided that the cash sum so calculated shall not be greater than that which in the ordinary course of events would have been payable to the **Member** upon reaching the age of 63 **[60]**.

5.9 by the substitution for **Special Rule** 10.15.1.2(b) of the following **Special Rule** :

10.15.1.2(b) The **[p]Pension** calculated in paragraph (a) is multiplied by the factor arrived at by dividing the sum total of the pensionable service and the number of years service that could still have been rendered from the date of death to the age of 63 **[60]**, by the **[p]Period of [p]Pensionable [s]Service**.

5.10 by the insertion of **Special Rule** 10.1.4(d)(i) of the following **Special Rule** :

10.1.4(d) A **Pension** which is calculated by multiplying the **Member's Average Pensionable Salary** during the last 12 months preceding retirement with the **Period of Pensionable Service** expressed in years (each day of an incomplete year being reckoned as one three hundred and sixty-fifth of a year) divided by the factor set forth hereinafter opposite the retirement age of the **Member**:

Age	Factor
50	50
51	48
52	46
53 to 60	44
<u>61</u>	<u>43</u>
<u>62</u>	<u>42</u>
<u>63</u>	<u>41</u>

5.11 by the insertion of **Special Rule** 10.1.6(e)(i) as follows :

- 10.1.6(e)(i) A pension which is calculated by multiplying the **Member's average Pensionable Salary** during the last 12 months preceding retirement with the **Period of Pensionable Service** expressed in years (each day of an incomplete year being reckoned as one three hundred and sixty-fifth of a year) divided by the factor set forth hereinafter opposite the retirement age of the **Member**:

Age	Factor
50	50
51	48
52	46
53 to 60	44
<u>61</u>	<u>43</u>
<u>62</u>	<u>42</u>
<u>63</u>	<u>41</u>

- 5.12 by the insertion of **Special Rule 10.1.7.3(a)** as follows :

- 10.1.7.3(a) A **Pension** which is calculated by multiplying the **Member's Average Pensionable Salary** during the last 12 months preceding retirement with the **Period of Pensionable Service** expressed in years (each day of an incomplete year being reckoned as one three hundred and sixty-fifth of a year) divided by the factor set forth hereinafter opposite the retirement age of the **Member**:

Age	Factor
50	50
51	48
52	46
53 to 60	44
<u>61</u>	<u>43</u>
<u>62</u>	<u>42</u>
<u>63</u>	<u>41</u>

- 5.13 by the substitution for **Special Rule 10.1.7.3** of the following **Special Rule** :

10.1.7.3 The following pension benefit is payable to a **Member** referred to in **[Special Rule 10.8.1] Special Rule 10.1.7.1** at retirement on or before the attainment of the retirement age of **[60] 63** years:

5.14 by the substitution for **Special Rule 10.15** of the following **Special Rule** :

10.15 DEATH OF A MEMBER

10.15.1 Subject to **Special Rule 10.17**,

10.15.1.1 Upon the death of a **Member** of the **Sub-Fund** who contributed to the **Sub-Fund** at the rate of 7,5% of his **Pensionable Salary** there shall be paid to the **Dependants** and on a basis determined by the **Sub-Fund Board** : **[the following benefits]**

- (a) **[An annual] Pensions**, which together shall be no more than 70% of the **Pension** calculated on the deceased **Member's Average Pensionable Salary** over the last 12 months preceding the demise multiplied by the period of membership of the **Sub-Fund** expressed in years (each day of an incomplete year being reckoned as one three hundred and sixty-fifth of a year) and divided by 60: provided that in the case of a **Member** who dies after attaining the age of 60 years, the divisor is –
- (i) 58 in the case of a **Member** who is 61 years of age;
- (ii) 56 in the case of a **Member** who is 62 years of age;
- (iii) 54 in the case of a **Member** who is 63 years of age.
- (b) The aggregate of the Pensions calculated in paragraph (a) is multiplied by the factor arrived at by dividing the sum total of the Period of Pensionable Service [pensionable service] and the number of years service that could still have been rendered from the date of death to the age of 63 years by the **Period of Pensionable Service**.

- (c) Gratuities [A **gratuity**] which together shall be calculated by multiplying one third of the aggregate of the Pension calculated in paragraph (a) by 12 and dividing it by 0,7. Where the membership is less than 10 years the period of membership for the calculation of the gratuity shall be regarded as at least 10 years.

10.15.1.2 Upon the death of a **Member** of the **Sub-Fund** who contributed to the **Sub-Fund** at the rate of 11% of his **Pensionable [emoluments] Salary** there shall be paid to the **Dependants** and on a basis as determined by the **Sub-Fund Board** [the following benefits]:

- (a) [An annual] Pensions which together shall be no more than 70% of the **Pension** calculated on the deceased **Member's Average Pensionable Salary** [average Pensionable emoluments Salary] over the last 12 months preceding the demise multiplied by the period of membership of the **Fund** expressed in years (each day of an incomplete year being reckoned as one three hundred and sixty-fifth of a year) and divided by 50; provided that in the case of a [where a] **Member who** dies after attaining the age of 50 years, the divisor is –
- (i) 48 in the case of a **Member** who is 51 years of age;
- (ii) 46 in the case of a **Member** who is 52 years of age;
- (iii) 44 in the case of a **Member** who is 53 years and older.
- (b) The aggregate of the P[p]ensions calculated in paragraph (a) is multiplied by the factor arrived at by dividing the sum total of the **Period of Pensionable Service** and the number of years service that could still have been rendered from the date of death to the age of 63 [60] years[,] by the P[p]eriod of P[p]ensionable S[s]ervice.

- (c) **[A gratuity]** Gratuities which together shall be calculated by multiplying one third of the aggregate of the [p]Pension calculated in paragraph (a) by 14,5 and dividing it by 0,7. Where the membership is less than 10 years the period of membership for the calculation of the gratuity shall be regarded as at least 10 years.

- 10.15.1.3 In the case of a **Member** who has an option to retire at the lower retiring age who exercised the option to receive a cash amount on reaching the lower retiring age and who dies after such payment is made, the **Dependants** shall be paid in aggregate a further cash amount equivalent to that which would have been paid to the **Member**, had he retired on the day immediately after the date of death, minus the amount already paid on attaining the lower retirement age.
- 10.15.2 When a **Member** dies and there are no **Dependants**, a benefit in terms of Special Rule 10.17.4 [twice the benefits applicable in the case of voluntary resignation] shall be paid to the person lawfully administering the estate, or to the **Nominees** as nominated in writing by the **Member**. **[, subject to the discretion of the Sub-Fund Board.]**
- 10.15.3 When the amounts referred to in this **Special Rule** have been paid to any **Dependant** other than the person lawfully administering the estate of a deceased **Member**, the **Employer** and the **[Sub-]Fund** shall be exempt from any further claim and no such amounts shall form part of the estate of the deceased.
- 10.15.4 When an amount has been paid in terms of **Special Rule** 10.15.2 and it is subsequently discovered within 12 months from the date of death that such deceased **Member** left **[any] Dependants** there shall be paid to the **Dependants** such a benefit as determined in **Special Rule** 10.15.1.1 or 10.15.1.2 (as the case may be) less the amount referred to in **Special Rule** 10.15.2, and on payment of such an amount the **Employer** and the **[Sub-]Fund** shall be exempt from any further claim.
- 10.15.5 In the event that a court of law finds that any **Dependant** in relation to the **Member** caused the death of such a **Member** unlawfully, the **Sub-Fund [Committee] Board** has the discretion to declare any benefit otherwise payable in terms of these **Special Rules** to such a **Dependant** **[as]** forfeited.

5.15 by the substitution for **Special Rule 10.16** as follows :

10.16 DEATH OF A PENSIONER

10.16.1 Upon the death of a person who is in receipt of a **Pension** in terms of these **Special Rules** there shall be paid to the **Dependants**, as determined by the **Sub-Fund Board** and subject to the provisions of **Special Rule 10.16.9 and 10.17**, such a benefit as is provided for in this **Special Rule** in relation to the particular class of **Dependant**.

10.16.2 If [the] one or more **Dependants** is the deceased **Pensioner's Qualifying [s]Spouses** there shall be paid, subject to **Special Rule 10.17**, a **Pension or Pensions** calculated as follows:

10.16.2.1 Where the deceased **Pensioner** retired on or after attaining the retirement age, [limit, it] the **Pension** or the aggregate of the **Pensions** payable to the **Qualifying Spouses** shall be calculated at 70% of the **Pension** which was payable to the deceased **Pensioner** on the date of death.

10.16.2.2 Where the deceased **Pensioner** retired before attaining the retirement age, [it] the **Pension** payable to a **Qualifying Spouse** or, if there is more than one **Qualifying Spouse**, the aggregate of the **Pensions** payable to the **Qualifying Spouses** together shall be calculated by multiplying 70% of the **Pension** which was payable at the date of death, by the factor which is arrived at by dividing the sum total of the **Period of Pensionable Service** [pensionable service] and the number of years service that the **Member** could still have rendered from the date of death to the date of statutory retirement, by the **Period of Pensionable Service**, [pensionable service]

10.16.2.3 Where the deceased **Pensioner** entered[s] into a **Recognised Marital Union** after **Retirement Date** but before the 2008 First Rule Amendment Date there shall be paid to that **Qualifying Spouse**, subject to **Special Rule 10.17**, a **Pension** calculated as follows:

(a) where the age difference between the **Pensioner** and the **Qualifying Spouse** is five years and less, the benefit as determined in **Special Rule 10.16.2.1 or 10.16.2.2**, as the case may be, shall be payable to such **Qualifying Spouse**;

- (b) where the age difference is more than five years, the benefit as determined in **Special Rule 10.16.2.1** or 10.16.2.2, as the case may be, is adjusted by multiplying the benefit with a factor that is arrived at by dividing the age of the **Qualifying Spouse** by that of the **Pensioner** provided that the **Pension** shall not exceed that as determined in **Special Rule 10.16.2.1** or 10.16.2.2, as the case may be.

10.16.3 If the **Dependant** in **Special Rule 10.16.1** is someone other than the **Qualifying Spouse** of the deceased **Pensioner**, [a] **Pensions** shall, subject to **Special Rule 10.17**, be paid to the **Dependants** at the discretion of the **Sub-Fund** and on a basis determined by the **Sub-Fund**, but shall not in aggregate exceed 80% of the **Pension** calculated in terms of **Special Rule 10.16.2.1** or 10.16.2.2, as the case may be.

10.16.4 The **Sub-Fund Board [Committee]** may, after consultation with the **Actuary**, and approval by the **Employer** determine the benefit payable from the **Sub-Fund** to a **Dependant** or **Qualifying Spouse** in relation to the death of a **Pensioner** referred to in **Special Rule 10.16.1** who was a **Member** of the Railways and Harbours Pension Fund for Non-White Members who retired on or before 1 April 1986.

10.16.5 Upon the death of a **Pensioner** to whom a **Pension** was paid upon dismissal or on the ground of impossibility of performance or supervening impossibility of performance after the completion of 20 years service, there shall be paid to the **Dependants** as determined by the **Sub-Fund Board [a] Pensions** referred to in **Special Rule 10.16.2.1, 10.16.2.2** or 10.16.3, as the case may be.

10.16.6 In relation to the death of a **Pensioner** referred to in **Special Rule 10.16.1** –

10.16.6.1 who ceased to be a **Member** of the New Fund on or before 26 July 1951, section 32 of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), as it existed immediately prior to that date, shall continue to apply;

10.16.6.2 who was a **Member** of the New Fund on or after 26 July 1951, but ceased to be a **Member** on or before 1 March 1956, the said section 32, as substituted by section 15 of the Railways and Harbours Acts Amendment Act, 1951 (Act No. 63 of 1951), shall continue to apply, provided that in the application of the said section 32 in relation to the death of any such **Pensioner**, section 31(3) of the Railways and Harbours Superannuation Fund Act, 1925 (Act No. 24 of 1925), as substituted by section 14 of the Railways and Harbours Act Amendment Act, 1951, shall be construed as if for the words "The sum on which such annuity is in terms of this subsection required to be based", there were substituted the words "The sum which is thus found to be the greater shall be increased by adding thereto an amount equal to 10% thereof, which increased sum"; or;

10.16.6.3 who ceased to be a **Member** of the New Fund on or after 1 March 1956 but before 1 April 1968, and who died or dies after 31 March 1959, section 31 of the Railways and Harbours Superannuation Fund Act, 1960 (Act No. 39 of 1960), as it existed immediately prior to 1 April 1968, shall continue to apply.

[10.16.7 **With relation to the death of a Pensioner intended in Special Rule 10.16.1[6] who was a female pensioner, no benefit is paid to her spouse or Dependants when –**

10.16.7.1 **such Member retired before 1 January 1991; and**

10.16.7.2 **such Member elected on or before 1 January 1991 to exclude her spouse or Dependants from receiving any benefit upon her death.]**

10.16.7 The **Pension** (if any) to which a **Qualifying Spouse**, [the widow of a **Pensioner**] who was in receipt of a **Pension** in respect of such **Pensioner's** [his] contributions to the Railways and Harbours Superannuation Fund constituted under Chapter III of the Railways and Harbours Service Act, 1912 (Act No. 28 of 1912), is entitled upon his death in terms of the provision of section 49 of that act shall be enhanced by an amount equal to 10% of such **Pension**.

- 10.16.8 In the event that a court of law finds that any **Dependant** in relation to the **Pensioner** caused the death of such a **Pensioner** unlawfully, the **Sub-Fund Board [Committee]** has the discretion to declare any benefit payable in terms of these **Special Rules** to such a **Dependant** as forfeited.

5.16 by the substitution for **Special Rule 10.17** of the following **Special Rule** :

10.17 DISPOSAL OF DEATH BENEFITS

- 10.17.1 The aggregate of the benefits payable to **[a] Qualifying Spouses and Qualifying Children** in terms of **Special Rule 10.15 and 10.16**, as the case may be, shall not exceed the benefit that would have been payable to the deceased **Member** upon reaching normal **Retirement Age**, or to the deceased **Pensioner** at time of death, as the case may be, subject to the following:
- 10.17.1.1 In the event that there is only one **Qualifying Spouse** and no **Qualifying Children** such **Qualifying Spouse** shall receive the total benefit calculated in terms of **Special Rule 10.15.1 or 10.16.2**, as the case may be;
- 10.17.1.2 In the event that there is more than one **Qualifying Spouse** and no **Qualifying Children** each **Qualifying Spouse** shall receive an equal share of the benefit calculated in terms of **Special Rule 10.15.1 or 10.16.2** as the case may be;
- 10.17.1.3 In the event that there is one **Qualifying Spouse** and **Qualifying Children** such **Qualifying Spouse** may receive the total benefit referred to in **Special Rule 10.15.1 or 10.16.2**, as the case may be, although the **Sub-Fund Board [Committee]** will have the discretion to reduce such benefit and allocate any portion thereof to such **Qualifying Children** as the **Sub-Fund Board [Committee]** may deem fit;
- 10.17.1.4 In the event that there is more than one **Qualifying Spouse** and **Qualifying Children** the total benefit referred to in **Special Rule 10.15.1 or 10.16.2**, as the case may be may be shared equally among each **Qualifying Spouse** although the **Sub-Fund Board [Committee]** has the discretion to reduce such benefit and allocate any portion thereof to any such **Qualifying Spouse** or **Qualifying**

Children as the **Sub-Fund Board [Committee]** may deem fit;

10.17.1.5 In the event that there is no **Qualifying Spouse** who is entitled to a benefit but only **Qualifying Children**, the benefit referred to in **Special Rule 10.15.1 or 10.16.3**, as the case may be shall be reduced to 80% of such benefit and such reduced benefit **[together with the benefit referred to in Special Rule]** shall be paid to or on behalf of all or some of such **Qualifying Children** as determined by the **Sub-Fund Board [Committee]**.

10.17.2 The **Sub-Fund Board [Committee]** may in its discretion, pay any benefit to those **Qualifying Children** who are entitled to a benefit in terms of these **Special Rules**, into a trust as contemplated in the Trust Property Control Act, 1988 (Act No. 57 of 1988), for the benefit of such **Qualifying Children** contemplated in this **Special Rule** and it shall be deemed to be a payment to such **Qualifying Children**.

10.17.3 The benefit in terms of these **Special Rules** payable in the month, in which the **[Member or] Pensioner or Dependant** who is entitled to a benefit in terms of these **Special Rules** dies, will be paid into their estate.

10.17.4 In the event that:

10.17.4.1 there are no **Dependants** but the **Member** has appointed a **Nominee**, the **Nominee** shall receive a benefit equal to two times the **Member's** own contributions (excluding **Employer** contributions) together with interest thereon at the rate of 3.6% per annum in the event that the **Member** had paid contributions in excess of 13 years. [the Interest Payment.] Where there are more than one **Nominee**, the **Sub-Fund Board [Committee]** may apportion the benefit as it deems fit;

10.17.4.2 there are no **Dependants** or **Nominees**, a benefit equal to two times the **Member's** own contributions (excluding **Employer** contributions) together with interest thereon at the rate of 3.6% per annum in the event that the **Member** had paid contributions in excess of 13 years [Interest Payment] shall be paid into the estate of the deceased **Member**.

10.17.5 Where the benefit in terms of these **Special Rules** has been paid to any **Dependants** or **Nominee**, the **Employer** and the **[Sub-]Fund** shall be exempt from any further claim and no such amounts shall form part of the estate of the deceased **Member**.

5.17 Delete **Special Rule** 10.17.6 :

[10.17.6 In the event of the death of a Dependant, the benefit payable to such Dependant shall terminate and shall not accrue to any other surviving Dependant.]

5.18 by the substitution for **Special Rule** 10.18 of the following **Special Rule** :

10.18.1 If the **Sub-Fund Board [Committee]** becomes aware of or traces a qualifying **Dependant**, within 12 months of the death of a **Member** or **Pensioner**, a benefit as determined in **Special Rules 10.15.1 or 10.16 [10.5 or 10.15.1.7]** as the case may be, shall be paid to such qualifying **Dependant**, from the date the **Sub-Fund Board [Committee]** becomes aware of or traces such qualifying **Dependant**.

10.18.2 If the **Sub-Fund Board [Committee]** becomes aware of or traces a qualifying **Dependant**, after 12 months of the death of a **Member** or **Pensioner**, a benefit may be paid to such qualifying **Dependant** in such proportions as may be deemed equitable in the discretion of the **Sub-Fund Board [Committee]** to such qualifying **Dependant** in accordance with the provisions of **Special Rules 10.15.1 or 10.16 [10.5 or 10.15.1.7]**, as the case may be.

10.18.3 In the event that any benefit becomes payable in terms of **Special Rule** 10.18.2, the benefit payable to a qualifying **Dependant** in terms of **Special Rule** 10.18.1, shall be reduced in order to provide for the payment of the benefit as contemplated in **Special Rule 10.15.1 or 10.16, as the case may be**, in order to ensure that the aggregate of the benefits payable to all **Dependants** shall not exceed the aggregate of the benefits determined in terms of **Special Rule** 10.17.1.

5.19 by re-numbering current **Special Rule** 10.19 as "10.19.1".

5.20 by the insertion of **Special Rule** 10.19.2 as follows :

10.19.2 The Trustees shall review the level of Pensions being paid by the Fund from time to time and may direct that Pensions be increased. Any increase in Pensions shall be paid in terms of the Pension Increase Policy, provided that:

10.19.2.1 A guaranteed minimum increase of 2% (two per cent) shall apply; and

10.19.2.2 Any increase to Pensions above the 2% (two per cent) minimum increase referred to in 10.19.2.1 shall be subject to affordability, as determined in accordance with the Pension Increase Policy, and the approval of the Employer.

The increases shall be payable from the date stipulated in the Pension Increase Policy.

5.21 by the insertion of **Special Rule 10.19.3** as follows :

10.19.3 The increase in pensions and/or the payment of *ad hoc* bonuses as provided in **Special Rule 10.19.2** shall be subject to :

10.19.3.1 The **Sub-Fund** being able to afford such increases and/or payment of *ad hoc* bonuses according to the discretion of the **Sub-Fund Board**; and

10.19.3.2 the actuary's written confirmation that such increases and/or payment of *ad hoc* bonuses are affordable by the **Sub-Fund**; and

10.19.3.3 the written approval by the **Employer**.

5.22 by the substitution for **Special Rule 10.21** of the following **Special Rule** :

10.21 PAYMENT TO ESTATE

When the amounts referred to in **Special Rules 10.15 or 10.16, as the case may be, [and 10.15.1.7]** have been paid to any person mentioned therein other than the person lawfully administering the estate of a deceased **Member** or **Pensioner**, the **Employer** and the **Sub-Fund** shall be exempt from any further claim under any of those **Special Rules**, and no such amount shall be deemed to form part of the estate of the deceased.

5.23 by the insertion of **Special Rule 10.22(b)** as follows :

10.22(b) Should provision not be made in these **Rules** to treat a period of employment as pensionable service that should, in the opinion of the **Sub-Fund Board**, be so treated, the **Sub-Fund Board** may authorise the recognition of such employment as pensionable service and prescribe when and in what manner contributions and interest shall be paid in respect thereof.

5.24 by the insertion of **Special Rule 10.25** as follows :

10.25 The Pension payable to a Pensioner or Qualifying Spouse respectively will cease at the death of such Pensioner or Qualifying Spouse. The Pension payable to a Qualifying Child, may on his or her death be allocated to other Qualifying Children of the deceased Member or Pensioner as may be determined by the Sub-Fund Board.

6. **Amendment of Special Rule 18 of the Special Rules of the SAA Sub-Fund of the Transport Pension Fund -**

6.1 by the re-numbering of current **Special Rule 18 (UNCLAIMED BENEFITS)** as **Special Rule 17.**

6.2 by the insertion of **Special Rule 18** as follows :

SPECIAL RULE 18 : ALLOCATION OF SURPLUS

18.1 There is established in the accounts of the Sub-Fund the following special accounts:

18.1.1 The Pensioner Surplus Account; and

18.1.2 The Employer Surplus Account.

18.2 If, in the opinion of the Actuary, it would be imprudent to do so, the Sub-Fund Board, with the consent of the Principal Employer, may each year allocate any portion of any Actuarial Surplus the Actuary deems reasonable to make available for allocation, to the Pensioner Surplus Account, to the Employer Surplus Account, or to both in such a manner as the Sub-Fund Board, with the consent of the Principal Employer, determines.

18.3 Subject to Special Rule 18.7, monies standing to the credit of the Pensioner Surplus Account may be used at the discretion of the Sub-Fund Board –

18.3.1 To provide for improved benefits for Pensioners and/or Dependants provided that the Special Rules are amended insofar as may be necessary to facilitate this;

18.3.2 To grant increases to Pensioners and Dependants in receipt of Pensions funded out of the assets assigned to the Sub-Fund as contemplated in Special Rule 10.18.2.

18.4 If monies are transferred from the Employer Surplus Account to the Pensioner Surplus Account for the benefit of specific Pensioners and/or Dependants or specific categories of Pensioners and/or Dependants as determined by the Principal Employer, the Sub-Fund Board must use those monies for the benefit of those Pensioners and/or Dependants as directed by the Principal Employer.

- 18.5 Subject to **Special Rule 18.7**, monies standing to the credit of the **Employer Surplus Account** may at the discretion of the **Sub-Fund Board** –
- 18.5.1 be transferred to the **Pensioner Surplus Account** for the benefit as determined by the **Principal Employer** of specific **Pensioners** and/or **Dependants** or specific categories of **Pensioners** and/or **Dependants**;
- 18.5.2 be applied in *lieu* of the contributions that would otherwise be payable by the **Principal Employer** in terms of these **Special Rules**.
- 18.6 The return, positive or negative, earned on the investment of the monies standing to the credit of the **Pensioner Surplus Account** or the **Employer Surplus Account** must be allocated to the **Pensioner Surplus Account** or the **Employer Surplus Account**, as applicable.
- 18.7 If, following a valuation of the **Sub-Fund** the **Actuary** determines that it is under-funded and is unlikely within a reasonable period of time to be restored to full funding, then –
the monies then standing to the credit of the **Pensioner Surplus Account** and the monies then standing to the credit of the **Employer Surplus Account** shall be reduced in the same proportion by the amount of the deficit, provided that no credit balance shall be reduced by more than the amount to which the account was in credit.