

---

## GENERAL NOTICE

---

### NOTICE 342 OF 2014

#### RULE AMENDMENT NO. 4 OF THE RULES OF THE POST OFFICE RETIREMENT FUND

I, Yunus Carrim , Minister of Communications, acting in terms of section 10 of the Post Office Act No. 44 of 1958, as amended, hereby promulgate Rule Amendment No.4 of the Post Office Retirement Fund.



Yunus Carrim

Minister of Communications

**POST OFFICE RETIREMENT FUND****Amendment No. 4**

Extract from the minutes of a meeting of the Trustees of the Post Office Retirement Fund held at PRETORIA on *19 DECEMBER 2013*

**TAKING INTO ACCOUNT** the proposed amendments made to the South African Post Office SOC Ltd Act, 2011 (Act No. 22 of 2011),

**"IT IS RESOLVED THAT** the Rules of the Post Office Retirement Fund be amended with effect from the date on which Section 10F of the *Post and Telecommunication-related Matters Act, 1958* (Act No. 44 of 1958), comes into effect, in order to facilitate the access of a Member's former spouse to that share of the Member's retirement savings assigned to such former spouse by order of a court upon the parties' divorce. This is to be done by:"

- (i) *adding the definitions 'Approved Fund', 'Non-Member Spouse', 'Pension Interest' and 'Pension Interest Residue' to Rule 1.1 as follows:*

**APPROVED FUND** : a fund approved as a pension fund, provident fund, retirement annuity fund or pension preservation fund as defined in the Income Tax Act, 1962 (Act No. 58 of 1962);

**NON-MEMBER SPOUSE** : in relation to a MEMBER, a person who was, but is no longer, the spouse of that MEMBER due to the dissolution or confirmation of the dissolution of the relationship by court order and to whom the court ordering or confirming the dissolution of the relationship has granted a share of the MEMBER'S PENSION INTEREST;

**PENSION INTEREST** : in relation to a MEMBER who is or was a party to an action for divorce or for the dissolution of a customary marriage, the amount of the benefit to which the MEMBER would have been entitled in terms of the RULES if the MEMBER'S membership of the FUND had been terminated on

account of the MEMBER'S resignation from SERVICE on the date of the divorce or the dissolution of a customary marriage, less the amount, if any, of the MEMBER'S PENSION INTEREST which, in terms of an order previously granted on the prior divorce of the MEMBER or the prior dissolution of a customary marriage to which the MEMBER had been a party, has been awarded to another party but not yet paid to such other party or transferred to an APPROVED FUND for his or her benefit.

**PENSION INTEREST RESIDUE** : in relation to a NON-MEMBER SPOUSE to whom a share of a MEMBER'S PENSION INTEREST has been awarded as contemplated in the definition of PENSION INTEREST, the amount of that share,

- (a) less the amount of the tax, if any, payable by the NON-MEMBER SPOUSE in respect of it; and
  - (b) adjusted by the rate, whether positive or negative, at which the assets underlying the amount of that share have increased or decreased during the period from the date of the deduction contemplated in Rule 9.12(5)(i)(cc) to the day before the date of payment or transfer of the PENSION INTEREST RESIDUE;
- (ii) *adding Rule 2.2(1)(a)(bb)(x) to Rule 2.2(1)(a)(bb) as follows:*
- (x) any amount(s) deducted in terms of RULE 9.12(5), including any reasonable costs incurred by the FUND in giving effect to the provisions of that RULE.
- (iii) *adding Rule 2.2(1)(b)(bb)(iii) to Rule 2.2(1)(b)(bb) as follows:*
- (iii) any amount(s) deducted in terms of RULE 9.12(5), including any reasonable costs incurred by the FUND in giving effect to the provisions of that RULE.

(iv) *adding Rule 2.2(3)(a)(bb)(vi) to Rule 2.2(3)(a)(bb) as follows:*

- (vi) any amount(s) deducted in terms of RULE 9.12(5), including any reasonable costs incurred by the FUND in giving effect to the provisions of that RULE.

(v) *replacing Rule 9.11(1) with the following:*

- (1) No pension or lump sum benefit payable in terms of the RULES of the FUND, or right to such a benefit, or right in respect of contributions made by, or on behalf of a MEMBER, may be ceded pledged or hypothecated, or attached or subjected to any form of execution under a judgment or order of a court of law.

(vi) *adding Rule 9.12(5) to Rule 9.12 as follows:*

- (5) The FUND may furthermore deduct
  - (a) in the case of a MEMBER other than a DEFINED BENEFIT MEMBER, from the MEMBER'S SHARE and, if applicable, the MEMBER'S Additional Voluntary Contribution Account; or
  - (b) in the case of a DEFINED BENEFIT MEMBER, from the MEMBER'S interest in the FUND;

any amount assigned from such MEMBER'S PENSION INTEREST to a NON-MEMBER SPOUSE in terms of a decree of divorce granted under Section 7(8)(a) of the Divorce Act, 1979 (Act No. 70 of 1979), or a decree for the dissolution of a customary marriage, subject to the following:

(i) for purposes of Section 7(8)(a) of the Divorce Act, 1979 (Act No. 70 of 1979), the portion of a MEMBER'S PENSION INTEREST assigned to a NON-MEMBER SPOUSE in terms of a decree of divorce or a decree for the dissolution of a customary marriage is deemed to accrue to the MEMBER on

(aa) the date on which Section 10F of the Post and Telecommunication-related Matters Act, 1958 (Act No. 44 of 1958), comes into effect in the case of an order granted before such date; or

(bb) the date on which the decree of divorce or the decree for the dissolution of a customary marriage is granted;

and, on the written submission of the court order by or on behalf of the NON-MEMBER SPOUSE or MEMBER, as the case may be,

(cc) must be deducted on the date on which an election is made or, if no election is made within the period referred to in (iii) below, the date on which that period expires; and

(dd) must reduce the MEMBER'S SHARE and, if applicable, Additional Voluntary Contribution Account, or his or her interest in the FUND, as at the date of the decree of divorce or the decree for the dissolution of a customary marriage and the amount of the benefit to which the MEMBER will later become entitled in terms of these RULES will be reduced by such amount as the ACTUARY determines is appropriate, taking into account the reduction in the amount of his or her;

(AA) MEMBER'S SHARE and, if applicable, the MEMBER'S Additional Voluntary Contribution Account, in the case of a MEMBER other than a DEFINED BENEFIT MEMBER; or

(BB) MEMBER'S interest in the FUND, in the case of a DEFINED BENEFIT MEMBER,

in terms of this RULE and the reasonable costs, if any, incurred by the FUND in giving effect to the provisions of this RULE; and

(ee) must be made subject to the deduction from it of so much tax, if any, payable by the NON-MEMBER SPOUSE in respect of his or her share of the PENSION INTEREST;

(ii) the FUND must, within 45 days of the submission of the court order by or on behalf of the NON-MEMBER SPOUSE or the MEMBER, as the case may be, in writing ask the NON-MEMBER SPOUSE to choose whether the PENSION INTEREST RESIDUE must be-

(aa) paid directly to the NON-MEMBER SPOUSE; or

(bb) transferred to another APPROVED FUND chosen by the NON-MEMBER SPOUSE for the benefit of the NON-MEMBER SPOUSE;

(iii) the NON-MEMBER SPOUSE must, within 120 days of being requested by the FUND to make that election,

(aa) inform the FUND in writing of the manner in which the PENSION INTEREST RESIDUE must be dealt with; and

- (bb) if the NON-MEMBER SPOUSE asks the FUND to pay his or her PENSION INTEREST RESIDUE directly to him or her, he or she must provide the FUND with the details that are necessary to make the payment; or
    - (cc) if the NON-MEMBER SPOUSE asks the FUND to transfer his or her PENSION INTEREST RESIDUE to another APPROVED FUND for his or her benefit, he or she must provide the FUND with the details of that APPROVED FUND;
  - (iv) the FUND must pay or transfer the NON-MEMBER SPOUSE'S PENSION INTEREST RESIDUE
    - (aa) in the circumstances contemplated in (iii)(bb) above, within 30 days; or
    - (bb) in the circumstances contemplated in (iii)(cc) above, within 60 days,
- in accordance with the NON-MEMBER SPOUSE'S choice;
- (v) if the FUND fails to pay or transfer the NON-MEMBER SPOUSE'S PENSION INTEREST RESIDUE within the period referred to in (iv) above, then interest at a rate equal to the consumer price index or the interest the FUND received on its bank account, whichever is the lesser rate, must be added to the NON-MEMBER SPOUSE'S share of the PENSION INTEREST. The interest will be calculated from the day following the date on which the 30 day period or 60 day period, as the case may be, expired until date of payment or transfer;

- (vi) if the NON-MEMBER SPOUSE fails to inform the FUND in writing of his or her choice as to the manner in which his or her PENSION INTEREST RESIDUE must be dealt with or to identify the APPROVED FUND, if any, to which it should be transferred within the period referred to in (iii) above, the FUND must pay the PENSION INTEREST RESIDUE directly to the NON-MEMBER SPOUSE within 30 days of the expiry of that period; failing which interest at a rate equal to the consumer price index or interest the FUND received on its bank account, whichever is the lesser rate, must be added to the NON-MEMBER SPOUSE'S share of the PENSION INTEREST. The interest will be calculated from the day following the date on which the 30 day period expired until date of payment;
- (vii) despite the provisions of (vi) above, if the FUND cannot reasonably ascertain the manner in which the payment to the NON-MEMBER SPOUSE must be made, the FUND must keep the NON-MEMBER SPOUSE'S PENSION INTEREST RESIDUE including interest at a rate calculated in accordance with (vi) above, in the FUND until such time as details of the manner in which that payment must be made is made available to the FUND by or on behalf of the MEMBER, the NON-MEMBER SPOUSE or any other person whom the FUND is satisfied has the necessary authority and capacity to instruct the FUND in regard to the matter;

(vii) *adding clause 10 to Annex A as follows:*




#### **10. ADJUSTMENT OF BENEFITS**

Subject to any other applicable provisions of the RULES, if any amount is deducted from a MEMBER'S interest in the FUND in terms of



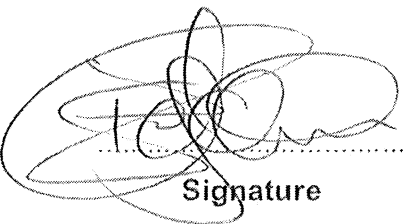
RULE 9.12(5), any benefit which becomes payable in terms of this Annex A must be adjusted in such a manner as may be determined by the ACTUARY to take into account the value of any amount so deducted, including any costs incurred by the FUND in giving effect to the provisions of that RULE.

Certified that the above resolution has been adopted in accordance with the provisions of the Rules of the Fund.

		
Chairman of Trustees	Trustee	Principal Officer

Certified that the above amendments are financially sound.

  
Actuary to the Fund

  
Signature

  
Qualifications