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GOVERNMENT NOTICE

DEPARTMENT OF FINANCE

No. R. 781

12 June 1998

AMENDMENT OF REGULATIONS MADE UNDER THE ASSOCIATED INSTITUTIONS PENSION FUND ACT, 1963

The Minister of Finance has, under section 2 of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963), after consultation with the Minister of National Education, made the regulations published under Government Notice No. R. 1653 of 10 September 1976, as amended, (in the Schedule referred to as the Regulations), as set out in the Schedule.

SCHEDULE

Amendment of regulation 1 of Regulations

1. Regulation 1 of the Regulations is hereby amended by—

- (a) the insertion in subregulation (1) before the definition of “annuity” of the following definitions:

“‘actuarial interest’ means an amount representing the value of a member's benefits in the fund based on his or her pensionable service, calculated in terms of regulation 16(6);

‘actuary’ means the actuary appointed to evaluate the fund actuarially as contemplated in regulation 24A;”;

- (b) the insertion in subregulation (1) after the definition of “annuity” of the following definition:

“‘approved retirement fund’ means a pension fund which is

registered under section 4(4) of the Pension Funds Act, 1956 (Act No. 24 of 1956), and approved by the Commissioner for the South African Revenue Service as a pension fund, provident fund or retirement annuity fund in terms of section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962), but excluding a preservation fund;”;

- (c) the substitution in subregulation (1) for the definition of “Director-General” of the following definition:

“‘Director-General’ means the Director-General: Finance;”;

- (d) the substitution in subregulation (1) for the definition of “final salary” of the following definition:

“‘final salary’ means the average of a member's pensionable emoluments over the member's last 24 months before his or her retirement date;”;

- (e) the insertion after the definition of “final salary” of the following definition:

“‘Government Employees Pension Fund’ means the fund contemplated in section 2 of the Government Employees Pension Law, 1996 (Proclamation 21 of 1996);”;

- (f) the deletion of the words “New Railways and Harbours Superannuation Fund referred to in section 2 of the Railways and Harbours Pensions Act, 1971 (Act 35 of 1971)”;

- (g) the insertion after the definition of “other fund” the following definition:

“‘own established fund’ means any pension fund other than the fund contemplated in section 3(1)(a) of the Act which is registered under section 4(4) of the Pension Funds Act, 1956 (Act No. 24 of 1956), and approved by the Commissioner for South African Revenue Service as a pension fund, provident fund or retirement annuity fund in terms of section 1 of the Income Tax Act, 1962 (Act No. 58 of 1962);”;

- (h) the deletion of the definition of "retirement age";
- (i) the insertion after the definition of "similar fund" of the following definition:
 - "'spouse' means a person who can prove to the satisfaction of the Director-General—
 - (a) that he or she was the lawful husband or wife of a member or pensioner at the time of that member's or pensioner's death; or
 - (b) if he or she was not the lawful husband or wife of that member or pensioner, that he or she was the husband or wife of that member or pensioner according to indigenous law or custom or the tenets of any Asiatic religion;"; and
- (j) the insertion after the definition of "the formula" of the following definition:
 - "'unexpired period of service' means the period between the date on which a member ceases or would cease to be a member of the fund and the date he or she would have attained the age of 60 years;".

Amendment of regulation 4 of Regulations

2. Regulation 4 of the Regulations is hereby amended by the addition of the following subregulation:

- "(5) Notwithstanding subregulation (2), a person other than a person—
- (a) contemplated in regulation 9A(1); or
- (b) who is already a member of the fund,

who enters the employment of an associated institution which has an own established fund, shall not become a member of the fund."

Amendment of regulation 5 of Regulations

3. Regulation 5 is hereby amended by—

(a) the substitution for subregulation (1) of the following subregulation:

“(1) A member shall contribute to the fund at the rate of 7,5 per cent of his or her pensionable emoluments.”; and

(b) the addition of the following subregulation:

“(3) The council shall pay to the fund in respect of each member to whom a service bonus of 93 per cent of his or her full basic monthly pensionable salary, excluding any allowances, whether or not it is pensionable, is payable—

(a) 7 per cent of such full basic monthly pensionable salary; and

(b) three times the contribution in terms of paragraph (a),

in the month in which his or her service bonus is payable.”.

Insertion of regulation 6B of Regulations

4. The following regulation is hereby inserted after regulation 6 of the Regulations:

“Compensation to the fund on retirement or discharge of a member prior to attainment of the member's pensionable age

6B. If—

(a) a member retires or is discharged before his or her pensionable age, except for a reason referred to in regulation 14(1)(a);

(b) at such retirement or discharge becomes entitled to the

payment of an annuity or gratuity or both an annuity and a gratuity; and

- (c) any of these actions result in an additional financial liability for the fund,

the council shall reimburse the fund for such liability, including interest thereon, in accordance with a schedule approved by the Director-General acting on the advice of the actuary.”.

Insertion of regulation 9A in Regulations

5. The following regulation is hereby inserted after regulation 9:

“Transfer between funds”

9A.(1) If a person who was a member of the Government Employees Pension Fund becomes a member of the fund immediately after the termination of his or her membership of the Government Employees Pension Fund, or after such interruption of his or her service as the Director-General may condone—

- (a) the period of pensionable service of such person in respect of the Government Employees Pension Fund shall, subject to subregulation (2), be recognised to be pensionable service for the purposes of the fund; and
- (b) the Government Employees Pension Fund shall, subject to subregulation (3), pay to the fund—
 - (i) the amount that the Government Employees Pension Fund had at its disposal in respect of such person on the termination of his or her membership of the Government Employees Pension Fund, as determined by the Board of Trustees of the

Government Employees Pension Fund after consultation with the actuary; and

- (ii) interest from the date immediately after such termination until the date on which the said amount is paid.

(2)(a) If the pensionable emoluments of the person referred to in subregulation (1) on admission to the fund is higher than his or her pensionable emoluments on the termination of his or her membership of the Government Employees Pension Fund, the period of pensionable service in respect of the Government Employees Pension Fund of such person shall, subject to paragraph (b), be reduced in proportion to his or her pensionable emoluments on such termination to his or her pensionable emoluments on such admission.

(b) If the council or such person pays to the fund the costs, which would result from such proportional reduction as determined by the Director-general, such reduction shall not be made.

(3)(a) If the person referred to in subregulation (1) owes an amount to the Government Employees Pension Fund—

- (i) such amount shall be deducted by the Government Employees Pension Fund from the amount referred to in subregulation (1)(b)(i); and
- (ii) all rights of the Government Employees Pension Fund in respect of such amount shall vest in the fund.

(b) The person who owes the amount referred to in paragraph (a) shall pay such amount to the fund in such manner as the Director-General may determine.

(4) If a person who was a member of the fund becomes a member of the Government Employees Pension Fund immediately after the termination of his or her membership of the fund, or after such interruption as the Board of Trustees of the Government Employees

Pension Fund may condone—

- (a) no benefit shall be paid to such person on the termination of his or her membership of the fund;
- (b) the fund shall, subject to subregulation (5), pay to the Government Employees Pension Fund—
 - (i) the amount that the fund had at its disposal in respect of such person on the termination of his or her membership of the fund, as determined by the Director-General after consultation with the actuary; and
 - (ii) interest from the date immediately after such termination until the date on which the said amount is paid.

(5)(a) If the person referred to in subregulation (4) owes an amount to the fund—

- (i) the amount due shall be deducted by the fund from the amount referred to in subregulation (4)(b)(i); and
- (ii) all rights of the fund in respect of such amount shall vest in the Government Employees Pension Fund.

(b) The person who owes the amount referred to in paragraph (a) shall pay such amount to the Government Employees Pension Fund in such manner as the Board of Trustees of the Government Employees Pension Fund may determine.

(6)(a) If a person who was a member of an approved retirement fund becomes a member of the fund, the Director-General may, in consultation with the actuary, approve special arrangements for the protection of such member's accrued pension benefits.

(b) If an amount, as determined by the Director-General in consultation with the actuary, is paid by the approved retirement fund on behalf of such person to the fund, such arrangements may include the

recognition of a previous period of service as pensionable service in terms of these regulations.”.

Substitution of regulation 13 of Regulations

6. The following regulation is hereby substituted for regulation 13 of the Regulations:

“Age of retirement

13. A member shall be retired on pension on reaching—

- (a) the age determined by the regulations, prescribed conditions of service or declared policy of the associated institution for retirement which shall not be earlier than the pensionable age; or
- (b) if no age is so determined, the pensionable age.”.

Substitution of regulation 14 of Regulations

7. The following regulation is hereby substituted for regulation 14 of the Regulations:

“Benefits on discharge before 10 years pensionable service

14.(1) If a member of the fund who has less than 10 years pensionable service to his or her credit is discharged—

- (a) on account of ill health not occasioned by his or her own fault;
- (b) owing to the abolition of his or her post or the reduction or the reorganisation or the restructuring of the activities of his

- or her employer;
- (c) on the grounds that his or her discharge will promote efficiency of his or her employer;
 - (d) on account of his or her incapability to carry out his or her duties efficiently, except where such incapability results in such member being discharged on grounds of misconduct;
 - (e) on the grounds that the President or the Premier of a province appointed him or her in terms of any law to an office and his or her pensionable service cannot be recognised as pensionable service for the purposes of a superannuation, pension, relief or provident fund or scheme established by or under any law for the holders of such office;

a gratuity, which shall be calculated at 15,5 per cent of such member's final salary, multiplied by the period of his or her pensionable service, shall be paid to such member.

(2) A member's final salary shall for the purpose of subregulation (1) not be less than his or her pensionable emoluments as on the day immediately before 1 July 1998.

(3) If a member is discharged for a reason referred to in subregulation (1)(a) (b), (c) or (e), the amount of the gratuity which is payable to him or her in terms of subregulation (1) shall be increased by one-third of such amount.”.

Insertion of regulation 14A in Regulations

8. The following regulation is hereby inserted after regulation 14 of the Regulations:

"Benefits on discharge after 10 years or more pensionable service"

14A.(1) If a member of the fund who has 10 years or more pensionable service to his or her credit is discharged on account of a reason referred to in regulation 14(1)—

- (a) a gratuity calculated at 6,72 per cent of his or her final salary multiplied by the period of his or her pensionable service;
 - (b) an annuity calculated at one fifty-fifth of his or her final salary multiplied by the period of his or her pensionable service; and
 - (c) a supplementary amount of R360 per year,
- shall be paid to such member.

(2) For the purpose of subregulation (1), a member's final salary shall not be less than his or her pensionable emoluments as on the day immediately before 1 July 1998.

(3) For the purposes of the calculation of a gratuity and an annuity in terms of subregulation (1)(a) and (b) in respect of a member who has been discharged for a reason referred to in regulation 14(1)(a) (b), (c) or (e), the period of pensionable service of such member shall be increased by—

- (a) a period equal to one third of the period of his or her pensionable service; or
 - (b) the unexpired period of his or her pensionable service,
- whichever period is the shorter, but not exceeding five years.

(4) The first annuity payable in terms of subregulation (1)(b) shall be paid at the end of the calendar month which follows the month in which the member concerned is discharged and, thereafter, it shall be paid in equal monthly instalments before or on the last day of each month."

Substitution of regulation 15 of Regulations

9. The following regulation is hereby substituted for regulation 15 of the Regulations:

“Benefits on retirement of members

15.(1) If a member of the fund retires—

- (a) on or after the pensionable age;
- (b) before the pensionable age in terms of a decision by the council and in accordance with his or her conditions of service;
- (c) on or after the age of 55 years, but before the age of 60, in accordance with a right to retire conferred by his or her terms and conditions of service,

such member shall be entitled to the applicable benefits specified in subregulation (2).

(2) A member referred to in subregulation (1) who retires with—

- (a) less than 10 years pensionable service to his or her credit shall receive a gratuity equal to his or her actuarial interest; or
- (b) 10 years or more pensionable service to his or her credit shall, subject to subregulations (3) and (4), be paid the benefits referred to in regulation 14A(1).

(3) If a member retires on the date contemplated in subregulation (1)(c), his or her benefits shall be reduced by one third of one per cent for each complete month between the member's actual date of retirement and the pensionable age.

(4) Regulation 14A(2) and (4) shall apply *mutatis mutandis* upon

the retirement of a member referred to in subregulation (2)(b).”.

Substitution of regulation 16 of Regulations

10. The following regulation is hereby substituted for regulation 16 of the Regulations:

“Benefits on resignation or discharge

16.(1) A member of the fund who resigns or is discharged because of misconduct or ill-health occasioned by his or her own doing or for any other reason not referred to in regulation 14(1)(a) to (e), shall be entitled to—

- (a) a gratuity calculated at 7,5% of his or her final salary multiplied with the period of his or her pensionable service, and increased by 10 per cent for each full year of pensionable service between 5 and 15 years; or
- (b) a transfer benefit to an approved retirement fund equal to the total of—
 - (i) the amount referred to in paragraph (a), which amount shall become an entitlement of the member on the condition that he or she deposits the amount into the approved retirement fund immediately upon becoming entitled thereto; and
 - (ii) the difference between the member's actuarial interest in the fund and the amount referred to in paragraph (a), if any.

(2) A member shall in writing indicate whether he or she wishes to receive the gratuity or the transfer benefit referred to in subregulation (1).

(3) The transfer benefit referred to in subregulation (1)(b) shall be

paid into an approved retirement fund immediately upon the relevant member becoming entitled thereto.

(4) Interest shall be added to the transfer benefit referred to in subregulation (1)(b) in respect of any delay in the payment of that benefit into the relevant approved retirement fund.

(5)(a) The payment of the transfer benefit referred to in subregulation (1)(b) into an approved retirement fund shall be made subject to the rules or regulations of such retirement fund which provides, with reference to the transfer benefit, that any subsequent lump sum benefit payable by such retirement fund, or any successor fund, to the member or his or her beneficiaries or to both the member and his or her beneficiaries shall be limited to one third of such transfer benefit, with interest.

(b) The balance of the member's transfer benefit with interest, after deduction of any lump sum payment referred to in paragraph (a), shall be applied for the purchase of an annuity immediately or when the member retires.

(6) Subject to subregulation (7), the actuarial interest of a member who is—

- (a) younger than 55 years, shall be calculated in accordance with the following formula:

$$N(\text{adj}) \times \text{FS} \times F(Z)$$

Where—

$N(\text{adj})$ is the member's period of pensionable service at the date of termination of service;

FS is the member's final salary;

$F(Z)$ is a factor determined by the Minister acting on the advice of the actuary; or

- (b) 55 years or older, shall be calculated in accordance with the following formula:

$$G + (A \times A(X))$$

Where—

G is the amount of the gratuity of a member with 10 years or more service contemplated in regulation 15(2)(b). For this purpose, a member with less than 10 years pensionable service, will be deemed to qualify for the same benefit as a member with 10 years or more service;

A is the amount of the annuity a member with 10 years or more service contemplated in regulation 15(2)(b). For this purpose, a member with less than 10 years pensionable service, will be deemed to qualify for the same benefit as a member with 10 years or more service;

A(X) is a factor determined by the Minister acting on the advice of the actuary.

(7) If the amount of the actuarial interest calculated in accordance with subregulation (6) is less than the amount of the gratuity referred in subregulation (1)(a), the amount of actuarial interest shall be the amount of such gratuity.”.

Substitution of regulation 17 of Regulations

11. The following regulation is hereby substituted for regulation 17 of the Regulations:

"Benefits on death of member

17.(1) If a member with—

- (a) less than 10 years pensionable service dies, a gratuity shall be paid which is equal to the greater of the member's actuarial interest and his or her final salary; or
- (b) 10 years or more pensionable service dies, a gratuity shall be paid which is equal to the sum of the gratuity and five times the annuity which would have been payable to him or her as contemplated in regulation 14A(1)(a) and (b), (2) and (3), if he or she had been discharged for a reason referred to in regulation 14(1)(a) on the date of his or her death.

(2) If—

- (a) a member dies and is survived by a spouse; and
- (b) the total of such member's period of pensionable service and his or her unexpired period of service is 10 years or more,

a spouse's pension which is equal to half of the annuity and the supplementary amount which would have been payable to the member as contemplated in regulation 14A(1)(b) and (c), (2) and (3), if he or she had been discharged for a reason referred to in regulation 14(1)(a) on the date of his or her death, shall be paid to such spouse.

(3) A gratuity payable in terms of subregulation (1) shall be paid to the dependants of the member in such proportions as the Director-general may determine, or if there is no dependant, to the estate of the member.

(4) A spouse's pension payable in terms of subregulation (2)—

- (i) shall not be affected by any re-marriage of the spouse;
- (ii) shall be payable with effect from the first day of the month immediately following the date on which the member dies.

(5)(a) If a deceased member has more than one spouse, the Director General shall determine to which of those spouses and, if to more than one, in which proportions the spouse's pension referred to in subregulation (2) shall be paid.

- (b) The proportions so determined may not be changed thereafter.”.

Substitution of regulation 18 of Regulations

12. The following regulation is hereby substituted for regulation 18 of the Regulations:

“Benefits on death of pensioner

18.(1) If a pensioner dies within a period of five years after his or her retirement or discharge, a benefit which is equal to the sum of the annuity which would have been payable to such pensioner in terms of regulation 14A(1)(b) during the period from the first day of the month immediately following the date of his or her death to the last day of the month in which such period of five years would have expired had he or she not died, shall be paid.

(2) If a pensioner dies and is survived by a spouse, a spouse's pension, which is equal to one-half of the annuity, which the pensioner received on the date of his or her death, shall be paid to such spouse.

(3) Regulation 17(3) shall apply *mutatis mutandis* to the benefit payable in terms of subregulation (1).

(4) Regulation 17 (4) and (5) shall apply *mutatis mutandis* to the

spouse's pension payable in terms of subregulation (2).”.

Substitution of expression in Regulations

13. The Regulations are hereby amended by the substitution for the expression “the Fund”, wherever it occurs, of the expression “the fund”.

Commencement of Schedule

14. This Schedule shall come into operation on 1 July 1998.



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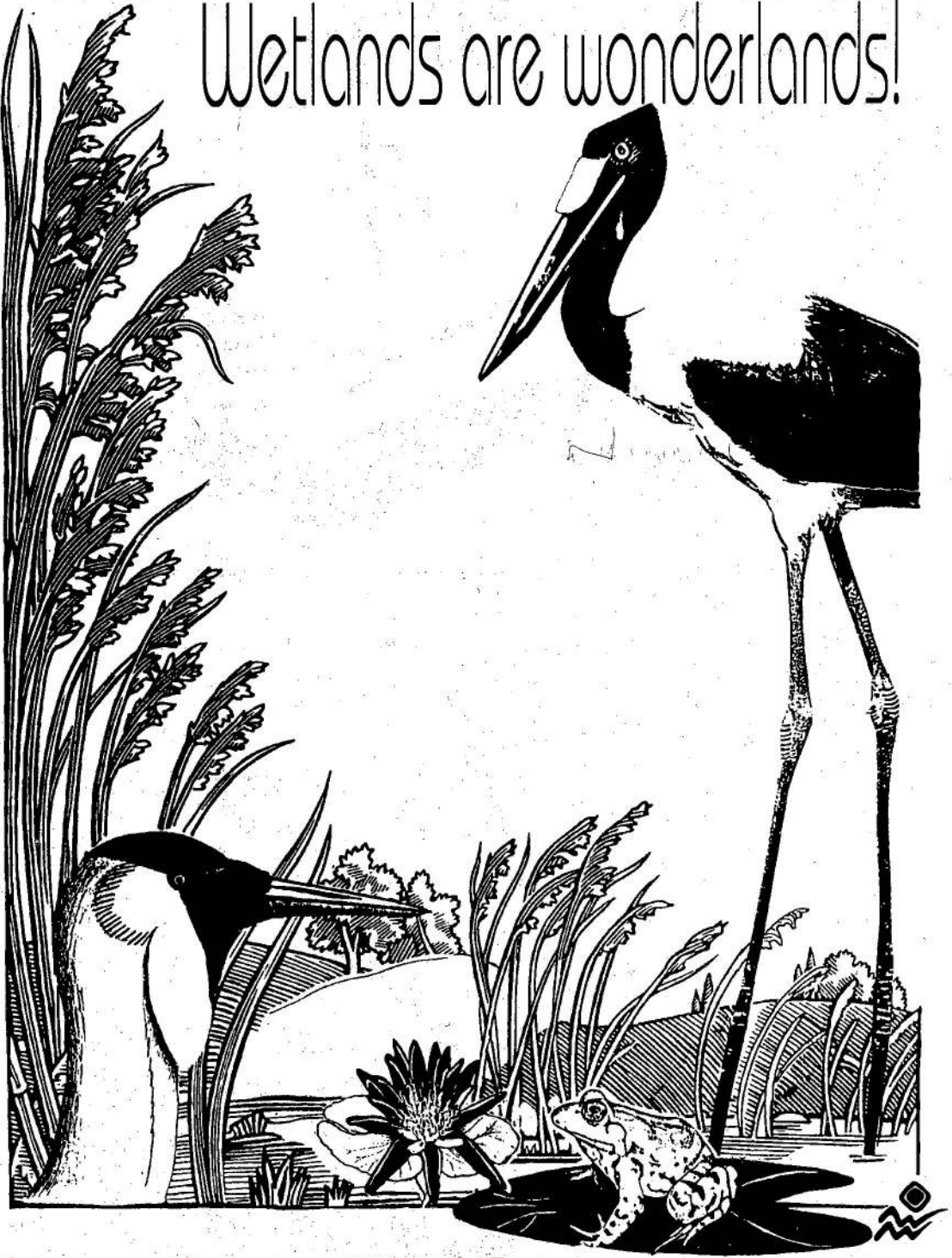
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