

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

CASE NO _____

In the *ex parte* application of:

- JOHAN PIETER HENDRIK PRETORIUS** First Applicant
- MONTANA DAVID KWAPA** Second Applicant
- TRANSPORT PENSION FUND** Third Applicant
- TRANSNET SECOND DEFINED BENEFIT FUND** Fourth Applicant
- TRANSNET SOC LIMITED** Fifth Applicant

SUPPORTING AFFIDAVIT OF THIRD APPLICANT AND FOURTH APPLICANT

I, the undersigned,

PETRUS JOHANNES JAKOBUS MARITZ

do hereby make oath and say that:

1. I am the principal officer of the Transport Pension Fund ("TPF"), being the Third Applicant in this matter, and the principal officer of the Transnet Second Defined Benefit Fund ("TSDBF"), being the Fourth Applicant in this matter. The TPF and the TSDBF are collectively referred to as the "Funds" in this affidavit. I am duly authorised by each of the Funds to depose to this affidavit. This affidavit is a supporting affidavit to the founding affidavit (the "Founding Affidavit") deposed to by Wynanda Wilhelmina Coetzee on behalf of the First and Second Applicants in this matter.

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2. This affidavit will address the following matters:
 - 2.1. A brief introduction and background in respect of the class action litigation, including a description of each of the Funds and of each of the claims brought against the Funds and Transnet SOC Ltd ("Transnet");
 - 2.2. A general summary of the terms of the settlement agreement followed by a summary of the terms of the settlement agreement as they relate to each of the Funds and each sub-fund of the TPF;
 - 2.3. The envisaged transfer of assets from the Transnet sub-fund of the TPF to the TSDBF; and
 - 2.4. The benefits of the settlement agreement to the Funds and their respective members.

Introduction and background

3. The TPF is a defined benefit retirement fund established in terms of section 2 of the Transnet Pension Fund Act (the "TPF Act"). The TPF has been closed to new members since 2000.
4. The TPF comprises three sub-funds, namely:
 - 4.1. The Transnet Sub-Fund of the TPF ("TSF"), established in terms of section 4A of the TPF Act. The relevant employer company of the TSF is Transnet;
 - 4.2. The SAA Sub-Fund of the TPF ("SAA Sub-Fund"), established in terms of section 4A of the TPF Act. The relevant employer company of the SAA Sub-Fund is South African Airways SOC Limited ("SAA"); and

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- 4.3. The PRASA Sub-Fund of the TPF ("PRASA Sub-Fund"), established in terms of section 4A of the TPF Act. The relevant employer company of the PRASA Sub-Fund is the Passenger Rail Agency of South Africa ("PRASA").
5. The TSDBF is a defined benefit retirement fund established in terms of section 14B of the TPF Act. The TSDBF comprises only pensioners and has no active members. The relevant employer company of the TSDBF is Transnet.
6. The TPF and the TSDBF are not governed by or subject to the Pension Funds Act, 1956, but are governed by the TPF Act and their respective rules. Each sub-fund of the TPF is also subject to its own sub-fund rules.
7. The TPF and the TSDBF were named as the First and Second Defendant in the class action litigation brought against them and Transnet by a certified class of plaintiffs (the "Class") consisting of every member of the TPF and TSDBF as at the date of certification of the class action (being 31 July 2014) who did not opt out of the class action litigation. Only one person, the late Mr Gordon Meiring Thompson, a now-deceased former member of the TSDBF, exercised the election to opt out of the class action litigation.
8. The Class accordingly comprises all of the members of the TSDBF (all of which members are pensioner members or their dependants in receipt of pensions) and all of the members of the TPF, including all of the members of the TSF, the SAA Sub-Fund and the PRASA Sub-Fund. Each of the three sub-funds of the TPF includes both pensioner members and active members and accordingly the class includes these pensioner members and active members. The relevant employer companies of the SAA Sub-Fund and the PRASA Sub-Fund were not named defendants and were not joined in the action.



9. The First Applicant (Mr Johan Pieter Hendrik Pretorius) is the representative of all of the members of the TPF who did not elect to opt out of the class action litigation. The Second Applicant (Mr Montana David Kwapa) is the representative of all the members of the TSDBF who did not elect to opt out of the class action litigation. Mr Pretorius and Mr Kwapa are collectively referred to as the "Plaintiffs" in this affidavit.
10. The Plaintiffs brought three claims against the Funds and Transnet. These claims and the Funds' response to these claims in the Funds' pleadings in the class action litigation are broadly summarised below.

Claim 1

11. The Plaintiffs alleged that the former South African Transport Services ("SATS"), the New Railways and Harbours Superannuation Fund (the "White Fund") and the Railways and Harbours Pension Fund for Non-Whites (the "Black Fund") made a promise to their employees and members during 1989 that the Funds "would continue to increase their pensions as before, that is, at a rate of 70% of inflation".
12. The Plaintiffs alleged that all the employees and pensioners of the SATS, the White Fund and the Black Fund tacitly accepted the alleged promise and that consequently, SATS, the White Fund and the Black Fund were bound to keep the alleged promise.
13. The Plaintiffs alleged that the promise was one of the means by which SATS persuaded its employees to remain in its employ after SATS' conversion to Transnet. The Plaintiffs alleged that Transnet and the Funds kept the alleged promise until 2002 but broke the alleged promise from 2003 in that they have consistently failed to grant pension increases beyond the minimum of 2% per year.
14. The Plaintiffs accordingly sought an order directing Transnet and the Funds to:



- 14.1. increase the pensions of all the members of the Funds by an annual rate of not less than 70% of the rate of inflation with effect from 2003; and
 - 14.2. pay arrear increases to the pensioners of the Funds with interest *a tempore morae*.
15. The Funds raised five special pleas in relation to Claim 1 and pleaded to the merits of Claim 1. The five special pleas raised by the Funds are the following:
- 15.1. The alleged promise would have been inconsistent with the legislative regime at the time that it was allegedly made and the terms of the alleged promise are in any event inconsistent with the legislative regime that has governed each of the Funds at their establishment and which continues to govern the Funds. Accordingly:
 - 15.1.1. neither of the Funds could, at its inception, at the date of institution of the class action litigation, or currently, lawfully give effect to the alleged promise;
 - 15.1.2. any contract purporting to oblige either of the Funds, at its inception, to give effect to the alleged promise would have been unlawful and void; and
 - 15.1.3. neither the members of the TSDBF nor the TPF could have had a legitimate expectation that the relevant Fund would give effect to the alleged promise.
 - 15.2. The alleged conduct of the Funds did not amount to state action (as alleged by the Plaintiffs), alternatively the Plaintiffs were not entitled to circumvent the provisions of the Promotion of Administrative Justice Act, 3 of 2000, further

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alternatively that the alleged promise had been withdrawn by the Funds and the amounts that form the subject matter of claim 1 were not due and payable at the moment that the alleged promise was withdrawn.

- 15.3. The alleged promise could not constitute an unfair labour practice in breach of section 23(1) of the Constitution (as alleged by the Plaintiffs) on the basis that neither of the Funds employed the Plaintiffs or any members of the Class. Furthermore, it is not permissible for the Plaintiffs to seek to rely on a direct contravention of section 23(1) of the Constitution to found their action in circumstances where they do not allege that the Labour Relations Act, 66 of 1995, is unconstitutional.
- 15.4. Insofar as claim 1 relates to back pay amounts that were not paid during the period 2003 to 6 May 2010, the claim has prescribed in terms of section 10 read with section 11 of the Prescription Act, 68 of 1969.
- 15.5. Insofar as claim 1 is made on behalf of persons who, in 1989, were neither members of the White Fund nor the Black Fund and were neither employees of Transnet nor SATS, the alleged promise can found no cause of action as the alleged promise was not made to such "new" members nor do the Plaintiffs allege that the alleged promise constitutes a *stipulatio alteri* in their favour.
16. In their plea to the merits, the Funds pleaded the pension increases that were granted to the pensioner members of the TSDBF and each of the TPF's sub-funds since 2002 and the additional bonus pension amounts that were paid over that period. Schedules of the pension increases granted to Pensioner members of the TSDBF and the TPF were attached to the Funds' plea. These schedules have been updated to include data available in respect of the period since the filing of

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the Funds' plea to the present and are attached to this affidavit as Annexure "SA1" and Annexure "SA2". Over and above the annual increases reflected in Annexure "SA1" and Annexure "SA2", the TSDBF and the sub-funds of the TPF paid bonus pension amounts expressed as a percentage of pensions payable. A schedule of these percentages was attached to the Funds' plea. This schedule has similarly been updated to include data available in respect of the period since the filing of the Funds' plea to the present and is attached to this affidavit as Annexure "SA3".

17. In addition, the Funds pleaded in the alternative to their denial of liability under claim 1 that for the entire period from 1990 to 2013, when claim 1 was first asserted, the Funds organised their financial affairs without reference to any liability that would arise from claim 1 and, in summary, that it would be just and equitable for any order of unconstitutionality to have no retrospective effect but for pensions only to be increased with prospective effect.

Claim 2

18. In their second claim, the Plaintiffs alleged that:

- 18.1. the South African Railways & Harbours administration ("SAR&H") and SATS were obliged to pay into the Funds such amounts as were necessary to maintain the White Fund and the Black Fund in a sound financial condition;
- 18.2. Transnet inherited the obligation of the SAR&H and SATS;
- 18.3. on 1 April 1990, Transnet's debt pursuant to these obligations (the so-called "Legacy Debt") was to be determined by the State Actuary in consultation with

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- an actuary appointed by the Minister of Public Enterprises and would bear interest at 12% per annum;
- 18.4. the State Actuary duly determined the Legacy Debt in consultation with the actuary appointed by the Minister of Public Enterprises at R16.1806 billion with interest from 1 April 1990;
- 18.5. the Funds inherited the right to receive the Legacy Debt in predetermined portions;
- 18.6. in 1990 Transnet issued T011 bonds to the value of R10.394 billion to the TPF and in partial repayment of the Legacy Debt, and on its establishment in 2000, the TSDBF received a proportion of the T011 bonds;
- 18.7. in 2001 Transnet and the Funds agreed to cancel the bonds; and
- 18.8. the whole Legacy Debt accordingly remains outstanding and must be paid by Transnet to the Funds.
19. As Claim 2 is a claim against Transnet, the Funds did not join issue on this claim. The Funds accordingly neither admitted nor denied the allegations made by the Plaintiffs in Claim 2 and chose to abide the decision of the Court in relation to this claim, had the matter gone to trial.

Claim 3

20. In their third claim, the Plaintiffs alleged that in March 2001, the TPF paid an amount of R309,121,000 to Transnet. This amount represented 40% of the surplus of the TPF at that time.

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21. The Plaintiffs alleged that the payment made by the TPF to Transnet was unlawful and that, as a consequence, Transnet became liable to repay the amount paid to it by the TPF.

22. The Plaintiffs sought an order declaring that the payment made by the TPF to Transnet was unlawful and an order that Transnet repays to the TPF the sum paid by the TPF to it plus interest.

23. Although claim 3 was also a claim against Transnet, the Funds chose to join issue with this claim as the Plaintiffs in effect alleged that the Trustees of the TPF had engaged in theft.

24. Broadly speaking, had the Class been successful in obtaining and enforcing the relief contemplated by all three of its claims, the effect would have been that:

24.1. each of the Funds would have been required to determine, for each Class member, the amount by which each Class member was underpaid from 2003 and then pay that amount, together with interest, to that person;

24.2. the Class members for this purpose would be each member of the TSDBF and each member of the TPF, and accordingly, each member of each of the sub-funds of the TPF, who was in receipt of a pension from the relevant Fund from 2003 to the present;

24.3. each of the Funds would be required to recalculate the amount of the pension to be paid in the future to each Class member and then increase the future pensions accordingly;

24.4. the current assets of the Funds and any amounts received by the Funds from Transnet pursuant to claims 2 and 3 would be used to fund:

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- 24.4.1. the payment of the arrear amounts plus interest; and
- 24.4.2. the future pensions (increased pursuant to the recalculation referred to); and
- 24.4.3. future increases to counteract the effect of future inflation.

25. The settlement agreement is the outcome of a negotiation between the parties. Because of the differences between the TSDBF and the 3 sub-funds comprising the TPF, it is necessary to describe the outcome of the negotiation with reference to each of them.

The terms of the Settlement Agreement

- 26. In summary, the implementation of the settlement agreement seeks to achieve (i) improved pensions payable to pensioners; (ii) the payment of certain special lump-sum payments to the pensioner members of the Class; (iii) the funding of the lump-sum payments and the improved pensions from the Funds' existing assets; and (iv) the full and final settlement of the claims in the class action litigation.
- 27. It is important to note that notwithstanding that the Class comprises all of the members of the TSDBF and all of the members of each of the sub-funds of the TPF as at the date of certification of the class action, the enhanced benefits (lump-sum payments and special pension increases) to be granted in terms of the settlement agreement will be received only by the pensioner members of the Funds. This will include members of the Funds who may have been active members of the Funds as at the date the date of certification but have retired before the implementation of the settlement agreement.
- 28. The active members of the TSF, PRASA Sub-Fund and SAA Sub-Fund will accordingly not receive any immediate financial benefits in the form of lump-sum payments or

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immediate pension increases in terms of the settlement agreement. The active members will, however, benefit from the higher increases once they retire after the three year period as more fully described below.

29. The estates of class members who died without dependants between the certification of the class action and the implementation of the settlement agreement will receive no benefit in terms of the settlement agreement.

30. The key terms of the settlement agreement are the following:

30.1. Each member of each of the TSDBF and TPF who is entitled to receipt of a monthly pension from the TSDBF or the TPF (each such person, a "Pensioner") at the time that benefits in terms of the settlement agreement become due, will receive three annual payments of R10 000 each. The settlement agreement requires a recipient of these payments to be alive when the amount is payable. The first of these payments was made by the TSDBF, the TSF and the PRASA Sub-Fund in December 2019. The position in relation to the SAA Sub-Fund is explained in more detail in paragraph 89 below. The two remaining payments in respect of the TSDBF, the TSF and the PRASA Sub-Fund will be required to be paid by no later than January 2021 and January 2022, but the Funds will target these being paid in December 2020 and December 2021 to be consistent with the Funds' past practice of granting bonus payments before the end of the calendar year.

30.2. Once the required conditions to the settlement agreement have been fulfilled, the pensions payable by the TSDBF, the TSF and the PRASA Sub-Fund will be increased in three successive cumulative base uplifts over three years as follows:

30.2.1. Year 1: 11%;

30.2.2. Year 2: 7%; and

30.2.3. Year 3: 4%.

30.3. These annual pension increases payable to Pensioners other than pensioners of the SAA Sub-Fund will be applied to the pension in payment at the time of the increase and will be in addition to the 2% statutory minimum increase. The effect is that each Pensioner of the TSDBF, the TSF and the PRASA Sub-Fund who is still receiving a pension when the final increase is effected will have received a cumulative increase of 31.08% over the three years. This effect is demonstrated in paragraph 49 (in respect of a notional Pensioner of the TSDBF), paragraph 70 (in respect of a notional Pensioner of the TSF) and paragraph 80 (in respect of a notional Pensioner of the PRASA Sub-Fund).

30.4. The SAA Sub-Fund of the TPF will grant Pensioners the increase required to ensure that the Pensioner receives the pension that Pensioner would have received had the pension been increased by 70% of CPI since the later of 2003 or his/her date of retirement. This will be implemented in a once-off increase to all Pensioners of this sub-fund and will not be phased-in in a manner similar to the aggregate increases to be granted by the TSDBF, the TSF and the PRASA Sub-Fund.

30.5. The TSDBF and the TSF will, from the year following the implementation of the third special pension increase (which should occur in the fourth year after the effective date of the settlement agreement) and beyond, follow a policy of targeting annual increases of 70% of CPI. These targeted increases will not be guaranteed, but will be considered and granted in accordance with an

agreed pension increase policy requiring that the valuator of the Funds certifies the affordability of the increase and that the relevant employer company approves the increase.

- 30.6. The SAA Sub-Fund and the PRASA Sub-Fund have not given any contractual commitments in the settlement agreement in relation to future pension increases or increase policies. These Funds' existing policies are inflation targeting and will continue to be.
31. The TSDBF does not have sufficient assets to afford the enhanced benefits which will become due in terms of the settlement agreement. In order to address this, the following has been agreed and incorporated into the settlement agreement:
- 31.1. the funding levels of the TSDBF and the TSF will be equalised by a transfer of assets from the TSF to the TSDBF; and
 - 31.2. in due course, the members, assets and liabilities of the TSDBF and the TSF will be consolidated.
32. The equalisation of the funding levels will result in the enhanced benefits being affordable for both the TSDBF and the TPF. It is therefore not necessary to complete the consolidation of the members, assets and liabilities of the TSDBF and the TSF before enhancing the benefits that are paid and the details of this exercise are required by the settlement agreement to be worked out after the settlement agreement has been implemented.
33. Transnet will pay the Class's legal costs on a basis that is described in the Founding Affidavit. Neither Transnet nor SAA nor PRASA has agreed to make any capital

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contribution to any of the Funds or sub-funds in order to fund the benefit enhancements. These will be funded solely from the assets of the Funds.

The terms of the settlement agreement as they relate to the TSDBF

34. The TSDBF is governed by the TPF Act and its rules ("TSDBF Rules"). A copy of the prevailing TSDBF Rules is attached to this affidavit as Annexure "SA4". Transnet is the employer company of the TSDBF and Transnet underwrites the benefits payable by the TSDBF to its members. The board of trustees of the TSDBF comprises four trustees and their alternates appointed by Transnet and four trustees elected and appointed by members of the TSDBF in accordance with the TSDBF Rules. The board of trustees of the TSDBF, assisted by its principal officer, is responsible for the governance of the Fund. The principal officer is appointed by Transnet.

35. The latest actuarial valuation of the TSDBF is the actuarial valuation as at 31 March 2019 prepared by Alexander Forbes Financial Services ("Alexander Forbes") and is attached as Annexure "SA5" to this affidavit.

36. The following is a tabulated summary of the pensioner and beneficiary profile of the TSDBF as at 31 March 2019, as extracted from the actuarial valuation:

Number of members:	<u>46,955</u>
Pensioners:	13,998
Widow(er)s:	32,831
Children:	126
Average pension weighted age:	

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Male pensioners:	79.4 years
Female pensioners:	78.3 years
Male spouses:	65.7 years
Female spouse:	76.7 years

37. The average annual pension of the members of the TSDBF is R32,198, which is equivalent to approximately R2,683 per month.
38. The enhanced benefits to be provided to the Pensioners of the TSDBF in terms of the settlement agreement will include base uplifts to the pensions of each Pensioner of the TSDBF. These will be phased in across three years as described in paragraph 30.2 above and each special annual increase will be in addition to the 2% minimum annual increase granted. The effect is that each Pensioner of the TSDBF who is still receiving a pension when the final increase is effected will have received a cumulative increase of 31.08% over the three years. In addition, the Pensioners of the TSDBF will each have received a special lump-sum award of R10 000 in December 2019 and will qualify to receive two further such lump-sum payments when such lump-sum awards accrue, one in December 2020 and another in December 2021. Thereafter, the TSDBF will follow a policy of targeting (but not guaranteeing) annual pension increases which are 70% of inflation.
39. As indicated in the annual valuation as at 31 March 2019, the funding level of the TSDBF as at 31 March 2019 was 135.4%. The cost and the affordability for the TSDBF of the benefit enhancements to be granted in terms of the settlement agreement has been assessed by the actuary of the TSDBF, Mr Andre Pienaar of Alexander Forbes. His report dated 13 September 2019 is attached as Annexure "SA3" to this affidavit.



40. The following table (which has been adapted from Mr Pienaar's report) sets out the valuation results of the TSDBF as at 31 March 2019, the impact of the enhanced benefits contemplated in the settlement agreement, and the impact of a transfer from the TSF to the TSDBF of an amount of R1,76 billion, being the amount required to be transferred from the TSF to the TSDBF to ensure that as at 1 April 2019 the funding levels of the TSF and the TSDBF would be equal:

	At 31/03/2019	At 31/03/2019	At 31/03/2019
	Valuation results before any changes	Implementing the Enhanced Benefits	After a transfer of R1.76 bn from TSF
	(R'million)	(R'million)	(R'million)
Assets	13 346	12 172	13 932
Value of Accrued Liability	9 552	12 065	12 065
Solvency Reserve	305	543	543
Surplus/(Deficit)	3 489	(436)	1 324
Funding Level	135.4%	95.2%	110.5%

41. It is evident from the above table that the TSDBF could not afford the enhanced benefits without a value transfer from the TSF. Were it to do so, the resultant funding level of the Fund would be 95.2%. Mr Pienaar's conclusion is accordingly that the TSDBF will be financially sound as at 31 March 2019 if all of the enhanced benefit proposals and the value transfer from the TSF in accordance with the settlement agreement are implemented.

42. The value transfer from the TSF to the TSDBF will be effected by a surplus distribution to Transnet coupled with a contribution by Transnet to the TSDBF of the full amount of the distribution. Further detail on this aspect of the settlement is set out in the paragraphs of the Founding Affidavit deposed to by Wynanda Coetzee on behalf of the First and Second Applicants which describe clause 6 of the settlement agreement and in paragraph 93 to paragraph 95 below of this affidavit.
43. The settlement agreement records the intention of the parties to consolidate the assets, liabilities and members of the TSDBF and TSF in due course. This aspect is dealt with in further detail in paragraph 96 and paragraph 97 below. The equalisation of the funding levels of the TSF and the TSDBF by way of a transfer of assets from the TSF to the TSDBF is the first step towards the consolidation of the assets, liabilities and members of the TSF and TSDBF.
44. Clause 3 of the settlement agreement (special lump sum awards) took effect on the signature date of the settlement agreement (being the date on which the settlement agreement was signed by the last of the parties). The signature date was 11 December 2019. The signature of the settlement agreement by the TSDBF and the granting of the first of the special lump sum awards paid by the TSDBF in December 2019 required the following:
- 44.1. The authorisation by the board of trustees of the TSDBF of the conclusion of the settlement agreement; and
- 44.2. Transnet's approval (as the relevant employer company of the TSDBF).
45. These were duly obtained. Transnet's approval was obtained by virtue of its signature of the settlement agreement. This was expressly incorporated into clause 13.1 of the settlement agreement, which provides as follows: "To the extent that any undertaking



by Transnet in clauses 2.6, 2.7, 5.3, 6.2.3, 6.5, 6.6, 7.1, 7.3, 8.2, 8.4, 9.2 and 9.3, would, but for the signature of this Agreement by Transnet otherwise require an approval, consent of or the exercise of a discretion by Transnet in terms of any law, any rules of the Funds or any other governance instrument, such approval, consent or discretion is given and/or exercised by Transnet by its signature of this Agreement. To the extent that Transnet's approval, consent or exercise of discretion is required for the Funds to give effect to any of the undertakings in clauses 3.1, 3.2, 3.3, 4.2, 4.3 and 4.4, such approval or consent is, by its signature of this Agreement hereby duly granted, and such discretion is hereby duly exercised, by Transnet. To the extent that any such approval, consent or exercise of discretion was given or made by Transnet prior to the signature of this Agreement by Transnet, this clause 13.1 serves as a confirmation of such approval or consent or exercise of discretion."

46. The further implementation of the settlement agreement by the TSDBF, including the settlement benefits in terms of clause 4 of the settlement agreement (pension increases), the value transfer from the TSF to the TSDBF in terms of clause 6 of the settlement agreement and the full and final settlement of the Plaintiffs' claims in terms clause 5 of the settlement agreement requires the following:

46.1. The granting of an unconditional order of court making the settlement agreement an order of court and binding the members of the Class and each of the Applicants to the terms of the settlement agreement. This is the purpose of the current application; and

46.2. The approval of the Minister of Public Enterprises, with the concurrence of the Minister of Finance, of the draft rule amendments to the rules of the TSDBF as set out in Schedule 5 to the settlement agreement. These approvals have not yet been attained.

- 47. The settlement provides immediate financial benefits to all pensioners of the TSDBF by way of the special lump sum awards granted and paid in December 2019. Two further lump-sum payments will accrue to Pensioners of the TSDBF and be paid on dates to be targeted in December 2020 and December 2021. In addition, the special increase of pensions over three years will have the effect of a base uplift in all pensions. This has the effect that future increases in pensions will be granted off an increased base pension. In addition, as a result of the amendment of the rules of the TSDBF and the amendment of the pension increase policy, the TSDBF will be aiming for inflation-targeting increases. Granting such increases after the initial 3 year period in excess of 2% will be subject to their affordability. These enhanced benefits collectively will contribute to alleviating the dire financial position of all of the pensioners of the TSDBF.

- 48. As described above, the TSDBF has sought to alleviate some of the financial strain of inflation in the past by paying discretionary 13th and 14th cheques to its pensioners. The benefit enhancements contemplated by the settlement agreement will require that this practice be revisited. Any such future payments would be subject to their affordability.

- 49. In real terms, the financial impact on the TSDBF Pensioners can be seen by way of the following example:
 - 49.1. As indicated in paragraph 37, the average annual pension of a member of the TSDBF is R32,198, which equates to an average monthly pension of approximately R2,683.

 - 49.2. In receiving a lump-sum payment of R10 000 in December 2019, a Pensioner (Pensioner W) receiving an average annual pension of R32,198 would

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therefore have received a lump-sum payment of just over 31% of his/her annual pension and approximately 273% more than his/her monthly pension.

- 49.3. In receiving a total increase of 13.22% (a special increase of 11% in terms of the settlement agreement in addition to the statutory minimum increase of 2%) in the first year after the effective date of the settlement agreement, the annual pension of Pensioner W of R32,198 should increase by R4,256.58 (i.e. Pensioner W will receive an annual pension of approximately R36,454.58 for that year).
- 49.4. In receiving a total increase of 9.14% (a special increase of 7% in terms of the settlement agreement in addition to the statutory minimum increase of 2%) in the second year after the effective date of the settlement agreement, the annual pension of Pensioner W of R36,454.58 (following the increase of 13.22% in the previous year) should increase by approximately R3,331.95 (i.e. Pensioner W will receive an annual pension of approximately R39,786.52 for that year).
- 49.5. In receiving a total increase of 6.08% (a special increase of 4% in terms of the settlement agreement in addition to the statutory minimum increase of 2%) in the third year after the effective date of the settlement agreement, the annual pension of Pensioner W of R39,786.52 (following the increase of 9.14% in the previous year) should increase by approximately R2,419.02 (i.e. Pensioner W will receive an annual pension of approximately R42,205.54 for that year).
- 49.6. The effect of granting each special increase in addition to the 2% statutory minimum increase in each of the three years in which a special increase will

be granted in terms of the settlement agreement is that Pensioner W will have received a cumulative increase of 31.08% over the three years.

49.7. In addition to the pension increases described in the above paragraphs, Pensioner W will receive three lump-sum payments of R10 000 each.

49.8. Pensioner W cannot, however, expect that 13th or 14th cheques will be paid in the initial 3 year period. Any such payments will be subject to affordability.

The terms of the settlement agreement as they relate to the TPF

50. The TPF is governed by the TPF Act and a set of general rules (the "General Rules"). Each sub-fund of the TPF is governed by the TPF Act, the General Rules and a set of unique special rules applicable to the relevant sub-fund ("Special Rules"). A copy of the prevailing General Rules is attached as Annexure "SA7" to this affidavit. The prevailing Special Rules in respect of the TSF are attached as Annexure "SA8", the prevailing Special Rules in respect of the PRASA Sub-Fund are attached as Annexure "SA9" and the prevailing Special Rules in respect of the SAA Sub-Fund are attached as Annexure "SA10".
51. As already described, the TPF comprises three sub-funds, namely the TSF, the PRASA Sub-Fund and the SAA Sub-Fund. Each sub-fund board may appoint four members from amongst their number to be trustees on the main board of the TPF. The board of trustees of the TPF, assisted by its Principal Officer, is responsible for the governance of the TPF. The Principal Officer is appointed by Transnet.
52. Each sub-fund of the TPF has a different employer company – the relevant employer company in respect of the TSF is Transnet, the relevant employer company in respect of the SAA Sub-Fund is SAA and the relevant employer company of the PRASA Sub-



Fund is PRASA. Each sub-fund has its own board of trustees and set of Special Rules. In terms of section 4A(5) of the TPF Act, the board of the trustees of the TPF "shall direct and oversee the operations of the TPF, subject to the [TPF Act] and the [General Rules and Special Rules] and without derogating from the powers of a sub-fund board". Section 4A(6) to section 4A(13) (inclusive) further regulate the relationship between the TPF and each sub-fund of the TPF, including in respect of the financial obligations owed by each principal employer of each sub-fund. Section 4A(12) and section 4A(13) of the TPF Act provide as follows:

"4A(12) A principal employer is liable to the Transport Pension Fund for the payment of benefits due to members, pensioners and dependent pensioners of that subfund to the extent that the assets of the subfund are not sufficient to meet the benefits due."

4A(13) An employer's liability to the Transport Pension Fund are limited to those attributable to its members, pensioners and dependent pensioners assigned to its subfund."

53. The TPF Act requires in section 4A(6)(b)(iii) that the Special Rules of a sub-fund provide for (amongst other things) the benefits payable by the TPF to the members assigned to the sub-fund. The Special Rules and policies of each sub-fund are accordingly distinct, including in relation to the rules and policies governing pension increases. The pensioner profiles and funding levels of each sub-fund also vary.

54. There is one principal officer and one valuator appointed by the TPF. The valuator performs actuarial valuations for the TPF as a whole as well as separate valuations in respect of each sub-fund. The valuator of the TPF (and each sub-fund) is Mir Andre Pienaar of Alexander Forbes, who is also the valuator for the TSDBF.

Mir Andre Pienaar

55. The assets and liabilities of each sub-fund of the TPF are ring-fenced and accordingly, the benefits payable to the Pensioners of the TPF are funded from the assets of the relevant sub-fund. The enhanced benefits to be granted by the TPF in terms of the settlement agreement are similarly to be funded by the ring-fenced assets of the relevant sub-fund to which the enhanced benefits relate.
56. The latest actuarial valuation for the TPF is the actuarial valuation as at 31 March 2019 and is attached as Annexure "SA11" to this affidavit. Similarly, the valuations in respect of each sub-fund are attached as Annexure "SA12" (TSF), Annexure "SA13" (PRASA Sub-Fund) and Annexure "SA14" (SAA Sub-Fund).
57. The entry into the settlement agreement by the TPF required the authorisation of the board of trustees of the TPF. This was duly obtained.

The terms of the settlement agreement as they relate to the TSF

58. The TSF is governed by the TPF Act, the General Rules and its Special Rules.
59. The relevant employer company in respect of the TSF is Transnet. In terms of section 4A(12) and section 4A(13) of the TPF Act (quoted in paragraph 52 above), Transnet, as the relevant employer company of the TSF effectively underwrites the payment of benefits due to the members of the TSF to the extent that the assets of the TSF are insufficient to meet the benefits due.
60. As stated in paragraph 44 above, clause 3 of the settlement agreement (special lump sum awards) took effect on the signature date of the settlement agreement, which was 11 December 2019. The granting of the first of the special lump sum awards paid to the Pensioners of the TSF in December 2019 required the following:

- 60.1. The approval of the board of trustees of the TSF; and

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- 60.2. The approval of the relevant employer company of the TSF, namely Transnet.
61. The above approvals were duly obtained. As explained in paragraph 45, Transnet's approval was obtained by virtue of its signature of the settlement agreement. This was expressly incorporated into clause 13.1 of the settlement agreement, which clause is set out in full in paragraph 45.
62. The further implementation of the settlement agreement in respect of the TSF, including the settlement benefits which will be payable to the Pensioners of the TSF in terms of clause 4 of the settlement agreement (pension increases), the value transfer from the TSF to the TSDBF in terms of clause 6 of the settlement agreement and the full and final settlement of the Plaintiffs' claims in terms clause 5 of the settlement agreement requires the following:
- 62.1. The granting of an unconditional order of court making the settlement agreement an order of court and binding the members of the Class and each of the Applicants to the terms of the settlement agreement. This is the purpose of the current application; and
- 62.2. The approval of the Minister of Public Enterprises, with the concurrence of the Minister of Finance, of the draft rule amendments to the rules of the TSF as set out in Schedule 5 to the settlement agreement. These approvals have not yet been attained.
63. The following is a tabulated summary of the pensioner and beneficiary profile of the TSF as at 31 March 2019, as extracted from the latest actuarial valuation of the TSF. This table also depicts the position of the TSF relative to the TPF as a whole.



	<u>TSE</u>	<u>TPF (Total Fund)</u>
Number of Active Members:	137	208
Total number of Pensioners:	4214	5376
Total number of Former Active Members:	2173	2847
Total number of spouse dependants:	1932	2396
Total number of children dependants:	109	133
Average pensioner age (pension weighted)	68.7	68.7
Average annual pension:	R63,594	R78,748

64. The latest actuarial valuation for the TSE is the actuarial valuation as at 31 March 2019 and is attached as Annexure "5A12" to this affidavit. The funding level of the TSE as at 31 March 2019 was 215.15%.

65. The enhanced benefits to be granted to the Pensioners of the TSE in terms of the settlement agreement are identical to those to be granted to the Pensioners of the TSDBF. Accordingly, the enhanced benefits to be provided to the Pensioners of the TSE will include base uplifts to the pensions of each Pensioner of the TSE. This will be phased in across three years as described in paragraph 30.2 above and each special annual increase will be in addition to the 2% minimum annual increase granted. The

effect is that each Pensioner of the TSF that is still receiving a pension when the final increase is effected will have received a cumulative increase of 31.08% over the three years. In addition, the Pensioners of the TSF will each have received a special lump-sum award of R10 000 in December 2019. Two further lump-sum payments will accrue to Pensioners of the TSF and be paid on dates to be targeted in December 2020 and December 2021. Thereafter, the TSF will follow a policy of targeting (but not guaranteeing) annual pension increases which are 70% of inflation.

66. As the assets and liabilities of each of the sub-funds of the TPF are ring-fenced, the enhanced benefits to be granted to the Pensioners of the TSF will be funded solely from assets of the TSF.

67. The valuator of the TSF has assessed the cost of and affordability for the TSF of the benefit enhancements to be granted in terms of the settlement agreement. As indicated in his report dated 13 September 2019 attached as Annexure "SA15" to this affidavit:

67.1. The enhanced benefits contemplated by the settlement are affordable for the TSF. Were the TSF to grant the enhanced benefits contemplated by the settlement agreement without the value transfer to the TSDBF, the resulting funding level of the TSF would be 158.1%.

67.2. Were the TSF to grant the enhanced benefits contemplated by the settlement agreement and make the envisaged value transfer to the TSDBF, the resulting funding level of the TSF would be 110.5%.

67.3. The valuator concludes that the TSF will still be financially sound as at 31 March 2019 if the enhanced benefits contemplated by the settlement agreement and the value transfer are implemented.



- 67.4. The valuator estimates the amount required to be transferred from the TSF to the TSDBF to ensure that as at 1 April 2019 the funding levels of the TSF and the TSDBF are equal (the "Equalisation Amount") to be an amount of R1.76 billion (less returns to be added to this amount from 1 April 2019 to the date on which the transfer of such amount is in fact effected). One significant return that will be taken into account in respect of the TSDBF is the overall value to the TSDBF of the settlement reached by the TSDBF with Regiments Capital Proprietary Limited and other related parties in November 2019. This settlement was implemented after the estimates were made and has not been taken into account in the preparation of the estimates. The overall value to the TSDBF of the recovery at the time that the estimates were made was in excess of R630 million. Once the value of this recovery is taken into account it will substantially reduce the Equalisation Amount to be transferred from the TSF to the TSDBF.
68. The value transfer from the TSF to the TSDBF is dealt with in further detail in paragraph 93 to paragraph 95 below.
69. As the table set out in paragraph 63 above depicts, in comparison to the TPF as a whole:
- 69.1. The TSF has the greatest proportion of pensioner members (4214 out of a total number of 5376, which is approximately 78.39% of all pensioners of the TPF as at 31 March 2019).
- 69.2. The TSF has the greatest proportion of former active members (2173 out of a total number of 2847, which is approximately 76.33% of all former active members of the TPF as at 31 March 2019).

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- 69.3. The average annual pension of the pensioners of the TSF is R63,594, which is less than the average annual pension in respect of the TPF as a whole (being an amount of R78,748).
70. In real terms, the financial impact on the TSF Pensioners can be seen by way of the following example:
- 70.1. As indicated in the table set out in paragraph 63, the average annual pension of a Pensioner of the TSF is R63,594, which equates to an average monthly pension of approximately R5,299.50.
- 70.2. In having received a lump-sum payment of R10 000 in December 2019, a Pensioner (Pensioner X) receiving an average annual pension of R63,594 would therefore have received a lump-sum payment of approximately 15.72% of his/her annual pension and approximately 88.70% more than his/her monthly pension.
- 70.3. In receiving a total increase of 13.22% (a special increase of 11% in terms of the settlement agreement in addition to the statutory minimum increase of 2%) in the first year after the effective date of the settlement agreement, the annual pension of Pensioner X of R63,594 should increase by R8,407.13 (i.e. Pensioner X will receive an annual pension of approximately R72,001.13 for that year).
- 70.4. In receiving a total increase of 9.14% (a special increase of 7% in terms of the settlement agreement in addition to the statutory minimum increase of 2%) in the second year after the effective date of the settlement agreement, the annual pension of Pensioner X of R72,001.13 (following the increase of 13.22% in the previous year) should increase by approximately R6580.90 (i.e.

Pensioner X will receive an annual pension of approximately R78,582.03 for that year).

70.5. In receiving a total increase of 6.08% (a special increase of 4% in terms of the settlement agreement in addition to the statutory minimum increase of 2%) in the third year after the effective date of the settlement agreement, the annual pension of Pensioner X of R78,582.03 (following the increase of 9.14% in the previous year) should increase by approximately R4,777.79 (i.e. Pensioner X will receive an annual pension of approximately R83,359.82 for that year).

70.6. The effect of granting each special increase in addition to the 2% statutory minimum increase in each of the three years in which a special increase will be granted in terms of the settlement agreement is that Pensioner X will have received a cumulative increase of 31.08% over the three years.

70.7. In addition to the pension increases described in the above paragraphs, Pensioner X will receive three lump-sum payments of R10 000 each.

70.8. Pensioner X cannot, however, expect that 13th or 14th cheques will be paid in the initial 3 year period. Any such payments will be subject to affordability.

The terms of the settlement agreement as they relate to the PRASA Sub-Fund

71. The PRASA Sub-Fund is governed by the TPF Act, the General Rules and its Special Rules.

72. The relevant employer company in respect of the PRASA Sub-Fund is PRASA. In terms of section 4A(12) and section 4A(13) of the TPF Act, PRASA, as the relevant employer company of the PRASA Sub-Fund effectively underwrites the payment of

benefits due to the members of the PRASA Sub-Fund to the extent that the assets of the PRASA Sub-Fund are insufficient to meet the benefits due.

73. As stated in paragraph 44 above, clause 3 of the settlement agreement (special lump sum awards) took effect on the signature date of the settlement agreement, which was 11 December 2019. The granting of the first of the special lump sum awards paid to the Pensioners of the PRASA Sub-Fund in December 2019 required the following:

73.1. The authorisation of the board of trustees of the PRASA Sub-Fund, which was duly obtained; and

73.2. The approval of the relevant employer company of the PRASA Sub-Fund, namely PRASA. This approval was duly sought and obtained from PRASA. A copy of this approval is attached as Annexure "SA16" to this affidavit.

74. The further implementation of the settlement agreement in respect of the PRASA Sub-Fund, including the settlement benefits which will be payable to the Pensioners of the PRASA Sub-Fund in terms of clause 4 of the settlement agreement (pension increases) and the full and final settlement of the Plaintiffs' claims in terms clause 5 of the settlement agreement requires the following:

74.1. The granting of an unconditional order of court making the settlement agreement an order of court and binding the members of the Class and each of the Applicants to the terms of the settlement agreement. This is the purpose of the current application; and

74.2. The approval of the Minister of Public Enterprises, with the concurrence of the Minister of Finance, of the draft rule amendments to the rules of the PRASA Sub-Fund. These approvals have not yet been obtained. Should all the



conditions to the implementation of the settlement agreement have been satisfied other than the ministerial approval required in relation to the PRASA Sub-Fund, the Pensioners of the PRASA Sub-Fund shall be entitled to the enhanced benefits to be provided by the PRASA Sub-Fund by way of the special pension increases in terms of clause 4 of the settlement agreement with effect from the same date as that from which all other members of the Class received such pension increases. If the payment of increased pensions takes effect after the increases to the other Pensioners of the TPF as a result of the requisite ministerial approval being received after the ministerial approvals required in respect of the TSDBF and TSF, the Pensioners of the PRASA Sub-Fund will be entitled to a once-off payment equal to the amount of the increase to pensions that would have been paid had the required ministerial approval been obtained prior to the effective date of the settlement agreement.

75. The following is a tabulated summary of the pensioner and beneficiary profile of the PRASA Sub-Fund as at 31 March 2019, as extracted from the latest actuarial valuation of the PRASA Sub-Fund. This table also depicts the position of the PRASA Sub-Fund relative to the TPF as a whole.

	<u>PRASA Sub-Fund</u>	<u>TPF (Total Fund)</u>
Number of Active Members:	25	208
Total number of Pensioners:	865	5376
Total number of Former Active Members:	431	2847

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	<u>PRASA Sub-Fund</u>	<u>TPF (Total Fund)</u>
Total number of spouse dependants:	416	2396
Total number of children dependants:	18	133
Average pensioner age (pension weighted)	68.2	68.7
Average annual pension:	R53,341	R78,748

76. The latest actuarial valuation for the PRASA Sub-Fund is the actuarial valuation as at 31 March 2019 and is attached as Annexure "SA13" to this affidavit. The funding level of the PRASA Sub-Fund as at 31 March 2019 was 227.6%.

77. The enhanced benefits to be granted to the Pensioners of the PRASA Sub-Fund in terms of the settlement agreement are identical to those to be granted to the Pensioners of the TSDBF and the TSF. Accordingly, the enhanced benefits to be provided to the Pensioners of the PRASA Sub-Fund will include a base uplift to the pensions of each Pensioner of the PRASA Sub-Fund. This base uplift will be phased in across three years as described in paragraph 30.2 above and each special annual increase will be in addition to the 2% minimum annual increase granted. The effect is that each Pensioner of the PRASA Sub-Fund that is still receiving a pension when the final increase is effected will have received a cumulative increase of 31.08% over the three years. In addition, the Pensioners of the PRASA Sub-Fund will each have received a special lump-sum award of R10 000 in December 2019. Two further lump-sum payments will accrue to Pensioners of the PRASA Sub-Fund and be paid on dates

to be targeted in December 2020 and December 2021. Thereafter, the PRASA Sub-Fund will continue to follow a policy of targeting (but not guaranteeing) annual pension increases which are 70% of inflation.

78. As the assets and liabilities of each of the sub-funds of the TPF are ring-fenced, the enhanced benefits to be granted to the Pensioners of the PRASA Sub-Fund will be funded solely from assets of the PRASA Sub-Fund.

79. The valuator of the PRASA Sub-Fund has assessed the cost of and affordability for the PRASA Sub-Fund of the benefit enhancements to be granted in terms of the settlement agreement. As indicated in his report (see proposal 2 set out therein) dated 16 September 2019 attached as Annexure "SA17" to this affidavit:

79.1. The enhanced benefits contemplated by the settlement are affordable for the PRASA Sub-Fund. Were the PRASA Sub-Fund to grant the enhanced benefits contemplated by the settlement agreement, the resulting funding level of the PRASA Sub-Fund would be 187.8%.

79.2. The valuator concludes that the PRASA Sub-Fund will be financially sound as at 31 March 2019 if the enhanced benefits contemplated by the settlement agreement are implemented.

80. In real terms, the financial impact on the PRASA Sub-Fund Pensioners can be seen by way of the following example:

80.1. As indicated in the table in paragraph 75, the average annual pension of a Pensioner of the PRASA Sub-Fund is R53,341, which equates to an average monthly pension of approximately R4,445.08.

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- 80.2. In receiving a lump-sum payment of R10 000 in December 2019, a Pensioner (Pensioner Y) receiving an average annual pension of R53,341 would therefore have received a lump-sum payment of approximately 18.75% of his/her annual pension and approximately 124.97% more than his/her monthly pension.
- 80.3. In receiving a total increase of 13.22% (a special increase of 11% in terms of the settlement agreement in addition to the statutory minimum increase of 2%) in the first year after the effective date of the settlement agreement, the annual pension of Pensioner Y of R53,341 should increase by R7,051.68 (i.e. Pensioner Y will receive an annual pension of approximately R60,392.68 for that year).
- 80.4. In receiving a total increase of 9.14% (a special increase of 7% in terms of the settlement agreement in addition to the statutory minimum increase of 2%) in the second year after the effective date of the settlement agreement, the annual pension of Pensioner Y of R60,392.68 (following the increase of 13.22% in the previous year) should increase by approximately R5,519.89 (i.e. Pensioner Y will receive an annual pension of approximately R65,912.57 for that year).
- 80.5. In receiving a total increase of 6.08% (a special increase of 4% in terms of the settlement agreement in addition to the statutory minimum increase of 2%) in the third year after the effective date of the settlement agreement, the annual pension of Pensioner Y of R65,912.57 (following the increase of 9.14% in the previous year) should increase by approximately R4,007.48 (i.e. Pensioner Y will receive an annual pension of approximately R69,920.06 for that year).



80.6. The effect of granting each special increase in addition to the 2% statutory minimum increase in each of the three years in which a special increase will be granted in terms of the settlement agreement is that Pensioner Y will have received a cumulative increase of 31.08% over the three years.

80.7. In addition to the pension increases described in the above paragraphs, Pensioner Y will receive three lump-sum payments of R10 000 each.

The terms of the settlement agreement as they relate to the SAA sub-fund

81. The SAA Sub-Fund is governed by the TPF Act, the General Rules and its Special Rules.
82. The relevant employer company in respect of the SAA Sub-Fund is SAA. In terms of section 4A(12) and section 4A(13) of the TPF Act, SAA, as the relevant employer company in respect of the SAA Sub-Fund effectively underwrites the payment of benefits due to the members of the SAA Sub-Fund to the extent that the assets of the SAA Sub-Fund are insufficient to meet the benefits due.
83. The following is a tabulated summary of the pensioner and beneficiary profile of the SAA Sub-Fund as at 31 March 2019, as extracted from the latest actuarial valuation of the SAA Sub-Fund. This table also depicts the position of the SAA Sub-Fund relative to the TPF as a whole.

	<u>SAA Sub-Fund</u>	<u>TPF (Total Fund)</u>
Number of Active Members:	46	208
Total number of Pensioners:	297	5376

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	<u>SAA Sub-Fund</u>	<u>TPF (Total Fund)</u>
Total number of Former Active Members:	243	2847
Total number of spouse dependants:	48	2396
Total number of children dependants:	6	133
Average pensioner age (pension weighted)	69.1	68.7
Average annual pension:	R367,758	R78,748

84. The latest actuarial valuation for the SAA Sub-Fund is the actuarial valuation as at 31 March 2019 and is attached as Annexure "SA14" to this affidavit. The funding level of the SAA Sub-Fund as at 31 March 2019 was 130.5%.
85. The enhanced benefits to be granted to the Pensioners of the SAA Sub-Fund in terms of the settlement agreement differ from those to be granted to the Pensioners of the TSF and the PRASA Sub-Fund. In respect of the TSF and PRASA Sub-Fund, all of the pensions are to be increased by fixed percentages that are phased in over a three year period. This will have the result that the same pension increases are awarded to all Pensioners of these sub-funds regardless of the duration for which the Pensioner has been in receipt of a pension and regardless of the actual increases that have been awarded relative to annual year on year inflation.

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86. The estimate of Mr Pienaar was that the implementation of this approach for the SAA Sub-Fund would have been reduction of that sub-fund's funding level to approximately 106%. At the instance of the board of trustees of the SAA Sub-Fund, the settlement agreement includes a different approach to the other sub-funds of the TPF. Rather than an across the board increase, the pension increases to be granted to the Pensioners of the SAA Sub-Fund in terms of the settlement agreement will seek to catch each Pensioner up to the pension that that Pensioner would have received had the SAA Sub-Fund increased pensions each year by 70% of CPI since that pension was first paid. This increase will be granted as a once-off increase rather than across a period of three years. The SAA Sub-Fund will furthermore continue to target annual pension increases of 75% of CPI, in terms of its prevailing pension increase policy.

87. As the assets and liabilities of each of the sub-funds of the TPF are ring-fenced, the enhanced benefits to be granted to the Pensioners of the SAA Sub-Fund will be funded solely from assets of the SAA Sub-Fund

88. The valuator of the SAA Sub-Fund has assessed the cost of and affordability for the SAA Sub-Fund of the benefit enhancements to be granted in terms of the settlement agreement. As indicated in his report (see proposal 2 set out therein) dated 29 October 2019 attached as Annexure "SA18" to this affidavit:

88.1. The enhanced benefits contemplated by the settlement are affordable for the SAA Sub-Fund. Were the SAA Sub-Fund to grant the enhanced benefits contemplated by the settlement agreement, the resulting funding level of the SAA Sub-Fund would be 114.0%.



- 88.2. The valuator concludes that the SAA Sub-Fund will be financially sound as at 31 March 2019 if the enhanced benefits contemplated by the settlement agreement are implemented.
89. The SAA Sub-Fund required the authorisation of the board of trustees of the SAA Sub-Fund for the entry into the settlement agreement (which was duly obtained) and the approval its employer company, SAA, for the granting by of the first set of special lump-sum awards to the Pensioners of the SAA Sub-Fund and the special increases to be granted in terms of the settlement agreement. This approval from SAA was sought but has not, as yet, been obtained. On 5 December 2019 SAA was officially placed in business rescue. The Companies and Intellectual Property Commission appointed Mr Les Matuson of Matuson Associates as the business rescue practitioner for SAA. Despite numerous attempts, it has proven practically difficult to obtain the necessary employer approval in the current circumstances and at a time when the company and the business rescue practitioner are no doubt focusing all their efforts on rescuing the company. It is not anticipated, however, that this approval will not be forthcoming at all.
90. The difficulties that were encountered in obtaining the necessary employer approval from SAA in December 2019 in respect of the payment of the first set of special lump-sum awards were anticipated by the Funds and addressed by the parties to the settlement agreement in clause 3.11 of the settlement agreement. Clause 3.11 provides that the *"obligation of the TPF to pay the amounts contemplated in this clause 3 to the Pensioners who receive pensions from the SAA sub-fund of the TPF shall be suspended until such time as the SAA sub-fund has received the necessary employer approval in terms of its Rules to pay those amounts"*.



- 91. Accordingly, as soon as the necessary employer approval is received by the SAA Sub-Fund, the first set of special lump-sum awards will be payable to each Pensioner of the SAA Sub-Fund.
- 92. This arrangement made it possible to ensure that the vast majority of the recipients of the R10 000 special lump sum award (those receiving pensions from the TSDBF, TSF and PRASA sub-fund) could receive those payments in December 2019 without SAA's business rescue causing further delay.

Transfer of assets from TSF to TSDBF and future merger

93. As explained in paragraph 41 above, the TSDBF cannot afford the enhanced benefits contemplated by the settlement agreement without a value transfer from the TSF to the TSDBF. The value transfer is conditional upon:

93.1. The rule amendments required to be adopted and effective for the TSDBF and the TSF to provide the enhanced benefits to the Pensioners of the TSDBF and the TSF by way of the special lump-sum payments and special pension increases will have been adopted and will be effective; and

93.2. The settlement agreement having been made an order of court.

94. The settlement agreement envisages that the following steps are completed by the fifth business day after the date on which the last condition to the implementation of the settlement agreement is fulfilled or waived (unless another date is agreed between that parties as the "effective date" of the settlement agreement):

94.1. The TPF shall instruct the valuator of the TPF to determine the amount of "Actuarial Surplus" of the TSF in accordance with the General Rules and the Special Rules of the TSF;

94.2. The TPF and the TSDBF shall instruct the valuator of the TPF and the TSDBF to determine:

94.2.1. the amount ("Transfer Value") required to be transferred from the TSF to the TSDBF on the Transfer Date (defined below) so that the funding levels of the TSDBF and the TSF as at the Transfer Date are the same, on the basis that the TSDBF and the TSF are deemed to have been legally obliged on the Transfer Date to pay the enhanced benefits described in clause 3 and clause 4 of the settlement agreement (namely, the special lump-sum awards and the pension increases respectively). As noted in paragraph 67.4, in his report of 13 September 2019, the valuator of the TPF estimated the amount required to be transferred from the TSF to the TSDBF to be an amount of R1.76 billion. The actual amount to be transferred by the TSF to the TSDBF will be affected by the recovery from the litigation with Regiments that is referred to in paragraph 67.4 above;

94.2.2. the date ("Transfer Date") on which the Transfer Value is to be determined and the transfer of "Allocated Assets" (defined below) is to be effected.

94.3. Although determined by the valuator of the TPF and the TSDBF, the Transfer Date and the Transfer Amount are to be reasonably confirmed by an actuary nominated and appointed by Transnet.

94.4. The TSF shall allocate the Transfer Value to the "Employer Surplus Reserve" of the TSF. The Employer Surplus Reserve is a special reserve account



established or to be established by the TSF in terms of Special Rule 19.1.2 of the Special Rules of the TSF.

94.5. In terms of Special Rule 19.2, "*[i]f, 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, the Employer Surplus Reserve, or to both in such a manner as the Sub-Fund Board, with the consent of the Principal Employer, determines*".

94.6. In terms of Special Rule 19.5.2, the monies standing to the credit of the Employer Surplus Reserve may at the discretion of Transnet, as the principal employer of the TSF 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*". This provision is subject to Special Rule 19.7, which addresses the application of monies standing to the credit of the Pensioner Surplus Reserve and the Employer Surplus Reserve in circumstances where the actuary determines that the TSF is underfunded and it is unlikely to be restored to "full funding" within a reasonable period of time. As the funding level of the TSF as at 31 March 2019 was 215.1%, Special Rule 19.7 does not apply.

94.7. Transnet is relevant employer company in respect of the TSDBF and as such underwrites the benefits payable by the TSDBF. Accordingly, unless the actuary (being the valuator of the TSF, namely Mr Andre Pienaar of Alexander Forbes) is of the opinion that it would be imprudent to do so, the board of the TSF may allocate any portion of the Actuarial Surplus the actuary deems



reasonable to make to allocation to the Employer Surplus Reserve. The confirmatory affidavit of Mr Andre Pienaar confirms that, in his opinion, it is not imprudent for the TSF to allocate a portion of the Actuarial Surplus equal to the Transfer Value to the Employer Surplus Reserve for purposes of implementing the settlement agreement. A copy of Mr Pienaar's affidavit is filed herewith.

- 94.8. In consultation with the valuator of the Funds, the TPF and the TSDBF shall identify assets of the TSF to be transferred to the TSDBF (such assets, the "Allocated Assets") on account of the obligation of the TSF to transfer the Transfer Value to the TSDBF on the Transfer Date. The value of the Allocated Assets, as agreed by the TPF and the TSDBF, shall equal the Transfer Value.
- 94.9. The TSF shall transfer the Allocated Assets directly to the TSDBF in terms of Special Rule 19.5.2 as at the Transfer Date.
- 94.10. The TSDBF shall receive the Allocated Assets from the TSF on the Transfer Date as a once-off contribution from Transnet in terms of Rule 3(5) as read with Rule 9(2) of the TSDBF Rules. Rule 3(5) of the TSDBF Rules provides that "*[n]o Pensioner, Special Pensioner or Beneficiary shall contribute to this fund: Provided that Transnet, if the Board of Trustees deems this necessary after consultation with the actuary, shall contribute to the Fund.*" Rule 9(2) of the TSDBF Rules provides that "*[t]he Board may take any action (including the control of finances and the administration of the Fund) not specifically provided for in these Rules that may be necessary to achieve the objects of the Fund provided that such action is not inconsistent with the Act or these Rules.*"



- 94.11. It is recorded in clause 6.6 of the settlement agreement that Transnet's signature of the settlement agreement constitutes (i) the consent contemplated in Special Rule 19.2 as well as (ii) Transnet's agreement to exercise its discretion in terms of Special Rule 19.5 so as to transfer all of the monies standing to the credit of the Employer Surplus Reserve to the TSDBF.
95. Following the implementation of the above steps the funding levels of both the TSDBF and the TSF will equal or exceed the funding level required to ensure that the benefit enhancements contemplated by the settlement agreement are affordable.
96. This notwithstanding, the Funds, Transnet and the First and Second Applicant believe that it would be desirable to consolidate the assets, liabilities and membership of the TSDBF and the TSF in due course in order to give full effect to the undertakings in clause 3 (special lump-sum payments) and clause 4 (pension increases) of the settlement agreement on a financially sound and sustainable basis. The equalisation of the funding levels of the TSF and the TSDBF by way of a transfer of assets from the TSF to the TSDBF as described above is the first step towards the consolidation of the assets, liabilities and members of the TSF and TSDBF.
97. As the process of consolidating the assets, liabilities and members of the TSDBF and the TSF will be a complicated and intricate one, it is important for the Funds to be able to take decisions and steps required to implement the consolidation in an efficient manner and without unnecessary extrinsic impediments. Clause 7.2 of the settlement agreement accordingly binds the Class Representatives and Geyser & Coetzee Attorneys (the "Class Legal Representative") not to oppose, frustrate, impede, delay or challenge any of the steps required to achieve the



consolidation, including any further rule amendments that may be required, board resolutions, ministerial or parliamentary actions, including the enactment, amendment or repeal of legislation or regulations.

Benefit to funds and members, particularly compared with continuing the litigation

98. Litigation, particularly class action litigation, is expensive and time-consuming. Continuing to trial in the present matter would only increase these costs and more time would elapse before any possible relief might be granted in favour of the Plaintiffs, if indeed the outcome of the litigation was to that effect. There is no certainty, however, that the Plaintiffs would be successful with any of their claims or be awarded any form of compensation. In addition, given the high average ages of the Funds, the pool of class members standing to benefit from any possible award would have shrunk considerably by the time that any such award may be granted. This is evident when one has regard to the average age of the Pensioners of each of the TSDBF and the sub-funds of the TPF as well as the mortality rates per age band of each of the Funds as depicted in Table 1, Table 2 and Table 3 below (all data extracted from the actuarial valuations of the relevant Fund as at 31 March 2019).

99. Set out in Table 1 below is a tabulated summary of the average Pensioner age in respect of each of the TSDBF, the TSF, the PRASA Sub-Fund and the SAA Sub-Fund as at 31 March 2019 and how this compares to the position as at 31 March 2018. Set out in Table 2 below is the average annual Pensioner death rate per stated age band of the TSDBF as at 31 March 2019 and set out in Table 3 below is a comparative summary of the expected post-retirement mortality rates across the TSF, the PRASA Sub-Fund and the SAA Sub-Fund. What is evident when Table 1, Table 2 and Table 3 are considered collectively is that the average Pensioner age within each Fund has increased from the position in 2018 (and will continue to do so given that both the

TSDBF or TPF are closed to new members) and that the death rate increases as the stated age band increases. This trend is the perhaps best emphasised with reference to the TSDBF membership. As reflected in Appendix 2 of the TSDBF Actuarial Valuation as at 31 March 2019 prepared by Alexander Forbes (attached as Annexure "SA5" to this affidavit):

99.1. As at 31 March 2018, the total number of members of the TSDBF was 49,914 (the initial estimate was 49,908, which was subsequently revised to 49,914);

99.2. The total number of members as at 31 March 2019 was 46,955; and

99.3. In the year from 31 March 2018 to 31 March 2019, the number of exits from the Fund as a result of "deaths and terminations" was 3,720.

Table 1: Average Pensioner age across the Funds:

	TSDBF	TSF	PRASA Sub-Fund	SAA Sub-Fund	
Average pension weighted age (31 March 2019):	Male Pensioners	79.4 years	68.7 years	68.2 years	69.1 years
	Female Pensioners	78.3 years			
	Male spouses	65.7 years			
	Female spouses	76.7 years			

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Average pension weighted age (31 March 2018):	Male pensioners	77.8 years	67.9 years	67.3 years	68.3 years
	Female pensioners	76.5 years			
	Male spouses	63.1 years			
	Female spouses	75.3 years			

Table 2: Summary of Pensioner Mortality Rates across TSDBF

Age Band	TSDBF Pensioners	
	Female (%)	Male (%)
20-24	0.26%	0.79
25-29	0.34%	1.03%
30-34	0.42%	1.27%
35-39	0.52%	1.51%
40-44	0.63%	1.75%
45-49	0.74%	1.99%
50-54	0.87%	2.24%
55-59	1.06%	2.48%
60-64	1.40%	2.72%
65-69	2.02%	3.35%
70-74	3.14%	4.95%
75-79	5.17%	7.80%
80-84	8.88%	11.89%
85-89	14.66%	17.36%
90-94	22.40%	24.80%
95 and older	30.88%	33.14%

Table 3: Comparison of Expected Post-Retirement Mortality Rates across each of the TSF, PRASA Sub-Fund and SAA Sub-Fund

Age	Male	Female
35	1.42%	0.48%
40	1.66%	0.58%
45	1.90%	0.69%
50	2.14%	0.82%
55	2.38%	0.97%
60	2.62%	1.23%

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Age	Male	Female
65	2.86%	1.72%
70	4.20%	2.59%
75	6.39%	4.18%

100. Accordingly, the sooner a fair and reasonable settlement in terms of which the Pensioner members of the Class receive tangible benefits is implemented, the better. The Funds submit that the terms of the settlement agreement are fair and reasonable and will significantly improve the financial position of the Pensioners of each of the Funds.

101. In respect of their first claim, the Plaintiffs sought an order directing Transnet and the Funds to:

101.1. increase the pensions of all the members of the Funds by an annual rate of not less than 70% of the rate of inflation with effect from 2003; and

101.2. pay arrear increases to the pensioners of the Funds with interest *a tempore morae*.

102. The terms of the settlement agreement seek to address the order sought by Plaintiffs in their first claim in a manner that is affordable and financially sustainable for the Funds and their respective employer companies:

102.1. The Pensioners of the TSDBF, TSF and PRASA Sub-Fund will each receive base uplifts to their pensions. This will be achieved by each of the TSDBF, the TSF and the PRASA Sub-Fund granting a special increase in each of the three years, as set out in paragraph 30.2. Each such increase will be granted in addition to the 2% statutory minimum increase to be granted by these funds. The effect is that each Pensioner of the TSDBF, the TSF and the PRASA Sub-Fund that is still receiving a pension when the final increase is effected will

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have received a cumulative increase of 31.08% over the three years. This effect is demonstrated in paragraph 49 (in respect of a notional Pensioner of the TSDBF), paragraph 70 (in respect of a notional Pensioner of the TSF) and paragraph 80 (in respect of a notional Pensioner of the PRASA Sub-Fund). Thereafter, each of these Funds will target pension increases of 70% of inflation. Although such future increases are not guaranteed, the pension increase policies of each of these Funds is to be amended to this end, indicating the intention of the Funds to commit to implementing this to the extent affordable for each Fund;

102.2. each Pensioner of the SAA Sub-Fund will be granted a once-off special increase in an amount which is determined by the valuator of the TPF to be the pension that Pensioner would have been entitled to on the date the increase takes effect had that Pensioner received an annual pension increase since the pension was first paid, equal to 70% of inflation. The pension increase policy of the SAA Sub-Fund is currently broadly inflation targeting and, as such, does not require amendment.

103. The settlement agreement is entirely prospective in the manner in which it seeks to address the plight of the class and improve the benefits to be granted by the Funds. The settlement agreement accordingly does not seek to meet the demand of the Plaintiffs in respect of claim 1 insofar as their demand requires the Funds to pay amounts claimed on account of alleged historical underpayments by the Funds ("back-pay"). Rather, the settlement agreement is designed to enhance base pensions as much as is feasible and sustainable, and to bolster future post-retirement earnings with additional lump-sum payments.

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104. It would be neither affordable nor financially sustainable nor practicable for the Funds to assume a liability under the settlement agreement to pay the amounts claimed on account of the alleged historical underpayments by the Funds.

Notice to interested parties

105. Interested parties – including members of the Class certified under case number 25095/2013 – are entitled to an opportunity to be heard on the reasonableness, fairness, adequacy and sustainability of the Settlement Agreement and to oppose its approval.

106. To ensure that interested parties are afforded a proper opportunity to consider the terms of the settlement agreement and to object to it if they are so inclined, the notice of motion provides for the publication of a class notice. The proposed Class Notice is substantially in accordance with Schedule 2 to the settlement agreement. It announces the proposed settlement agreement, the effect of the settlement agreement on the Class, and advises the steps that anyone with an interest in the settlement must take should they wish to participate in the application for approval of the settlement agreement. It also stipulates the date of the Return Day hearing.

107. Paragraph 3 of the notice of motion sets forth the steps that the Applicants must take to publish the Class Notice, and bring it to the attention of members of the Class, and other interested parties. Paragraph 3.1 requires the applicants, within two weeks of the Part A order, to publish the Class Notice:

107.1. on a prominent notice board at the offices of the Class Legal Representative for a period of not less than 30 calendar days;

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- 107.2. by the Funds issuing member communications to all their respective members, using their database of members' email and postal addresses. Such database is maintained by the Funds' administrator for the purpose of sending out member communications of this kind;
- 107.3. in the newspapers listed in Schedule 3 to the settlement agreement, once a week for a period of two weeks; and
- 107.4. on Transnet's website and that of the Class Legal Representative for a period of not less than 30 calendar days.
108. In addition, paragraph 3.2 requires the Class Legal Representative to publish the full text of the settlement agreement and copies of this application on their website, www.geysercoetzee.co.za, within three court days of the order being granted.
109. These methods of publication are designed, and are reasonably likely, to bring the terms of the settlement agreement and the process for objecting to it to the attention of interested parties. They provide for class members to be directly notified of the settlement agreement, either through the Class Legal Representative (who acts on behalf of all class members who have not opted out) or by way of member communication. Other interested parties will be informed of it through publications online or in widely circulating newspapers.
110. The costs associated with publication are likely to be significant because they provide for the terms of the settlement agreement and the objection process to be published widely. Transnet and the Funds will, in terms of paragraph 4 of the notice of motion, bear most of the costs of publication. The Class Legal Representative is only liable for the costs associated with publishing the Class Notice and settlement agreement on its own website and notice boards.



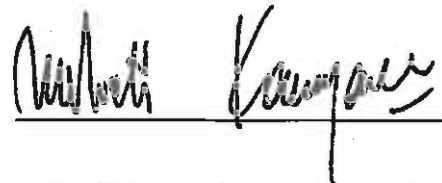
111. In addition, paragraph 9 of the notice of motion provides for the rule nisi order and a copy of the application to be served on the Minister of Public Enterprises, the Minister of Finance and the Business Rescue Practitioner for SAA. As this affidavit addresses elsewhere, their approval is required before the settlement agreement can be brought into effect. It is appropriate that they be served with the application, so that they are apprised of it and can object to it if they do not intend to provide such approvals. In the absence of objection from them, the Court can infer that such approvals will be provided in due course.

112. The Funds accordingly seek and support the order sought in the Notice of Motion.



Petrus Johannes Jakobus Maritz

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at Centurion on this the seventh day of FEBRUARY 2020, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended by R1648 of 19 August 1977, and as further amended by R1428 of 11 July 1989, having been complied with.



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TPE INCREASE SCHEDULE

SCHEDULE OF ANNUAL INCREASES IN PENSION ACCORDING TO YEAR IN WHICH PENSION COMMENCED - TRANSPORT PENSION FUND (REVENUE) & THE TRANSPORT PENSION FUND

* New increases are indicated in the shaded part of the Fund in which they were granted. For an increase granted in 1 July 1983 is indicated in the 1983 shaded financial year of the Fund.

Note: The Dates for the WMA Fund, the Combined Fund and the PMA and SAA Funds are all based on the salary 21.

Note: For the year 2013-2018 no increase is indicated in the 24 annual increases were awarded in the Transport Pension of the TPE. We have, accordingly, not added a separate line item for the shaded and the Unshaded Unshaded.

For the Combined Fund and the PMA and SAA Funds please refer to the schedule.

YEAR IN WHICH PENSION COMMENCED

Financial Year of Fund (April to March)	Year in which Pension Commenced												Average Annual Increase of Pension (1 April to 31 March)	Average Annual Increase of Pension (1 April to 31 March)	% of Average Annual Increase of Pension (1 April to 31 March)	Variance of Average Annual Increase of Pension (1 April to 31 March)	Financial Year of Fund (April to March)	
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024						
2013	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2013
2014	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2014
2015	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2015
2016	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2016
2017	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2017
2018	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2018
2019	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2019
2020	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2020
2021	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2021
2022	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2022
2023	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2023
2024	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2024

NOTES:

The years indicated in the column below the shaded part of the Fund (which runs from 1 April to 31 March next year) are the years in which the pension was granted. The years indicated in the column above the shaded part of the Fund (which runs from 1 April to 31 March next year) are the years in which the pension was granted. The years indicated in the column below the shaded part of the Fund (which runs from 1 April to 31 March next year) are the years in which the pension was granted. The years indicated in the column above the shaded part of the Fund (which runs from 1 April to 31 March next year) are the years in which the pension was granted.

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BONUS SCHEDULE

SCHEDULE OF BONUS PAYMENTS MADE BY THE RESPECTIVE FUNDS TO PENSIONERS				
Date of Bonus Payment	FUND:			
	TSDBF	TPF: Transnet Sub-Fund	TPF: SAA Sub-Fund	TPF: PRASA Sub-Fund
Dec-18	15.00%	15.00%	8.33%	8.33%
Oct-18	15.00%	15.00%		
Apr-18	10.00%	10.00%		
Nov-17	10.00%	10.00%	8.33%	8.33%
Jun-17	10.00%	10.00%		
Nov-16	11.00%	11.00%	8.33%	8.33%
Jun-16	10.00%	10.00%		
Nov-15	8.33%	8.33%	8.33%	8.33%
Apr-15	8.33%	8.33%		
Nov-14	8.33%	8.33%		
Apr-14	8.33%	8.33%		
Nov-13	8.33%	8.33%		
Jun-13		8.33%		
Apr-13	8.33%			
Nov-12	8.33%	8.33%		
Feb-12	16.67%			
Nov-11	10.00%	+50%	+25%	+50%
Feb-11	8.33%			
Nov-10	8.50%			
Feb-10	8.30%			
Nov-09	7.00%			
Nov-08	5.50%			
Jul-08	3.00%			
Nov-07	1.50%			

NOTES:

1. TSDBF Rules amended in 2007 to allow for bonus payments.
2. TPF Rules amended in 2012 to allow for bonus payments.
3. 8.33% = 1 month's pension (ie. 13th cheque).
4. The data for Nov 2017 and Apr 2018 has not been verified with reference to an actuarial valuation.
5. The bonus figures included in this schedule are taken from the annual actuarial valuations of the Funds or, where such information was not available or is not apparent from the actuarial valuations, from other supporting documentation provided by the Funds.

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TRANSNET SECOND DEFINED BENEFIT FUND
RULES

**[These Rules have been published as a schedule to Act 41 of 2000
wef 1 November 2000]**

Schedule amended by

- Rule Amendment No 1 published in GN 620 of 13 July 2007; Effective Date 31.03.2007
- Rule Amendment No 2 published in GN 1236 of 24 December 2010; Effective Date 24.12.2010
- Rule Amendment No 3 signed on 30.04.2012; Effective Date 30.04.2012
- Rule Amendment No 4 signed on 30.07.2013; Effective Date 30.07.2013
- Rule Amendment No 5 signed on 13.11.2014; Effective Date 13.11.2014

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1 GENERAL

This Fund, established at the commencement date provides benefits exclusively for Pensioners, Special Pensioners and Beneficiaries to the extent permitted by the Act.

[Rule 1 substituted by GN 620 of 13 July 2007]

2 DEFINITIONS

In these Rules, unless the context otherwise indicates-

2006 Rule Amendment Date means the date which the Minister by notice in the *Government Gazette* declares that amendments to these Rules made in 2006 will take effect;

[Definition of '2006 Rule Amendment Date' inserted by GN 620 of 13 July 2007]

actuary means a fellow of any institute, faculty, society or chapter of actuaries appointed in terms of section 6 of the Act;

Administrator means any person or legal entity appointed by Transnet to manage and to attend to the administrative functions of the Fund;

[Definition of 'Administrator' inserted by GN 620 of 13 July 2007]

auditor means an auditor registered under the Auditing Profession Act, 2005 (Act 26 of 2005), and appointed by the Board in terms of Rule 9 (3);

[Definition of 'auditor' substituted by GN 620 of 13 July 2007]

Beneficiary means a Spouse, a Child, and any person, other than a Pensioner, who transferred from the Transport Pension Fund in terms of section 14B of the Act and who received a benefit from the Transport Pension Fund prior to such transfer to the Fund;

[Definition of 'Beneficiary' inserted by GN 620 of 13 July 2007]

Board or Board of Trustees means the Board of Trustees referred to in rule 5;

[Definition of 'Board' substituted by GN 620 of 13 July 2007]

Child means -

- (i) a child born to a Pensioner; or
- (ii) a child who as at the 2006 Rule Amendment Date was a stepchild or adopted child of a Pensioner;

and who

- (i) has survived the Pensioner, and is not more than 18 years of age; or
- (ii) has survived the Pensioner, and is more than 18 years of age and in respect of whom it has been demonstrated to the satisfaction of the Board that-
 - (a) he or she is engaged in full-time tuition at an education institution registered as such with the Department of Education, since the commencement of such full-time tuition prior to 18 years of age, and is not more than 26 years of age; or
 - (b) (i) he or she is mentally or physically incapable of supporting him or

TRANSNET SECOND DEFINED BENEFIT FUND RULES

GENERAL DEFINITIONS

GENERAL DEFINITIONS

herself; and

- (ii) in respect of whom the 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 Rules for a period or further period not exceeding 5 years,

and "Children" shall bear a corresponding meaning.

[Definition of 'Child' inserted by GN 620 of 13 July 200, substituted by GN 1236 of 24 December 2010 and amended wef 13 November 2014]

commencement date means the commencement date to be published by the Minister by notice in the Gazette ;

Company

[Definition of 'Company' deleted by GN 620 of 13 July 2007]

Date of Retirement means the normal retirement date applicable to a Pensioner in terms of his or her conditions of service as at the date that he or she actually retired from employment and became a pensioner of the Transport Pension Fund;

[Definition of 'Date of Retirement' inserted by GN 620 of 13 July 2007]

'Dependant in relation to a Pensioner means-

- (i) a Spouse;
- (ii) a Child;

[Definition of 'dependant' substituted by GN 620 of 13 July 2007]

employer

[Definition of 'employer' deleted by GN 620 of 13 July 2007]

Fund means the Transnet Second Defined Benefit Fund established in terms of section 14B of the Act;

[Definition of 'Fund' inserted by GN 620 of 13 July 2007]

interest means interest compounded monthly;

Investment Consultant means a natural or legal person who is appointed to furnish advice to the Fund on the strategic investment of its assets and the allocation of mandates to Investment Managers and who performs any other function as the Board may decide;

[Definition of 'Investment Consultant' inserted by GN 620 of 13 July 2007]

Investment manager means a natural or legal person who invests assets of the Fund on its behalf and in accordance with its instructions;

[Definition of 'Investment Manager' inserted by GN 620 of 13 July 2007]

Managing Director

[Definition of 'Managing Director' deleted by GN 620 of 13 July 2007]

meeting includes an adjourned meeting;

Minister means the Minister of Public Enterprises;

TRANSNET SECOND DEFINED BENEFIT FUND RULES

GENERAL DEFINITIONS

GENERAL DEFINITIONS

Pensioner means a pensioner member transferred from the Transport Pension Fund in terms of section 14B of the Act and who was employed by or rendered services to Transnet, its predecessor, or a subsidiary of Transnet prior to receiving a benefit from the Transport Pension Fund;

[Definition of 'pensioner' substituted by GN 620 of 13 July 2007]

Registrar

[Definition of 'Registrar' deleted by GN 620 of 13 July 2007]

Recognised Marriage means, in relation to a Pensioner-

- (i) a civil marriage or customary marriage or a marriage by religious rites; or
- (ii) a union as defined in the Civil Union Act 17 of 2006 ; or
- (iii) cohabitation between a Pensioner and another person which the Board in its discretion has determined to be a Recognised Marriage:

Provided that any relationship referred to in (i) to (iii) which constitutes a Recognised Marriage, should have existed prior to or at the 2006 Rule Amendment Date and continued to exist until the date of death of the Pensioner;

[Definition of 'recognised marriage' substituted by GN 620 of 13 July 2007]

Rules means these Rules of this Fund;

[Definition of 'Rules' inserted by GN 620 of 13 July 2007 and substituted by GN 1236 of 24 December 2010.]

Special Pensioner means a person who, as at the 2006 Rule Amendment Date

- (a) was in receipt of a pension and/or other benefit paid by Transnet;
- (b) was not entitled to a pension and/or other benefit paid by the Fund, the Transport Pension Fund or the Transnet Retirement Fund;

[Definition of 'Special Pensioner' inserted by GN 620 of 13 July 2007]

Spouse means a person who was a party to a Recognised Marriage with a Pensioner;

[Definition of 'Spouse' inserted by GN 620 of 13 July 2007]

the Act means the Transnet Pension Fund Act, 1990 (Act 62 of 1990);

Transnet means Transnet Limited.

[Definition of 'Transnet' inserted by GN 620 of 13 July 2007]

Transport Pension Fund means the Fund established in terms of the Act and formerly known as the Transnet Pension Fund; and

[Definition of 'Transport Pension Fund', previously 'Transnet Pension Fund', substituted by GN 620 of 13 July 2007]

The headings to the Rules shall not be taken into account in the interpretation of the Rules. If there is any inconsistency between the Act and these Rules, the provisions of the Act will prevail. A reference to the singular shall include the plural and *vice versa*. Expressions in the masculine shall include the feminine and *vice versa*.

[Text inserted by GN 620 of 13 July 2007]

TRANSNET SECOND DEFINED BENEFIT FUND RULES

FUND OBJECT, MEMBERSHIP CONTRIB , TRANSFERS
REGISTERED OFFICE
BOARD OF TRUSTEES

FUND OBJECT, MEMBERSHIP CONTRIB , TRANSFERS
REGISTERED OFFICE
BOARD OF TRUSTEES

3 FUND: OBJECT, MEMBERSHIP, CONTRIBUTIONS AND TRANSFERS

(1) The Fund to which these Rules apply, is the Transnet Second Defined Benefit Fund established by section 14B of the Act.

(2) In terms of section 14B (4) of the Act, the Fund is vested with legal personality and is capable of suing or being sued in its own name and of doing all such things as may be necessary for or incidental to the exercise of its powers or the performance of its functions in terms of the Rules.

[Subrule (2) substituted by GN 620 of 13 July 2007]

(3) The object of these Rules shall be to maintain and regulate a fund, from which benefits to Pensioners, Special Pensioners and Beneficiaries shall be paid, and for whose benefit this Fund is established.

[Subrule (3) substituted by GN 620 of 13 July 2007]

(4) Membership shall commence from

(a) in the case of a Pensioner, the date of transfer of the Pensioner from the Transport Pension Fund in terms of section 14B of the Act; and

(b) in the case of a Special Pensioner, the date with effect from which he or she first became entitled to a pension from this fund in terms of these Rules.

[Subrule (4) substituted by GN 620 of 13 July 2007]

(5) No Pensioner, Special Pensioner or Beneficiary shall contribute to this fund: Provided that Transnet, if the Board of Trustees deems this necessary after consultation with the actuary, shall contribute to the Fund.

[Subrule (5) substituted by GN 620 of 13 July 2007]

(6) The Fund shall have the power to receive transfer values of pensioners from Transport Pension Fund.

[Subrule (6) substituted by GN 620 of 13 July 2007]

4 REGISTERED OFFICE

The registered office of the Fund shall be at such address as the Board of Trustees may decide, notification of which must be given to the Minister.

[Rule 4 substituted by GN 620 of 13 July 2007]

5 BOARD OF TRUSTEES

(1) The Board of Trustees shall comprise four trustees and their alternates appointed by Transnet and four trustees to be elected and appointed by the Pensioners, Dependants and Special Pensioners from amongst the Pensioners in accordance with rule 32 ('Pensioner-elected Trustees').

[Subrule (1) substituted by GN 1236 of 24 December 2010 and further amended 30.04.2012]

- (2) The Board of Trustees shall control the Fund.
- (3) Transnet shall appoint a chairperson for the Board who shall not be a trustee.
- (4) Subject to there being sufficient members to form a quorum as laid down in rule 7 (5), the Board of Trustees shall be entitled to function notwithstanding the existence of any vacancy.
- (5) The duty of the chairperson, members of the Board of Trustees and their alternates towards the Fund shall be of a fiduciary nature and they shall, when acting in such capacities, act only in the interests of the Fund, to the exclusion of all other considerations or objectives. The chairperson, members of the Board of Trustees and their alternates shall also act in good faith towards all of the stakeholders in the Fund including Pensioners, Beneficiaries, Special Pensioners and Transnet.
- (6) The members of the Board of Trustees shall conduct themselves, at meetings of the Board, in a responsible manner that is in harmony with their status as members of that Board. Should a member of the Board act in breach of this requirement, the Board may, by a majority vote of at least two thirds of the members of the Board of Trustees present at the meeting at which such breach occurs, require the person concerned to leave the meeting or take such other decision or action as may, in the circumstances, be necessary.

[Rule 5 substituted by GN 620 of 13 July 2007]

6 DISQUALIFICATION AND TENURE OF OFFICE OF BOARD MEMBERS

- (1) Any of the following persons shall be disqualified from being appointed or acting as the Chairperson or a member of the Board:
 - (a) a minor or a person that is certified as mentally ill, or who is physically or otherwise incapable of acting;
 - (b) a person whose estate is sequestrated, surrendered or assigned in favour of his or her creditors and has not been rehabilitated by a court;
 - (c) a person who has been convicted by a court of law of theft, forgery or fraud or a similar offence involving dishonesty and has not been pardoned or granted amnesty for that offence;
 - (d) a person who has been previously expelled from this Board or any other position of trust as a result of misconduct, or on account of not being a fit and proper person to occupy such a position;
 - (e) a person who has previously displayed dishonesty or conduct which, in the opinion of the Board and the Electoral Officer, indicates that he or she is not a fit and proper person to occupy a position of trust;

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- (f) a person who is in a position in which his or her interests (other than as a Member of the Fund), and/or the interests of a third party are likely to conflict with his or her duties to the Fund; and
 - (g) a person who in the opinion of 75% of the members of the Board of Trustees is not a fit and proper person to occupy the position.
- (1A) A Dependant or Special Pensioner is not eligible to be nominated for election, or to stand for election, as a Pensioner-elected Trustee or his or her alternate.
- (2) The chairperson or a member of the Board shall cease to hold office upon-
- (a) resignation from the Board;
 - (b) disqualification in terms of subrule (1); or
 - (c) termination of appointment by Transnet in the case of those Trustees who are not Pensioner-elected Trustees.
- (3) A Pensioner-elected Trustee will remain in office for a period of not more than five years but will be eligible for re-election, subject to the terms of subrule (1), on the expiry of his or her period of office.

[Rule 6 amended by GN 620 of 13 July 2007, substituted by GN 1236 of 24 December 2010 and further amended on 30.04.2012]

7 MEETINGS OF BOARD OF TRUSTEES

- (1) The Board shall meet at least every quarter and at such other times as the Board may decide.
- (2) The Board shall at the last meeting of every year determine the dates for the quarterly meetings to be held in the forthcoming year.
- (3) A special meeting shall be called at any time on the instruction of the Chairperson or at the written request of any three members of the Board.
- (4) The Chairperson, when unable to attend any meeting, shall appoint an Acting Chairperson for that meeting, or failing such appointment, the Board of Trustees shall appoint an Acting Chairperson.
- (5) The majority of the members of the Board shall constitute a quorum for a meeting of the Board.
- (6) A decision by a majority of the members of the Board present at a meeting of the Board shall constitute a decision of the Board.
- (7) Decisions of the Board shall be taken by a show of hands or, if so required by any member of the Board present at the meeting, by ballot.

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- (8) The Chairperson shall not have a deliberative vote.
- (9) The Chairperson shall have a casting vote, which may be exercised in the event of an equality of votes.
- (10) If there is no quorum at a meeting of the Board within thirty (30) minutes after the time fixed for its commencement, the meeting shall adjourn for a period of not less than two weeks and not more than four weeks.
[Subrule (10) substituted by GN 620 of 13 July 2007]
- (11) At such adjourned meeting the members present shall form a quorum.
- (12) With the consent of the chairperson, a decision may be taken by the members of the Board of Trustees by "round robin" resolution provided that every board member who is in the Republic of South Africa at the time exercises a vote in respect of that decision and the decision is noted at the next meeting of the Board.
[Subrule (12) inserted by GN 620 of 13 July 2007]

8 MINUTES

- (1) The Board shall record the minutes of all its meetings.
- (2) Such minutes, if signed by any person purporting to be the Chairperson of the meeting to which it relates, shall be regarded as a true record of the proceedings of that meeting.

9 POWERS OF BOARD OF TRUSTEES

- (1) The Board may prescribe the manner in which the award of benefits shall be considered by the Fund.
- (2) The Board may take any action (including the control of the finances and the administration of the Fund) not specifically provided for in these Rules that may be necessary to achieve the objects of the Fund provided that such action is not inconsistent with the Act or these Rules.
[Subrule (2) substituted by GN 620 of 13 July 2007]
- (3) The Board shall appoint an auditor for the Fund and the contract effecting the appointment may be terminated by notice duly given by either party.
- (4) The Board shall appoint-
 - (a) an Executive Committee which shall consist of a minimum of-
 - (i) a chairperson appointed by the Board;
 - (ii) the principal officer of the Fund; and
 - (iii) two other people appointed by the Board who may be, but need not be, members of the Board of Trustees; or

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TRANSNET SECOND DEFINED BENEFIT FUND RULES

MINUTES
POWERS OF BOARD

MINUTES
POWERS OF BOARD

- (iv) alternates to the trustees in (i) to (iii) above, which alternates must themselves be members of the Board;
- (b) an Investment Committee which shall consist of a minimum of-
 - (i) a chairperson appointed by the Board;
 - (ii) the principal officer of the Fund; and
 - (iii) two other people appointed by the Board who may be, but need not be, members of the Board of Trustees; or
 - (iv) alternates to the trustees in (i) to (iii) above, which alternates must themselves be members of the Board.

[Subrule (4) substituted by GN 620 of 13 July 2007 and by GN 1236 of 24 December 2010.]

- (5) The Board has the discretion to delegate to another person or body selected by it such powers and functions as it may determine but this does not mean that the Board does not retain its overall responsibility for the exercise of those powers and the fulfilment of those functions.

[Subrule (5) inserted by GN 620 of 13 July 2007]

- (6) Transnet must appoint the first Investment Consultant appointed after the 2006 Rule Amendment Date and shall pay the fees of that Consultant for the period of that appointment. Any appointment of an Investment Consultant thereafter must be made by the Fund at its expense.

[Subrule (6) inserted by GN 620 of 13 July 2007]

- (7) The Board shall determine the investment policy of the Fund and shall review, and if necessary, revise it at intervals of not more than three years. The Board shall also determine the strategy of the Fund after taking into account the recommendation of the Investment Committee and review, and, if necessary, revise it at intervals of no more than 12 months. Provided that the Board's decisions on the investment policy and strategy of the Fund will be of no force or effect unless-

- (i) the actuary has in writing declared that it is suitable for the Fund; and
- (ii) Transnet has in writing approved it.

[Subrule (7) inserted by GN 620 of 13 July 2007]

- (8) The investment policy of the Fund may not be changed without the approval of the actuary and Transnet: Provided that if within 60 days of the date on which the proposed new investment policy is in writing submitted to Transnet for consideration Transnet does not in writing indicate whether or not it has approved or rejected the proposed new investment policy, it will be deemed to have approved it.

[Subrule (8) inserted by GN 620 of 13 July 2007]

10 EXECUTIVE COMMITTEE

The Executive Committee shall-

- (a) deal with all disputes in respect of benefits;
[Para. (a) substituted by GN 620 of 13 July 2007]
- (b) authorise the payment of benefits to a guardian of a minor or to a curator of a person under legal disability; and
- (c) perform any other duties prescribed by the Board.

11 INVESTMENT COMMITTEE

(1) The Investment Committee shall-

- (a) after taking advice on the matter from the Investment Consultant and after taking into account the characteristics and circumstances of the Fund, formulate a proposed investment policy and strategy for the Fund, including a proposal in regard to the appointment of an Investment Manager or Investment Managers, for consideration by the Board. Provided that such investment strategy may not provide for the investment outside of the Republic of a greater percentage of its assets than that which a pension fund registered in terms of the Pension Funds Act, 1956 (Act 24 of 1956) may so invest;
- (b) subject to rule 9 (7)-
 - (i) implement or procure the implementation of the policy and strategy;
 - (ii) monitor the performance of the Fund's investments; and
 - (iii) review, and, when it believes it to be appropriate, recommend changes to the Fund's investment policy and strategy;
- (c) submit reports on the investments to the Board at such intervals and in such form as the Board may prescribe; and
- (d) keep complete accounts, records and minutes of all actions taken in the performance of its functions and the exercise of its powers.

(2) The Investment Committee may, for the purpose of subrule (1) or subrule (4), make use of the services of Investment Managers.

(3) Any security belonging to the Fund and held by it or an Investment Manager on its behalf shall be kept in safe custody in the safes or strongrooms at the registered office of the Fund or at any bank or building society approved by the Board or in the safe custody of the Fund's approved custodian/s.

(4) Subject to subrule (1) the Investment Committee shall have the power to do anything relating to the making of investments or the protection of investments which in its opinion is to the best advantage of the Fund-

- (a) to enable the Fund to meet its current and future liabilities;
 - (b) without limiting subrule (4) (a) , to reduce investment risk;
 - (c) without limiting subrule (4) (a) , to ensure efficient portfolio management;
 - (d) to facilitate the discharge of its functions in terms of subrules (1)(a), (4)(a), (4)(b) or (4)(c)
- (5) All actions taken by the Investment Committee must be consistent with the investment policy approved in terms of rules 9 (7) and (8) and any diversion from this investment policy must therefore be approved by the Board of Trustees in terms of rules 9 (7) and (8).

[Rule 11 substituted by GN 620 of 13 July 2007]

12 ADMINISTRATOR AND PRINCIPAL OFFICER

[Heading substituted by GN 620 of 13 July 2007]

- (1) Transnet shall appoint the Administrator and the principal officer of the Fund and may, at any stage, terminate such appointments. The costs of the principal officer shall be borne by Transnet.

[Subrule (1) substituted by GN 620 of 13 July 2007]

- (2) Should the principal officer be absent from the Republic for more than thirty days or be otherwise unable to fulfil his or her functions, Transnet shall appoint another person to act as principal officer for the period of such absence or inability and shall advise the Board of the appointment.

[Subrule (2) substituted by GN 620 of 13 July 2007]

- (3) The principal officer shall have power-

- (a) to open a banking account in the name of the Fund;

[Para. (a) substituted by GN 620 of 13 July 2007]

- (b) with the approval of the Board or any sub-committee thereof including the Investment Committee and the Executive Committee, to enter into and sign any contract on behalf of the Fund;

[Para. (b) , previously para. (d) deleted and substituted by GN 620 of 13 July 2007]

- (c) with the approval of the Board or any sub-committee thereof including the Investment Committee and the Executive Committee to institute or defend any legal proceedings by or against the Fund and to instruct a legal representative with regard to such proceedings;

[Para. (c) , previously para. (e) deleted and substituted by GN 620 of 13 July 2007]

- (d) to procure the execution of the decisions of the Investment Committee by the Investment Managers or any other person or body authorised to execute those decisions; and

[Para. (d) , previously para. (g) renumbered and substituted by GN 620 of 13 July 2007]

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- (e) to procure the execution of the decisions of Board and the Executive Committee by the Administrator or any other person or body authorised to execute those decisions.

[Para. (e) , previously para. (h) renumbered and substituted by GN 620 of 13 July 2007]

(f)

[Para. (f) deleted by GN 620 of 13 July 2007]

(g)

[Para. (g) renumbered to para. (d) by GN 620 of 13 July 2007]

(h)

[Para. (h) renumbered to para. (e) by GN 620 of 13 July 2007]

[Subrule (3) amended by GN 620 of 13 July 2007]

- (4) The Administrator shall have the power as the agent of the Fund and subject to any terms and conditions set out in any agreement concluded between it and the Fund to-

- (a) to operate a banking account in the name of the Fund;
- (b) to receive and administer the moneys of the Fund required to meet current expenses;
- (c) with the approval of the Board to borrow money from any source and to obtain an overdraft from a bank or building society;
- (d) to exercise such powers as it may be given and to fulfil such functions as it may be required to fulfil in terms of any agreement between it and the Fund.

[Subrule (4) inserted by GN 620 of 13 July 2007]

13 APPOINTMENT OF SECRETARY

The principal officer shall appoint the secretary of the Fund and may, at any stage, terminate any such appointment. The cost in respect of the remuneration of the secretary shall be borne by Transnet.

[Rule 13 substituted by GN 620 of 13 July 2007]

14 DUTIES OF SECRETARY

The Secretary shall-

- (a) keep all documents relating to the business of the Fund in safe custody, except those which are prescribed by law to be kept by any other person;
- (b) submit to the Board all matters and documents received;
- (c) receive notices of matters to be considered by the Board;

[Para. (b) substituted by GN 620 of 13 July 2007]

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CONFIDENTIALITY
INDEMNIFICATION AND INSURANCE
ADMINISTRATION EXPENSES
ACCOUNTS, AUDIT AND ACTUARIAL VALUATION

CONFIDENTIALITY
INDEMNIFICATION AND INSURANCE
ADMINISTRATION EXPENSES
ACCOUNTS, AUDIT AND ACTUARIAL VALUATION

- (d) convene all meetings of the Board, Executive Committee and Investment Committee;
- (e) record the minutes of the proceedings of all meetings of the Board, Executive Committee and Investment Committee;
- (f) circulate copies of all minutes of the Board to all members of the Board; and
- (g) perform such other duties as the Board may from time to time prescribe.

15 CONFIDENTIALITY

The Chairperson, members of the Board and their alternates, and all persons engaged in the administration of the Fund, shall treat all matters and information that relate to the Fund as confidential.

16 INDEMNIFICATION AND INSURANCE

- (1) The Fund shall indemnify the chairperson, members of the Board and their alternates, the principal officer and the secretary against all costs and expenses incurred by reason of any act carried out in good faith in the performance of their duties in connection with the Fund.
- (2) The Board shall insure the Fund against losses due to dishonesty, negligence and fraud of officials of the Fund including members of the Board.

[Rule 16 substituted by GN 620 of 13 July 2007]

17 ADMINISTRATION EXPENSES

Transnet shall pay to the Fund annually all expenses in connection with the administration of the Fund subject to the condition that such expenses have been provided for in an annual budget prepared by the Fund and approved by Transnet.

[Rule 17 substituted by GN 620 of 13 July 2007]

18 ACCOUNTS, AUDIT AND ACTUARIAL VALUATION

- (1)(a) The Board shall keep such accounts, entries, registers and records which are essential for the proper functioning of the Fund.
- (b) The accounts shall be prepared in the format prescribed in terms of legislation applicable to retirement funds not established by law and shall be balanced at the end of each financial year and shall be audited by the auditor.

[Para. (b) substituted by GN 620 of 13 July 2007]

- (c) The Board shall, at the end of the financial year, submit to Transnet-
 - (i) an annual report on all matters relating to the Fund; and

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TRANSNET SECOND DEFINED BENEFIT FUND RULES

UN SOUND FINANCIAL POSITION

UN SOUND FINANCIAL POSITION

- (ii) the financial statements pertaining to the Fund.
[Para. (c) substituted by GN 620 of 13 July 2007]
- (d) The auditor shall have access to all books, vouchers, accounts and documents of the Fund.
- (e) When an audit report reflects that the Fund's accounts are not managed on a sound financial basis, the Board shall inform the Minister.
- (f) The financial year of the Fund shall be from 1 April up to and including 31 March of the following year.
- (2)(a) The Board shall cause accurate records to be kept to enable the actuary to make an actuarial valuation at any time.
[Para. (a) substituted by GN 620 of 13 July 2007]
- (b) The Fund shall be valued by the actuary at intervals of not more than three years, in the discretion of the Minister, to determine whether the Fund is in a financial position to pay the benefits provided for in these Rules and the actuary shall submit the report of the valuation to the Minister, the Minister of Finance, Transnet and the Board.

[Para. (b) substituted by GN 620 of 13 July 2007]

19 UNSOUND FINANCIAL POSITION

- (1) When an actuarial report referred to in rule 18 (2) (b) indicates that the Fund is not in a financially sound position, the Minister, with the concurrence of the Minister of Finance, may direct the Board to submit a schedule setting out arrangements designed to restore the fund to a financially sound position within three months from the date of receipt of such direction, together with a report thereon by the actuary.
- (2) When any audit or actuarial report indicates a deficiency in the Fund, the Board shall, within three months from the date of such report, submit a scheme to the Minister and the Minister of Finance setting out the arrangements which have been made or which it is intended to make to eliminate the deficiency, together with a report thereon by the actuary.
- (3) If the Minister and the Minister of Finance are satisfied that the arrangements referred to in sub rule (1) or (2) should suffice to accomplish the objects of this rule, the Minister with the concurrence of the Minister of Finance shall approve the scheme.
[Subrule (3) substituted by GN 620 of 13 July 2007]
- (4) The Minister, if not satisfied with such arrangements, shall, in concurrence with the Minister of Finance, request the Board to make such amendments to the scheme, or to submit a new scheme, and the Board shall, within a period prescribed by the Minister, which is not less than 30 days from the date of the request, furnish the

Minister and the Minister of Finance with a report on such amendments or such new scheme and a report by the actuary, and the provisions of subrule (3) shall apply to any such amended scheme or new scheme which the Board may submit.

(5) The Board shall carry out the terms of any scheme approved by the Minister under this rule: Provided that-

(a) the Minister may, with the concurrence of the Minister of Finance, permit the Board to amend such scheme from time to time;

(b) if any information submitted to the Minister during the currency of such scheme indicates, in the opinion of the Minister, that the scheme is unlikely to accomplish the objects of this rule, such approval of the scheme may be withdrawn, and the Board shall, within three months thereafter, prepare a further scheme to which the provisions of this rule shall apply with the changes required by the context; and

(c) if, in the opinion of the Minister of Finance, the financial condition of the Fund is no longer unsound, the former shall inform the principal officer to that effect and, on receipt of such communication, the obligations of the Fund in respect of that scheme shall terminate.

[Para. (c) substituted by GN 620 of 13 July 2007]

(6) If the Minister, in concurrence with the Minister of Finance, is of the opinion that the Fund is in such an unsound financial condition that any scheme contemplated in this rule would be ineffective, impracticable or unsatisfactory, the Minister may-

(a) apply to the court for an order directing that the provisions of these Rules relating to the appointment, powers, remuneration (if any) and removal from office of the person managing the business of the Fund, or relating to such other matter as he or she may regard appropriate, be altered in a manner to be specified in such application, or directing that the whole or any part of the business of the Fund be wound up; or

[Para. (a) substituted by GN 620 of 13 July 2007]

(b) call on a guarantee to be furnished by Transnet to place the Fund in a financially sound condition on terms specified by the Minister.

[Para. (b) substituted by GN 620 of 13 July 2007]

20 APPEALS

(1) If a person is dissatisfied with any decision of the principal officer or Administrator such person shall have a right of appeal to the Executive Committee.

[Subrule (1) substituted by GN 620 of 13 July 2007]

TRANSET SECOND DEFINED BENEFIT FUND RULES

DISPOSITION OF PENSION BENEFITS ON DEATH OF
PENSIONER
PENSION BENEFITS
DEATH OF PENSIONER

DISPOSITION OF PENSION BENEFITS ON DEATH OF
PENSIONER
PENSION BENEFITS
DEATH OF PENSIONER

- (2) If a person is dissatisfied with a decision of the Executive Committee, including a decision on appeal in terms of subrule (1), such person shall have a right of appeal to the Board.
- (3) The decision of the Board on any such appeal shall be final and binding on the parties.

21 DISPOSITION OF PENSION BENEFITS ON DEATH OF PENSIONER

- (1) No benefit will be paid to a Child or Spouse unless within 12 months of the date upon which notice of the death of the Pensioner was received in writing by the Fund the benefit has been in writing claimed for him or her.

[Subrule (1) substituted by GN 620 of 13 July 2007]

- (2) For the purpose of this rule a payment by the Fund to a trustee contemplated in the Trust Property Control Act, 1988 (Act 57 of 1988), for the benefit of a person contemplated in these Rules shall be deemed to be a payment to such person.

[Subrule (2) substituted by GN 620 of 13 July 2007]

22 PENSION BENEFITS

- (1) The pension payable to a Pensioner or Beneficiary shall be the pension to which he or she was entitled immediately prior to the 2006 Rule Amendment Date increased from time to time as may be determined in terms of rule 24.
- (2) Subject to rule 21 (1), a Spouse or Child shall be entitled to a benefit as determined in terms of rule 23 with effect from the first day of the month following the date of death of the Pensioner increased from time to time as may be determined in terms of rule 24.

[Rule 22 substituted by GN 620 of 13 July 2007]

23 DEATH OF PENSIONER

- (1) Upon the death of a Pensioner there shall be paid to the Dependant or Dependents a benefit provided for in this sub rule in relation to the particular class of Dependant.
- (2) In relation to the death of a Pensioner who was a female Pensioner, no benefit is paid to her Dependents if-
 - (a) such Pensioner had retired before 1 January 1991; and
 - (b) such member while a member of the Transport Pension Fund elected on or before 1 January 1991 to exclude her Dependents from receiving any benefit upon her death.

TRANSNET SECOND DEFINED BENEFIT FUND RULES

DISPOSITION OF PENSION BENEFITS ON DEATH OF
PENSIONER
PENSION BENEFITS
DEATH OF PENSIONER

DISPOSITION OF PENSION BENEFITS ON DEATH OF
PENSIONER
PENSION BENEFITS
DEATH OF PENSIONER

- (3) Subject to rule 22, the aggregate of the benefit payable to Spouses and Children in terms of these Rules shall not exceed 70% of the benefit that was payable to the deceased Pensioner at the date of his or her death, or such adjusted benefit as determined in terms of rule 23A, as the case may be.
- (4) In the event that there is only one Spouse and no Children, such spouse shall receive 70% of the benefit that was payable to the deceased Pensioner at the date of his or her death, or such adjusted benefit as determined in terms of rule 23A, as the case may be.
- (5) In the event that there is more than one Spouse and no Children, each Spouse shall receive an equal share of the total benefit referred to in rule 23(3).
- (6) In the event that there is one Spouse and Children, the Board shall have the discretion to distribute the amount of the benefit referred to in rule 23(3) between such Spouse and such Children as the Board may deem fit.
- (7) In the event that there is more than one Spouse and Children, the Board shall have the discretion to pay such benefit as is referred to in rule 23(3) to any one of the Spouses or to all of the Spouses in the proportion as the Board deems fit subject to the Board's further discretion to pay all of such benefit or a portion thereof to some or all of the Children in such proportions as the Board deems fit.
- (8) In the event that there is no Spouse who is entitled to a benefit but only a Child or Children at the date of death of the Pensioner, the total benefit payable to such Child or Children in terms of these Rules shall not exceed 56% of the benefit that was payable to the deceased Pensioner at the date of his or her death. In this event the Board has the discretion to allocate the total benefit or a part thereof in terms of this sub rule in such proportions as the Board may deem fit for the benefit of all or only one or more of such Children as the Board may deem fit.
- (9) The Board may in its discretion pay any benefit allocated to those Children, individually or as a group into a trust as contemplated in the Trust Property Control Act, 1988 (Act 57 of 1988) for the benefit of such Children and it shall be deemed to be a payment to such Children.
- (10) In the event that a benefit is payable to a Pensioner or Beneficiary in the month in which he or she dies, but has not been paid before his or her death, the benefit payable in respect of that month will be paid to the estate of the deceased Pensioner or Beneficiary and thereafter there will be no further amount payable in respect of him or her.

[Rule 23 substituted by GN 620 of 13 July 2007]

Although GN R620 of 13 July 2007 amended the various subrules, the rule was effectively substituted in its entirety.

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TRANSNET SECOND DEFINED BENEFIT FUND RULES

CALCULATION OF BENEFIT
ANNUAL INCREASECALCULATION OF BENEFIT
ANNUAL INCREASE**23A CALCULATION OF BENEFIT**

- (1) Subject to the provisions of subrule (4), if the Pensioner had retired on attaining the Date of Retirement, the benefit payable in terms of these Rules to all Beneficiaries after the death of the Pensioner shall not exceed in aggregate 70% of the benefit which was payable to the deceased Pensioner on the date of his or her death.
- (2) Subject to the provisions of subrule (4), if the Pensioner had retired before attaining the Date of Retirement, the total benefit payable in terms of these Rules to all Beneficiaries, Spouses and Children shall not exceed in aggregate an amount calculated by multiplying 70% of the benefit which was payable by this Fund or the Transport Pension Fund, whichever is applicable at the date of the death of the Pensioner by the factor which is arrived at by dividing the sum of the total of service and the number of years service that the Pensioner could have still rendered from the date of his or her death to the Date of Retirement by the pensionable service.
- (3) Subject to the provisions of sub rule (4), if the deceased Pensioner to whom a benefit was paid by this Fund and/or the Transport Pension was paid due to dismissal after the completion of 20 years of service with Transnet, its predecessor or a subsidiary of Transnet, the benefit referred to in sub rule (1) is payable.
- (4)
 - (a) Where the age difference between the Pensioner and the Spouse is not more than five years and where a Recognised Marriage has been entered into by the Pensioner subsequent to retirement but before the 2006 Rule Amendment Date, the benefit determined in subrules (1) or (2), as the case may be, shall be payable.
 - (b) Where the age difference between the Pensioner and the Spouse is more than five years and where a Recognised Marriage has been entered into by the Pensioner subsequent to retirement but before the 2006 Rule Amendment Date, the benefit as determined in subrules (1) or (2), as the case may be, is adjusted by multiplying the benefit by a factor that is arrived at by dividing the age of the Spouse by that of the Pensioner, as at the date of death of the Pensioner, provided that the benefit shall not exceed the benefit as determined in sub rules (1) and (2).

[Rule 23A inserted by GN 620 of 13 July 2007]

24 ANNUAL INCREASE

The pension received by a Pensioner or Beneficiary immediately before each anniversary of the date on which the pension commenced shall be increased by 2% on that anniversary: Provided that in the case of a Beneficiary, the anniversary date shall be the anniversary of the date on which the pension first became payable to the Pensioner from whose membership the Beneficiary's claim is derived.

[Rule 24 substituted by GN 620 of 13 July 2007]

PAYMENT TO OTHER PERSON
PAYMENT TO ESTATE
PENSIONER RE-EMPLOYED
PAYMENT OF PENSIONS

PAYMENT TO OTHER PERSON
PAYMENT TO ESTATE
PENSIONER RE-EMPLOYED
PAYMENT OF PENSIONS

25 PAYMENT TO PERSON OTHER THAN BENEFICIARY

The Board may if it is satisfied, after having considered a report by two medical practitioners, that any Beneficiary, Special Pensioner or Pensioner to whom any amount is payable under these Rules is, by reason of a mental condition, unable to manage his or her own affairs, order-

- (a) That such amount be paid to some other person upon such conditions as the Board may determine as to its administration for the benefit of the Beneficiary Special Pensioner or Pensioner; or
- (b) That a portion of such amount be paid to the Beneficiary, Special Pensioner or Pensioner, and that the balance be paid, in the order of preference laid down in rule 23 to the persons mentioned in that paragraph who are dependent upon the Beneficiary, Special Pensioner or Pensioner or to some other person upon such conditions as the Board may determine as to its administration, in accordance with the said order of preference, for the benefit of any such person or that the balance be partly so paid to any such person and partly to such other person upon the said conditions: Provided that no such order shall be made in respect of a Beneficiary, Special Pensioner or Pensioner, for the administrator of whose estate a *curator bonis* has been appointed and that any such order shall lapse if a *curator bonis* for the administration of the estate of the Beneficiary, Special Pensioner or Pensioner concerned is appointed.

[Rule 25 substituted by GN 620 of 13 July 2007]

26 PAYMENT TO ESTATE

When the amounts referred to in rule 23 have been paid to any person mentioned therein other than the person lawfully administering the estate of a deceased Pensioner, no such amount shall be deemed to form part of the estate of the deceased Pensioner and there will be no further claim against either Transnet or the Fund in terms of that rule.

[Rule 26 substituted by GN 620 of 13 July 2007]

27 PROVISION IN CASE OF PENSIONER WHO IS RE-EMPLOYED

If a person has been granted a pension under these Rules or appropriate provisions that preceded these Rules and is thereafter re-employed, such member shall continue to receive the pension being paid.

[Rule 27 substituted by GN 620 of 13 July 2007]

28 PAYMENT OF PENSIONS

- (1) The Board shall arrange for the monthly amount of a pension to be credited to an account in the name of the Pensioner, Beneficiary or Special Pensioner at a bank to

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PAYMENT OF INTEREST

PAYMENT OF INTEREST

be nominated by the Pensioner, Beneficiary or Special Pensioner, as the case may be.

- (2) (a) Where exceptional circumstances prevail, the Board may arrange for the payment of pensions by means of pension warrants, the encashment of which shall be subject to such condition as the Board may prescribe and which shall be reflected on the warrants.
- (b) The payment of a pension by means of warrants shall be made monthly and not earlier than a date to be determined by the Board, which date shall be reflected on the warrants.
- (3) In the case of a pension payable to the Master of the High Court for deposit in the Guardian's Fund on behalf of a person entitled to that pension, the Executive Committee may waive compliance with all or any of the requirements prescribed in sub rule (2).

[Rule 28 substituted by GN 620 of 13 July 2007]

23A PAYMENT OF INTEREST

- (1) The Fund must pay to a Pensioner, Beneficiary, Dependant or Special Pensioner interest on the amount of any benefit payable to him or her in respect of the period commencing 60 days after the date on which all conditions for the payment of the benefit have been fulfilled and ending on the date of payment of the benefit.
- (2) The conditions for payment contemplated in subrule (1) above include, but are not limited to-
 - (a) the receipt by the Fund of such information as it may require for the purpose of determining the amount of the benefit to be paid after the deduction of amounts which may be deducted in terms of the Act and these Rules including, but not limited to-
 - (i) such directive from the SA Revenue Service as may be required for the purpose of determining the tax, if any, to be deducted from the amount of the benefit;
 - (ii) proof of amounts deductible from the benefit and payable to the former spouse, housing finance provider or former employer of the Pensioner, Beneficiary, Dependant or Special Pensioner, as applicable; and
 - (b) the receipt by the Fund of the information reasonably required by it for the secure payment of the benefit into the bank account of the Pensioner, Beneficiary, Dependant or Special Pensioner, as the case may be.
- (3) The rate at which interest will be payable in terms of this Rule will be determined from time to time by the Board after they have taken into account all relevant factors

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including, but not limited to the rates of return earned on the investment of the unpaid benefits over the period in respect of which the interest is payable.

[Rule 28A inserted by GN 1236 of 24 December 2010.]

29 TRANSFER OF LIABILITIES IN RESPECT OF SPECIAL PENSIONERS

- (1) Subject to the Act and the approval of Transnet and the Board of Trustees the Fund may accept the obligation to pay a pension and/or other benefit to a Special Pensioner from date of acceptance to the date of his or her death in an amount not less than the amount of the pension and/or benefit enjoyed by him or her immediately before the date of acceptance, provided that there is paid to the Fund an amount equal in value to the actuarial value of the Fund's liability to pay the pension and/or other benefit until the date of his or her death determined on a basis agreed between the Fund's actuary and an actuary appointed by Transnet or, failing such agreement, on a basis determined by an actuary appointed for this purpose by the president for the time being of the Actuarial Society of South Africa.
- (2) Following the acceptance of the obligation in terms of rule 29(1), the Special Pensioner will be entitled to receive from the Fund a pension and/or other benefit equal to the pension and/or other benefit he or she received immediately before the transfer and will have no claim to a pension and/or other benefit from Transnet.
- (3) By agreement between the Fund and Transnet, the pension and/or other benefit payable to a Special Pensioner in terms of rule 29(2) may be increased as contemplated in rule 24, with any changes required by the context.

[Rule 29 inserted by GN 620 of 13 July 2007]

30 MINIMUM PENSION PAYMENT

- (1) Subject to the approval of Board of Directors of Transnet, the Fund may determine a minimum pension which shall be payable to a Pensioner, Special Pensioner or Beneficiary, as the case may be, multiplied, in the case of a Beneficiary, by the same proportion that was used to determine the Beneficiary's pension as a proportion of the Pensioner's pension from whose membership the Beneficiary's pension is derived.
- (5) The Fund may in terms of subrule (1) determine a different minimum pension in respect of Pensioners, Special Pensioners and/or Beneficiaries. A minimum pension may be determined in respect of only one or more of these categories of persons and if a minimum pension is determined in respect of one category, this will not entitle any person falling within a different category to the same or a different minimum pension.
- (3) The determination of a minimum pension to be paid to persons falling within a category in any one year will not mean that the Fund is required to determine a higher minimum pension to be paid to such persons in any subsequent year.

[Rule 30 inserted by GN 620 of 13 July 2007]

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31 BONUS PAYMENTS

- (1) If, in the opinion of the actuary, the value of the Fund's assets is in excess of the value of its actual and contingent liabilities as determined by the actuary, the Board may, with the approval of the Board of Directors of Transnet, use part of the surplus to grant a once-off bonus to each Pensioner, Special Pensioner and/or Beneficiary.
- (2) Different bonuses may be granted to different categories of Pensioners, Special Pensioners and Beneficiaries and a bonus may be granted only to a category of Pensioners, Special Pensioners or a category of Beneficiaries.
- (3) The payment of a bonus to one category of Pensioners, Special Pensioners or Beneficiaries will not entitle any person falling within a different category of Pensioners, Special Pensioners or Beneficiaries to an equivalent bonus.
- (4) The payment of a bonus to a Pensioner, Special Pensioner or Beneficiary in any one year will not entitle that Pensioner, Special Pensioner or Beneficiary to an equivalent bonus or any bonus at all in any subsequent year.

[Rule 31 inserted by GN 620 of 13 July 2007]

32 THE ELECTION OF PENSIONER TRUSTEES TO THE BOARD OF TRUSTEES

- (1) Appointment of the Independent Electoral Officer
 - (a) The Board must appoint an independent electoral officer (which may be a natural or juristic person) to:
 - (i) oversee the nomination and election of pensioner-elected trustees in accordance with the Rules;
 - (ii) ensure that it is conducted in a manner that is free and fair;
 - (iii) deal with all complaints and objections that may be raised in relation to the nomination and election process, provided that such complaints and objections will not necessarily invalidate or delay the nomination and election process unless the Fund resolves otherwise; and
 - (iv) issue a report to the Board after of [sic] the conclusion of the election process.
 - (b) The Board must determine the process to be followed in appointing the independent electoral officer.
- (2) Eligibility to stand for election
 - (a) The nomination of any person disqualified from being appointed in terms of rule 6 (1) or Rule 6(1A), for the position of trustee or alternate is null and void.

[amended wef 30.04.2012]

- (b) Should any nominee fall into one of the categories mentioned in rule 6(1) and subrule (3)(d) after the nomination process but before the voting process, he or she is immediately disqualified from standing for election. The nominee with the next highest number of votes must then replace him or her. If there have been fewer than four persons nominated, further nominations must be called for in accordance with the process set out in subrule (3)(h) and (i).
- (c) If there is any dispute as to a person's eligibility to be nominated or to stand for election, a hearing must be conducted by the independent electoral officer, who must then make a final decision on the issue.

(3) Nomination Process

- (a) Each Pensioner, Dependant and Special Pensioner is entitled, but not required, to nominate one candidate for election to the post of Pensioner-elected Trustee.
- (b) A nomination form, prepared in the manner and form determined by the Board of Trustees, must be sent by post to each Pensioner, Dependant and Special Pensioner and must be accompanied by:
 - (i) information about the nomination and election process;
 - (ii) the name and contact details of the independent electoral officer; and
 - (iii) a pre-paid reply envelope bearing the address of the electoral officer.

Nominations can only be made by properly completing the nomination form referred to in Rule 32 (3) (b) above. Nominations provided in any other form will not be accepted. The electoral officer will have the discretion to decide whether a nomination form has been properly completed.

- (c) All nominated candidates will, if possible, be contacted by the independent electoral officer to confirm their acceptance of the nomination and their willingness to abide by the Codes of Conduct and Rules referred to below. The nominees must then sign a written declaration confirming the same and supply any additional information required by the independent electoral officer.
- (d) If a person who has been nominated and-
 - (i) has not given written notice to the electoral officer of his or her acceptance of the nomination; and/or

TRANSNET SECOND DEFINED BENEFIT FUND RULES

BONUS PAYMENTS
ELECTION PENSIONER TRUSTEES

BONUS PAYMENTS
ELECTION PENSIONER TRUSTEES

- (ii) has been nominated by fewer than 10 persons who are Pensioners and/or Dependants and/or Special Pensioners; and/or
 - (iii) the electoral officer has been unable to make contact with the nominee within 10 days of receiving his or her nomination; and/or
 - (iv) fails or declines to undertake in writing to abide by-
 - a. the Fund's Code of Conduct for Candidates for Election; and
 - b. the Fund's Code of Conduct for Trustees; and
 - c. the Fund's Rules; and/or
 - (v) declines to provide the information that the independent election officer requires that he or she provides, within the time period specified for the purpose by the electoral officer, the nomination will fall away and will be deemed not to have been made.
- (e) All nominations must reach the electoral officer on or before the date specified by the electoral officer in writing.
- (f) Nominations can only be opened by the independent electoral officer.
- (g) Before accepting the nomination, the independent electoral officer must verify the information on the nomination form using the Fund's data base.
- (h) If only 1 (one) or 2 (two) valid nominees [sic] are received, the candidates will be regarded as automatically having been elected, and the Board will appoint two or three other Pensioners, as the case may be, to act as pensioner-elected trustees or alternates, as the Board so decides.
- (i) If three or more valid nominations are received, the election will be conducted. If a post of alternate pensioner-elected trustee remains vacant, the Board may appoint a Pensioner to fill it.
- (4) Who can vote
- (a) Each Pensioner, Dependant and Special Pensioner may vote for not more than four persons.
- (5) Voting
- (a) If more than 2 (two) valid nominations are received, ballot papers and information to be given to the voters must be prepared in the manner and form determined by the Board.
 - (b) The ballot papers must be sent by post to all Pensioners, Dependants and Special Pensioners and must be accompanied by:
 - (i) information about each of the nominees;

TRANSNET SECOND DEFINED BENEFIT FUND RULES

BONUS PAYMENTS
ELECTION PENSIONER TRUSTEES

BONUS PAYMENTS
ELECTION PENSIONER TRUSTEES

- (ii) an explanation of the voting process; and
 - (iii) a pre-paid reply envelope bearing the address of the Fund.
- (c) No vote will be regarded as having been validly exercised unless-
- (i) it was made on a ballot paper given to the Pensioner, Dependant or Special Pensioner;
 - (ii) it was placed inside the pre-paid envelope and posted or delivered (not telefaxed or emailed) to the electoral officer; and
 - (iii) the pension number of the Pensioner, Dependant or Special Pensioner appears on the outside of the pre-paid envelope.
- (d) All completed ballot papers must reach the Fund within the period determined by the independent electoral officer.
- (e) The independent electoral officer must verify and record the ballot papers after the closing date for submission of ballot papers, utilising the Fund's data capturing system, and must forward the results to the Fund's Principal Officer.
- (f) Candidates for election or their properly authorised representatives will be permitted to observe the counting of votes by the independent electoral officer.
- (g) The 4 (four) nominees with the highest number of votes will be regarded as the properly elected trustees. The result of the election will be communicated to Pensioners, Special Pensioners and Dependants as soon as is reasonably possible.

[Rule 32 inserted by GN 1236 of 24 December 2010 and amended wef 30.04.2012.]

- (h) Any vacancy in the office of a trustee (or his/her alternate, if applicable) who has been elected by Pensioners, Dependants and Special Pensioners in terms of Rule 32, shall be filled by the nominee who obtained the next highest number of votes during the last election process, provided such nominee is still available, and will fill such office for the remainder of the period referred to in Rule 6(3).

[Sub-rule 5(h) inserted wef. 30.07.2013]

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Transnet Second Defined Benefit Fund

Actuarial valuation as at 31 March 2019

Prepared by Alexander Forbes Financial Services

August 2019



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Actuarial valuation of the Transnet Second Defined Benefit Fund as at 31 March 2019

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 15/03/19

EXECUTIVE SUMMARY**Present value of pensioner liabilities**

1. The present value of the liabilities in respect of pensioners as at 31 March 2019 was as follows:

	31 March 2018 (R million)	31 March 2019 (R million)
Pensioners	4 727	4 127
Widow(ers)	5 903	5 403
Children	21	22
Total liability	10 651	9 552

Summary of results

2. Comparing the value of the assets with the past service liabilities produced the following results:

	31 March 2018 (R million)	31 March 2019 (R million)
Total net assets	14 669	13 346
Total liabilities	10 651	9 552
Solvency reserve	471	305
Surplus/(Deficit)	3 847	3 489
Funding level	131.0%	135.4%

Conclusion

3. I confirm that, based on the information available, the fund was in a sound financial condition as at the valuation date, i.e. the assets of the Transnet Second Defined Benefit Fund exceed the fund's liabilities and recommended contingency reserves as at the valuation date.
4. I am satisfied that the assets of the fund adequately matched the liabilities.

1. INTRODUCTION

I am pleased to present to the trustees of the Transnet Second Defined Benefit Fund (*"the fund"*) this actuarial valuation as at 31 March 2019 (*"the valuation date"*). This report sets out the results of the actuarial valuation of the fund as at 31 March 2019 and includes an analysis of the financial progress of the fund since 31 March 2018 (*"the previous valuation date"*). The period between the previous valuation date and the current valuation date is referred to hereinafter as the valuation period.

Registration and operation

- i.1 The fund now known as the Transnet Second Defined Benefit Fund was established on 1 November 2000 and all pensioners of the Transnet Pension Fund transferred to the fund on 1 November 2000. The fund was in a financially sound condition at its inception.

Objectives

- i.2 This actuarial valuation has been carried out as at 31 March 2019 with the following objectives:
- to assess the financial soundness of the fund, by comparing the value of liabilities accrued to the valuation date with the value of the assets held as at that date;
 - to investigate and report on actual experience of the fund since the previous valuation;
 - to review the assumptions used in light of actual experience;
 - to assess the necessity for, and quantum of, any contingency reserves;
 - to assess the suitability of the assets in relation to the liabilities of the fund; and
 - to meet statutory requirements.

Valuation data

- 1.3 In compiling this report, I have relied upon the accuracy and completeness of information made available to me by the administrators, Momentum Retirement Administrators, and external parties. Except where expressly stated in the report, I have not independently verified the accuracy of the facts or the basis of the information supplied to me.
- i.4 The results of the valuation depend on the accuracy of:
- the membership data;
 - the information on the assets, as supplied by the relevant sources; and
 - the audited financial statements for the valuation period.
- 1.5 Reasonability checks have been performed on the above and I am satisfied with the general accuracy and completeness of the data provided and with its suitability for purposes of this actuarial valuation. Further information regarding the reasonability checks performed is set out in appendix 2.

Capacity, brief and professional guidance

- 1.6 This report has been prepared by Alexander Forbes Financial Services (Pty) Ltd ("Alexander Forbes") solely for the benefit of trustees of the Transnet Second Defined Benefit Fund and the Minister of Public Enterprises and the Minister of Finance, and is prepared in accordance with the instructions given by the trustees of the fund. The trustees are charged by the Transnet Pension Fund Act 62 of 1990 ("the Act") to investigate the financial condition of the fund and report thereon to the Minister of Public Enterprises and the Minister of Finance.
- 1.7 In terms of rule 18(2)(b) of the fund, the fund shall be valued by the Actuary at intervals not exceeding three years, to determine whether the fund is in a position to pay the benefits provided for in the rules. The current practice is to perform annual actuarial valuations of the fund. The trustees appointed Alexander Forbes to perform this valuation.
- 1.8 Throughout this report any values that have been determined are, except where otherwise stated, in accordance with our view of the most probable future experience. Our specific assumptions and other references and limitations are documented in the following sections and supporting appendices. These sections and appendices are an integral part of this report.
- 1.9 This report complies with the relevant Guidance Notes of the UK Actuarial Profession and the Professional Guidance Notes of the Actuarial Society of South Africa.
- 1.10 Alexander Forbes does not accept any liability to any persons, other than the trustees, in connection with this report or its related enquiries. I accept no liability in respect of any matter outside the scope and limitations of this report and purpose for which it is prepared.
- 1.11 This report may not be disclosed and / or relied upon in whole or in part to / by any person other than the trustees or quoted in any other context without prior written consent. Any person, other than the trustees to whom this report is addressed, who receives a draft or copy of this report (or any part of it) or discusses it (or any part of it) or any related matter with me or any third party, does so on the basis that they acknowledge the source of this report and accept that they may not rely on it for any purpose whatsoever and that I owe a duty of care only to the trustees. Any portion of this report, if reproduced or transmitted, must include a reference to the full report and to this clause.
- 1.12 This report has been prepared as at 31 March 2019 and covers the valuation period given above. Unless specifically stated to the contrary, it does not take into account any events subsequent to the valuation date.

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Nick
2019

2. HISTORY OF THE FUND

2.1 A summary of the history of the fund's funding level is shown in the following table:

	Assets (R million)	Liabilities (R million)	Funding Level %
1 November 2000*	19 911	17 878	111.4%
31 March 2001*	16 502	20 140	81.9%
31 March 2002*	16 046	18 992	84.5%
31 March 2003*	13 243	18 370	72.1%
31 March 2004*	15 095	18 537	81.4%
31 March 2005	16 369	21 698	74.0%
31 March 2006	19 204	22 197	86.5%
31 March 2007**	21 570	20 414	105.7%
31 March 2008**	19 850	17 873	111.1%
31 March 2009**	19 614	17 919	109.5%
31 March 2010**	19 632	16 827	116.8%
31 March 2011**	18 052	16 119	117.0%
31 March 2012**	18 339	15 993	114.7%
31 March 2013**	18 313	16 146	113.4%
31 March 2014**	17 216	14 235	121.0%
31 March 2015**	16 757	13 612	123.1%
31 March 2016**	15 630	11 823	132.2%
31 March 2017**	15 241	11 307	134.8%
31 March 2018**	14 669	11 122	131.9%
31 March 2019**	13 346	9 857	135.4%

* These figures are drawn from the actuarial valuation reports prepared by NBC Consultants and Actuaries

** Liabilities include any contingency reserves held.

3. DEVELOPMENTS SINCE THE PREVIOUS VALUATION DATE

Pension increases

- 3.1 Pensions in course of payment are increased by 2% per annum in terms of the rules of the fund

Bonus payments

- 3.2 With effect from 31 March 2007 the rules of the fund were amended to allow the trustees to grant ad hoc bonus payments to pensioners if the value of the fund's assets is in excess of its liabilities. Such bonuses may only be granted with the approval of the Board of Directors of Transnet.
- 3.3 All pensioners received ad hoc bonuses of 10% of annual pension in April 2018, 15% in October 2018 and a further 15% in December 2018. The bonus paid in April 2018 was accounted for in the previous valuation.

Administration and actuarial services

- 3.4 The fund was administered by Momentum Retirement Administrators during the valuation period.
- 3.5 Alexander Forbes are the appointed actuaries to the fund

4. MEMBER DATA

The valuation of the fund at 31 March 2019 was based on the membership detailed below. Further statistics, including a reconciliation of the current membership with that present at the previous valuation, are provided in appendix 2.

Pensioners

- 4.1 Details of the pensioners and annual pension statistics at the valuation date are provided in the table below:

		31 March 2019	
	Number	Total annual pensions (R'000)	Average annual pensions (R)
Pensioners			
- Male	13 375	615 993	46 056
- Female	323	23 346	37 472
Widow(er)s			
- Male	71	2 283	32 297
- Female	32 760	867 892	26 492
Children	126	2 310	18 336
Total	46 666	1 511 834	32 168

- 4.2 We note that the number of pensioners is lower than that shown in the financial statements, which show a higher number of new beneficiaries than were present in the valuation data.

- 4.3 The corresponding statistics at the previous valuation date have been provided for comparison:

		31 March 2018	
	Number	Total annual pensions (R'000)	Average annual pensions (R)
Pensioners			
- Male	14 326	662 182	44 864
- Female	661	23 749	35 929
Widow(er)s			
- Male	69	2 165	31 378
- Female	34 229	890 693	26 022
Children	123	2 143	17 423
Total	49 008	1 660 832	31 677

- 4.4 The valuation data includes 54 pensioners in terms of Railways and Harbours Pensions Amendment Act No. 26 of 1941 (49 male pensioner and 5 female pensioners), compared to 59 at the last valuation.

5. ASSETS

5.1 This section sets out the value placed upon the fund's assets. It first deals with the matched cash flow portfolio and then with the fund's assets in aggregate.

Matched cash flow portfolio

5.2 The liabilities of the fund are entirely nominal and the trustees have targeted a strategy that will match the cash flows of approximately 85% of these liabilities. I am satisfied that the matched portfolio, currently at 87.6% of the fund's liabilities as reported by the fund's asset consultants, is appropriate. This is a decrease from 93.3% at the previous valuation.

Unmatched portfolio

5.3 The fund, together with its asset consultants, devised an investment policy in respect of the remainder of the fund's assets. This policy follows a more aggressive investment strategy than that of the matched portfolio. In my opinion this is appropriate as the unmatched portion is primarily intended to cover the balance of the unmatched liabilities and the "reserves" which would be used to fund future pension bonuses, as affordable. Given that the balance of unmatched liabilities are long-term liabilities, and that the pension bonus reserve would look to maximise the assets in this reserve in order to maximise future bonuses, I am satisfied with the approach followed in setting this investment policy.

Fund assets

5.4 The composition of the fund's assets at market value, as reported in the audited annual financial statements, is set out in the following table:

	Market value (R million)	Allocation %
Cash and deposits	1 737	13.1
Commodities	94	0.7
Debt Instruments	6 509	49.1
Equities	4 144	31.3
Collective investment schemes	12	0.1
Hedge funds	(5)	0.0
Private equity funds	332	2.5
Derivative market investments	(261)	(2.0)
Investing in participating employer	688	5.2
Total investments	13 250	100.0
Plus: Current assets	171	
Less: Current liabilities*	(75)	
Total assets for valuation purposes	13 346	

* Includes unclaimed benefits

Valuation of assets

- 5.5 For purposes of this actuarial valuation, the assets have been taken into account at 100% of fair (or market) value and no investment margin has been set aside. Therefore the assets of the fund have been taken into account at R 13 345 million as at the valuation date. This is consistent with asset valuation methodology applied to the valuation of the fund's liabilities.

Fund returns

- 5.6 The assets of the fund earned approximately 4.90% per annum during the valuation period, based on the audited financial statements and assuming that cash flows for each year occurred in the middle of that year. This investment return is net of investment management fees.
- 5.7 This return should be considered in the context of the 8.37% per annum assumed in the previous actuarial valuation report.

Appropriateness of assets

- 5.8 I am satisfied that the current investment strategy provides an appropriate match of the fund's liabilities.

6. VALUATION METHOD AND BASIS

The valuation has been conducted on the basis of the benefits and other provisions of the rules as at 31 March 2019. The liabilities of the fund are entirely nominal. Assets are reflected at market value.

Valuation approach

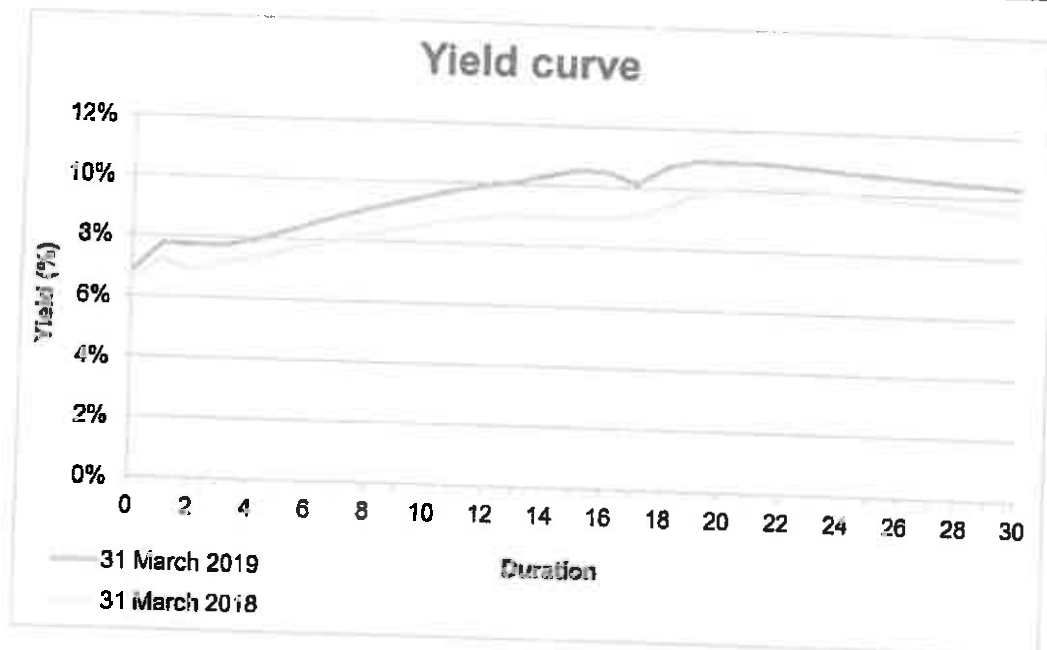
- 6.1 The liabilities are calculated as the present value of projected future pension payments at the date of valuation. The future pension payments and pension increases are discounted to the valuation date using the valuation discount rate.
- 6.2 The in-force future pension payments were calculated by applying a best-estimate probability basis to future pension payments, allowing for future pension increases in terms of the rules of the fund. This method is appropriate for a fund with a membership of only pensioners.

Principal actuarial assumptions

- 6.3 In setting the assumptions to be used for estimating the liabilities of the fund current actuarial principles and the Alexander Forbes best practice "house view" have been followed.
- 6.4 Current practice is for these assumptions to be "best-estimate" assumptions. Therefore, no deliberate margins of conservatism would be included in the assumptions and the assumptions would generally be motivated by reference to the experience of the fund, statistical evidence and yields on government or corporate bonds.
- 6.5 In addition, the assumptions should be reasonable both independently and combined. The assumptions used to value the liabilities must be consistent with those used to value the assets.
- 6.6 The actuarial assumptions used in the valuation of the liabilities are detailed below:

Yield curve

- 6.7 The gross discount rates are determined with regard to the all bond yield curve on 31 March 2019. I believe an appropriate matched investment strategy for the fund would reflect an asset profile of primarily bond investments. I have therefore used the yield curve as the discount rate, as implied by the efficient market hypothesis. The graph below compares the yields as at 31 March 2019 and 31 March 2018:



- 6.8 As in the previous valuation, the expected future cash flows at each duration have been discounted using the yield implied by the yield curve at each specific duration.
- 6.9 The average discount rate which produces equivalent results is 8.35% p.a. compared to 8.37% in the previous valuation.
- 6.10 The fund's liabilities have duration of approximately 5.4 years, compared to approximately 5.8 years in the previous valuation.
- 6.11 No provision for asset management fees has been made, since the out-performance over the benchmark produced by active asset management should exceed the asset management fee.

Inflation

- 6.12 A future inflation assumption can be derived at each duration on the yield curve by subtracting the yield on inflation-linked government bonds from a similar duration fixed-coupon bond yield. The fund's liabilities have duration of approximately 5.4 years, corresponding to an inflation estimate of 4.97%, compared to 5.70% at the last valuation.
- 6.13 This assumption is not used in the determination of any of the liabilities in the fund and should be used purely as a comparative.

Mortality assumptions

- 6.14 The mortality assumptions have, at this stage, remained unchanged from the previous valuation.
- 6.15 The fund-specific Transnet Pensioner Mortality Tables have been retained to represent the expected mortality of all pensioners.

Category	Average pension weighted age	
	31 March 2018	31 March 2019
Male pensioners	77.8 years	79.4 years
Female pensioners	76.5 years	78.3 years
Male spouses (Widowers)	63.1 years	65.7 years
Female spouses (Widows)	75.3 years	76.7 years

6.16 The fund-specific Transnet Pensioner Mortality Table can be summarised as follows:

Age	Average annual death rate in the stated age band	
	Female (%)	Male (%)
20 to 24	0.26	0.79
25 to 29	0.34	1.03
30 to 34	0.42	1.27
35 to 39	0.52	1.51
40 to 44	0.63	1.75
45 to 49	0.74	1.99
50 to 54	0.87	2.24
55 to 59	1.06	2.46
60 to 64	1.40	2.72
65 to 69	2.02	3.35
70 to 74	3.14	4.95
75 to 79	5.17	7.80
80 to 84	8.88	11.89
85 to 89	14.33	17.36
90 to 94	22.40	24.80
95 and older	30.88	33.14

Remarriage liability

6.17 The rules of the fund were previously amended so that only a spouse who was married to a pensioner on or before 31 March 2007 would be eligible to claim a benefit on the death of the pensioner. This was allowed for in the valuation by assuming that 80% of pensioners are currently married and that all male pensioners are 5 years older than their spouses

6.18 The actual marital statuses of pensioners and their spouses' details are not reliable in the data received. The administrators continue to update this information where possible.

Solvency reserve basis

- 6.19 I have determined the level of the solvency reserve using the discontinuance matched approach. The solvency reserve is made up of three components, namely: solvency reserve on matched liabilities, solvency reserve on unmatched liabilities and a mortality improvement reserve.
- 6.20 The assumptions that differ from the best-estimate valuation assumptions are:
- Discount rates: This is the yield curve, as discussed in section 6.7, but adjusted for the reasonable cost of maintaining an investment strategy of matching such assets to the liabilities of the fund (0.5% for unmatched), but taking into account the current matching and associated reduced risks (0.25% for matched).
 - Post-retirement mortality: The Transnet mortality tables were again rated down by a ½ year to allow for possible future mortality improvements.

7. VALUATION RESULTS

- 7.1 In order to determine the level of solvency of the fund, it is necessary to compare the total assets of the fund with the total liabilities. The fund is solvent when the value of the assets exceeds the value of the liabilities, i.e. a funding level of 100% or greater. The funding level is the ratio of the value of the assets to the value of the liabilities of the fund at the valuation date.

Value of liabilities

- 7.2 The present value of the liabilities in respect of pensioners, as at 31 March 2019, is given in the table below. The values as at 31 March 2018 are given for comparative purposes:

	31 March 2018 (R million)	31 March 2019 (R million)
Pensioners	4 727	4 127
Widow(er)s	5 903	5 403
Children	21	22
Total liabilities	10 651	9 552

Value of assets

- 7.3 For valuation purposes, the value of the assets is R 13 346 million.

Value of solvency reserve

- 7.4 The trustees accepted and implemented a solvency reserve to afford protection against investment and mortality risk. This reserve is calculated on the difference between the fund's liabilities on the valuation basis and the liabilities on the solvency basis.
- 7.5 As per the previous section, this reserve has three components:
- The Transnet Pensioner Mortality tables were rated down by a ½ year to allow for possible future mortality improvements. An amount of R 168 million will need to be set aside to allow for this
 - A reserve of R 32 million is required in respect of the unmatched portion of the liabilities. This was calculated by reducing the best-estimate bond yield by 0.5% to allow for the reasonable cost of maintaining the investment strategy of the fund.
 - On the basis that a margin arose on the implementation of the cash flow matching strategy, there is expected to be an additional level of assets that provide a margin of protection and which would release over time. On this basis the solvency reserve in respect of the matched liabilities portion was calculated by reducing the best-estimate bond yield by only 0.25%. The reserve required for the matched portion of the liabilities amounts to R 105 million.
- 7.6 The total recommended solvency reserve as at 31 March 2019 amounts to R 305 million compared to R 471 million as at 31 March 2018.

Funding level

- 7.7 Comparing the value of the assets with that of the past service liabilities produces the following results:

	31 March 2018 (R million)	31 March 2019 (R million)
Total net assets	14 689	13 346
Total liabilities	10 951	9 552
Solvency reserve	471	305
Surplus / (deficit)	3 517	3 489
Funding level	131.5%	155.4%

- 7.8 The fund's assets exceed its liabilities. As at the valuation date I am able to confirm that the fund is financially sound (i.e. the fund has a funding level of 100% or greater).

Comment in terms of APN 205

- 7.9 Whilst the value of the liabilities is based on best estimate assumptions, where relevant, and the solvency and other contingency reserves established by the trustees on my advice allow for some fluctuations in asset values and / or unexpected changes in liabilities, there is no guarantee that these reserves will prove sufficient in practice. Conversely, it is possible that the reserves may prove to be more than sufficient.
- 7.10 If the reserves prove to be insufficient, management action will be required to rectify the position. The uncertainty of the adequacy or otherwise of the reserves held is unavoidable and the actual outcome can only be determined when the fund ceases to have any further liabilities.

8. SUMMARY AND RECOMMENDATIONS

- 8.1 The fund does not receive regular contribution income and all the benefits are payable from a combination of investment income and the sale of assets. This will result in the fund's assets reaching a point where they start to reduce over time. The market value of the fund's assets is very important and has a direct impact on the financial position of the fund.
- 8.2 The actuarial valuation of the Transnet Second Defined Benefit Fund revealed a surplus of R 3 439 million after allowing for a solvency reserve of R 305 million, and a funding level of 135.4% as at the valuation date.
- 8.3 Based on the results, as expanded in appendix 4 to reflect the impact of continuing annual bonuses, the fund can afford two 13th cheques per annum for the foreseeable future.
- 8.4 While the valuation results show a strong financial position, it would be useful for the trustees to bear in mind that, should there be a move to target inflationary pension increases, there would need to be a change in the fund's reserving policy and asset structure. For information purposes only, I have included under appendix 4 an illustration of the funding position had inflation been the fund's target. This has no bearing on the financial position of the fund and should be used for management information purposes only.
- 8.5 Although the improvements in pensioner longevity are not yet significant, I have also shown in appendix 4 the impact of allowing for mortality improvements of 0.5% per year going forward.
- 8.6 I am able to confirm that the fund was in a sound financial condition as at the valuation date.
- 8.7 I am satisfied that the current investment strategy is appropriate and that the assets adequately match the liabilities.



A R Pienaar

Fellow of the Actuarial Society of South Africa
and Fellow of the Institute of Actuaries
in my capacity as the valuator of the fund
and as an employee of
Alexander Forbes Financial Services (Pty) Ltd

For the purposes of professional regulation the primary professional regulator of the signatories to this report is the Actuarial Society of South Africa

August 2019



APPENDIX 1: SUMMARY OF BENEFITS AND CONTRIBUTIONS

A summary of the main benefits is given below. Full details are contained in the registered rules of the fund. Where there are special cases or benefits for particular members, these have been taken into account in the valuation.

Spouse's pension on death

In terms of the rules of the fund a pension equal to 70% of the member's pension immediately prior to his death. If the pensioner dies before the normal retirement age, the pension is increased by the ratio of pensionable service plus service from date of death to normal retirement age over pensionable service.

If the spouse is the result of a marriage after retirement, and is more than five years younger than the deceased pensioner, the benefit is reduced.

Only spouses who were married to principal pensioners at 31 March 2007 are entitled to this benefit.

Dependent children's pensions on death

In terms of the rules of the fund on the death of a pensioner a dependent child receives a pension at the discretion of the fund and on a basis determined by the fund, but not more than 80% of the spouse's pension.

If dependants are children, the pension is normally payable to age 18. This may be extended up to age 26 by the trustees in cases where children remain dependent after age 18.

Pension increases

The rules provide for a pension increase of 2% per annum on the anniversary of the retirement date.

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APPENDIX 2: SUMMARY OF DATA

Membership reconciliation

	Pensioners	Spouses	Children & other dependants	Total
Membership 31 March 2018	15 487	34 298	123	49 908
Adjustment	-	2	4	6
Revised	15 487	34 300	127	49 914
New pensioners	-	753	8	761
Exits (deaths and terminations)	(1 489)	(2 222)	(9)	(3 720)
Membership 31 March 2019	13 998	32 831	126	46 955

We note that the number of pensioners is lower than that shown in the financial statements, which show a higher number of new beneficiaries than were present in the valuation data.

The adjustments shown above are generally the result of changes in member numbers on the administration system.

Member statistics

Pensioners		Male		Female		
Age	Number	annual pension (R'000)	Average pension (R)	Number	annual pension (R'000)	Average pension (R)
45 - 49	3	45	15 091	-	-	-
50 - 54	43	831	19 329	4	70	17 405
55 - 59	255	6 140	24 078	33	650	19 684
60 - 64	695	18 855	27 130	78	1 772	22 712
65 - 69	1 001	33 160	33 127	87	2 688	30 900
70 - 74	1 901	96 838	50 940	75	3 190	42 540
75 - 79	3 181	166 980	52 493	102	3 978	39 003
80 - 84	3 366	155 464	46 187	115	3 969	34 512
85 - 89	1 967	95 814	48 711	86	4 475	52 032
90 - 94	725	33 991	46 884	32	1 546	48 320
95 - 99	200	7 051	35 254	11	1 008	91 604
100 - 104	32	778	24 306	-	-	-
105 - 109	4	31	7 850	-	-	-
110 - 114	1	7	7 130	-	-	-
115 - 119	1	8	7 743	-	-	-
Total:	13 375	615 993	48 058	623	23 346	37 472

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Widow(er)s		Male		Female		
Age	Number	annual pension (R'000)	Average pension (R)	Number	annual pension (R'000)	Average pension (R)
35 - 39	-	-	-	5	86	17 295
40 - 44	1	7	6 827	42	978	23 289
45 - 49	4	153	38 157	237	5 346	22 558
50 - 54	6	173	28 931	800	17 585	21 981
55 - 59	12	447	37 290	1 820	40 462	22 232
60 - 64	10	382	38 192	2 949	66 362	22 503
65 - 69	14	424	30 291	4 196	89 291	21 280
70 - 74	12	316	26 348	5 306	124 703	23 502
75 - 79	4	140	34 898	6 255	158 877	25 400
80 - 84	3	86	28 541	5 395	164 434	30 479
85 - 89	3	105	35 125	3 619	121 609	33 603
90 - 94	1	18	18 168	1 675	63 182	37 721
95 - 99	1	42	41 659	397	13 598	34 251
100 - 104	-	-	-	54	1 203	22 284
105 - 109	-	-	-	9	169	18 750
110 - 114	-	-	-	1	7	7 265
Total	71	2 293	32 287	32 760	857 892	26 482

Children & other dependents		Male		Female		
Age	Number	annual pension (R'000)	Average pension (R)	Number	annual pension (R'000)	Average pension (R)
10 - 14	1	2	2 267	3	8	2 922
15 - 19	2	14	6 814	4	25	6 319
20 - 24	3	16	5 238	4	42	10 394
25 - 29	1	6	6 443	1	10	10 248
30 - 34	5	57	11 521	3	45	14 855
35 - 39	-	-	-	3	44	14 715
40 - 44	8	194	24 272	9	1150	16 630
45 - 49	8	123	15 333	8	265	33 193
50 - 54	7	134	19 112	3	111	37 058
55 - 59	15	269	17 917	8	128	16 012
60 - 64	7	167	23 811	4	172	42 906
65 - 69	1	17	16 912	9	148	16 466
70 - 74	-	-	-	6	115	19 163
75 - 79	-	-	-	2	39	19 598
80 - 84	-	-	-	-	-	-
85 - 89	-	-	-	1	8	8 497
Total	58	990	17 216	68	1 312	19 290

Reasonability checks performed

A large number of tests on the reasonability and consistency of the data were carried out, including the following:

- reconciling the number of pensioners at the valuation date and the previous valuation date, with the movements in membership reported
- reasonability tests on the pension amounts, and the various dates (dates of birth, dates of pension commencement and dates of exit)
- identifying any missing or invalid data fields
- identifying changes in membership details
- reviewing the fund's annual financial statements
- calculation of the fund's investment returns

I am satisfied with the general accuracy and completeness of the data provided and with its suitability for purposes of this valuation.

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APPENDIX 3: ANALYSIS OF CHANGE IN FINANCIAL POSITION

The valuation at 31 March 2019 disclosed a surplus in assets of some R 3 489 million after taking into account the recommended solvency reserve. The previous valuation at 31 March 2018 showed a surplus of some R 3 547 million on the market value of assets. The factors that led to a change of approximately R 58 million have been analysed according to source and the results of this analysis are given in the following table.

item	R million
Valuation surplus as at 31 March 2018	3 547
Interest on valuation surplus	297
Investment return	(464)
Change of best estimate assumptions	418
Ad hoc bonus payments*	(464)
Change in solvency reserve	206
Mortality profit/(loss)	(44)
Miscellaneous	(7)
Valuation surplus as at 31 March 2019	3 489

* This figure excludes the bonus amount that was paid in April 2018 as this amount was already allowed for in the surplus as at 31 March 2018.

Interest on valuation surplus

Interest at the assumed valuation rate on the previous surplus produced a profit of R 297 million over the valuation period.

Investment return

The investment return achieved on the assets (approximately 4.90%) was lower than that anticipated on the previous valuation basis of 8.37%. This resulted in an investment loss of R 464 million over the valuation period.

Change of best estimate assumptions

Since the previous valuation, changes in bond yields have resulted in a net decrease of R 418 million in the assessed value of the liabilities, from R 9 970 million to R 9 552 million.

Ad hoc bonus payments

The fund granted pensioners ad hoc bonus payments of 15% of annual pensions in October 2018 and 15% in December 2018. This was funded out of the fund's surplus. The result was a strain of approximately R 464 million.

Change in solvency reserve

A change in the solvency reserve has resulted in a release of R 206 million.

Mortality profit/(loss)

The actual mortality experience was lighter than expected, which produced a strain of R 44 million.

Miscellaneous

There was a miscellaneous loss of R 7 million arising from various individually insignificant sources.

APPENDIX 4: FUNDING LEVEL COMPARISON

This section is for the trustees' information purposes only to assist in understanding the relative strength of the fund and its change in financial position over the previous financial period, relative to inflation. I have also illustrated the impact of possible future mortality improvements.

While the valuation results show a strong financial position, it would be useful for the trustees to bear in mind that, should there be a move to target inflationary pension increases, there would need to be a change in the fund's reserving policy and asset structure.

Annual bonus payments

The following table illustrates the funding position at 31 March 2019 should the fund target an annual bonus equal to a 13th cheque payable in November, or alternatively, two such bonuses each year payable in April and November. This has no bearing on the actual reported financial position of the fund and should be used for management information purposes only.

	One bonus p.a. (R million)	Two bonuses p.a. (R million)
Total net assets	13 346	13 346
Total liabilities	10 334	11 183
Solvency reserve*	339	374
Surplus/(Deficit)	2 973	1 789
Funding level	125.0%	115.3%

* Includes estimated increase in solvency reserve as a result of bonus payments

Inflationary pension increases

The following table considers the funding position if the fund were to target inflationary pension increases, including an annual bonus equal to a 13th cheque payable in November. This has no bearing on the actual reported financial position of the fund and should be used for management information purposes only.

As set out in the previous sections, the market's expectation of inflation at the valuation date is 4.97% based on best estimate assumptions (5.70% at 31 March 2018).

	75% CPI (including one bonus p.a.) (R million)
Total net assets	13 346
Total liabilities	11 348
Solvency reserve	391
Surplus/(Deficit)	1 907
Funding level	113.7%

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Please note that the above results are based on the assumption that an appropriate inflation-linked cash flow matching strategy is implemented for future pension payments. If this is not done, the level of solvency reserve desired will be higher than that shown above. No allowance has been made for the potential cost of the restructuring of the fund's existing assets to such a possible arrangement.

Annual improvements in future mortality

The following table illustrates the funding position should the fund experience mortality improvements of 0.5% p.a. into the future. This has no bearing on the actual reported financial position of the fund and should be used for management information purposes only.

	Current mortality (R million)	0.5% p.a. mortality improvements (R million)
Total net assets	13 346	13 346
Total liabilities	9 552	9 645
Solvency reserve	305	310
Surplus/(Deficit)	3 499	3 391
Funding level	135.4%	134.1%