

SUBMISSION AS PRIVATE MEMBERS LEGISLATIVE PROPOSAL TO THE NATIONAL
ASSEMBLY

SUBMITTED BY IAN MICHAEL OLLIS, MP

DA SPOKESPERSON FOR LABOUR

5 October 2010

To amend the Labour Relations Act 1995 (Act 66 of 1995 as amended) so as to provide for the accountability of unions in the event of destruction of property, violence and intimidation by union members.

Memorandum

Notice is hereby given of the introduction of a Private Members' Legislative Proposal in terms of National Assembly Rule 234.

General Explanation

_____ Words underlined with a solid line indicate insertions in existing enactments

[] Words in bold type in square brackets indicate omissions from existing enactments.

1. Particulars of the proposed legislation

The following amendments to the Labour Relations Act (Act 66 of 1995) hereinafter referred to as "the Act", are proposed:

Chapter IV: Strikes and Lock-Outs

Inserting the following as section 68A

68A. Duty to limit harm caused by collective action

(1) A registered union and its officials and office-bearers –

shall be under a duty to take reasonable steps to forestall, prevent, repair or remedy injury to person and loss or damage to property, including the property of the State, caused by or arising out of acts or omissions constituting a delict, breach of contract or crime perpetrated in contemplation or furtherance of a strike or other collective action, if the union has, whether expressly or tacitly, facilitated, called, endorsed, supported or ratified the strike or collective action.

(2) Non-compliance with subsection (1) shall, until the contrary is proved, be presumed once it is proved that injury, loss or damage was caused by or arose out of acts or omissions that were committed in the course of a strike or other collective action and constitute a delict, breach of contract or crime.

(3) Upon proof of non-compliance with the duty created by subsection (1), the court may –

- (a) issue an interdictory or mandatory order, which may or may not include one or more directives, to secure compliance with the subsection;
- (b) make an award of damages, including punitive damages, for breach of the duty; and/or
- (c) declare that, as from a given date –
 - (i) the strike will cease to be a protected strike within the contemplation of section 67; and/or
 - (ii) the issue in dispute is one that is required to be referred to arbitration under section 74 as though it were a dispute in an essential service.

Inserting the following as section 158(1)(eA)

(eA) make an order in terms of section 68(A)(3)

2. The objects of the proposed legislation

The proposed legislation is intended to protect private individuals, the public at large, non-striking workers and public and private property from malicious destruction, violence and intimidation during a strike action.

By making unions and employers liable to prosecution for the illegal and undisciplined behaviour of individual members, organised labour and business will be forced into deploying marshals, ensuring on-site security, and disciplining members, employees and workers under their control.

3. Financial implications

The proposed legislation will have no financial implications for the state: It is envisaged that there will be no direct cost to the state apart from costs generally associated with prosecution by the state and the office of the public prosecutor.

Name of the Member: Ian Michael Ollis, MP

Signature:

Date:

2916

[Wednesday, 13 October 2010]

TABLINGS

National Assembly and National Council of Provinces

1. The Minister of Higher Education and Training

- (a) Report and Financial Statements of the Energy Sector Education and Training Authority (ESETA) for 2009-2010, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2009-2010 [RP 102-2010].

2. The Minister of Economic Development

- (a) Report and Financial Statements of the South African Micro-finance Apex Fund for 2009-2010, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2009-2010 [RP 128-2010].

Correction: The above entry replaces item 18(b) under Tablings in the name of the Minister of Economic Development in the Announcements, Tablings and Committee Reports of 30 September 2010, on p 2901.

National Assembly

1. The Speaker

- (a) Petition from Mr Amichand Munasur, praying for a pension — (presented by Mr L T Landers).

Referred to the **Committee on Private Members' Legislative Proposals and Special Petitions** for consideration and report.

- (b) Letter from the Minister of Higher Education and Training dated 13 October 2010, to the Speaker of the National Assembly explaining the delay in the submission of the Annual Report of the Energy Sector Education and Training Authority (ESETA) for 2009-2010.

SUBMISSION OF ENERGY SETA ANNUAL REPORT 2009/10

I hereby wish to inform the Speaker to Parliament, as the Minister of Higher Education and Training that it has come to my attention that the Energy SETA (ESETA) was unable to submit its Annual Report 2009/10 on time as per the deadline stipulated from the PFMA, for tabling in Parliament.



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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Honorable M. Sisulu MP
Speaker: National Assembly
Parliament.

Dear Speaker,

**MR. AMICHAND MUNASUR: PETITION TO PARLIAMENT FOR THE
RECOGNITION OF NON-PENSIONABLE YEARS OF SERVICE**

Attached for your very urgent attention please find a formal Petition I received from a member of my constituency, Mr. Amichand Munasur who is a civil servant.

Mr. Munasur submits the attached Petition for serious and favourable consideration by Parliament's Committee on Private Members' Legislative Proposals and Petitions. Mr. Munasur makes the very strong argument that certain Public Servants are still being discriminated against on the basis of the discriminatory practices of the former National Party regime, because the pensions re-structuring by the Public Service Co-ordinating Bargaining Council (PSCBC) does not recognize public servants who were not in service on 02 September 1998.

I refer you to the rest of Mr. Munasur's motivation which amply speaks for itself. If necessary, Mr. Munasur is willing to appear before the Committee to further motivate his Petition. On Mr. Munasur's behalf, I plead with you to refer his Petition to the Committee for it's favourable consideration.

Thank you.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'L. Landers'.

LUWELLYN LANDERS MP

REPUBLIC OF SOUTH AFRICA

Implementation of Second Phase of Pensions Resolutions 7 of 1998 and 12 of 2002 by Public Service Coordinating Bargaining Council (PSCBC)

Restructuring to recognise Non-Pensionable as Pensionable years of service for Public servants

**TO THE HONOURABLE THE SPEAKER AND MEMBERS OF
PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA,
IN PARLIAMENT ASSEMBLED**

The petition of the undersigned

Amichand Munasur ()
Flat 6 Pelican Park
16 Second Avenue
Malvern
DURBAN
4093

Respectfully sheweth:

That I Amichand Munasur, Identifi hereby state my case. The Public Service Coordinating Bargaining Council (PSCBC), through the National Pension Task Team (NPTT), has now embarked on the SECOND PHASE of pensions restructuring which involves the registration of applications from potential beneficiaries for the recognition of non-pensionable service as pensionable year of service for public servants affected by past discriminatory pension practises in terms of Resolution 7 of 1998 and Resolution 12 of 2002.

Employees discriminated against on basis of race, gender or status of employment which will include the following:

- Waiting periods in respect of former General Assistants or Casual Workers or Temporary Employees. This refers to qualifying periods that had to be completed, ranging between two and five years, before they were admitted to various pensions funds such as the Temporary Employees Pension Fund, Black Authorities Super Annuation Fund, Government Employee Provident Fund or the Non White Government Employees Pension Fund;*
 - All other persons who had to complete qualifying/waiting periods before admissions to pension funds;*
 - Female teachers and other females in the public service who lost pensionable service owing to changes in marital status/domestic leave and consequent status in their employment status;*
 - Female teachers and other female in the public service who had to resign to give birth and upon return were admitted to the Temporary Employees Pension Fund (TEPF);*
 - Employees admitted to temporary pension funds owing to medical/physical status, i.e. over or under weight.*
- All students (nurses, radiographers, physiotherapists) who were denied membership of a government pension fund based on the stats of employment, i.e. fixed-term contract. This will*

include black students employed in a full-time capacity upon completion of studies who were further subjected to waiting periods based on race.

The PSCBC in their resolutions did not consider public servants who were **not** in service on the **2 SEPTEMBER 1998**, owing to circumstances beyond their control which will be regarded as discriminatory and violation of one's basic Human Rights. This will not address all past discriminatory practises by the apartheid regime which regarded non whites (Blacks, Coloured & Indians) as non-existence human beings who were not entitled for any benefits.

The Department: Public Service and Administration (DPSA) as per signed letter by Acting Director-General, addressed to all Heads and HR Managers of Provincial Departments and Provincial Administrations dated 2 February 2010, File reference 17/13/9, Implementation of the Project to Address Previous Discriminatory Pension Practices in the Government Employees Pension Fund (GEPF).

In addition, a day for a media launch is being arranged where the Minister for Public Service and Administration will formally announce the launch of this project. You will be advised of this date in the due course. The closing date for submission of applications, as agreed in the PSCBC, is 31 March 2010. This cut-off for the submission of applications has now been extended to 31 August 2010 by the PSCBC.

The Resolution 7 of 1998 and Resolution 12 of 2002 of the PSCBC is totally discriminatory and it does not address all the past discriminatory practices of the former regime. Therefore, the effective date 2 September 1998 of the resolution must be changed in favour of all past citizen of the Republic South Africa who were discriminate by the apartheid laws.

This discriminatory practises also affected my late wife Sherine Devi Munasur (ID No.:) who was in service from the 17 August 1977 and passed away on the 18 August 1989 suffering from Chronical Myeloid Leukaemia (Cancer) **whilst still being in service**. Her pension was calculated from 21 February 1985 to 18 August 1989 and the other non pensionable period from the 17 August 1977 to 20 February 1985 was not considered.

In conclusion, your petitioner prays that the Honourable Parliament will be pleased to take his case into favourable consideration, and grant such relief as it may deem fit.
And your petitioner, as in duty bound, will ever pray.


.....
AMICHAND MUNASUR