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GOVERNMENT NOTICES

DEPARTMENT OF PUBLIC ENTERPRISES

No. 1022

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 General Rules of the Transport Pension Fund.

Malusi Gigaba MP

MINISTER OF PUBLIC ENTERPRISES

**AMENDMENT OF THE GENERAL RULES
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 Rule 1 of the General Rules of the Transport Pension Fund

- 1.1 by the substitution for the definition of "**Dependant**" of **General Rule 1.1.10** of the following definition :

1.1.10 **Dependant** : means

1.1.10.1 **Qualifying Spouse**; and

1.1.10.2 **Qualifying Child** [; and

1.1.10.3 **any other person who, in the opinion of the relevant Sub-Fund Board, was upon the death of the Member or Pensioner in fact dependent on the Member or Pensioner for maintenance;**]

- 1.2 by the substitution for the definition of "**Pension**" of **General Rule 1.1.20** of the following definition :

1.1.20 **Pension** : means the monthly pension payable from a **Sub-Fund** in terms of the **Special Rules** to a **Pensioner** or **Dependant**; [and which monthly pension shall in the case of the **Pensioner** or **Qualifying Spouse** respectively cease at the death of such **Pensioner** or **Qualifying Spouse** and in the case of the death of a **Qualifying Child**, may be allocated to other **Qualifying Children** as may be determined by the **Sub-Fund Board**]

- 1.3 by the substitution for the definition of "**Qualifying Child**" of **General Rule 1.1.25** of the following definition :

- 1.1.25 **Qualifying Child** : means, in relation to a **Member or Pensioner**, [children, stepchildren, legally adopted children, posthumous children or children borne out of wedlock, whose ages are not more than 18 years and who survived the death of such **Member or Pensioner** and who were factually dependant upon the **Member or Pensioner**. Notwithstanding the abovementioned the relevant **Sub-Fund Board** has the discretion to extent this definition to include children older than 18 years provided such children are studying or are physically or mentally handicapped, and who were factually dependant upon the **Member or Pensioner**, at the time of the death of the **Member or Pensioner**, for such period as the relevant **Sub-Fund Board** may deem fit] a "Qualifying Child" as defined in the rules of the **Sub-Fund** to which that **Member or Pensioner** is attributed.
- 1.4 by the substitution for the definition of "**Qualifying Spouse**" of **General Rule 1.1.26** of the following definition :
- 1.1.26 **Qualifying Spouse** : means a "**Qualifying Spouse**" as defined in the rules of the **Sub-Fund** to which that **Member or Pensioner** is attributed [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 Pensioner**.]
- 1.5 by the deletion of the definition of "**Recognised Marital Union**" of **General Rule 1.1.27** :
- 1.1.27 [Recognised Marital Union : means a lawful marriage or 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**;]
- 1.6 by the deletion of the definition of "**Transnet Second Defined Benefit Fund**" of **General Rule 1.1.39** :
- [1.1.39 **Transnet Second Defined Benefit Fund** : means the fund established in terms of section 14B of the Act;]
- 1.7 re-number the definitions alphabetically.
- 1.8 by the insertion of the definition of "**2008 First Rule Amendment date**" as **General Rule 1.1.40** as follows :

1.1.40 **2008 First Rule Amendment date** means 1 April 2008, the date with effect from which the first **General Rule** amendments approved by the **Board** in 2008 come into retrospective effect.

2. Amendment of Rule 3 of the General Rules of the Transport Pension Fund

2.1 by the substitution for **General Rule 3.9.1** of the following **General Rule** :

3.9.1 The refund budget for each **Sub-Fund** is subject to the [eth] approval of the **Board** and the sum of these **Sub-Fund** refund budgets shall equal the total refund budget for the **Fund**.

2.2 by the substitution for **General Rule 3.14.4** of the following **General Rule** :

3.14.4 The **Actuary** shall submit the actuarial report of the valuation to the **Responsible Ministers** and shall submit copies of the report to the Minister of Finance, the **Principal Employers**, the **Board**, [and] the Sub-Fund Boards and the Registrar of Pension Funds as contemplated in section 3 of the Pension Funds Act, 1956.

2.3 by the substitution for **General Rule 3.15.4** of the following **General Rule** :

3.15.4 The **Responsible Minister**, if not satisfied with such arrangements, shall, in concurrence with the Minister of Finance, request the **Sub-Fund Board** to make such amendments to the scheme, or to submit such new scheme as will be satisfactory, and the **Sub-Fund Board** shall comply with the request within a period prescribed by the **Responsible Minister**, not being less than 30 days from the date of the request, and shall at the same time furnish the **Responsible Minister** and the Minister of Finance with a report on such amendments or such new scheme by the **Actuary** and the provisions of **Rule 3.15.3[2]** shall apply to any such amended scheme or new scheme which the **Sub-Fund Board** may submit with the approval of the **Board**.

3. Amendment of Rule 4 of the General Rules of the Transport Pension Fund

3.1 by the substitution for **General Rule 4.11.3** of the following **General Rule** :

4.11.3 In the event that one or more **Members** elect that their **Actuarial Values** be drawn from his/her/their **Sub-Fund** and be transferred to **Approved Fund/s** in terms of **Rule 4.11**, there shall be drawn from that **Sub-Fund** [transfer] such assets as determined by the **Actuary** which shall be commensurate with the value of such **Member's** benefit in the **Sub-Fund** as determined in terms of **Rule 4.11.1** and the equivalent amount will be transferred to the **Approved Fund/s**.

4. Amendment of Rule 8 of the General Rules of the Transport Pension Fund

4.1 by the substitution for **General Rule 8** of the following **General Rule** :

Rule 8 : 2000 SURPLUS DISTRIBUTION

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- 8.1 The sharing of the actuarial surplus which existed in the **Fund** as at 1 November 2000, between **Transnet** and the **Fund** in the ratio of 40:60 respectively, and the payment in 2001 to **Transnet** of its share, together with the return earned on the investment of that share from 1 November 2000 to the date of payment is authorized in terms of these **Rules**.
- 8.2 The actuarial surplus allocated to the **Fund** in terms of **Rule 8.1** together with any investment return thereon shall not be taken into consideration for purposes of calculating the current actuarial surplus in respect of the **Fund** or any **Sub-Fund**.
- 8.3 The portion of the actuarial surplus allocated to the **Fund** in terms of **Rule 8.1** shall be allocated to all persons who as at 1 November 2000 were **Members** and the **Dependants** of such persons who have since then died and dealt with in terms of the **Special Rules**. The surplus allocated to each such person or the **Dependants** of such persons will be equal to 2,997% (two comma nine nine seven per cent) of the transfer value (excluding any enhancement from the **Employer**) the person would have been entitled to had the person elected to transfer to the **Transnet Retirement Fund** with effect from 1 December 2000, plus the equivalent of the return earned on the investment of such amount. The aggregate of the amounts so allocated may not exceed the surplus amount reflected in the actuarial valuation report of the **Fund** of 31 March 2001 plus the returns, positive or negative, earned on the investment of that amount since 1 November 2000 without the prior approval of the relevant **PrincipalEmployer**.
- 8.4 The actuarial surplus calculated in respect of every **Member** or deceased person referred to in **Rule 8.3** in terms of that **Rule** shall be payable as follows :
- 8.4.1 In respect of **Members** who at the time of approval of these substituted **Rules** qualified as **Members** as defined, the portion of actuarial surplus allocated to every **Member** in terms of **Rule 8.3**, shall be paid in the form of a lump sum [In accordance with the **Special Rules of the Sub-Fund pertaining**] to [a] the **Member** upon termination of membership of the **Fund**, in addition to any benefits payable in terms of the **Special Rules** of such **Sub-Fund**, subject to any tax directive issued by the **Revenue Authorities**.
- 8.4.2 In respect of persons who were **Members** but who have resigned or have been retrenched or dismissed or whose membership have terminated as contemplated

in **Rules 4.2, 4.3 or 4.8** prior to the approval of these substituted **Rules**, the portion of actuarial surplus allocated to every such **Member** in terms of **Rule 8.3** shall be paid in the form of lump sums **[accordance with the Special Rules of the Sub-Fund pertaining to such manner of termination of membership of the Fund]** to **[which]** such former Members **[would have been attributed,]** subject to any tax directive by the **Revenue Authorities**.

8.4.3 In the event of the demise of a **Member** prior to being retired **[and prior to the approval of these substituted Rules,]** the actuarial surplus allocated to such a **Member** in terms of **Rule 8.3**, shall be paid **[made]** in accordance with the **Special Rules** of the **Sub-Fund** to which such a **Member** would have been attributed, subject to any tax directive issued by the **Revenue Authorities**.

8.4.4 In respect of **Members** who have retired prior to the approval of these substituted **Rules**, the portion of actuarial surplus allocated to every such **Member** in terms of **Rule 8.3** shall be paid to such **Member** in his/her capacity as a **Pensioner**, or in the event of the demise of such **Pensioner** prior to payment being effected, payment shall be made in the form of a lump sum **[accordance with the Special Rules of the Sub-Fund to which such Pensioner would have been attributed,]** in addition to any other benefit which may be payable in terms of the **Special Rules**, subject to the tax directive of the **Revenue Authorities**.

No. 1023**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 PRASA Sub-Fund of the Transnet Pension Fund.

Malusi Gigaba MP

MINISTER OF PUBLIC ENTERPRISES

**AMENDMENT OF SPECIAL RULES OF THE PRASA 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 PRASA Sub-Fund of the Transport Pension Fund -

1.1 by the insertion of **Special Rule A3** as follows :

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

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

2.1 by the insertion of the definition of "**Actuarial Surplus**" as **Special Rule B.1** as follows :

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 "**Pensioner Surplus Account**" as **Special Rule B.8** as follows :

B.8 Pensioner Surplus Account means the account established in terms of **Special Rule 18.1.1**;

- 2.4 by the substitution for the definition of "**Qualifying Child**" as **Special Rule B.13** 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.

- 2.5 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**;

- 2.6 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**;

- 2.7 by the insertion of the definition of "**2008 First Rule Amendment date**" as **Special Rule B.19** as follows :

B.19 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 PRASA 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[m]embers** and one alternate appointed by each **Registered Trade Union** which represents for purposes of collective bargaining with their **Employer**, **M[m]embers** assigned to a particular **Sub-Fund Board**,

[provided that each of the members and alternate 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: and

3.3 by the substitution for the current **Special Rule 1.1.2.2** of the following **Special Rule 1.1.2.3** :

1.1.2.3 M[m]embers 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[m]embers 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 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 Board or alternates to persons who are 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 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 :

1.1.2.1 1 (one) [m]Members 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, 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

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** or alternate **[m]Members** shall cease to hold office or be entitled to act in the place of a **Sub-Fund Board [Committee]** **[m]Members** 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]Members** 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**;
- 1.3.8 to exercise such powers as the **Minister** may by regulation confer upon the **Sub-Fund Board [Committee]**;
- 1.3.9 to exercise such powers as the **Board** of the **Sub-Fund** may delegate to the **Sub-Fund Board [Committee]**;
- 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 PRASA 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 such an amount as the Actuary has determined on an annual basis, not taking into consideration the amounts in the 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 PRASA Sub-Fund of the Transport Pension Fund -

5.1 by the substitution for **Special Rule 10.11.1** of the following **Special Rule** :

10.11.1 Subject to Special Rules 2.2.2, 10.9 and 10.10, a Member of this Sub-Fund who resigns voluntarily shall be entitled to the Actuarial Value pertaining to such Member.

[10.11.1 Subject to the provisions of Special Rule 10.11.2 hereof and the provision in Special Rule 2.2.1, a Member who is a Member of the Sub-Fund and who, after giving the notice required by any law or contract, resigns voluntarily, shall become entitled to a refund of the total amount of own contributions plus, in respect of each complete year for which contributions were paid in excess of 13 years, 3,6% of such contributions.]

5.2 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 a] 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 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 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 as determined by the **Sub-Fund Board**: **[the following benefits]**

- (a) **[An annual]**Pensions which 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 55, provided that in the case of a **Member** who dies after attaining the age of 55 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) 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 58 years, by the Period of Pensionable Service.

(c) Gratuities [A gratuity] which together shall be calculated by multiplying one third of the **Pension** calculated in paragraph (a) 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**, 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 **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 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.**

5.3 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 **Pensioner's Qualifying [s]Spouse[s]** 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 **Period of 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**.

- 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.

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

10.6.6.1 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;

10.6.6.2 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;

10.6.6.3 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 10.16.6** who was a female pensioner, no benefit is paid to her spouse or Dependants when –

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

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

10.6.7 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**.

10.6.8 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.

5.4 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 and 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 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**.

[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**.]

5.5 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**.

5.6 by the re-numbering of current **Special Rule 10.19** as "10.19.1".

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

10.19.2 Subject to **Special Rule 10.19.3**, the **Sub-Fund Board** shall have the discretion to :

10.19.2.1 Increase the pension payable to a **Pensioner** or **Dependant** from time to time in order to maintain 100% (one hundred per centum) of parity of the purchasing power of the **Pension** relating to such a **Pensioner** or **Dependant**; and/or

10.19.2.2 Increase the annual pension payable to a **Pensioner** or **Dependant** by a maximum percentage of 75% (seventy five per centum) of the average consumer price index of the immediate previous financial year of the **Sub-Fund**; and/or

10.19.2.3 Pay additional ad hoc bonuses to **Pensioners** and **Dependants** from time to time.

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

10.19.3 The increase in pensions 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 according to the discretion of the **Sub-Fund Board**; and

10.19.3.2 the actuary's written confirmation that such increases are affordable by the **Sub-Fund**; and

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

5.9 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.

5.10 by the re-numbering of current **Special Rule 10.22** as "10.22(a)"

5.11 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.

5.12 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 PRASA Sub-Fund of the Transport Pension Fund -**

6.1 by the re-numbering of current **Special Rule 18** as "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.

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.

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[is]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**.
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