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NEWSLETTER

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Vital statistics:

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| CAP determination 31 January 2018: | R266200 per year |
| CPI year-on-year April 2018: | 4,5% |
| RSA long bond yield May 2018: | 8,4% |
| Real rate of return (8,4 less 4,5): | 3,9% |
| FNB house price index March 2018: | 2,3% |

QYB STATSSA earnings: Industrial psychologists (IP's) are reminded that the *Quantum Yearbook 2018* now includes general population earnings statistics from STATSSA at page 117. These STATSSA figures include corporate earnings averaged with all other non-corporate earnings. They are thus representative of 100% of the working population whereas corporate earnings reflect only 30% of the working population. Awards based on corporate earnings should be subject to a much larger deduction for general contingencies (perhaps 35% instead of the usual 15%). Many IP's are very vague as regards what earnings scale should be used. In such cases my office will assume STATSSA rates from *Quantum Yearbook 2018* taking 75% thereof to reflect basic salary.

One prominent actuary has recently stated at a gathering of industrial psychologists that the STATSSA figures have "limited value". I dispute this assertion. It is true that the STATSSA data is not collected with the rigour that actuaries use to prepare life tables. Nor is it subject to the rigours applied to preparing the elite corporate earnings surveys covering some 30% of the workforce. There are two sources of the STATSSA data: a random selection of 30000 households and a second survey of the payrolls of 20000 VAT paying non-agricultural entities. The household survey is collected by asking each member of the survey group to state their total earnings as best they can. This is not hearsay evidence, as has misleadingly been stated, because the wage earner is competent to state what he or she believes to be earnings. The enumerator does not request documentary proof of the earnings stated. The business survey, however, has regard to documented payroll data. The STATSSA results give an informed approximate guide to what is happening in the general labour market in South Africa. The informal and agricultural sectors are poorly represented. That is unfortunate because a large proportion of accident victims come from those sectors.

Pension contributions: The Sanlam Benchmark Survey for 2018 shows average pension contributions by the employer to be 8,36% of salary and 5,49% by the

employee. Average retirement age selected by new members is 64,15 years. Average investment return was 7,99% per year.

Industrial psychologists joint minute derelictions: In *Ntombela v RAF* (209709/2016) [2018] ZAGPJHC 41 (19 March 2018) the Court disallowed the fees of the industrial psychologists:

“The experts witnesses uniformly did not present their joint minutes in accordance with the Gauteng Local division Practice Manual prescripts. One said she did not know of the prescripts, another said she did, but in any event did not follow it. The directive is plain: tabulate what is agreed, tabulate what is in dispute stating whether the difference of opinion rests on factual findings or opinion, and explain why the difference exists. The purpose of joint minutes is to serve as a tool to clarify the issues for a court.... professionals must behave professionally and treat the task of seeking agreement seriously. If delinquency persists, punitive measures shall have to be taken. Attorneys must see to it that there is proper compliance.”

“Possible” misunderstandings: Actuariespeak says that a “probability” is a chance of 1% to 100%. Legalspeak says that “probability” is a chance greater than 50%; a “possibility” is a chance of less than 50%. However, some industrial psychologists and medical people use the word “possible” to designate the “probable”. To avoid confusion it would help a great deal if all concerned provided a percentage chance. This is important for the quantification of damages because the damages awarded will often be assessed using the technique of “value of a chance”. This means that a 30% prospect of promotion will be compensated by awarding 30% of the full promotion salary. An industrial psychologist who proposes a “possible” promotion (with a 90% chance in mind) will find the actuary calculating a mere 25% chance thereof. Attorneys and advocates beware.

The lump-sum rule prevails for non-RAF matters: The Minister of Health argued that compensation for future medical expenses for non-RAF matters should be paid by way of instalments. The argument was rejected and the lump-sum rule applied (*MEC, Health and Social Development, Gauteng v DZ* [2017] ZACC 37; *Premier Western Cape v Kiewitz* 2017 (4) SA 202 (SCA)). The award for future medical expenses was substantial (R19970631), the cost to be borne by the taxpayer. There is much to be said for legislation allowing instalment compensation for future expenses payable by the State, especially when the capitalised value is substantial (say more than R1 million).

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