

**METAL AND ENGINEERING INDUSTRIES**

**PERMANENT DISABILITY SCHEME**

**RULES**

**1. MEMBERSHIP**

- (i) The following Employees of Employers in the Industries shall be eligible for the following:-
  - (a) those classes of Employees who are Members of the Retirement Fund and which the Industrial Agreement requires shall be covered by the Scheme; and
  - (b) those other classes of Employees in the employ of the same Employer who are members of the Retirement Fund and for whom the Employer makes contributions to the Scheme.
- (ii) The Board shall be empowered in its discretion to accept contributions to this Scheme in respect of Employees of Trade Unions which are parties to the Industrial Agreement and in respect of Employees of the National Bargaining Council for the Iron, Steel, Engineering and Metallurgical Industry and of the Steel and Engineering Industries Federation of South Africa provided that such Employees are Members of the Retirement Funds.

The Rules of the Scheme shall mutatis mutandis apply to such persons.

- (iii) Every Employee on becoming a Member of the Scheme shall produce to the Scheme a birth certificate or other satisfactory evidence of age when requested so to do and shall also give such further information as the Board may reasonably require for the purpose of the Scheme.
- (iv) In the event of the member not complying with the provisions of paragraph (iii) when so requested, the Board shall have the right to suspend payment of any benefit/s to which the Member may become entitled and payable from the Scheme, until such time as such provisions are complied with.

- (v) A Member who has not become entitled to a benefit from the Scheme shall cease to be a Member of the Scheme:-
  - (a) on death or on the Retirement Date whichever is the sooner;
  - (b) on ceasing service in the Industries.

## **2. CONTRIBUTIONS**

### **(1) Contributions received from the Retirement Funds**

The Scheme may receive such amounts as are payable from time to time to the Scheme by the Retirement Funds in terms of the Rules of the Engineering Industries Pension Fund / Metal Industries Provident Fund, in consultation with the Actuary.

### **(2) Monthly Contributions**

Contributions to the Scheme which are not referred to in Rule 2(1) shall be made in accordance with the provisions of the Industrial Agreement on the following basis:-

- (i) The Employer and employee shall each week contribute to the Scheme an amount equal to 0,8% (zero comma 8%) of the Remuneration of:-
  - (a) each of his Employees who is a Member of the Scheme; and
  - (b) each of his non-scheduled Employees who is a Member of the Scheme and who contributes to the Retirement Funds in terms of sub-section (2)(b) of the Industrial Agreement.

- (ii) No deductions shall be made or contributions paid in respect of periods of absence on unpaid leave, and absences due to sickness, injury on duty and on military service where no payment is due to the Employee by the Employer in terms of an agreement or under any law.
- (iii) The Employer shall forward the total amount payable each month in terms of paragraphs (i) and (ii) to the Funds, together with a statement in such form as may from time to time be prescribed by the Funds, by no later than the 7<sup>th</sup> day of the month immediately following.

### **3. BENEFITS**

#### **(1) Definition**

- (i) “Permanently Disabled” shall mean a Member becoming permanently disabled or incapacitated and not being able to engage in further employment in whatsoever capacity in the Industries. “Permanent Disability” shall have a corresponding meaning.
- (ii) The Board shall have the sole discretion in deciding whether a Member is Permanently Disabled and the date on which he became Permanently Disabled and, at the expense of the Scheme, shall have the Member examined and reported on by a medical practitioner or practitioners appointed or approved by it and shall consult such other medical evidence as may be available and obtain such other information as it may deem necessary.

#### **(2) Benefit**

A Member who has been Permanently Disabled for an uninterrupted period of six complete months shall, subject to the provisions of Rules 4 and 5, become entitled to a Permanent Disability Income Benefit equal to:-

(a) if the member is a monthly-paid Member:-  
75% of his Remuneration at the date of his ceasing employment due to Permanent Disability, plus any increase declared by the Board in terms of Rule 3(5)(i);

or

(b) if the Member is a weekly-paid Member:-  
75% of  $4\frac{1}{3}$  times his Remuneration at the date of his ceasing employment due to Permanent Disability, plus any increases declared by the Board in terms of Rule 3(5)(i);

**(3) Payment of Benefit**

- (i) Each Permanent Disability Income Benefit shall be payable from the Scheme on the last day of each month. The first payment shall be made on the last day of the month which follows the date on which, in terms of Rule 3 (2), the Member becomes entitled to the Permanent Disability Income Benefit.
- (ii) The contributions to the Retirement Fund of a Member in receipt of a Permanent Disability Income Benefit shall be an amount equal to 7.5% of the Member's Remuneration and shall be deducted from the benefit and paid to the Retirement Fund.
- (iii) Payment of the Permanent Disability Income Benefit shall cease at the first of the following dates:-
  - (a) the date of the Member's recovery in terms of Rule 3(4);
  - (b) the date of the Member's death;
  - (c) the Member's Retirement Date.
- (iv) The Board, in its absolute discretion, shall have power to reinstate a Permanent Disability Income Benefit which has ceased to be payable.

**(4) Recovery and Partial Recovery**

- (i) The Board shall have the right to require a Member in receipt of a Permanent Disability Income Benefit to be medically examined at any time by a medical practitioner appointed or approved by the Board.

In particular, where the medical report referred to in Rule 3(1)(ii) indicates that the nature of the Member's Permanent Disability is such as to make it necessary

for the Board to keep the Member's condition under regular review, the Board shall require the Member to be medically examined by a medical practitioner appointed or approved by it at such regular intervals as are recommended by the Board of Management. In such case, continued payment of the Member's Permanent Disability Income Benefit shall be conditional on the Member's submitting to medical examination at such intervals and the Board shall notify the Member in writing of such condition.

- (ii) If in the opinion of the Board acting on the results of a medical examination in terms of Rule 3(4)(i), a Member in receipt of a Permanent Disability Income Benefit has recovered to the extent that he is capable of engaging in further employment in any capacity in the Industries, then the Board may direct that his Permanent Disability Income Benefit shall cease forthwith.

- (iii) If at any time during payment of the Permanent Disability Income Benefit the Member engages for remuneration or profit in any occupation, whether within or outside the Industries, then the Board may direct that his Permanent Disability Income Benefit shall cease forthwith or that a reduced Permanent Disability Income Benefit shall become payable.

When a reduced Permanent Disability Income Benefit becomes payable, the full contributions due to the Retirement Fund in terms of Rule 3(3)(ii) shall continue to be paid.

- (iv) In exercising its discretion in terms of this Rule, the Board shall act in a reasonable and consistent manner.
- (v) Each Member in receipt of a Permanent Disability Income Benefit shall be obliged to notify the Board if he engages for remuneration or profit in any occupation, whether within or outside the Industries.

**(5) Increases in Benefits**

- (i) The Board shall have the right to review the level of all Permanent Disability Income Benefits being paid from the Scheme and may direct that Permanent Disability Income Benefits in course of payment be increased.
- (ii) The amount of the increase shall be determined by the Board in consultation with the Actuary.

**4. RESTRICTIONS AND EXCLUSIONS**

**(1) Restrictions**

- (i) A Member on admission to membership shall notify the Board of any diseased condition for which he is receiving treatment or of which he is then aware.
- (ii) The Board may require that a person who is to be admitted as a Member be examined by a medical practitioner appointed or approved by the Board.
- (iii) Acting on the results of an examination in terms of (ii), the Board may direct that, with effect from the date on which the person is admitted as a Member, the Permanent Disability Income Benefit shall be restricted in such manner as shall be decided by it in consultation with the Actuary.
- (iv) The Board shall inform the Member in writing of the terms of any restriction imposed in terms of this Rule and these terms shall overrule any conflicting provision in these Rules.

**(2) Exclusions**

No benefit shall be payable if the Board is satisfied that a Member's Permanent Disability was directly or indirectly caused or accelerated by any of the following:-

- (a) self-inflicted injury, illness or disease;
- (b) a diseased condition for which the Member was receiving treatment, or of which he was aware, at the time of admission to membership;
- (c) invasion, terrorism, rebellion, war (whether declared or not) or other military action;
- (d) childbirth, pregnancy, miscarriage or abortion.

**5. INTEGRATION OF BENEFITS**

- (i) Notwithstanding anything to the contrary contained in these Rules, any benefit payable to a Member in terms of these Rules shall be reduced by the value of such of the following benefits as may be payable at the same time as the member's benefit:-
  - (a) any benefit payable by the Sick Pay Fund for the Industries;
  - (b) any benefit payable in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (C.O.I.D). (Previously known as Workmans Compensation Act (WCA)).
  - (c) Any benefit payable in terms of the Unemployment Insurance Act, 1966;
  - (d) any benefit payable in terms of Third Party Insurance;
  - (e) any benefit arising from any insurance policy for which the cost of the premiums has been met in whole or in part by the Employer.

- (ii) If the method of payment of any benefit specified in (i) differs from that of the benefit payable from the Scheme, then the Board, in consultation with the Actuary, shall determine the manner in which the reduction is to be applied.

## **6. APPOINTMENT OF ACTUARY AND AUDITOR**

- (i) The Board shall appoint and remunerate an Auditor and an Actuary.
- (ii) The Board may terminate any such appointment at any time and make another appointment in its place.
- (iii) The Auditor of the Scheme shall have access to all books, papers, vouchers, accounts and documents connected with the Scheme and shall certify, in writing, the result of each audit.

## **7. FINANCIAL PROVISIONS**

### **(1) Investments**

- (i) All moneys received on account of the Scheme shall be paid into a banking account, or banking accounts, in the name of the Scheme. All cheques drawn against the Scheme shall be signed by two Officers of the Scheme duly authorised by the Board.
- (ii) All contracts entered into by the Scheme and binding the Scheme shall be entered into by the Board and all documents in respect thereof shall be signed by not less than two Officers of the Scheme duly authorised by the Board.
- (iii) The Board shall have full power to receive, administer and apply the moneys of the Scheme and in its absolute discretion to lend, invest, put out at interest, place on deposit, make advances, or otherwise deal with the moneys of the Scheme upon such security and in such manner as it may from time to time determine and to realise, vary, reinvest or otherwise deal with the investments of the Scheme in such manner as it may from time to time determine.



For such purposes the Board shall nominate such Officers of the Scheme as it may from time to time authorise to act as signatories on behalf of the Scheme, the signature of any two of whom shall be sufficient to give effect to resolutions of the Board. Such signatories shall hold office for this purpose indefinitely or for such period as the Board shall prescribe when appointing them.

- (iv) The Board may obtain an overdraft from a bank or borrow from any other party, on such terms as may be agreed upon, such sums as it approves for the purpose of bridging any unforeseen cash shortage and for this purpose may give such security as it decides.
- (v) All mortgage bonds, title deeds and other securities shall be registered in the name of the Scheme.

The documents of title in connection with any investment or asset of the Scheme shall, except when in the temporary custody of others for the purposes of the Scheme, be kept in safe custody at the registered office of the Scheme or in a banking institution, as decided by the Board.

- (vi) The powers of the Board to make investments and to realise, vary, reinvest or otherwise deal with the securities concerned, may be delegated by the Board, on such terms and conditions as it may specify, to:-
  - (a) a sub-committee of such of the members of the Board as it may nominate;  
or
  - (b) a financial institution as defined in the Financial Institutions (Investment of Funds) Act, 1984; or
  - (c) a person approved in terms of Section 4(1)(f) of the Stock Exchanges Control Act, 1985.

The Board shall not be liable for the negligence, dishonesty or fraud of an institution referred to in (b) or a person referred to in (c).

- (vii) Any profits or losses incurred by the realisation of investments of the Scheme shall be to the credit or debit of the Scheme, as the case may be.
- (viii) The Board shall have the power, if it sees fit, to take transfer of the assets or a part thereof of another Approved Benefit Fund or to transfer part of the assets of the Scheme to another Approved Benefit Fund.

**(2) Expenses**

Except where otherwise provided, the whole of the expenses of the Scheme shall be paid by the Scheme.

**(3) Accounts**

- (i) The Board shall cause full and true accounts of the Scheme to be kept, such accounts to be made up as at the end of each Financial Year and to be audited by the Auditor.
- (ii) The Board shall produce an annual report on the working of the Scheme, together with a copy of the Auditor's report and balance sheet of the Scheme and a statement of the revenue and expenditure for the relevant Financial Year. Such documents shall be posted as soon as they are available to the Employers' Organisations and to the Employees' Organisations'.

Such documents shall also be published for the information of the Employers and the Members by such means as the Board may from time to time determine.

**(4) Actuarial Valuations**

- (i) The Board shall keep such records of the Scheme as shall enable an actuarial valuation to be made at any time; such records shall also give such other particulars and information as the Board may consider desirable. The Scheme shall be valued by the Actuary each cycle of three years ending at the end of a Financial Year for the purpose of determining whether it continues to be capable of meeting the charges provided for in these Rules. The result of any such actuarial valuation shall be embodied in a report which shall be submitted to the

Board. The Steel and Engineering Industries Federation of South Africa and the Employees' Organisations listed in Annexure 1 of the Constitution shall be provided with a copy of such report.

- (ii) The Board shall also publish for the information of Employers and Members particulars of the report referred to in (i) or a summary thereof in such form and by such means as the Board may determine.

## **8. SPECIAL PROVISIONS**

- (i) Except for the causes provided for in the Rules, no Member shall have a claim on the Scheme for any benefit whatsoever.
- (ii) Except as provided in Rule 3(3)(ii), all benefits payable under the Scheme are strictly personal and cannot be assigned, encumbered or alienated in any manner whatsoever.
- (iii) If a benefit due under the Scheme is not claimed within three years after the date on which it became due for payment the benefit shall revert to the Scheme and there shall thereafter be no claim against the Scheme in respect of such benefit. The Board may, nevertheless, in its absolute discretion, after the expiry of the three year period, pay an amount equal to the benefit to the beneficiary, together with such interest, if any, as it may allow.
- (iv) No persons, whether Members or otherwise, shall have any claim, right or interest upon, to, or in respect of the Scheme or any contributions thereto or any interest therein or any claim upon or against the Board or the Scheme, except under and in accordance with the Provisions of these Rules.
- (v) In deciding any question of fact the Board may, unless otherwise provided for in these Rules, act upon such evidence as it may deem adequate whether amounting to legal proof or not.
- (vi) Any decision of the Board upon any question of fact and any exercise by the Board of any discretion entrusted to it by these Rules shall be final.

- (vii) If the Board is satisfied that to do so is justified by the special circumstances of a particular case, it may in its absolute discretion, decide:-
  - (a) to relax, waive or extend any period, provision, contingency or requirement in the Rules in regard to the qualification for any payment of benefits;
  - (b) in consultation with the Actuary, to make an ex-gratia payment to a Member who it does not consider to be Permanently Disabled.
  
- (viii) Whenever the board is satisfied that a benefit was granted or refused by reason either of evidence not being then given which was afterwards produced or of a mistake of fact, the Board may on its own resolution grant such benefits or after due notice to the beneficiary cancel the benefit granted or make any other decision in accordance with these Rules.
  
- (ix) If at any time the Board is satisfied that any benefit awarded under these Rules has been obtained by fraud or in any other improper manner or that any benefit has been erroneously granted or paid under these Rules, the Board may on its own resolution, after due notice to the beneficiary, set aside or vary the benefit and may, in the event of a variation, award such further, lesser or other benefits or make an adjustment in respect of any benefit as in the circumstances the Board deems fit subject to the provisions of these Rules.
  
- (x) Notwithstanding anything to the contrary contained in these Rules, if the Board is unable to function or ceases to function by reason of the resignation of the representatives on the Board or on account of the failure or refusal of the organisations to nominate representatives or in the event of the Employee Organisations ceasing to exist for any reason whatsoever or the Chairman of the Board and/or members of the Board and/or the Auditor or Auditors of the Scheme report that the assets of the Scheme are being disposed of or benefits are being refused or awarded without due and proper regard to the Rules, the Steel and Engineering Industries Federation of South Africa may in its discretion, should in its opinion such course be desirable or necessary in the interest of the Scheme and its Members, appoint a person (hereinafter in this Rule referred to as “a manager”) to take over the control of all the assets of the Scheme and

to administer the Scheme in accordance with these Rules; conversely, in the event of the Steel and Engineering Industries Federation of South Africa and the Employers' Organisations ceasing to exist, the Employees' Organisations listed in Annexure 1 of the Constitution may on a unanimous vote assume and exercise the rights vested in the Steel and Engineering Industries Federation of South Africa in respect of appointing a manager to take over the control of the assets of the Scheme and to administer the Scheme in accordance with these Rules.

- (xi) In the event of a manager being appointed under (xi), he shall take over all the assets, documents, records and papers of the Scheme, and occupy any premises leased or owned by the Scheme, assume all powers of the Board in connection with the administration and control of the Scheme, including the receipt of contributions and moneys and the granting and payment of benefits; and generally perform any act in connection with the Scheme in accordance with these Rules.

Upon the appointment of a manager as herein provided all the representatives of the Board shall resign and vacate office and shall cease to be in control of or to administer the Scheme or do any act in connection with the Scheme after the appointment of a manager whilst he remains in office.

- (xii) Any expenses incurred in implementing the provisions of paragraph (xi) shall be a charge on the Scheme.

## **9. EXEMPTION**

The Board shall be empowered under this clause to grant exemptions to Employers and Members from any provision contained in the Rules on such conditions as it may from time to time determine.

## **10. WINDING UP**

- (1) If circumstances arise at any time which, in the opinion of the Board, render the

winding up of the Scheme desirable or necessary, the Board shall, subject to the unanimous approval of the Employers' Organisations and the Employees' Organisations, appoint a liquidator. Such liquidator shall be empowered to wind up the Scheme, in which event the assets shall be divided among the Members on such terms and in such manner as the liquidator, acting on the advice of the Actuary and with the approval of the Employers' Organisations and the Employees' Organisations, may determine.

- (2) In exercising his powers in terms of paragraph (1) the liquidator shall, inter alia, have power to direct that the assets of the Scheme shall be transferred to another Approved Benefit Fund.
- (3) The Members of the Scheme shall be treated as deferred creditors, and their claims against the Scheme in their capacity as Members shall not be settled until the claims of ordinary creditors have been paid.

## **11. INTERPRETATION**

In these Rules words defined in the Constitution and not in the Rules shall have the meanings assigned to them in the Constitution and, unless inconsistent with the context, all words and expressions signifying the singular shall include the plural and vice versa, words and expressions implying the masculine gender shall include the feminine, and the following words and expressions shall have the following meanings:-

- (i) "Actuary" shall mean a Fellow of the Institute of Actuaries of London or of the Faculty of Actuaries in Scotland, appointed in terms of these Rules.
- (ii) "Approved Benefit Fund" shall mean a benefit fund approved as such by the Commissioner for Inland Revenue.
- (iii) "Auditor" shall mean an auditor registered under the Public Accountants and Auditors' Act, 1991, appointed in terms of these Rules.

- (iv) "Board" shall mean the Board of Management appointed in terms of the Constitution.
- (v) "Constitution" shall mean the Constitution of the Scheme.
- (vi) "Council" shall mean the National Bargaining Council for the Iron, Steel, Engineering and Metallurgical Industry.
- (vii) "Employee" shall mean an employee in a class of employees which the Industrial Agreement makes eligible for membership of the Scheme and those employees referred to in Rule 1(ii).
- (viii) "Employer" shall mean a person as defined in the Labour Relations Act, 1956 who is required to observe the Industrial Agreement.
- (ix) "Financial Year" shall mean:-
  - (a) the period commencing on 1 April 1994 and ending on the 31 December 1994;  
  
and thereafter
  - (b) a twelve month period ending on 31 December.
- (x) "Industrial Agreement" shall mean any current gazetted Agreement/s relating to the Scheme published under the authority of the National Bargaining Council for the Iron, Steel, Engineering and Metallurgical Industry.
- (xi) "Industries" shall mean industries known as the Iron, Steel, Engineering and Metallurgical Industries.
- (xii) "Member" shall mean a person who, having been admitted to membership of the Scheme, has not ceased to be a Member.
- (xiii) "Officer of the Scheme" shall mean:-

- (a) a member of the Board; or
  - (b) a person employed by an organisation appointed to act as Secretaries of the Scheme in terms of the Constitution.
- (xiv) “Permanent Disability Income Benefit” shall mean the monthly amount of a permanent disability income benefit payable in terms of these Rules.
- (xv) “Remuneration” shall mean the actual wages payable to a Member by the Employer each week in respect of the ordinary hours worked by such Member in the shifts of the establishment concerned during such week, including moneys payable in terms of any agreement or under any law, but excluding amounts paid in respect of overtime, shift and other allowances and holiday leave bonuses. For the purposes of this definition:-
- (a) in the case of a monthly-paid Member his Remuneration shall be the amount determined as above converted on the bases that one month equals  $4\frac{1}{3}$  weeks;
  - (b) “shift” means that period of work ordinarily worked by a Member in any period of 24 hours.
- (xvi) “Retirement Date” shall mean:-
- (a) the date on which a Member reaches age 65; or
  - (b) the date on which a Member retires in accordance with the rules of the Retirement Fund, if earlier than (a).
- (xvii) “Retirement Fund” shall mean:-
- (a) the Engineering Industries Pension Fund; or
  - (b) the Metal Industries Provident Fund
- (as the case may be).



(xviii) "Rules" shall mean those Rules and such alterations thereof as may at any time be in force.

(xix) "Scheme" shall mean the Metal and Engineering Industries Permanent Disability Scheme.

## **12. MEMBERS MAY OBTAIN COPIES OF DOCUMENTS**

Every Employee on acceptance as a Member of the Scheme shall be furnished with a copy of the Rules. Every Member is entitled, on application to the Controlling Officer to one copy of each of the following:-

- (i) the latest revenue account of the Scheme; and
- (ii) the latest balance sheet of the Scheme.

On payment of a fee to be determined by the Board any Member may obtain further copies of the rules, revenue account and balance sheet of the Scheme.

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