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South African Revenue Service

Pretoria Head Office
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Ann-Charlotte Watkins

2001-10-21

Dear Sir/Madam

**INCOME TAX: RHODES UNIVERSITY PENSION FUND
(AMENDMENT 5)**

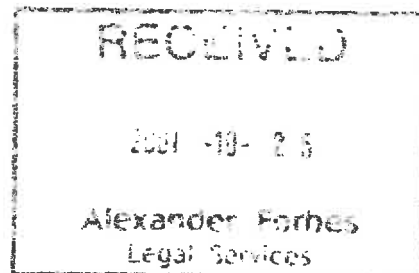
I write with reference to your letter AFLS/cn dated 13 July 2001 to inform you that the amendments to the rules of the above-mentioned fund have been noted and are approved.

The fund continues to be recognised as a pension fund.

Please advise this office should the underwriter of the Fund change and furnish the name and address of the new underwriter.

Sincerely

A handwritten signature in cursive script that reads 'A Forbes'.



for COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE
2489B/MEB

FINANCIAL SERVICES BOARD



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Ms CONSTANCE NTINI
ALEXANDER FORBES LEGAL SERVICES
P.O. BOX 787240
SANDTON
2146

At: Chantell Watkins

Dear Madam

AMENDMENT NO. 05: RHODES UNIVERSITY PENSION FUND

Your letter AFLS/CN of 13 July 2001 refers. I have enclosed a copy of the Amendment duly approved and registered in terms of section 12(4) of the Pension Funds Act, No. 24 of 1956.

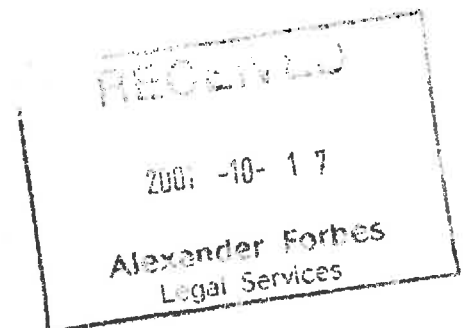
Please note that the amendment is registered subject to the rectification of the following rule: -

include in the next amendment substance (Rule 8.5(3)(d) – This clause should make provision for the following instance. If a Member's benefit exceeds the Employer's claim then such difference must be paid to the Member immediately.

Please amend by the next meeting of the Trustees.

Yours faithfully

Indurjith



REGISTRAR OF PENSION FUNDS

RHODES UNIVERSITY PENSION FUND

Amendment No. 5

Extracts from the minutes of a meeting of the Trustees of the Rhodes University Pension Fund held at *Craunston* on *25 June 2001*.

Resolved that with effect from 1 November 2000 the Rules of the Rhodes University Pension Fund shall be amended as follows:

1. Rule 1.4 shall be replaced by the following:

1.4 The registered office of the Fund is at 270 Cape Road, Newton Park, Port Elizabeth.

2. The definitions "Approved Pension Fund" "Commissioner", "Deferred Pensioner", "Insurer", "Pension" and "Pensioner" in Rule 1.5 shall be replaced by the following:

APPROVED PENSION FUND : a pension fund, other than a Preservation Pension Fund, approved as such by the Commissioner for the purposes of these Rules;

COMMISSIONER : the Commissioner for the South African Revenue Service;

DEFERRED PENSIONER : a Member who has exercised the option in terms of Rule 6.2 to preserve his benefit in the Fund until the payment of the Deferred Pension commences.

INSURER : an insurer registered in terms of the Long-term Insurance Act, 1998;

PENSION :

- (a) an annual pension payable from the Fund for the lifetime of the Beneficiary or, in the case of a Pension payable in respect of a Qualifying Child of a Member, the annual Pension payable for as long as such Child remains a Qualifying Child; or

- (b) the annuity or annuities purchased from a Registered Insurer in terms of these Rules;

PENSIONER : A Member who has retired and who is in receipt of a Pension from the Fund in terms of Rule 3, Rule 5(2) or Rule 6(2); provided that this shall include a Qualifying Spouse or Qualifying Child who is in receipt of a Pension from the Fund as envisaged in Rule 5, or a Pensioner as described in Annexure B;

3. The definitions "Approved Provident Fund", "Preservation Pension Fund" and "Preservation Provident Fund" shall be added to Rule 1.5:

APPROVED PROVIDENT FUND : a provident fund, other than a Preservation Provident Fund, approved as such by the Commissioner for the purposes of these Rules;

PRESERVATION PENSION FUND : an Approved Pension Fund recognised as a preservation fund, subject to the conditions set out by the Commissioner from time to time;

PRESERVATION PROVIDENT FUND : an Approved Provident Fund recognised as a preservation fund, subject to the conditions set out by the Commissioner from time to time;

4. Clause (4) shall be added to Rule 3.4:

Main Rule p 20

*Amplification
of
benefit*

X (4)

With effect from 1 November 2000, each Member who retires in terms of Rule 3.1, Rule 3.2, Rule 3.3, or Rule 6.2(2) and each Qualifying Spouse, Qualifying Child or Dependant who becomes entitled to a Pension in terms of Rule 4.1 may elect to have their Pension purchased from an Insurer. If the retiring Member, Qualifying Spouse, Qualifying Child or Dependant does not so elect, the terms and conditions of these Rules shall apply unaltered. If he does so elect then the following special provisions shall apply from that date:

- (a) Such Pension shall be purchased in the name of the retiring Member, Qualifying Spouse, Qualifying Child or Dependant from an Insurer chosen by such retiring Member, Qualifying Spouse, Qualifying Child or Dependant and approved by the Trustees.

- (b) The terms and conditions applicable to such Pension, including options elected by the retiring Member, Qualifying Spouse, Qualifying Child or Dependant and the determination of any benefits arising on his death, shall be agreed between such person and the Insurer and shall be set out in writing by the Insurer; provided that:
 - (i) the Pension so purchased shall be of such amount as can be purchased by the actuarial reserve of the Pension, as calculated by the Actuary, such calculation being based on the general assumptions as set out in the latest statutory valuation of the Fund but taking into account the actual factors applicable to the Member, Qualifying Spouse, Qualifying Child or Dependant at the date of purchase including, in particular, any contingent liability with regard to payment of a Pension on the death of such person, but less any amount commuted in terms of Rule 3.4(1) or Rule 4.2(1) as applicable;

 - (ii) the Pension so purchased shall be compulsory, non-commutable, non-assignable and payable for life; provided that in the case of a Qualifying Child, the Pension shall be payable for the term agreed on with the Registered Insurer;

(iii) purchase of more than one annuity shall be subject to any further requirements of the Commissioner;

(iv) on purchase of a Pension in terms of this Rule the Fund shall have no further liability in respect of such person, such liability resting with the Insurer from whom the Pension is purchased.

Each retiring Member, Qualifying Spouse, Qualifying Child or Dependant hereby appoints the Trustees as his duly authorised agent to do all things necessary to procure the purchase of the Pension.

5. Clause (4) shall be added to Rule 4.2:

(4) With effect from 1 November 2000, each Qualifying Spouse, Qualifying Child or Dependant who becomes eligible to receive a Pension in terms of this Rule may elect that his Pension be purchased from an Insurer in terms of Rule 3.4(4).

6. Rule 6.2(2) shall be replaced by the following: *See p 28 of Rules*

(2) Upon the Deferred Pensioner's attainment of his Normal Retirement Date, he shall receive a Pension vesting on the following day and calculated in accordance with Rule 3.1(1), but based on his Pensionable Service and his Final Average Salary at the actual date of his termination of Service. Payment of the Deferred Pension may be accelerated in accordance with Rule 3.2(1) and, with effect from 1 November 2000, may, at the Deferred Pensioner's request, be purchased from an Insurer in accordance with Rule 3.4(4).

7. Rule 6.3(1) shall be replaced by the following:

*Ref Amendment No 3
also p 29 of Main Rules*

- (1) A Member who does not elect to become a Deferred Pensioner in terms of Rule 6.2 may preserve all, or subject to the proviso to this Rule, part of his entitlement in Rule 6.1 that he does not take in cash in the following way:
- (a) by transferring such amount to an Approved Retirement Annuity Fund of his choice or a Preservation Pension Fund; or
- (b) by transferring such amount to an Approved Pension Fund or Approved Provident Fund which is operated for the benefit of employees with whom the withdrawing Member is taking up employment;

provided that transfer to a Preservation Pension Fund in terms of (a) above is subject to the requirements of the Commissioner as specified from time to time.

8. Rule 8.5(3) shall be replaced by the following:

- (3) In order to give effect to the provisions of this Rule and of Section 37D of the Act, the Trustees may, where an Employer has instituted legal proceedings in a court of law and/or laid a criminal charge against the Member concerned for compensation in respect of damage caused to the Employer as contemplated in Section 37D of the Act withhold payment of the benefit until such time as the matter has been finally determined by a competent court of law or has been settled or formally withdrawn; provided that:
- (a) the amount withheld shall not exceed the amount that may be deducted in terms of section 37D(b)(ii) of the Act;

- (b) the Trustees in their reasonable discretion are satisfied that the Employer has made out a prima facie case against the Member concerned and there is reason to believe that the Employer has a reasonable chance of success in the proceedings that have been instituted;
- (c) the Trustees are satisfied that the Employer is not at any stage of the proceedings responsible for any undue delay in the prosecution of the proceedings;
- (d) once the proceedings have been determined, settled or withdrawn, any benefit to which the Member is entitled is paid forthwith; and
- (e) the Trustees, at the express written request of a Member whose benefit is withheld, may, if applicable and practical, permit the value of the Member's benefit as at the time of such request to be isolated, in whatever manner the Trustees believe appropriate, from the possibility of a decrease therein as a result of poor investment performance.

9. Rule 8.11 shall be replaced by the following:

8.11 INTERPRETATION OF RULES AND DISPUTES

- (1) The decision of the Trustees as to the meaning of or interpretation of these Rules or of any particular Rule or part of a Rule shall be final and binding on the Employers, Members and every person claiming to be entitled to a benefit under these Rules, subject to the provisions of Section 30A of the Act.
- (2) Any question which may arise with regard to a claim by any person under these Rules shall be decided by the Trustees, subject to the provisions of Section 30A of the Act.

- (3) If any person affected by a decision of the Trustees in terms of (1) or (2) is dissatisfied with the decision, he shall
- (a) have the right to lodge a written complaint as envisaged in Section 30A of the Act. If such person remains dissatisfied he may lodge his complaint with the Pension Funds Adjudicator appointed in terms of the Act which shall be dealt with in accordance with Sections 30D to 30P of the Act; or
 - (b) have the right to refer the matter to arbitration in accordance with the provisions of the Arbitration Act, 1965. Notice of intention to exercise such right must be given by the person concerned to the Trustees not later than three months from the date of the Trustees' decision and before the arbitration commences the person concerned must furnish such security for the costs of the arbitration as the Trustees may reasonably require. The costs of the arbitration shall follow the award of the arbitrator.
- (4) The Employer, the Trustees (or one or more of their number), or any other person having a complaint or dispute of fact or law shall, notwithstanding anything to the contrary in these Rules, have the right to invoke the complaint procedures in accordance with the Act.

10. Rule 9.2(1) shall be replaced by the following:

- (1) The Trustees shall elect one of their number to act as chairman at all meetings of the Trustees and shall elect a further Trustee as vice-chairman to act in the absence of the chairman. The election by the Trustees of the chairman and the vice-chairman shall take place every 3 years; provided that the existing chairman and vice-chairman shall be eligible for re-election. In the absence of both the chairman and the vice-chairman from any meeting of the Trustees, the Trustees present shall elect one of their number to act as chairman.

11. Rule 10.9(2) shall be replaced by the following:

- (2) If the Fund is dissolved in terms of (1) above, the Trustees shall appoint a liquidator, subject to the approval of the Registrar. The following provisions shall apply:
 - (a) The liquidator shall allocate a portion of the assets of the Fund to the Pensioners on a basis determined by the Actuary and use each Pensioner's share in the assets of the Fund to purchase a Pension from an Insurer. The conditions determined in respect of such Pension are to be as similar to the Pensioner's Pension as possible.
 - (b) The balance of the assets of the Fund shall be divided by the liquidator in an equitable manner, as recommended by the Actuary, amongst the Members then participating in the Fund and shall be:
 - (i) invested in an Approved Pension Fund, Preservation Pension Fund, Approved Provident Fund or Approved Retirement Annuity Fund; or


- (ii) be paid to that Member in cash;

provided that investment in a Preservation Pension Fund is subject to the requirements of the Commissioner as specified from time to time.

The reasons for the amendment are:

- (i) to change the address of the registered office of the fund;*
- (ii) to update certain definitions in the rules;*
- (iii) to comply with the requirements of the Commissioner with regards to transfers to preservation funds;*
- (iv) to allow a retiring member, qualifying spouse, qualifying child or dependant the option to have his pension purchased as an annuity from an insurer in accordance with the practice notes GN18 and GN19 issued by the Commissioner.*
- (v) to recognise certain changes in legislation and the requirements of the Registrar by providing for the complaints procedure available to members through the office of the Pension Funds Adjudicator;*
- (vi) to allow the trustees to withhold a member's benefit in circumstances which may result in a deduction in terms of Section 37D of the Act;*
- (vii) to specify the term of office of the chairman and vice-chairman of the trustees; and*
- (viii) to remove a restriction previously in place with regards to the election of the chairman and vice-chairman.*

Certified that the above resolution has been adopted in accordance with the provisions of the Rules of the Fund.



Chairman of Trustees

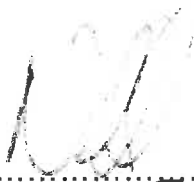


Trustee



Principal Officer

Certified that the above amendments are financially sound.



Actuary to the Fund

