NEWSLETTER

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Dear Reader,

Quantum Yearbook: Publication of the *Quantum Yearbook* has been taken over by Van Zyl Rudd of Port Elizabeth. I remain as author. Those wishing to obtain a copy of the latest *Quantum Yearbook* should contact Van Zyl Rudd, PO Box 12758, Centrahil, Port Elizabeth 6006, or telephone 041-334322, or telefax 041-334323.

Qualifying fees: When I am reserved for a trial I charge a qualifying fee if cancellation takes place less than 7 days prior to the reserved date. This fee is payable even if I have not attended at Court. Preparation for attendance at trial often causes substantial disruption for myself, not merely by way of file perusal but also by way of postponement of domestic arrangements, the booking and rebooking of travel requirements, and the putting off of other work.

Changes to civil service pension benefits: At present the civil service pension fund promises benefits superior to those of most private funds. At present a civil servant can expect to receive a substantial retirement lump sum **without having to reduce his pension**. Members of private funds usually have to reduce their pension by one third in order to qualify for a commutation lump sum. The proposed changes to the State pension fund will do away with the no-sacrifice lump sum. In addition the pension will be calculated using the average salary over the two years preceding retirement. At present use is made of the final salary. This change will eliminate last minute promotions that unjustifiably boost pension benefits at enormous cost to the taxpayer.

The "self-supporting dependant": The right to maintenance arises when one is "unable to support oneself". The duty to provide support only arises if one has "sufficient means". Despite these guidelines one finds, for instance, that an ex-wife with limited earnings, say R20000 per year, will be required to contribute to the support of a child even though the child's father earns R150000 per year and is clearly able to provide for 100% of the child's requirements **while still maintaining a standard of living for himself far superior to that of the child's mother**. If this is truly the law then it is a great injustice. Actuaries doing dependency calculations work on the premise that a husband with a large income who is 100% self-supporting is nonetheless entitled to be supported to the extent of a pro-rata share of his wife's income. If the family includes a child from a previous marriage and the father of the child pays maintenance for the child then this amount is added to the total cash resources available to the family. Such maintenance payments are intended entirely for the support of one particular child and it seems wholly incorrect, as is often done in calculations for loss of support, to apportion the maintenance payments between all family members. The same is usually true of old persons who live with their children but receive old age pensions. A dependant can be partially self-supporting.

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Hawker earnings: The earnings of hawkers in major centres are a lot more than one might expect. The Pretoria News of 23 January 1996 reports net earnings of R1430 per month for a pavement banana vendor. A pavement hawker of denims is reported to be earning in excess of R24000 per year. A survey commissioned by a leading MVA agent revealed stall owners running more than one stall earning between R88400 per year and R156000 per year. Smaller single-stall operators earn between R13000 per year and R31200 per year. The reported figures reflect a fairly small sample in a wealthy urban centre. My own impression from affidavits submitted for purposes of MVA claims is that many vendors earn half or less of the figures quoted above.

A solution to unemployment?: Unemployment in South Africa in the formal sector is reported to be 30%. True unemployment is probably less than this because many of those registered as unemployed are active in the informal sector generating some income. High rates of unemployment are not confined to South Africa. Time Magazine 26 February 1996 reports that reduced working hours has become a major political issue in many European countries as a means to avoid layoffs. To what extent reduced working hours can be used to resolve South Africa' unemployment problems is not entirely clear. Shorter hours **with a reduction in salary** is not something that is easily negotiated. The solution is often not attractive to employers for whom there is an added cost per employee for training and work station maintenance. A "shorter hours" policy might be implemented by way of reduced overtime, or compulsory leave in lieu of overtime. For damages calculations the focus on reduced hours for lower pay is relevant to the deductions to be made for general contingencies. A good rule-of-thumb for general contingencies is to allow ½% per year to normal retirement age, that is to say 20% for a 25-year old, 10% at age 45, etc. A major contingency is the saving that a totally disabled person enjoys from no longer having to meet the cost of travelling to and from work. This cost has been assessed on average at 7% by courts who have considered the issue. **7% thus reflects a minimum deduction for both past and future contingencies applied to earnings.** Of course some employees live at their place of work and pensioners would not have incurred work travel expenses in any event.

Proposed MVA legislation: A new MVA Act has been put before Parliament. This Act does little more than formalise the legal position now that the independent homelands have ceased to exist. The Act to be replaced was structured in the form of an agreement between the various "independent" States. The most important feature of the "New Act" will be the procedures for appointing a new board. At present the power to appoint the board rests in the hands of one man, the Minister of Transport. This is clearly too much power in one place. The procedure for appointing the new board needs to be on a more democratic basis similar to that used for appointing the board for the SABC.

The "New Act" proposes that the MMF be renamed the "Road Accident Fund", "RAF" for short. In popular parlance an "RAF" is a "retirement annuity fund". The expression "MVA Fund" has remained a popular form of reference and it is to be hoped that it will be retained as the official name once the "New Act" has been tailored by Parliament.

Drastic MVA reform measures have been proposed in the form of a "white paper" that ought to be called a "green paper" because it reflects the limited views of a few Mandarins at the MMF and has not yet been the subject of general public discussion. Legislation in response to this paper seems many months, if not years, away.

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