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9 May 2008

The Secretary to Parliament  
c/o Mr. Bradley Viljoen  
Committee Section  
Parliament of the RSA  
P.O. Box 15  
CAPE TOWN  
8000

Dear Mr Viljoen

**GENERAL FINANCIAL SERVICES LAWS AMENDMENT BILL, 2008**

The Retirement Matters Committee of the Actuarial Society of South Africa (the Actuarial Society) welcomes the opportunity to submit written representations on the General Financial Services Laws Amendment Bill, 2008 (the Bill).

This submission is mainly on matters of technical detail on the proposed changes to the Pension Funds Act, 1956 as amended (the Act). The President of the Actuarial Society has made a separate submission on the proposed change to the definition of “actuary”. We would gladly provide further information if required.

**Section 1**

- The definition of “normal retirement age” refers to the minimum age at which retirement can be taken. This is hardly the “norm”, and in fact many sets of rules use the same term to refer to the age at which the company would require the employee to retire. We suggest that “normal retirement age” be replaced with “minimum retirement age” which it actually is.
- The new addition (c) to the definition of “pension fund organization” could result in funds which only provide reinsured Group Life Assurance death benefits being recognized as “pension fund organisations”. For example, if the fund “receives” the reinsurance death lump sum and pays this in terms of Section 37C it might qualify under this new definition. We do not think this is the intention.
- Definition of “retirement date”. We do not consider that a member can “in terms of the rules of a pension fund” or in law become “entitled to” a benefit on death (even if the benefit is payable to his/her estate). We think that “death” should be removed from the definition. We suggest that legal opinion be sought on this point.

## Section 8

- The proposed amendment to Section 14 (7)(b) clarifies some of the issues of concern. We would have preferred it if the other matters that were to be addressed in the proposed Directive 14(7) were also addressed in the Act, otherwise further clarification will still be required. We have recently provided a separate submission on that proposed Directive.

## Section 9

- The proposed amendment to Section 15B (4) should instead refer to Section 15 (4). It is critical that this is corrected as the proposed amendment would affect former members in surplus schemes.

## Section 14

- The amendment to Section 37D (4)(b)(i) provides for the whole of the deduction to be paid directly to the non-member spouse or to be transferred to a pension fund. There may be tax payable by the non-member spouse, or possibly a housing loan repayment if the remaining portion is less than the capital outstanding on the loan. It would be preferable to allow for a net amount to be paid/transferred.

## General

- When the Act was amended in 2007 the Registrar's ability to exempt a fund from the requirements of the Act was moved from Section (2)(3) to Section (2)(5), but not all the references in the Act were updated. It would be opportune to correct the incorrect reference in Section 30 (3).
- Section 4: We consider that the wording should read "Section 8 of the Pension Funds Act, 1956 is hereby amended by the substitution for subsections (3), (4) and **by the insertion after subsection (4) of subsection (5)** of the following subsections:"
- Section 50: The spelling of "competent" in Section 13(2)(a) is incorrect.

As stated above, the Actuarial Society would welcome the opportunity to elaborate on the points raised in this memorandum, or any other points, by means of oral evidence before the Committee. Please contact Wim Els (021 509 7697 / 082 562 5411) if the Committee wishes to hear oral evidence from the Actuarial Society.

Yours sincerely

**Arthur Els**  
**Convenor**  
**Retirement Matters Committee**  
**Actuarial Society of South Africa**

This letter was transmitted electronically, without a signature.