

DISPOSAL OF LUMP SUM DEATH BENEFITS:

In terms of Section 37 © of the Pension Funds Act, a member's dependants and persons who are not dependants but who are nominated by the member must be taken into account by the Trustees when they decide in what shares lump sum benefits are to be paid on the death of a member of a registered pension or provident fund.

The Fund shall within 12 months of the death of the member, endeavour to trace all dependants/nominees and shall pay benefits to same or all of such dependants/nominees in proportions as may be deemed equitable by the Trustees. In the absence of any dependants/nominees the benefit will be paid to the Estate.

Briefly, the position is as follows:

- (a) the following categories of persons will be dependants:
 - (i) persons for whose maintenance the member is legally liable;
 - (ii) persons whom the Trustees consider to have been dependant upon the member at the time of his/her death;
 - (iii) the spouse and children (both minor and major) of the deceased member; and
 - (iv) persons for whose maintenance the member would have become legally liable if he or she had not died (for example an unborn child);
- (b) if there are dependants and no nominees, payment must be made to - or for the benefit of - one, some, or all of those dependants in such proportions as the Trustees shall determine;
- (c) if there are no dependants but the member has nominated one or more persons who are not dependants to receive part or all of the benefit, then such nominees only receive payment of benefits after debts in the deceased estate have been paid, if the member's estate is insolvent;
- (d) if there are dependants and the member has nominated one or more persons who are not dependants to receive part or all of the benefit, the Trustees shall determine the proportion which is to be paid to each dependant and the proportion to each nominee (a nil proportion may be allocated);
- (e) only if there are no dependants, and then only to the extent that payment is not due to a nominee, shall any balance remaining be paid to the deceased member's estate, or, where appropriate, the Guardian's Fund;
- (f) Trustees have the right to pay to a trust for the benefit of a minor dependant or minor nominee or to pay the lump sum in the form of instalments over a period of time;
- (g) if there are both dependants and nominated beneficiaries, such nominations must have been made on or after 30 June 1989. Nominations made prior to that date are not valid.
- (h) lump sums can be paid in the form of instalments over a period of time to major dependants or nominees, if agreed in writing by the dependant or nominee.

- NOTES:**
- (i) any income tax payable will be deducted before lump sum benefits are allocated to dependants and nominees;
 - (ii) the fact that a person is classified as a dependant or nominee does not mean that the Trustees must award him or her any benefit from the fund;
 - (iii) an institution (e.g. an old-age home) can be chosen as a nominee;
 - (iv) the requirements set out above do not apply to pensions payable to spouses or dependants in terms of specific provisions of the rules: such pensions are payable as described in the rules;
 - (v) the requirements set out above do not apply to free-standing Group Life Assurance Funds;
 - (vi) prior to 19 April 1996 major children did not automatically qualify as dependants.