

ROBERT J KOCH CC BSc LLB LLD

Fellow of the Faculty of Actuaries in Scotland
VAT 4870191808 E-mail: rjk@robertjkoch.com
CK2000/058266/23 Website: www.robertjkoch.com

1A Chelsea Avenue
Cape Town
Tel: 021-4624160

PO Box 15613
Vlaeberg 8018
Fax: 021-4624109

NEWSLETTER

(Number 57 - March 2005)

Financial statistics:

Data as at October 2004	CPIX Inflation (year-on-year) F	Interest (long bond yield) I	Real Rate of Return F-I	RRR 12 mths ago
South Africa	4,4%	9,2%	4,8%	4,6%
United Kingdom	3,3%	4,9%	1,6%	2,3%
Japan	0,5%	1,4%	0,9%	1,1%
United States	3,3%	4,7%	1,4%	3,0%

Nominal interest rates have remained relatively unchanged over the last 12 months. Real rates have, however, decreased in face of rising inflation worldwide. The high rates of interest available to investors in South Africa are probably a major factor driving the strong rand. These increases in real rates have been accompanied by pressure on the authorities to reduce interest rates. The ABSA index indicates that house prices escalated a massive 19% in 2003 followed by an even larger 25% for 2004. For most small investors that will be a tax free gain. The strong rand coupled with low overseas inflation bodes well for low inflation in South Africa, particularly on imported medical goods and services. For many years Europe and America offered very much higher real rates of return than did South Africa. The situation is now reversed.

House prices: Home ownership is rapidly on the increase. The family home is a deductible compensating advantage (*Snyders v Groenewald* 1966 3 SA 785 (C); 1966 3 SA 237 (A); contra *Maasberg v Hunt, Leuchars & Hepburn Ltd* 1944 WLD 2 13-14; see Koch "Reduced utility of a life plan" at 337-8). The recent massive increase in house values means bigger deductions for widows. The outstanding bond debt must, however, be deducted (and all payoffs by life insurance ignored per the Assessment of Damages Act 9 of 1969). The law is that the value of the house should be taken at time of settlement and not time of death (*Santam Insurance v Meredith* 1990 4 SA 265 Tk). Where there is community of property half of the house was the widow's in any event. Black civil marriages subject to the Bantu Administration Act were automatically out of community of property (by reason of the traditional "house" system). A further adjustment needs to be made for acceleration (approximately 50% of the inherited value). For marriages in community of property a good approximation is to deduct 25% of the net value of the house; for marriages out of community the deduction is 50%. The recent ruling in *Bhe v Magistrate Khayelitsha* 2005 1 SA 580 (CC) will ensure that many more widows inherit the family home

The RobertJKoch website: www.robertjkoch.com has recently been expanded. It now lists ALL newsletters right back to newsletter number 1. The site also now has the full text of my out-of-print handbook "The reduced utility of a life plan" Stellenbosch 1994. There is no charge for accessing this material.

Mannie Jantjies: I was recently asked to do calculations urgently for a meeting to be held with a Cape Town RAF claims handler at **06h00 AM** the next morning. There can only be one claims handler up and about at that hour. And I know, because he telephones me many mornings at 06h30. Mannie's enthusiasm and dedication to solving problems for claimants deserves special commendation.

Increased petrol levy: 2004 was a bleak year for RAF claimants with settlements being refused due to cash shortages, and payments delayed. Trevor Manual has recently announced a substantial increase to the RAF allocation from the petrol levy (19%). Maybe the petrol price is up, but 2005 looks to being a much better year. The rise in the petrol price is a reminder that we, the public, all pay towards the cost of damages claims. Courts are thus enjoined to be slow to rule that collateral benefits should be ignored.

Mortality of lower income whites: A recent investigation has revealed that the life expectancies of lower income whites have declined. This, it appears, is largely due to the lower standard of medical care available to them at State hospitals. The so-called "white" pre-1994 mortality rates are no longer appropriate for this population group. The life tables listed in the *Quantum Yearbook* have, since its inception, been based on income and not race. Income provides the means to better medical care and the lifestyle that makes it possible to follow up good medical advice.

Deferred payment of my fees: I have long followed the practice of waiting for payment of my fees until the quantum of the damages has been finalised. This creates something of an open-ended relationship. Since year 2000 my standard terms of business have placed a 3-year limit on how long I am prepared to wait without there being an update of the actuarial calculations. For work done prior to that time I now expect an attorney to provide documentary proof that the matter is still running. I recently had occasion to obtain a Court order to force discovery of the relevant files. This revealed that all the matters had long ago been settled or abandoned and the files closed. The attorney concerned had been lying to me all along about the matters being "still running". My deferred payment terms imply a relationship of trust and I am extremely bitter that there are some who have abused this relationship. In the cited instance the Court awarded costs at the highest level which amounted to 3 times the actuarial fees that had not been paid.

Payments by provident funds: When a person is injured and loses their job they are often entitled to a refund of contributions from the provident fund. Such payments reflect past savings and are no more deductible when assessing damages than is a bank deposit. The asset was an asset immediately prior to dismissal and remains an asset of the same value after dismissal. It is otherwise if the payment is increased by reason of special disability benefits. That increase is deductible provided it was provided as a condition of employment. Annual leave commuted for cash on termination is also a form of savings and should not be deducted. For a more comprehensive discussion see Koch "Reduced utility of a life plan" at pages 183 to 186).

Same-sex marriages: I have recently been instructed to assess damages for loss of support arising from the death of a same sex life partner. The relevant SCA judgment has not yet been reported (*Du Plessis v RAF*). Quantum has yet to be determined. Does one make a deduction for "remarriage"?