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GENERAL NOTICE

NOTICE _____ OF 2011

AMENDMENT OF THE RULES OF THE GOVERNMENT EMPLOYEES PENSION FUND

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

Chairperson of the Board of Trustees

On behalf of the Board of Trustees

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Schedule 1

1. Rule 1 is amended as follows

(a) By insertion after the definition of “**disabled**” of the following definitions

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

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

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

(b) By insertion after the definition of “**final salary**” of the following definitions

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

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

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

(c) By insertion after the definition of “**pensionable emoluments**” of the following definition:

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

2. The words ‘Subject to rule 14.10’ will be inserted at the beginning of each of sub-rules 14.1¹, 14.2², 14.3³, 14.4⁴, 14.5⁵, 14.7⁶, 14.8⁷, ⁸15⁹, 16¹⁰, 17¹¹.

3. Rule 12.1.3 (b) is amended as follows:

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

4. A new rule 14.10 is inserted after rule 14.9 and reads as follows:

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

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

¹ Rule 14.1 governs benefits payable on discharge with less than 10 years pensionable service.

² Rule 14.2 governs benefits payable on discharge with more than 10 years pensionable service.

³ Rule 14.3 governs benefits payable on retirement.

⁴ Rule 14.4 governs benefits payable on resignation or discharge.

⁵ Rule 14.5 governs benefits payable on the death of a member.

⁶ Rule 14.7 provides for the calculation of benefits ‘in terms of measures applicable on the date of termination of service’. It is important to ensure that such measures do not interfere with the mechanism created by these rule amendments.

⁷ Rule 14.8 governs benefits payable in terms of a severance package.

⁸ Rule 14.9 governs funeral benefits.

⁹ This provides for the benefits payable when a member is retired or discharged due to injury on duty;

¹⁰ This provides for the benefits payable to ‘dormant members’.

¹¹ This rule provides for the maintenance of the value of accrued benefits regardless of changes to the GEP Law or the rules of the GEPF.

applicable, -

- 14.10.2 Within 45 days after the submission of the divorce order by the former spouse, the Fund must request the former spouse to elect if the amount to be deducted must be—
- a) paid directly to the former spouse; or
 - b) transferred to an approved retirement fund on the former spouse's behalf.
- 14.10.3 The former spouse must, within 120 days of being requested to make an election—
- a) inform the Fund of how the former spouse's share must be dealt with; and
 - b) if the former spouse elects that the amount must be paid to the former spouse directly, provide the Fund with the details of how that payment must be effected; or
 - c) if the former spouse elects that the amount must be transferred to an approved retirement fund on his or her behalf, provide the Fund with the details of that approved retirement fund.
- 14.10.4 The Fund must pay or transfer the amount within 60 days of being informed of how the amount must be dealt with in accordance with the former spouse's election.
- 14.10.5 In the event that the former spouse fails to make an election or identify the approved retirement fund to which the amount should be transferred within the 120 day period referred to, the Fund must pay the amount directly to the former spouse within 30 days of the expiry of that period.
- 14.10.6 On the date on which it is given written notice of the former spouse's choice, or on the expiry of a period of 120 days after the Fund's invitation was sent by it to the former spouse, whichever is the earlier, the Fund must—

- 14.10.6.1 record in the books of the Fund a divorce debt in respect of the member in the amount of the former spouse's share; and
- 14.10.6.2 allocate the former spouse's share to an account in the books of the Fund in the name of the former spouse.
- 14.10.7 Notwithstanding rule 14.10.5, in the event that the Fund cannot reasonably ascertain how the payment to the former spouse must be effected, the Fund must retain the amount plus interest as determined by the Board in the Fund, until such time as details of how that payment must be effected is made available to the Fund by the member, the former spouse or any other person whom the Fund is satisfied has the necessary authority and capacity to instruct the Fund in that respect.
- 14.10.8 When a benefit becomes payable to the member in terms of these rules –
- 14.10.8.1 the amount of the gratuity, if any, then payable to the member must be reduced by the amount of the divorce debt; and
- 14.10.8.2 if the amount of the divorce debt exceeds the amount of the gratuity and there is an annuity payable to the member then –
- (a) the capital value of the annuity must be determined by the actuary;
 - (b) the value determined by the actuary must be reduced by an amount equal to the balance of the divorce debt then remaining; and
 - (c) the capital value that results from this calculation must be annuitized by the actuary on a basis determined by the board in consultation with the actuary to determine the amount of the annuity which will then be payable.

14.10.9

The balance of the gratuity, if any, and the annuity, or annuity adjusted in terms of rule 14.10.8 as applicable will be the benefit or benefits to which the member will be entitled in place of the benefit or benefits to which he or she would have been entitled, but for the operation of this rule.

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