

Resolution

No 1

DEPARTMENT OF EDUCATION
EDUCATION LABOUR RELATIONS COUNCIL

RESOLUTION 1 OF 1997

RESTRUCTURING OF PENSION BENEFITS: AMENDMENTS TO REGULATIONS MADE IN TERMS OF THE EDUCATORS' EMPLOYMENT ACT, 1994 AND RULES OF THE GOVERNMENT EMPLOYEES PENSION FUND

PREAMBLE TO THE RESOLUTION

The employee parties having discussed the matters relevant to this resolution, and having expressed their concerns about a number of issues, herewith reduce their concerns in writing as a preamble to this agreement.

(a) **THE SOUTH AFRICAN DEMOCRATIC TEACHERS' UNION (SADTU)**

- (i) SADTU notes the delay in proceeding with the matter of redress to the GEPF, especially with regard to educators who have been previously disadvantaged.
- (ii) The process of redress must be addressed as a matter of urgency in order to bring relief to any previously disadvantaged educators.

(b) **THE NATIONAL PROFESSIONAL TEACHERS' UNION OF SOUTH AFRICA (NAPTOSA) AND THE SUID-AFRIKAANSE ONDERWYSERSUNIE (SAOU)**

- (i) NAPTOSA and SAOU do not agree with the principle of reducing these service benefits of temporary educators with specific reference to amending the right of such educators to the contract expiry benefits.
- (ii) NAPTOSA and SAOU agree with the interpretation of the employer with regard to paragraph 5 below that this agreement may only be amended through collective negotiations as contemplated in the LRA, 1995, as amended.
- (iii) Our dissatisfaction be recorded with regard to the selective amendment as proposed by the employer in paragraph 7 below.
- (iv) The educator sector was disadvantaged by not having been allowed to negotiate this matter prior to an agreement being reached elsewhere.

The employer parties having noted the concerns of the employee parties records that the above matters were discussed at a joint sitting of the three sectors within the Public Service and that in our view there was consensus regarding these issues. Further, the employer records that several attempts were made to place this item on

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the agenda of the Bargaining Committee and that parties to the Bargaining Committee had failed to deal with the issue.

1. The parties to the Education Labour Relations Council note the following:
 - (a) That agreement was reached in Resolution No 3 of 1996 regarding the restructuring of pension benefits which necessitates amendments to the Rules of the Government Employees Pension Fund (GEPF).
 - (b) That the retirement measures agreed to in Resolution No 3. of 1996 provide for the voluntary retirement of an educator from the age of 55 in which case a reduction of benefits will be calculated at the rate of 4% for each year of early retirement before the age of 60 and that no reduction will apply in respect of retirement between the ages of 60 and 65 years. It is also noted that provision is made in the Rules of the GEPF for the same reduction of benefits in respect of members who retire in terms of a provision in their employment legislation, before the age of 55.
 - (c) That Regulation 15(4) published in terms of the Educators' Employment Act, 1994, provides for the voluntary retirement of educators who have already attained the age of 50 years and who have completed at least 10 years actual uninterrupted pensionable service. Such benefits are reduced by 0,4% for every month or part thereof that an educator retires within ten years prior to his or her retirement date, and 48% plus 0,1% for every month, or part thereof, more than 10 years before his or her retirement age, should an educator retire within 10 to 15 years prematurely.
 - (d) That section 16(6)(a) of the Public Service Act, 1994, provides for the early retirement of an employee with the permission of the political head of the relevant department, subject to a recommendation by the Public Service Commission, if it is to the advantage of the State and sufficient reason exists therefor. No such provision exists in education and the need to attain equity regarding pension benefits requires that such provision be included in education legislation.

2. The parties therefore agree that:
 - (a) The Rules of the GEPF be amended as set out in Annexure A.
 - (b) Rule 21.1 of the rules be amended by the insertion of the underlined sentence as indicated:

An institution or body referred to in paragraph (a) and (c) of the ~~definition~~ definition of employer in section 1 of the Law or part of such an

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institution, body or function, which had members of the Fund in its service may, after negotiation and agreement, subject to a notice period of three months (or such shorter period as the Board approves) request the Board to cease participating in the Fund as regards membership of the Fund of members in its service or a part thereof subject to the provisions of the Law with specific reference to section 32 of the Law, in which case the Board deals with the appropriate part of the market value of the assets of the Fund which relate to such members on a basis decided by the Board acting on the advice of the actuary in terms of the wishes of such an institution or body and the affected members: Provided that the value of each member's interest will not exceed the funded position of such member's accrued interest in the Fund, based on market values, as determined by the actuary.

(c) The following rule 14.4.3 be inserted in the Rules:

"14.4.3 Members who became entitled to resignation benefits on or after 1 July 1996 may exercise a written choice before 31 March 1998 to receive the enhanced cash resignation benefit contemplated in rule 14.4.1(a)."

(d) The amendments to the Rules of the GEPF be implemented with effect from the following dates:

- (i) Amended Rule 7.2 of the GEPF with regard to the State's contribution to the Fund: 1 July 1996.
- (ii) All other Rules amended by this agreement: 1 May 1997.

3. The parties further agree that the Minister be requested to amend the Regulations regarding the Terms and Conditions of Employment of Educators, made in terms of the Educators Employment Act, 1994, as follows:

(a) Regulation 15(4) to be amended as follows: (Words underlined to be inserted and words in brackets to be deleted.)

(4) Notwithstanding anything to the contrary contained in this regulation, an educator excluding an educator who is appointed for the first time or who is reappointed after a break in service on or after 1 May 1997, who has already attained the age of 50 years and who has completed at least 10 years actual uninterrupted service, which is pensionable service as defined in the (Government Service Pension Act, 1973) Government Employees Pension Law, 1996, shall have the right to retire on pension (prematurely with reduced pension benefits) after having given written notice of at least three calendar months to the employer.

(b) Regulation 15(3) be deleted.

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- (c) Regulation 15(5) be deleted.
- (d) Regulation 15 be amended by inserting the following sub-regulation 15(6):

15(6) Notwithstanding anything to the contrary contained in this regulation, an educator shall have the right to retire on pension on the date on which he or she attains the age of 55 years, or on any date after that date after having given written notice of at least three months to the employer.

- (e) Regulation 15 be amended by inserting the following sub-regulation 15(7):

15(7) The employer may, at a request of an educator and subject to the prior approval of the applicable Member of the Executive Council responsible for Education or Minister, whichever case it may be, notwithstanding the absence of any reason for discharge in terms of section 8(1) of the Act, allow him or her to retire before reaching the age of 55 years if in the opinion of the employer a sufficient reason exists therefor and the retirement will be to the advantage of the State.

4. With regard to the factors for the calculation of actuarial interest it is agreed that the procedure to amend the factors in future, notwithstanding the procedures contemplated in Rule 14.4.2, be further investigated between the respective parties.
5. This agreement shall be subject to the provisions of any applicable Act of Parliament or secondary legislation promulgated in terms thereof.
6. The representatives of all relevant parties undertake to take all reasonable steps necessary to ensure the implementation of this Agreement.
7. No amendment to this Agreement shall be in force or effect unless reduced to writing and signed by parties concerned in terms of the LRA, 1995, as amended.

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Signed on this 27th day of May 1997 at Pretoria

On behalf of the employer

On behalf of the employee

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PROPOSED RULE AMENDMENTSRULE 1

1. Insert the following definition of "actuarial interest":

"actuarial interest", an amount representing the value of a member's benefits in the Fund based on his or her pensionable service, calculated in terms of rule 14.4.2;

2. Insert the definition of "D Factor"

"D Factor", D, a factor less than 1, determined by subtracting a number calculated in accordance with the undermentioned table from 10 000 and dividing the result by 10 000:

TABLE	
Completed months of pensionable service	Calculation of number
0 to 36	0
37 to 120	0 plus 26 for each completed month of such service in excess of 36 months;
121 to 240	2 184 plus 17 for each completed month of such service in excess of 120 months;
241 to 360	4 224 plus 11 for each completed month of such service in excess of 240 months;
361 to 480	5 544 plus 7 for each completed month of such service in excess of 360 months;
481 and over	6 384 plus 5 for each completed month of such service in excess of 480 months;

3. Replace the definition of "final salary" with the following:

"final salary", a member's average pensionable emoluments during the last 24 months of his or her pensionable service, or during the whole period of such service, whichever period is the shorter;

4. Replace the definition of "pension-retirement date" with the following:

"pension-retirement date", the earliest date on which a member is entitled to retire in

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terms of section 19 of the Law with normal retirement benefits, i.e. without the application of an early retirement adjustment factor as envisaged in rule 14.3.4(b): Provided that for the purpose of section 19(b) of the Law, it shall be the date when such member attains the age of 60 years;

5. Replace the definition of "unexpired period of service" with the following:

"unexpired period of service", the period between the date on which a member ceases or would cease to be a member of the Fund and the date he or she would have attained the age of 60 years, or 65 years in the case of a member who holds an office referred to in rule 14.2.3(b)(iii)(BB) at the commencement date, and who vacates such office at the end of such term of office;

RULE 7

1. Replace rule 7.2 with the following:

The employer contributes to the Fund at a rate of 17% of the member's pensionable emoluments.

RULE 9

1. Delete rule 9.1.
2. Re-number rule 9.2 and its sub-rules.

RULE 10

1. Change the reference to "rule 14.1.1" in rule 10.2, to "rules 14.1.1 and 14.3.1".

RULE 11

1. Replace the last paragraph of rule 11.1.1 with the following:
D has the meaning as in rule 1.
2. Delete the words after "him or her" in rule 11.5.2(a).

RULE 12

1. Insert the following rule 12.3:

If a member resigns, retires or dies as contemplated in rules 14.3.2, 14.4.1 or 14.5.1, he or she has the right to transfer his or her actuarial interest in the Fund to an approved retirement fund: Provided that such transfer shall be subject to the provisions of rule 14.4.1(o): Provided that the Employer shall for this purpose be deemed to be a participating employer of any approved and registered preservation fund

RULE 14

1. Replace rules 14.1, 14.2, 14.3 and 14.4 with the following rules 14.1, 14.2, 14.3, 14.4 and 14.5.

14.1 DISCHARGE PRIOR TO 10 YEARS PENSIONABLE SERVICE

14.1.1 If a member who has less than 10 years pensionable service to his or her credit is discharged -

- (a) on account of ill-health not occasioned by his or her own fault;
- (b) owing to the abolition of his or her post or the reduction or the reorganisation or the restructuring of the activities of his or her employer;
- (c) on the grounds that his or her discharge will promote efficiency or economy or otherwise be in the interest of his or her employer;
- (d) on account of his or her incapability to carry out his or her duties efficiently excluding cases where such incapability and inefficiency result in such a person being discharged on grounds of misconduct;
- (e) on the grounds that the President or the Premier of a province appointed him or her in terms of the provisions of an act to an office and his or her pensionable service cannot be recognised as pensionable service for the purposes of a superannuation, pension, relief or provident fund or scheme established by or under any law for the holders of such office;
- (f) as a result of injury or ill-health, not occasioned by his own fault, arising out of and in the course of his employment, or
- (g) in terms of section 17(4) of the Public Service Act, 1994 or in terms of section 17(7) of the Post Office Service Act, 1974 (Act No 66 of 1974),

there shall be paid to him or her a gratuity which shall be calculated at 15,5 percent of such a member's final salary, multiplied by the period of his or her pensionable service: Provided that a member's final salary shall for this purpose not be less than his or her pensionable emoluments as on the day immediately before the commencement date.

14.1.2 If a member is discharged for a reason mentioned in rule 14.1.1(a), (b), (c), (e) or (f), the amount of the gratuity which is payable to him or her in terms of rule 14.1.1, shall be increased by one-third of the said amount

14.2 DISCHARGE AFTER AT LEAST 10 YEARS PENSIONABLE SERVICE

14.2.1 If a member who has at least 10 years pensionable service to his or her credit is

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discharged on account of a reason mentioned in rule 14.1.1 there shall be paid to him or her -

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

Provided that a member's final salary shall for this purpose not be less than his or her pensionable emoluments as on the day immediately before the commencement date.

14.2.2 Notwithstanding anything to the contrary contained in the rules, a gratuity which is payable in terms of rule 14.2.1(a) to a member who is a member of the South African National Defence Force and who is discharged in terms of any law before he or she attains the age of 53 years, shall be increased by 12 percent of such gratuity.

14.2.3 For the purposes of the calculation of a gratuity and annuity in terms of rule 14.2.1, the period of pensionable service -

- (a) of a member who is a member of the South African Police Service, the Correctional Services, the South African National Defence Force, the National Intelligence Agency or the South African Secret Service, shall be increased by a period which is equal to one quarter of the period by which his or her pensionable service exceeds the period of 10 years;

(c) of a member -

- (i) who is discharged on account of a reason mentioned in rule 14.1.1(a), (b), (c), (e) or (f); or
- (ii) who, in terms of section 16(5) of the Public Service Act, 1994, section 17(2C) of the Post Office Service Act, 1974 or section 31(5) of the Audit Arrangements Act, 1992 or section 45(4) of the South African Police Service Act, 1995 (Act No. 68 of 1995), is allowed to retire during an extended term of office in any of the sections concerned; or
- (iii) mentioned in section 3(4) of the Public Service Commission Act, 1984 or sections 211 and 213 of the Constitution of the Republic of South Africa, 1993, who, during a period or extended period contemplated in section 2(5) of the Public Service Commission Act, 1984 or in terms of similar provisions regulating the

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conditions of service of a provincial service commission contemplated in section 213 of the Constitution of the Republic of South Africa, 1993 -

- (aa) is allowed to vacate his office in terms of section 4(2) of the Public Service Commission Act, 1984 or in terms of similar provisions regulating the conditions of service of a provincial service commission contemplated in section 213 of the Constitution of the Republic of South Africa, 1993 in order to promote efficiency; or
- (bb) is removed from office in terms of sections 211(1)(c) or 213(2) of the Constitution of the Republic of South Africa, 1993 in order to promote efficiency; or
- (iv) who is allowed to vacate his or her office in terms of section 3(a) of the Auditor-General Act, 1995 in order to promote efficiency,

shall be increased by a period equal to -

- (AA) one third of the period of his or her pensionable service or by his or her unexpired period of service whichever period is the shorter, but not exceeding five years; and
- (BB) one half of the period during which he or she held an office referred to in section 12(1) of the Public Service Act, 1994, or section 10A of the Post Office Service Act, 1974, or sections 191(4), 211 or 213 of the Constitution of the Republic of South Africa, 1993, or section 27(2) of the Audit Arrangements Act, 1992 or sections 6 and 7 of the South African Police Service Act, 1995 (Act No. 68 of 1995).

Provided that the total of a member's pensionable service, the period whereby it is increased in terms of this rule and the period during which a member held any office referred to in section 12(1) of the Public Service Act, 1994, or section 10A of the Post Office Service Act, 1974, or sections 191(4), 211 or 213 of the Constitution of the Republic of South Africa, 1993, or section 27(2) of the Audit Arrangements Act, 1992 or sections 6 and 7 of the South African Police Service Act, 1994 (Act No. 68 of 1995), shall not exceed 55 years:

Provided, further, that the period of 55 years shall be adjusted in accordance with the formula as set out in rule 13.1 if a member's working status is changed from full-time to part-time employment.

14.2.4 For the purpose of rule 14.2.3(b) -

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- (a) 'pensionable service' shall not include a period during which a member held an office referred to in section 12(1) of the Public Service Act, 1994, section 10A of the Post Office Service Act, 1974, sections 191(4), 211 or 213 of the Constitution of the Republic of South Africa, 1993 or section 27(2) of the Audit Arrangements Act, 1992 or sections 6 and 7 of the South African Police Service Act, 1995 (Act No. 168 of 1995): Provided that a period during which a member held office as referred to above and which can not be regarded as a completed period in accordance with paragraph (b) shall be included as pensionable service in terms of this rule;
- (b) 'one half of the period', save as provided for in paragraphs (d) to (i) of this rule, shall mean one half of a completed period and also one half of a completed extended period referred to in section 12(1) of the Public Service Act, 1994, section 10A of the Post Office Service Act, 1974, section 2(5) of the Public Commission Act, 1984, section 27(2) of the Audit Arrangements Act, 1992, sections 6 and 7 of the South African Police Service Act, 1995 (Act No. 68 of 1995), or in terms of similar provisions regulating the conditions of service of a provincial service commission contemplated in section 213 of the Constitution of the Republic of South Africa, 1993;
- (c) the uncompleted portion of the said extended period referred to in subparagraph (b) shall not be taken into account;
- (d) a member mentioned in Proclamation 130, 1994, of the President of the Republic of South African shall at the expiry of the term mentioned in the said Proclamation be deemed to have occupied the office of a head of department mentioned in section 12(1) of the Public Service Act, 1994, until the date on which that term would have expired if such member was not transferred to a post to which the provisions of section 12(1) of the Public Service Act, 1994, do not apply;
- (e) if the President or a Premier appoints a person who is an officer or employee in the public service as defined in section 8 of the Public Service Act, 1994, in the public interest under any law to an office outside the public service, it shall, subject to the provisions of the Law and these rules, be regarded that such person been discharged from the public service for a reason contemplated in rule 14.1.1(c): Provided that if such a person is appointed as a member of the Public Service Commission referred to in sections 209, 210 and 211 of the Constitution or to a provincial service commission contemplated in section 213 of the Constitution or to the office of Auditor-General referred to in section 191 of the Constitution or as Deputy Auditor-General or as Deputy Auditor-General shall be recognised as apart of and continuous with his employment in the public service for purposes of these rules and these arrangements shall mutatis mutandis continue to apply unless such a member's membership of the band terminates,

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- (f) a person who is appointed as a member of the Public Service Commission or a provincial service commission or as Auditor-General or as Deputy Auditor-General and who immediately prior to such appointment held an office referred to in section 12(1) of the Public Service Act, 1994, section 10A of the Post Office Service Act, 1974, section 27(2) of the Audit Arrangements Act, 1992 or sections 6 and 7 of the South African Police Service Act, 1994 (Act No. 68 of 1995), shall with effect from the date of such an appointment be regarded to have completed such term of office and the duration of such completed term of office shall be calculated from the date of commencement thereof up to and including the date preceding the date with effect from which he or she is appointed as a member of the Public Service Commission or a provincial service commission or as Auditor-General or as Deputy Auditor-General;
- (g) if a member of the Public Service Commission is appointed as a member of a provincial service commission or vice versa or if a member of the Public Service Commission or a member of a provincial service commission is appointed as Auditor-General or if the Auditor-General is appointed as a member of the Public Service Commission or a provincial service commission or if the Deputy Auditor-General is appointed as a member of the Public Service Commission or a provincial service commission or as Auditor-General the measures set out in rules (e) and (f) above shall mutatis mutandis apply;
- (h) subject to section 17(4) of the Law the measures set out in rules (e), (f) and (g) above shall be subject to any provisions contained in the laws regulating the conditions of service of members of the Public Service Commission, provincial service commission, the Auditor-General and the Deputy Auditor-General including conditions of service determined in terms of such provisions which have a bearing on the pension position of such members of the Public Service Commission, provincial service commissions, Auditor-General or the Deputy Auditor-General; and
- (i) subject to rule (h) the measures set out in rules (e), (f) and (g) shall mutatis mutandis apply to the determination and calculation of the pension benefits of members of the Fund who were appointed to offices as contemplated in this rule before the fixed date.

14.2.5 Annuities are payable in equal monthly instalments before or on the last day of each month. The first annuity-payment to a discharged member is payable at the end of the calendar month which follows the month in which the member is discharged.

14.3 BENEFITS ON RETIREMENT OF MEMBERS

14.3.1 If a member retires

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- (a) on or after his or her pension-retirement date;
- (b) before his or her pension-retirement date in terms of the law governing his or her terms and conditions of service;
- (c) due to the lapse of his or her service contract;
- (d) before his or her pension-retirement date, but not on a date prior to the member attaining the age of 55 years: Provided that such a member has the right to retire on that date in terms of the provisions of any act which regulates his or her terms and conditions of employment; or
- (e) whilst in the education service and the member has attained the age of 50 years but not the age of 55 years: Provided that such a member has the right to retire on that date in terms of the provisions of any act which regulates his or her terms and conditions of employment,

such member shall be entitled to the benefits indicated in rule 14.3.2 or 14.3.3, as the case may be.

14.3.2 Members with less than 10 years pensionable service

A member who retires on account of a reason mentioned in rule 14.3.1 and who has less than 10 years pensionable service to his or her credit, shall receive a gratuity equal to his or her actuarial interest.

14.3.3 Members with 10 years and more pensionable service

- (a) A member who retires on account of a reason mentioned in rule 14.3.1(a), (b) or (c) and who has at least 10 years pensionable service to his or her credit, shall be paid the benefits referred to in rule 14.2.1: Provided that rules 14.2.3(a) and 14.2.2 shall apply to members referred to in those rules, where applicable.
- (b) A member who retires on account of a reason mentioned in rules 14.3.1(d) or (e) and who has at least 10 years pensionable service to his or her credit, shall be paid benefits referred to in rule (a) above: Provided, that such benefits shall be reduced by one third of one percent for each complete month between the member's actual date of retirement and his or her pension-retirement date.

14.3.4 The provisions of rule 14.2.5 will apply mutatis mutandis upon the retirement of a member in terms of rule 14.3.

14.4 BENEFITS ON RESIGNATION OR DISCHARGE

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14.4.1 A member who resigns from his or her employer's service or is discharged from his or her employer's service because of misconduct or ill-health occasioned by his or her own doing or for a reason not specifically mentioned in the rules and who is not entitled to receive benefits provided elsewhere in the rules, is entitled, on the written choice of the member, to:

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

Interest shall be added to the transfer benefit to account for any delay in payment thereof to the approved retirement fund. Such transfer shall be made subject to the rules of the approved retirement fund specifying that, with reference to the transfer benefit, any subsequent lump sum benefit payable by that fund or any successor fund to the member and/or his beneficiaries shall be limited to one third of the said transfer benefit, with interest. The balance of the member's transfer benefit with interest, after deduction of any lump sum payment referred to above, shall be applied for the purchase of an annuity, albeit immediately or upon the member's ultimate retirement.

14.4.2 The actuarial interest of a member who has -

- (a) not attained the age of 55 years, shall be calculated in accordance with the following formula: Provided that the actuarial interest shall not be less than the amount of the benefit described in rule 14.4.1(a):

$$N(\text{adj}) \times IS \times F(Z) \times [1 + (0,04 \times (60 - Z))]$$

Where:

N(adj) is the member's period of pensionable service, taking into account all adjustments thereto in terms of the rules, as at the date of termination of service;



- FS is the member's final salary;
- F(Z) is a factor determined by the Board acting on the advice of the actuary, and after consultation with the Minister and the employee organisations;
- Z is the age at which the member attains his or her pension-retirement date;

(b) attained the age of 55 years, shall be calculated in accordance with the following formula: Provided that the actuarial interest shall not be less than the amount of the benefit described in rule 14.4.1(a):

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

where:

G is the amount of the gratuity the member would have received in terms of the rules had he retired on that date. For this purpose, a member with less than 10 years pensionable service, will be deemed to qualify for the same benefit as a member with 10 years or more service;

A is the amount of the annuity the member would have received in terms of the rules. For this purpose, a member with less than 10 years pensionable service, will be deemed to qualify for the same benefit as a member with 10 years or more service;

A(X) is a factor determined by the Board acting on the advice of the actuary, and after consultation with the Minister and the employee organisations

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14.5 BENEFITS ON THE DEATH OF A MEMBER

14.5.1 If a member with less than 10 years pensionable service dies, a gratuity shall be paid equal to the greater of the member's actuarial interest and his or her final salary.

14.5.2 If a member with at least 10 years pensionable service dies, a gratuity is paid which is equal to the sum of the gratuity and five times the annuity which would have been payable to him or her in terms of rules 14.2.1(a) and (b) respectively, if he or she had retired for a reason referred to in rule 14.1.1(a) on the day of his or her death.

14.5.3 If a member dies and the total of such a member's period of pensionable service and his or her unexpired period of service is at least ten years, there shall be paid to the surviving spouse, if any, a spouse's pension which is equal to half of the annuity and the supplementary amount which the member would have received in

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terms of the provisions of rule 14.2.1 if he or she had retired on the date of his or her death in terms of a reason mentioned in rule 14.3.1(a) Provided that "pensionable service" for this purpose also includes the member's unexpired period of service.

14.5.4 A spouse's pension which is payable to a spouse in terms of rule 14.5.3, shall not be affected in the case of a re-marriage.

14.5.5 A spouse's pension payable in terms of these rules shall be payable with effect from the first day of the month immediately following the date on which the member or pensioner concerned dies.

14.5.6 Annuities are payable in equal monthly instalments on or before the last day of each month.

2. Renumber rule 14.5 to read 14.6.

3. Insert the following new rule 14.7:

14.7 PROTECTION OF THE INTERESTS OF OFFICIALS WHO RETIRE, ARE RETIRED OR DISCHARGED

14.7.1 Subject to rule 14.7.2, the benefits of members shall be calculated in terms of the measures applicable on the date of termination of service.

14.7.2 Notwithstanding rule 14.7.1, the benefits of members who have been notified before or on the commencement date -

(a) of employer initiated retrenchments as well as those whose applications for voluntary termination of service have been approved in terms of section 17(2)(c) of the Public Service Act, 1994 or similar provisions in other employment Acts;

(b) that they are to be discharged on account of ill-health not occasioned by his or her own fault or as a result of injury or ill-health, not occasioned by his or her own fault, arising out of and in the course of his or her employment;

(c) that they are to retire in terms of section 16(6)(a) of the Public Service Act, 1994 or similar provisions in other employment Acts;

(d) that they are to be retired in terms of the measures providing for early retirement as contemplated in section 16(4) and 16(5)(a) of the Public Service Act, 1994 or similar provisions in other employment Acts;

(e) that they are to be retained in their posts beyond their statutory retirement age.

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shall be calculated in terms of the measures applicable on the date of such notification or on the date of termination of service whichever benefit is the more beneficial: Provided that the benefits to which such a member shall be entitled, shall be based on the a member's final salary or his or her pensionable emoluments as on the day immediately before the commencement date, whichever is the greater.

4. Renumber rule 14.6 to read 14.8. Change the wording of subrule (b) to the following:
 - (b) payment of such benefits shall be subject to the provisions of section 17(4) of the Law, read with rule 20.

RULE 15

1. Change the reference to "rule 14.1.1(i)" in rule 15.1 to "rule 14.1.1(j)".

RULE 16

1. The definition of "the formula" in rule 16.3(c) is changed to the following:

"the formula", means the gratuity or annuity referred to in rule 16.1(c) or (d), increased during the period of the member's dormant membership -

 - (aa) in respect of a member who became dormant on or before the commencement date, at a rate of 10% per year compound for each year of dormant membership,
 - (bb) in respect of a member who became dormant on or after the commencement date, at a rate as decided by the Board from time to time in terms of section 25 of the Law.
2. Delete the references to "in which-" and "A represents" in rule 16.3(c), and replace them with "For the purpose of the formula, an annuity and a gratuity shall be defined as follows-"
3. Delete the part of rule 16.3(c) that follows after the phrase "was a dormant member" at the end of subparagraph (ii).

RULE 17

1. The reference to "rule 14.2 or 14.4.3" in rule 17.5 is changed to "rule 14.2, 14.3.3 or 14.5.2."
2. The reference to "rule 14.4.4" in rule 17.6 is changed to "rule 14.5.3".
3. Add the following new rule 17.8.

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17.8 The provisions of rules 17.2 to 17.7 shall not be applicable if the employer and the employee organisations conclude an agreement on an alternative method of dealing with changes to the Law or rules.

RULE 20

1. Delete the phrase "for any reason in rule 14.1.1(b)".
2. Insert the words "accepts a voluntary severance package offered to him or her" between "retires," and "or is discharged".
3. Insert the words ", acceptance of voluntary severance" between "retirement" and "or discharge".
4. Delete the reference to "immediately", and add the following at the end of the rule:

Such payment to the Fund, with interest the account for any delay in payment, shall be in accordance with a schedule approved by the Board.

RULE 22

1. Add the following at the end of the rule:

All factors and interest rates to be decided by the Board after the required consultation processes, as set out in the rules, shall be communicated to the employer and the members in accordance with the provisions set out above.

ANNEXURE

1. Replace the reference to "the cash resignation benefit in terms of the rules of the Government Employees Pension Fund" in par. (ii), to "the gratuity benefit referred to in rule 14.4.1(a)".
2. Redefine "D" as follows:

D = the factor defined in rule 1

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