



Government Employees Pension Law Amendment Bill, 2011

Presentation to the Select Committee on Finance
20 September 2011

GOVERNMENT EMPLOYEES PENSION FUND (GEPF)

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GEP Law Amendment Bill: Clean Break Rules

Definition Clause

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



Definition Clause

- **“Former spouse’s share”** means *“...an amount equal to the share of a member’s ‘pension interest’ assigned to his or her former spouse in terms of a divorce order, accumulated with interest at a rate or rates determined from time to time by the Board from the former spouse election date to the date of payment or transfer, as the case may be...”*;
- **“Pension interest”** means *“...the lump sum cash benefit to which a member would have been entitled in terms of these rules had he or she resigned from service on the date on which he or she was divorced from his or her former spouse...”*;



New Rule 14.10

- Rule 14.10 details the process and timeframes for the implementation of the clean-break principle with the GEPF.
- Rule drafted along the same lines as of the Pension Fund Act (Section 37D).
- The Fund must receive a certified copy of the Divorce Order from the either party (Rule 14.10.1).



New Rule 14.10 *cont'd*

- The non-member spouse must indicate to the Fund whether he/she wants to receive the payment directly or must the payment be made into a preservation fund (Rule 14.10.2).
- Once the non-member has made an election and informed the Fund how payment must be made, the Fund must make payment within 60 days (Rule 14.10.4).
- If the non-member spouse fails to make an election then the Fund must make payment to the non-member spouse directly (Rule 14.10.5).



New Rule 14.10 *cont'd...*

- Once the Fund receives written notice of the Divorce Order, the Fund must record a divorce debt against the member in the amount due to the former spouse (Rule 14.10.6).
- Notwithstanding Rule 14.10.5, if the Fund cannot reasonably ascertain how the payment to the former spouse must be effected the Fund must retain the amount plus interest as determined by the Board until such times as it has details of how and where payment should be made (Rule 14.10.7).



New Rule 14.10 *cont'd...*

- When the debt becomes payable to the member in terms of the Rules:
 - The amount of the gratuity, if any, must be reduced by the amount payable to the non-member spouse.
 - If the amount of the divorce debt exceeds the gratuity and there is an annuity payable to the member, the capital value of the annuity must be determined by the Fund's Actuary and the amount of the annuity must be reduced by the amount paid to the former spouse (Rule 14.10.8).



New Rule 14.10 *cont'd*

- The balance would then be paid to the member of the Fund (Rule 14.10.9).



Implementation Process

- **NSF**

- o Amended Rules relating to the NSF provisions were gazetted on 8 July 2011.
- o Engagement between National Treasury, SARS, GPAA and GEPF have been held to clarify issues around the payment process of NSF Benefits and the treatment of tax.
- o Number of members impacted by the NSF provisions are \pm 24 500.
- o GPAA has embarked on the payment process.



Implementation Process *cont'd...*

- **Clean-break**

- The Rules relating to Clean-break still needs to be gazetted.
- Initial engagement with the PSCBC (parties admitted to the PSCBC) around the implementation of the Clean-break Principle within the GEPF was held on 25 November 2010.
- PSCBC was taken through the rationale and impact of the implementation of the Clean-break principle to members.
- Further engagement will be necessary to ensure that all issues have been fully engaged on.



Implementation Process *cont'd...*

- Engagements between National Treasury, SARS, GEPF and GPAA are planned for September 2011 to clarify issues around the treatment of tax and other ancillary issues.
- Currently \pm 5000 divorce order cases on the GEPF system.





THANK YOU

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