



Vuyo Kahla, Group Executive: Office of the Group Chief Executive

**Ms V Mentor**

Chairperson: Standing Committee on Members'  
Legislative Proposals and Special Petitions  
Parliament  
P O Box 15  
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**BY FAX: (021) 403 3205**

Dear Chairperson

**PRIVATE MEMBER'S BILL – TRANSNET PENSION FUND ACT AMENDMENT  
BILL SUBMITTED BY KAREL MINNIE, MP**

We thank you for the copy of the Private Member's Bill faxed to Transnet on 12 February 2007, which I have attached for ease of reference.

We understand that Transnet was also notified today of the parliamentary standing committee meeting to be held on Friday, 15 February 2007 regarding this Private Member's Bill.

We understand the Bill as attempting to amend section 24 of the Rules of the Transnet Second Defined Benefit Fund ("TSDBF"). These Rules are, however, a schedule to the Transnet Pension Fund Act, 1990 (Act No. 62 of 1990) ("the Act").

Section 14B(6) of the Act, which was amended by the Transnet Pension Fund Amendment Act, 2007 (Act No. 6 of 2007) provides that:

*"(6) The rules set out in the Schedule may be amended by the board of trustees of the Transnet Second Defined Benefit Fund with the approval of Transnet: Provided that an amendment that is likely to affect the financial condition of the Transnet Second Defined Benefit Fund shall be of no force or effect unless it has also been approved by the Minister acting with the concurrence of the Minister of Finance."* (underlying for emphasis)

The Rules of the TSDBF were last amended in June 2007. They were specifically amended to include a pension bonus rule (Now rule 31). This rule enables the Trustees of the TSDBF to pay bonuses to the pensioners, depending on affordability and other matters. These bonuses are in addition to the guaranteed 2% per annum increase and are intended to supplement the income of the pensioners into the future. Given the current strength of the Fund's financial position, it would not be unreasonable for the pensioners to look forward to bonus payments from the Fund in the future.

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You may be interested in the fact that the TSDBF has made much progress in the last few years. I have included some relevant information in the attached Annexure A.

An amendment as suggested by the Private Member's Bill will most certainly have material financial implications for the TSDBF and for Transnet, the guarantor of the Fund. It would immediately place the Fund in an unacceptable deficit position and increase the guarantor's obligations in respect of the Fund.

In the light of the provisions of section 14(B)(6) of the Act, we would propose that Parliament decline to consider the Private Member's Bill.

Kind regards

**Vuyo D. Kahla**

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Date: *13 February 2009*

ANNEXURE A

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1. In June 2007 Transnet paid an *ex gratia* bonus to the pensioners of the TSDBF of a total of R125 million. This bonus was in addition to any benefits paid by the TSDBF itself, including the 2% per annum guaranteed increase. In determining the above bonus, the plight of pensioners with long service (as these individuals are unlikely to have significant alternative retirement funding income), that of pensioners who are over the age of 65 (as these people are unlikely to be able to supplement their pension benefit by working) and, for obvious reasons, that of the pensioners who have very low pensions, took priority. Therefore all pensioners received a minimum bonus of 1% of their annual benefit. Most received 2% of their annual pension and those pensioners earning less than R1 000 per month received amounts up to approximately R9 000 as a bonus.

A point to remember is that if a pensioner was a low earner at the time of going on pension, pension increases would not transform the pension to a medium or high benefit. This is the same for any pension worldwide. In addition, a significant number of the pensioners with relatively low pensions are previously disadvantaged employees or pensioners with less than 15 years service. Special attention was given in the *ex gratia* bonus to the previously disadvantaged pensioners.

2. Further to the above, on 24 November 2007, the TSDBF paid its first bonus to the pensioners of 1.5% of their annual benefit from the Fund. As a result the minimum benefit most pensioners received constituted at least a 5.5% increase for the year.