



NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA

Parliamentary Office

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2 March 2016

ATTENTION:

1. The Hon. Mr YI Carrim
Chairperson: Standing Committee on Finance (National Assembly)

2. The Hon. Mr CJ De Beer, MP
Chairperson: Select Committee on Finance (National Council of Provinces).

Parliament RSA
Cape Town

NUMSA RESPONSE TO THE DRAFT REVENUE LAWS AMENDMENT BILL

NUMSA notes and appreciates the call for comment on the Draft Revenue Laws Amendment Bill (hereafter "the Bill"), which was published on the same day as the Finance Minister's 2016 budget speech.

However, the Bill is an extremely belated response to the widespread resistance from trade unions and workers to the imposition of compulsory annuitisation on retirement in respect of provident funds. Accordingly procedurally we wish to note the following concerns:

1. The Bill proceeds to **postpone** the operation of compulsory annuitisation requirements until March 2018. This does not address the unequivocal call for a full **repeal** of relevant provisions in the Taxation Laws Amendment Act 31 and 25 of 2013 and 2015 respectively.
2. The Bill will likely not be passed or receive Presidential signature before the end of March 2016. Nevertheless this is irrelevant since compulsory annuitisation requirements came into operation by law on 1 March 2016, as a result of the aforementioned Acts of Parliament. The Treasury's media announcement of a suspension of compulsory annuitisation more than a week ago can have no legal effect on the operation of enacted legislation.

3. Compulsory annuitisation is not a tax matter, and the relevant provisions were accordingly incorrectly and unconstitutionally processed through a money bill (through the Taxation Laws Amendment Act 31 of 2013), in contravention of section 77 of the Constitution. Accordingly it remains vulnerable to constitutional challenge and should therefore be repealed.
4. Our serious concerns regarding the lack of consultation, including through NEDLAC, remain. It is on this basis that the relevant clauses in the aforementioned Acts should be repealed (and not merely postponed).
5. There is a need for the initiation of a meaningful process of consultation with all stakeholders on appropriate retirement fund reforms, which should necessarily take place within the context of a broader consideration of a comprehensive social security policy framework.

Please note we have taken legal advice on point 3 above, which supports our views that the relevant compulsory annuitisation provisions are procedurally unconstitutional. Accordingly we reserve our rights in respect of any legal action that we may choose to take at a later stage. This also applies to our rights in respect of our section 77 application (in terms of the Labour Relations Act) currently pending before NEDLAC, in respect of which we may undertake protest action.

Please do not hesitate to contact us should anything need to be clarified herein.

Yours sincerely



Prakashnee Govender
NUMSA Parliamentary Officer

