

Feedback: Actuarial interest factors

The Government Employees Pension Fund (GEPF) rules require consultation with employee organisations before a decision is made regarding actuarial interest factors. The process of consultation, as interpreted by the Supreme Court of Appeal, entails that the rule must be complied, with which is a principle of legality, and cannot be remedied after a decision is taken and in consultation with non-designated functionaries. If implemented, such a decision will be liable to be set aside as per the 2015 factors as per the Supreme Court of Appeal (SCA) judgement.

The PSA represents a substantial number of members employed in the Public Service in both national and provincial spheres of government. The GEPF is a pension fund contemplated in section 2 of the *GEPF Pension Law, 1966*. It operates under the *GEP Law* and rules of the GEPF.

The PSA is a registered Union and a party to the Public Service Coordinating Bargaining Council (PSCBC), established and registered in terms of section 36(1), read with schedule 1 of the Labour Relation Act, which makes it a recognised employee organisation contemplated in the GEPF rules.

Actuarial interest is a key concern for the PSA. Actuarial interest is simply a member's accrued benefit payable to the member by the GEPF, as determined by the rules. More precisely, it is described in the definition section of the rules as follows:

"An amount representing the value of a member's benefits in the fund based on his or her pensionable service calculated in terms of rule 14.4.2"

Rule 14.4.2, in turn, reads as follows:

The actuarial interest of a member who has –

a) Not attained the age of 55 years, shall be calculated in accordance with the following formula:

Provided that the actuarial interest shall not be less than the amount of the benefit described in rule 14.4.1 (a) $N(\text{adj}) \times FS \times F(Z) \times [1 + (0.04 \times (60 - Z))]$

Where –

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

FS is the member's final salary.

F (Z) is a factor determined by the Board acting on the advice of the actuary, and after consultation with the Minister of Finance and the employee organisations.

Z is the age of at which the member attains his or her pension retirement date.

b) Attained the age of 55 years, shall be calculated in accordance with the following formula:

Provided that the actuarial interest shall not be less than the amount of the benefit describes in rule 14.4.1 (a):

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

Where-

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

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

A (X) is a factor determined by the board acting on advice of the actuary, and after consultation with the Minister and the employee organisation (emphasis added).

The PSA also wishes to rely on section 29 of the *GEP Law*, which provides as follows:

(2) the rules referred to in subsection (1), may –

...

(b) from time to time prescribe the conditions subject to which and the rate at which members shall contribute to the GEPF and the times at which and the manner in which such contributions or any amounts which are payable to the fund in terms of the law, shall be deducted from the pensionable emoluments of members and paid over to the fund.

.....

(g) from time to time prescribe the benefits or other amounts payable from the GEPF to members, their former spouses or their beneficiaries determined in the rules in cases or classes, or categories of cases specified by the rules and the manner in which such benefits or other amounts shall be calculated and the times at which and the manner in which such benefits or other amounts shall be paid; [and]

.....

(k) that any change to the rules shall satisfy the condition that the real value of the accrued benefits of every member of the GEPF, as represented by the GEPF actuarial liability towards the member and his or her beneficiaries, shall be maintained in such change, and provide for the manner in which such value is to be determined.

It is therefore important to place a premium on the relationship between the state as employer and its employees as members of the GEPF. The *GEP Law* and rules make various references to instances where negotiations and consultations are required with the responsible Minister and labour representatives in the PSCBC or employee or employee organisations. It is therefore trite that the *GEP Law* and rules are clear that consultation should take place prior to the actuarial interest factors being implemented.

The pensionable amounts of members in these categories, as prescribed above, depend directly on the application of the F (Z) and A (X) factors. Any amendment to the F (Z) or A (X) factors directly impacts upon the ultimate pension received by members, which is crucial why consultation should take place before any amendment of those factors takes place.

In addition, it is therefore the PSA's submission that the GEPF rules define an employee organisations as follows:

- An admitted employee organisation referred to in section 1 of the *Public Service Labour Relations Act, 1994*.
- An admitted employee organisation referred to in section 1 of the *Education Labour Relations Act 146 of 1993*.
- An employee organisation or other employee structure formed by personnel appointed in terms of the *Intelligence Services Act 38 of 1994, Defence Act 44 of 1957, and the South African Police Service Act 68 of 1995*, and which has for negotiation purposes been accepted by the employer.

In correspondence between the GEPF and the General Secretary of the PSCBC, the GEPF acknowledged the lack of a direct ongoing relationship and that the GEPF had some difficulty in complying with the rules around the consultation process at the level of the PSCBC. This is in regard to the F(Z) and A (X) factors also referred to as actuarial interest factors.

The GEPF furthermore amplified in its letter to the PSCBC that the relationship should be strengthened and that GEPF matters should be placed on the agenda of the PSCBC as a standing Item. The PSA, however, was concerned with the approach that the GEPF took to draft letters for consultation with federations as no federation is a party to the PSCBC nor are they defined in the *GEPF Law* or rules. This, in the PSA's view, is a contravention of the law and must be prevented.

The area which is of concern in the current valuation, and which was now consulted, is the assumptions provided by the Actuary. Under the general salary escalation, the assumption is at a rate of 10.2% per annum. The assumption is based on historical data of inflation plus one percent. Although historical data before 2020 will show such, the reality of the past two years contradicts such assumption. Inflation is on the rise because of several reasons and will continue to rise in the near future. However, government's approach to decrease the salary bill of government employee in an attempt to reduce fiscal pressure is clearly part of the short- and medium-term policy.

The significance of the actuary's assumption on immediate future salary increases of 10% contributes to the assumption of higher liabilities as salary is an input factor in the methodology calculation of a member's pension. The higher the salary notch, the higher the pension, which directs higher liability for the Fund. A more realistic salary increase assumption of 6% will reduce liabilities, which will increase the funding level if all other assumptions remain unchanged.

Also of grave concern to the PSA is the finding that the Fund does not have sufficient assets to cover the recommended solvency reserves and other contingency reserves in full. The long-term funding level is therefore at 74.3% and only R186 827 million is available to cover these reserves, which implies that 20.9% of the recommended reserves are funded. It is therefore paramount that the employer contribution rates be increased to ensure that members' benefits are sufficiently financed in the long term at or above 100% as per the funding policy.

The GEPF, however, responded to the PSA's concerns and subsequently indicated that it has not yet implemented the 2021 Actuarial Interest Factors as the consultation process has not yet been finalised. The GEPF, in summary, responded that the salary inflation assumption that was adopted is appropriate and is consistent with market expectations of future inflation. The Fund is in a healthy financial position and can hold a buffer of 21% of recommended contingency reserves.

The PSA lodged an enquire to the GEPF to request feedback on the outcome of the consultation process. The GEPF responded that the consultation process has been finalised and it is busy implementing and a communique will be issued during the course of this month before implementation.

GENERAL MANAGER