



### SUMMARY OF COMMENTS TO THE PENSION FUNDS AMENDMENT BILL, 2007

1. Engineering Industries Provident Fund
2. Metal Industries Provident Fund

070606 pcfivace

Comment	Response
<b>Section 2 - Application of the Act to Bargaining Councils</b>	
<p>Trustees have already agreed a scheme for distribution of surplus. Once the Amendment Bill is legislated, how will it affect the existing agreed scheme?</p> <p>They propose the following amendment:</p> <p>"Bargaining Council funds falling under the Pension Funds Act for the first time as a result of the Pension Funds Amendment Bill, 2007 will not be required to undertake a further surplus apportionment exercise in terms of section 15B and any amount previously allocated to any reserve accounts, including a Member Surplus Account or Employer Surplus Account, will be recognized in such an account it:</p> <ul style="list-style-type: none"> <li>a) the trustees have previously undertaken a surplus apportionment exercise; and</li> <li>b) the amounts allocated to the reserve accounts were properly allocated as part of that surplus apportionment exercise; and</li> <li>c) the surplus apportionment exercise was negotiated and agreed between the parties to the Bargaining Council; and</li> <li>d) the surplus distribution was done in a manner consistent with the principles underlying sections 15B and 15C.</li> </ul> <p>This will allow the trustees to complete the already agreed surplus apportionment exercise.</p>	<p>If an agreement was reached to distribute surplus in a fund prior to the enactment of the Amendment Bill, the amendments should not affect such a "surplus scheme" provided that a proper process was followed: ie. the trustees took a resolution about such a scheme, the decision was minuted, the rules of their fund were amended to specifically allow such a distribution and such a scheme was implemented. Once the amendment is legislated, any BC fund will have to comply with the requirements of section 2.</p> <p>Similar "teething problems" were experienced when the 2001 Amendment Act was promulgated – many other funds with similar considerations had no choice but to follow the principles of the surplus legislation (2001).</p> <p>Not supported. The process for surplus apportionment is already legislated in terms of section 15B of the principal Act. The legislature should not make exceptions to suit the needs of specific funds. Even though most of the principles in the proposed scheme submitted as part of MIBFA commentary are consistent with the intention of the legislation, there are some instances where the registrar differs – for example: the fact that amounts remaining in the contingency reserves set aside for members whose surplus benefits can be calculated but whom cannot be traced are released after three years.</p>