

No. 1031**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 Special Rules of the Transnet Sub-Fund of the Transport Pension Fund.

Malusi Gigaba MP

MINISTER OF PUBLIC ENTERPRISES

**AMENDMENT OF THE SPECIAL RULES OF THE
TRANSNET 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 TRANSNET 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 Transnet Sub-Fund which is a sub-fund of the Transport Pension Fund.

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

2.1 by the substitution for the first paragraph for **Special Rule B** of the following paragraph :

In addition to the definitions in the **General Rules** the following words or expressions shall have the following meaning :

2.2 by the deletion of the numbering of the definitions.

2.3 by the insertion of the definition of "**Actuarial Surplus**" as follows :

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 to provide for contingent liabilities;

2.4 by the insertion of the definition of “**Committee Member**” as follows :

Committee Member: means a Member of a Sub-Fund Board, appointed in terms of the Special Rules of the relevant Sub-Fund, and includes the alternates to such Committee Member.

2.5 by the insertion of the definition of “**Employer Surplus Reserve**” as follows :

Employer Surplus Reserve: means the reserve established in terms of Special Rule 19.1.2

2.6 by the insertion of the definition of “**Pension**” as follows :

Pension: means 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 Pensioner as may be determined by the Sub-Fund Board;

2.7 by the insertion of the definition of “**Pensioner Surplus Reserve**” as follows :

Pensioner Surplus Reserve: means the reserve established in terms of Special Rule 19.1.1

2.8 by the substitution for the definition of “**Qualifying Child**” of the following definition:

Qualifying Child means -

- (i) a child born to a deceased Member; and/or
- (ii) a child of the deceased Member who had not yet been born at the date of his or her death; and/or
- (iii) a child who was adopted by or became a stepchild of the deceased Member before the date of retirement of that deceased Member; or
- (iv) a child who before the 2008 First Rule Amendment Date was born to, became adopted by or became a step-child of a person who was then a Pensioner and who has since died;

and

- (v) 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
 - (a) is under the age of 18; or
 - (b) 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."

2.9 by the insertion of the definition of "Qualifying Spouse" as follows :

Qualifying Spouse means a person who was a party to a Recognised Marital Union with a Member or a Pensioner at the date of the Member's or Pensioner's death and,

- (i) in the case of a Recognised Marital Union with a Pensioner, was a party to that Recognised Marital Union before the 2008 First Rule Amendment Date; and
- (ii) in the case of a Member who became a Pensioner after the 2008 First Rule Amendment Date, was a party to that Recognised Marital Union at the date of retirement of that Member.

2.10 by the insertion of the definition of "Recognised Marital Union" as follows :

Recognised Marital Union means a marriage or civil union recognized as such for the purposes of the Marriage Act, 1961, the Recognition of Customary Marriages Act, 1998, or the Civil Union Act, 2006, or in accordance with the tenets of a religion, or a union which the Board has in its discretion determined to be a Recognised Marriage for the purposes of these Rules.

2.11 by the insertion of the definition of "2008 First Rule Amendment Date" as follows :

2008 First Rule Amendment Date means 1 April 2008, the date with effect from which the first Special 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 TRANSNET 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) **Committee [m]Member** and one alternate appointed by each **Registered Trade Union** which represents for purposes of collective bargaining with their **Employer Members** assigned to a particular **Sub-Fund [provided that each of the members and alternate members appointed in terms of this Sub-Rule must be a Member of the Fund]**, and

1.1.2.2 1 (one) **Committee [m]Member** and one alternate elected by the Pensioners of the Sub-Fund, and

1.1.2.3 **Committee 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 **Committee 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 **Committee [m]Members** appointed as contemplated in **Sub-Rule 1.1.2.24**, [provided that, of these members of the Sub-Fund Committee, and of these alternates, at least 50% must be Members of the Fund;]

Provided that nothing in this sub-rule 1.1.2 shall be construed as restricting membership of the **Committee Members** or alternates to persons who are **Members** of the Fund.

1.1.2A The term of office of a **Committee Member** shall be for such period as the **Sub-Fund Board** may determine, but no longer than 4 years. A **Committee 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.

3.2 by the substitution for **Special Rule 1.1.3.5** of the following **Special Rule** :

1.1.3.5 the **Board** resolving by a 75% vote to terminate a **Committee Member[Trustee]'s** appointment

3.3 by the insertion of **Special Rule 1.3.13** as follows :

1.3.13 to exercise the powers contemplated in **Special Rule 19**.

4. **Amendment of Special Rule 10 of the Special Rules of the TRANSNET Sub-Fund of the Transport Pension Fund -**

4.1 by the substitution for **Special Rule 10** 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**, [and subject to rule 10.17] there shall be paid to the **Dependants** and on a basis determined by the **Sub-Fund Board** **[the following benefits]:**

- (a) [An a]Annual Pensions which together shall be 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 **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 Period of P[p]ensionable S[s]ervice and the number of years service that still could have been rendered from the date of death to the age of 63 years by the **Period of Pensionable Service**.
- (c) [A gratuity]Gratuities 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 8.5% 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 a~~Annual Pensions] which together shall be 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 **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 55: provided that in the case of a **Member** who dies after attaining the age of 60 years, the divisor is –
 - (i) 53, in the case of a **Member** who is 56 years of age;
 - (ii) 51 in the case of a **Member** who is 57 years of age;
 - (iii) 49 in the case of a **Member** who is 58 years of age.
- (b) The aggregate of the Pensions calculated in paragraph (a)[10.15.1.2] is multiplied by the factor arrived at by dividing the sum total of pensionable service and the number of years service that still could have been rendered from the date of death to the age of 58 years by the **Period of Pensionable Service**.
- (c) [~~A gratuity~~Gratuities] which together shall be calculated by multiplying one third of the aggregate of the **Pension** calculated in paragraph (a)[10.15.1.2] by 13.5 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**, twice the benefits applicable in the case of voluntary resignations shall be paid to the person lawfully administering the estate, or to the **Nominee** 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 of 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** 10.15.1.2 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** forfeited.

4.2 by the substitution for **Special Rule** 10.16 of the following **Special Rule** :

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 **Pensioners' Qualifying ~~[s]Spouse~~**, or are the deceased **Pensioner's Qualifying Spouses** there shall be paid a **Pension or Pensions** calculated as follows:

10.16.2.1 Where the deceased **Pensioner** retired on or after attaining the retirement age, ~~[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 **Period of P[p]ensionable S[s]ervice** and the number of years service that the **Member** would still have rendered from the date of death to the date of statutory retirement, by the **Period of P[p]ensionable S[s]ervice**.

10.16.2.3 Where the deceased **Pensioner** entered into a **Recognised Marital Union** after **Retirement Date** but before the 2008 First Rule Amendment Date there shall be paid to that Qualifying Spouse 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 otherwise determined in **Special Rule 10.16.2.1 or 10.16.2.2 as the case may be, shall be payable to that 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**.
- 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** 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** 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 Qualifying S[s]pouse or **Dependants** from receiving any benefit upon her death.
- 10.16.8 The **Pension** (if any) to which the Qualifying Spouse [widow of a Pensioner], who was in receipt of a **Pension** in respect of 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**.

10.16.9 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.

4.3 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 Rules 10.15 and 10.16** shall not exceed the benefit that would have been payable to the deceased **Pensioner or Member** upon reaching normal **Retirement Age**, 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 10.16.2 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 10.15.1]** 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 **Pensioner [Member]** 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 the Interest Payment. Where there are more than one Nominee, the Sub-Fund Committee Board may apportion the benefit as it deems fit]** as provided for in Special Rule 10.15.2;
- 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 Interest Payment]** as provided for in Special Rule 10.15.2 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**.

[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**]

10.17.6 If benefits are payable in terms of Rule 16 to more than one **Qualifying Spouse, Qualifying Child** or **Nominee**, the **Sub-Fund Board** may in its discretion determine the proportions of which the benefit that would otherwise have been paid to the **Qualifying Spouse, Qualifying Child** or **Nominee**, will be paid to each on a basis that it deems equitable.

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

10.18.1 If the **Sub-Fund 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[15.1.7]**, as the case may be, shall be paid to such qualifying **Dependant**, from the date the **Sub-Fund Committee** becomes aware of or traces such qualifying **Dependant**.

10.18.2 If the **Sub-Fund 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 Committee** to such qualifying **Dependant** in accordance with the provisions of **Special Rules 10.15.1** or **10.16[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**.

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

When the amounts referred to in **Special Rules 10.15.1 [and] or 10.16[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.

- 4.6 The old rule 32(30)(b) was erroneously deleted during the 2007 rule amendment process. It should be inserted and substituted as **Special Rule 10.22(b)** as follows :

(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, with the approval of the **Principal Employer**, 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. **Amendment of Special Rule 18 of the Special Rules of the TRANSNET Sub-Fund of the Transport Pension Fund -**

5.1 by the re-numbering of **Special Rule 18** to **Special Rule "17"**.

6. **Amendment of Special Rule 19 of the Special Rules of the TRANSNET Sub-Fund of the Transport Pension Fund -**

6.1 by the insertion of **Special Rule 19** as follows :

Special Rule 19 : ALLOCATION OF SURPLUS

19.1 There is established in the accounts of the **Sub-Fund** the following special reserves:

19.1.1 The **Pensioner Surplus Reserve**; and

19.1.2 The **Employer Surplus Reserve**.

19.2 If, in the opinion of the **Actuary**, it would not 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 Reserve**, to the **Employer Surplus Reserve**, or to both in such a manner as the **Sub-Fund Board**, with the consent of the **Principal Employer**, determines.

19.3 Subject to **Special Rule 19.7**, monies standing to the credit of the **Pensioner Surplus Reserve** may be used at the discretion of the **Sub Fund Board** -

- 19.3.1 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:
- 19.3.2 to grant once-off bonuses to Pensioners and Dependants in receipt of Pensions funded out of the assets assigned to the Sub-Fund as contemplated in Special Rule 20:
- 19.4 If monies are transferred from the Employer Surplus Reserve to the Pensioner Surplus Reserve 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.
- 19.5 Subject to Special Rule 19.7, monies standing to the credit of the Employer Surplus Reserve may at the discretion of the Principal Employer –
- 19.5.1 be transferred to the Pensioner Surplus Reserve for the benefit as determined by the Principal Employer of specific Pensioners and/or Dependants or specific categories of Pensioners and/or Dependants:
- 19.5.2 be transferred to another Fund to which the Principal Employer is obliged to make contributions or the benefits of which are wholly or partially underwritten by the Principal Employer:
- 19.5.3 be applied in lieu of the contributions that would otherwise be payable by the Principal Employer in terms of these Special Rules.
- 19.6 The return, positive or negative, earned on the investment of the monies standing to the credit of the Pensioner Surplus Reserve or the Employer Surplus Reserve must be allocated to the Pensioner Surplus Reserve or the Employer Surplus Reserve, as applicable.
- 19.7 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 Reserve and the monies then standing to the credit of the Employer Surplus Reserve 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.
7. Amendment of Special Rule 20 of the Special Rules of the TRANSNET Sub-Fund of the Transport Pension Fund -

7.1 by the insertion of **Special Rule 20** as follows :

Special Rule 20 : BONUS PAYMENTS TO PENSIONERS

20.1 Subject to **Special Rule 19.4**, the **Sub-Fund Board** may, with the approval of the Board of Directors of Transnet, grant once-off bonuses to each **Pensioner** or **Dependant** funded from monies standing to the credit of the **Pensioner Surplus Reserve**.

20.2 Different bonuses may be granted to different categories of **Pensioners** and/or **Dependants** and a bonus may be granted only to a category of **Pensioners** or a category of **Dependants**.

20.3 The payment of a bonus to one category of **Pensioners** or **Dependants** will not entitle any person falling within a different category of **Pensioners** or **Dependants** to an equivalent bonus.

20.4 The payment of a bonus to a **Pensioner** or **Dependant** in any one year will not entitle that **Pensioner** or **Dependant** to an equivalent bonus or any bonus at all in any subsequent year.

8. Amendment of Special Rule 21 of the Special Rules of the TRANSNET Sub-Fund of the Transport Pension Fund -

8.1 by the insertion of **Special Rule 21** as follows :

Special Rule 21 : PAYMENTS TO PROCURE EQUITY

20.1 If the **Board** is of the opinion—

20.1.1 that, although a benefit paid to, or that will be paid to -

20.1.1.1 a **Member**, **Pensioner** or former **Member**; or

20.1.1.2 **Members**, **Pensioners**, or former **Pensioners** falling within a category of **Members**, **Pensioners** or former **Pensioners**, as the case may be,

was paid or will be paid in fulfillment of the **Fund's** obligations to that person or that category of persons in terms of the **Sub-Fund Rules**, it would be equitable for an additional amount to be paid to him or her or each of them, and

20.1.2 based on the advice of the **Actuary**, that the **Sub-Fund** will remain financially sound if that amount is or those amounts are paid, then —

if the total amount or amounts to be paid in terms of this **Special Rule** in accordance with the decision will not, when taken with any other amount or amounts to be paid in terms of this **Special Rule** in any Financial Year exceed —

20.1.3 R1 million (one million rands), the Executive Committee may authorize the payment of that amount or those amounts;

20.1.4 R10 million (ten million rands), the **Sub-Fund Board** may authorize the payment of that amount or those amounts:

20.1.5 An amount in excess of R10m (ten million rands), the **Sub-Fund Board** and the Principal Employer by agreement may authorize the payment of that amount or those amounts.

20.2 No payment made to any person in terms of this **Sub-Fund Rule** will constitute an acknowledgment by the **Fund** that, before the decision contemplated in **Sub-Fund Rule 20.1** above was made, the **Fund** was liable to pay the amount or amounts contemplated.

20.3 Any amount or amounts payable in terms of this **Sub-Fund Rule** will be drawn from the assets or surplus attributable to the Transnet Sub-Fund other than those standing to the credit of the Pensioner Surplus Account or the Employer Surplus Account.

20.4 The **Board** may use its discretion to determine the prescription period applicable to these payments as well as whether or not these payments are made to the estates or dependants of deceased **Members, Pensioners** or former **Members**.
